The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. SIMPSON).

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC, July 26, 2002.
I hereby appoint the Honorable Michael K. Simpson 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 Georgia (Mr. Norwood) come forward and lead the House in the Pledge of Allegiance.

Mr. NORWOOD 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.

HOMELAND SECURITY ACT OF 2002

The SPEAKER pro tempore. Pursuant to House Resolution 502 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. 5005.

The Chair read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on the legislative day of Thursday, July 25, 2002, amendment No. 16 printed in House Report 107-615 offered by the gentleman from Connecticut (Mr. Shays) had been disposed of. Pursuant to section 4 of House Resolution 502 and the order of the House of that date, it is now in order to consider amendment No. 3 printed in House Report 107-615.

AMENDMENT NO. 3 OFFERED BY MR. WAXMAN

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

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

Amendment No. 3 offered by Mr. Waxman: At the end of the bill add the following new title:

TITLE XI—OFFICE OF HOMELAND SECURITY

SEC. 1101. ESTABLISHMENT

(a) IN GENERAL.—There is established in the Executive Office of the President an Office of Homeland Security

(b) DIRECTOR.—The head of the Office shall be the Director of Homeland Security, who shall be appointed by the President and advice and consent of the Senate.

SEC. 1102. MISSION.

As provided in Executive Order 13228, the mission of the Office of Homeland Security is to develop and coordinate the implementation of a comprehensive national strategy to secure the United States from terrorist threats or attacks.

SEC. 1103. FUNCTIONS.

As provided in Executive Order 13228, the functions of the Office of Homeland Security shall be to coordinate the executive branch’s efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States. Such functions shall include:

(1) working with executive departments and agencies, State and local governments, and private entities to ensure the adequacy of the national strategy for detecting, preparing for, preventing, protecting against, responding to, and recovering from terrorist threats or attacks within the United States and periodically reviewing and coordinating revisions to that strategy as necessary;

(2) identifying priorities and coordinating efforts for collection and analysis of information regarding threats of terrorism against the United States, including ensuring that all executive departments and agencies that have intelligence collection responsibilities have sufficient technological capabilities and resources and that, to the extent permitted by law, all appropriate and necessary intelligence and law enforcement information relating to homeland security is disseminated to and exchanged among appropriate executive departments and agencies;

(3) coordinating national efforts to prepare for and mitigate the consequences of terrorist threats or attacks within the United States.
States, including coordinating Federal assistance to State and local authorities and nongovernmental organizations to prepare for and respond to terrorist threats or attacks; and for ensuring readiness and coordinated deployment of Federal response teams to respond to terrorist threats or attacks; (4) efforts to prevent terrorist attacks within the United States; (5) coordinating efforts to protect the United States and its critical infrastructure from cyber-attacks; and (6) coordinating efforts to respond to and promote recovery from terrorist threats or attacks within the United States; (7) coordinating the strategy of the executive branch for communicating with the public in the event of a terrorist threat or attacks within the United States and coordinating the development of programs for educating the public about the nature of terrorist threats and appropriate precautions and responses; and (8) in coordination with the Assistant to the President for National Security Affairs, reviewing plans and preparations for ensuring the continuity of the Federal Government in the event of a terrorist attack that threatens the safety and security of the United States or its territories or possessions; (9) coordinating the strategy of the executive branch for communicating with the public in the event of a terrorist threat or attacks within the United States and coordinating the development of programs for educating the public about the nature of terrorist threats and appropriate precautions and responses; and (10) encouraging and inviting the participation of State and local governments and private entities, as appropriate, in carrying out the Office’s functions.

SEC. 1104. ACCESS TO INFORMATION.
As provided in Executive Order 13228, executive agencies, to the extent permitted by law, shall, to the extent permitted by law, make available to the Office of Homeland Security all information relating to terrorist threats and activities within the United States.

SEC. 1105. BUDGET APPROVAL.
(a) AUTHORITY.—The Director of the Office of Homeland Security shall—

(1) review budget requests submitted to the President by all executive agencies with homeland security responsibilities; and

(b) EFFECT OF DISAPPROVAL.—In any case in which a budget request is disapproved under subsection (a),

(1) the Director shall notify the appropriate Committees of Congress; and

(2) the President may not include such budget request in the annual budget submission to Congress unless the President makes an express determination that including such request is in the national interest.

SEC. 1106. ADMINISTRATION.
As provided in Executive Order 13228, the Office of Administration within the Executive Office of the President shall provide the Office of Homeland Security with such personnel and administrative support, to the extent permitted by law and subject to the availability of appropriations, as necessary to carry out the provisions of this title.

SEC. 1107. DETAIL AND ASSIGNMENT.
As provided in Executive Order 13228, the heads of executive agencies are authorized, to the extent permitted by law, to detail or assign personnel of such agencies to the Office of Homeland Security upon request of the Director of Homeland Security.

SEC. 1108. OVERSIGHT BY CONGRESS.
The establishment of the Office of Homeland Security within the Executive Office of the President shall not be construed as affecting access by Congress, or any committee of Congress, to—

(1) any information, document, or study in the possession or control of or conducted by or at the direction of, the Director; or

(2) personnel of the Office.

The CHAIRMAN pro tempore. Pursuant to the previous order of the House, the gentleman from California (Mr. WAXMAN) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from California (Mr. WAXMAN).

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

Mr. Chairman, this amendment would do three things. First, it would codify the Office of Homeland Security in statute and subject it to congressional oversight.

Second, it would require that the director of this office be confirmed by the Senate.

Third, it would provide the director of the office with authority to review the budgets of all agencies involved in homeland security to ensure that they conform to the objectives of the national strategy. If they don’t, the director could decertify these budgets. This would prohibit the OMB director from submitting a budget unless the President made an express finding that they served the national interest.

Decertification would also trigger a requirement to report the deficiencies to relevant committees in the House and Senate.

Mr. Chairman, creating a new department is fine, but the most critical challenge is and will continue to be coordinating the efforts of the entire Federal Government as part of a comprehensive national strategy.

This chart to my right shows the current situation. There are 153 different agencies involved in homeland security.

The chart next to it, to my right, shows what the bill will do. There will be even more agencies involved. In fact, according to the Congressional Budget Office, this new department is so complex it will cost over $4 billion just to organize and manage the department.

As the chart shows, and I am talking about the chart to the far right, the chart shows that many agencies integral to homeland security will remain outside the new department, including the FBI, the CIA, the Defense Department, the National Guard, and many others.

What is urgently needed is an office at the White House level with the mandate and authority to develop a national strategy and unite the government behind it. That is what my amendment would do.

The starting point for this coordination should be the executive order that established the Office of Homeland Security within the White House, which President Bush issued last October.

This order appropriately created a new office with authority to implement these functions.

The amendment tracks the executive order, but it also provides additional authority to give the Nation what it needs most: a single office in the White House with the mission and authority needed to develop and implement a comprehensive national strategy for homeland security.

This amendment would do more to protect our national security, I believe, than the rest of the bill combined, and it is a whole lot simpler and less expensive.

I urge Members to vote yes on this amendment.

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

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

The CHAIRMAN pro tempore. Pursuant to the previous order of the House, the gentleman from Texas (Mr. ARMEY) is recognized for 4 minutes.

Mr. ARMEY. Mr. Chairman, I yield 4 minutes to the gentlewoman from California (Ms. HARMAN).

Ms. HARMAN. Mr. Chairman, I thank the gentleman for yielding time to me, and I thank him for his leadership on this bill.

Mr. Chairman, I say to my colleagues that I thank them for their leadership and their participation in this important effort to secure the Nation.

Mr. Chairman, I rise to address the context in which we consider this amendment. Coming late to this debate, my colleague, the gentleman from California, may not know the issue’s history.

His amendment is similar to a bill that I and a bipartisan group introduced last October at a time when we believed the administration would not support a large, new office for homeland security. We felt, and still do, that there needs to be one integrating strategy across the Federal Government. One person needs to be accountable for budget and coordination. One person needs to be a Cabinet-level official confirmed by the Senate.

The difference between now and last October is that, under H.R. 5005, that person is the Secretary of Homeland Security, who presides over the critical homeland security functions and a large workforce.

Under H.R. 5005, a statutory Homeland Security Council in the White House will coordinate government functions not contained in the new department, just as the National Security Council coordinates defense, foreign policy, and other national security functions.

If the sponsor of this amendment believes that the National Security Adviser lacks the authority to coordinate national security, I am unaware of it.

Mr. Chairman, a long history got us to this concept. As I mentioned, last
October I introduced the Office of Homeland Security Act with the gentleman from Nevada (Mr. GIBBONS) and 34 bipartisan cosponsors. The sponsor of this pending amendment was not one of them.

The organizing principle of that bill was included in legislation introduced by the gentleman from New Jersey (Mr. MENENDEZ) and 117 members of the Democratic Caucus. The language was modified to accommodate concerns of our colleagues on the Committee on the Budget for the Committee on Armed Services.

The sponsor of this pending amendment did not participate in these negotiations and did not cosponsor the task force bill. Further, his amendment, the one we are considering today, disregards the careful budget process that our colleagues, the gentleman from South Carolina (Mr. SPRATT), the gentleman from Missouri (Mr. SKEELTON), and the gentleman from Texas (Mr. TURCOTTE) helped construct.

When a bipartisan, bicameral group developed and introduced H.R. 4660, which combined the White House coordination and Department of Homeland Security functions, and which is the principal sponsor of the bill we are considering today, the principal sponsor of this amendment did not participate.

On May 21, the minority leader supported this bill, our bill, H.R. 4660, at a press conference, where we were joined by the ranking member of the Committee on Appropriations, the gentleman from Wisconsin (Mr. OBEY).

This issue has been my principal focus for this term in Congress. My position has adapted as the context has changed, and I believe that careful consideration will show that the gentleman's amendment would hurt rather than help cooperation.

Finally, I urge our colleagues to note that this amendment would cut OMB control over the budget for homeland security. The Director of Homeland Security in this amendment is given the power to reject unilaterally homeland security budgets from any department, tying even the hands of the President.

Mr. Chairman, there is a better concept than this amendment, and it is in the base bill. The bipartisan process that developed that language should be respected. I urge our colleagues to consider the context in which this amendment arises and to reject it.

Mr. WAXMAN. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding time to me; and I thank him for his leadership as a ranking member on the Committee on Government Reform and for his thorough understanding of the challenge that we have before us today.

I also want to commend the gentlewoman from California (Ms. HARMAN) for her leadership over the past year on this issue of homeland security. I want to take my lead from her when she said we must consider the context within which this amendment will be judged, because I believe the context within which this amendment will be judged is the context of a very big bill to establish a department which we all agree we need, but the size of which and the approach to which harkens back to the 1950s, rather than into the future.

It is not a department for this new century. It is old and fashioned in a very old-fashioned way. It does not utilize the tools that we today might think the techniques, and instead depends on locating 170,000 people. That is the low estimate. GAO says it could be as many as 200,000 people.

Mr. Chairman, there are 85,000 jurisdictions in our country, cities, towns, governments, of one kind or another, that this homeland security initiative must communicate with. Of that 85,000, only about 120 are larger than this proposed department. Cities like Salt Lake City; Providence, Rhode Island; Portland and Portsmouth, Maine; Reno, Nevada; and the list goes on and on, have fewer people than this Department of Homeland Security will have. The CBO says it will cost $4.5 billion to set this up, it is so large.

We will pay any price to protect our people, but that money might be better spent protecting our people than to go down this path of big government, a bureaucratic approach. We want that secretary of a lean department to be able to use his or her thinking about how to protect the American people, rather than spend time managing a department larger than most cities and towns in our country.

But the main point that I want to make is that the GAO, the Government Accounting Office, has said that it will take 5 to 10 years to have a Department of this size up and running. We simply cannot wait that long. Nothing less than the security of the American people depend on us being, from day one, ready to protect them in the strongest possible way.

I have supported the amendment of the gentlewoman from California (Ms. HARMAN) to codify the Office of Homeland Security in the White House. I think that is a good idea. I think it is a better idea to make that department stronger, at least for the time that it takes to set up this department.

That is why I support the gentleman's amendment, and the amendment of the gentlewoman from California (Ms. HARMAN) for her leadership.

Mr. ARBURY. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Chairman, I thank the Chair of the Select Committee on Homeland Security for yielding time to me.

Mr. Chairman, I am very eager to talk on this proposal this morning.

First of all, I would like to say to the gentleman from California (Mr. WAXMAN) that I know he knows that I know that his proposal is sincere, and I know we share the same goal, but I strongly believe that the structure he has laid out will fail.

I also strongly believe that he does not understand the design and the purpose of this new department. I want to start by talking a bit about that.

The chart we had up here earlier looked a little like the health care plan we saw a few years ago, and it does look very complicated. It is very bureaucratic, when we look at all the different agencies and departments now involved in combatting terrorism.

That is the point. We do have over 100 different agencies. We have everywhere a stovepipe and multiple. We need to bring accountability to this. We need to align authority with responsibility, with very aggressive congressional oversight.

The gentleman has been very good at that over the years, and I would hope that throughout Republican administrations alike, this Congress and this gentleman, as long as he is here, will provide that oversight so we have real accountability. That is what this is about. It is not about creating another large bureaucracy. It is about streamlining and consolidation.

The chart the gentleman held up showed a lot of different boxes and agencies and departments. This is the new Department of Homeland Security. This is the proposal the President sent us. This is the proposal that got through the various select committees. This is the proposal of the standing committees and now the select committees.

That is only four areas. One, the vast majority, almost all of the employees, will be in border and transportation security. The whole notion here is to streamline and consolidate; and to get the synergies out of that consolidation and streamlining in one new department, where we have real accountability, where somebody is in charge, that is the only way we are going to protect the homeland.

He has talked a lot about the CBO study, as has my colleague, the gentlewoman from California (Ms. PELOSI). I hope they read it. I hope all my colleagues will read this CBO study. At least look at the summary of it.

They say this will cost $4.5 billion, and $2.2 billion is in existing departments in the Department of Defense. I don't know where they come up with that. $2.2 billion. The remaining part of this for administrative costs for start-up is less than 1 percent of the budget of this department.

Finally, they take absolutely no account of any savings. They have no offsets at all for the consolidation and streamlining.
Again, with all due respect, the Congressional Budget Office is a 20th century budget-scoring organization trying to score a 21st century idea. This merger will create synergies and will create, over time, I am convinced, cost savings, and we need to pursue that. If the Congress provides the needed oversight, I think there will be some start-up costs, but they will be minor. The more important thing is in the mid-term and long-term there will be substantial efficiencies, and we will now have accountability and be able to protect our kids and grandkids from the threat of terrorism that faces us in this new century, the most important thing.

One of the ironies in this debate is, to me, that the very people who are saying, gee, this is going to be a big, new, 21st century bureaucracy, 1950s bureaucracy, are the same people who say we cannot give the President and this new department the kind of flexibilities they need to manage this new agency.

Managerial, budget, and personnel flexibilities are absolutely critical to making this work. I agree that we need to provide those.

Today we will have an opportunity to discuss that further as a number of amendments will be offered to try to take the select committee product, which is a streamlined, consolidated, 21st century agency, and try to take it back to the 1950s. We need to reject that.

Finally, the President’s proposal does include a coordinating council. He has already done that. He has set up a Homeland Security Council by executive order.

In the select committee, on a bipartisan basis, in fact, all four Democrats and three of us Republicans decided to support the gentleman from California (Ms. HARMAN) and her proposal she has worked on, not just for weeks or months but for years, to establish a coordinating council in the White House.

Why is that important? Because this administration has shown that it is going to prioritize fighting terrorism by executive order. We want to ensure in Congress that future administrations will do the same. We do need to have this coordinating council.

Mr. Chairman, this is the right way to go for 3 quick reasons.

One, this allows the President to have an advisor. Otherwise, if you have Mr. WAXMAN’s proposal, this advisor has to come up and testify before Congress, has to be confirmed by the Senate, the President will not rely on that person for candid advice, period.

Number two, it has no teeth. Look at the Council on Environmental Quality, if you are interested in the environment as the gentleman from California (Mr. WAXMAN) is, and tell me whether the CEQ has been effective in telling agencies how to prioritize budgets. Tell me if the drug czar has been effective. That is the other model. These are not the right models.

Third, the right model is there. It is the National Security Council. That is the one the gentleman from California (Ms. HARMAN) proposes. It has teeth. Let us reject the toothless alternative. Let us go with the real thing.

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

Mr. Chairman, we might have some difference about how this office ought to function in the White House. The proposal that I am offering is not something that I alone am supporting. It is, by the way, the proposal that has reached bipartisan support in the Senate. Senator LIEBERMAN’s committee has supported this concept. The Brookings Institution this is the core idea of their recommendation.

The General Accounting Office said that we need a stronger director in the White House with the tools to be able to do the job of coordinating these activities.

Evidently, none of the three of them talked to my colleague, the gentlewoman from California (Ms. HARMAN), but they came to a different conclusion, as have I, than her recommendation.

I must say that I do not think that what we are proposing is inconsistent with what the gentleman from Ohio (Mr. PORTMAN) offered to create this Homeland Security Council to advise the President of homeland security matters and work in consultation with OMB on a homeland security budget.

The difference we have is the Council would have many weaker powers than the Director of Homeland Security, which the President’s amendment would establish the position that Governor Ridge currently holds in statute.

The establishment of this council is vital to ensure all information is shared with all agencies and not just kept within the new Department. The council enables key organizations outside the new Department to advise and perform other duties that the President may direct.

The establishment of this council is vital to ensure all information is shared with all agencies. The Select Committee on Homeland Security and the new Secretary of Homeland Security.

As against this amendment, the House Select Committee on Homeland Security is against this amendment, even the gentleman’s own party leadership is against this amendment.

I urge my colleagues to vote against this amendment.

Mr. WAXMAN, Mr. Chairman, I yield my remaining 30 seconds to my colleague, the gentlewoman from California (Ms. PELOSI), the ranking member on the Select Committee on Homeland Security.

Ms. PELOSI, Mr. Chairman, I thank the gentleman for yielding time to me. Again, I acknowledge the fine work of the gentlewoman from California (Ms. HARMAN) and the fine work of our colleagues on Homeland Security Reform, the gentleman from California (Mr. WAXMAN).

I just want to make this final point: I talked earlier about the size of this department and the number of localities in this country that are larger. There are not that many that have more people than this department will have.
The main point about what we do here is about localities, localities, localities, is it not, I ask the leader, and how we communicate with them; how do we do it immediately to protect from day one the American people? Those localities need a place to coordinate with that is effective and effective day one, and not wait 5 to 10 years for the department to be established.

I urge my colleagues to support the amendment.

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

Mr. Chairman, absent this legislation that we are considering today, the proposition proposed by the gentleman from California (Mr. WAXMAN) might have been a good idea. I think there was a time it was.

But as soon as we turned ourselves in the direction of establishing a Department of Homeland Security with a Secretary of Homeland Security, this proposition was just simply out of place.

What we are doing with this legislation before us is establishing a Department of Homeland Security with a Secretary of Homeland Security. The Secretary will himself be confirmed by advice and consent of the other body, and will serve several other deputy under secretares that relate to that department.

Mr. Chairman, I would submit that the other body will have all the opportunity to advise and consent on the question of homeland security that they can handle, perhaps even more.

The other thing about this that bothers me is it is an imposition against the separation of powers. We in the House do not vote on the White House how it should staff Congress, nor should we try to impose a decision about what is needed in his case. The President of the United States is perfectly capable, as we have seen in the case of Governor Ridge, to make a separation of powers. We in the Senate do not vote on the White House how it should staff Congress, nor should we try to impose on the White House how it should staff itself.

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The CHAIRMAN pro tempore. All those in favor will rise and be recognized.

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

The CHAIRMAN pro tempore. Following this 15-minute vote on the Wax- man amendment, pursuant to clause 6 of rule XVIII, proceedings will resume following this 15-minute vote on the Wax- man amendment, pursuant to clause 6 of rule XVIII, proceedings will resume. If after 15 minutes, there is no vote, then the proceedings will resume following this 15-minute vote on the Wax- man amendment, pursuant to clause 6 of rule XVIII, proceedings will resume. If after 15 minutes, there is no vote, then the proceedings will resume. If after 15 minutes, there is no vote, then the proceedings will resume. If after 15 minutes, there is no vote, then the proceedings will resume. If after 15 minutes, there is no vote, then the proceedings will resume. If after 15 minutes, there is no vote, then the proceedings will resume. If after 15 minutes, there is no vote, then the proceedings will resume.

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The CHAIRMAN pro tempore. All those in favor will rise and be recognized.

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

The CHAIRMAN pro tempore. The proposition was just simply out of line. We are not voting 11, as follows:

[A roll call vote was taken.]

[The roll call vote was taken.]

The vote was taken by electronic device, and there were—ages 175, noes 248, not voting 11, as follows:

[A list of votes was read.]

The main point about what we do here is about localities, localities, localities, is it not, I ask the leader, and how we communicate with them; how do we do it immediately to protect from day one the American people? Those localities need a place to coordinate with that is effective and effective day one, and not wait 5 to 10 years for the department to be established.

I urge my colleagues to support the amendment.

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

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What we are doing with this legislation before us is establishing a Department of Homeland Security with a Secretary of Homeland Security. The Secretary will himself be confirmed by advice and consent of the other body, and will serve several other deputy under secretares that relate to that department.

Mr. Chairman, I would submit that the other body will have all the opportunity to advise and consent on the question of homeland security that they can handle, perhaps even more.

The other thing about this that bothers me is it is an imposition against the separation of powers. We in the Congress jealously guard our powers. We would not accept the idea that any- one from the executive branch should tell us how to staff the United States Congress, nor should we try to impose on the White House how it should staff itself.

The President of the United States is perfectly capable, as we have seen in the case of Governor Ridge, to make a decision about what is needed in his White House staff, select the person that can perform the duties that would be assigned to that person, and carry out those, or watch oversight of those duties being carried out.

This amendment is out of step, out of place, and I believe out of line. We ought to vote it down.

Mr. ARMSTRONG. Mr. Chairman, I rise in support of the Waxman Amendment to codify and strengthen the White House Office of Homeland Security.

This is the right approach. It is supported by independent research and expert opinion. This amendment is the only way to create the kind of Office of Homeland Defense that can be effective and provide the protection we need, and the people of the United States deserve.

We should not be creating a large unwieldy bureaucracy that undermines the mission of many important agencies as H.R. 5005 would do. The House and the agency it creates, passed, will undermine our health, our safety and response to natural disasters, our safety on the seas, and countless other protections that Americans have always counted on to be there.

The approach contained in this amendment is the correct approach, and the only one that would provide homeland security.

The CHAIRMAN pro tempore. All time for debate has expired. The question is on the amendment offered by the gentleman from California (Mr. WAXMAN).

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

RECORDED VOTE

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

A recorded vote was ordered.

The CHAIRMAN pro tempore. Following this 15-minute vote on the Waxman amendment, pursuant to clause 6 of rule XVIII, proceedings will resume on those amendments on which further proceedings were postponed last night in the following order: Amendment No. 1 offered by the gentleman from Minnesota (Mr. OBERSTAR), amendment No. 8 offered by the gentleman from Maryland (Mr. CARDEÑ), and amendment No. 11 offered by the gentleman from Ken- tucky (Mr. ROGERS).

This is a 15-minute vote, and the following three votes will be 5-minute vote.

The vote was taken by electronic device, and there were—ages 175, noes 248, not voting 11, as follows:

[Roll No. 352]
Mr. TAUSCHEK, Mrs. NORTHUP, and Messrs. BARTON of Texas, HASTINGS of Florida, BAIRD, CROWLEY, HEFLEY, HIFLEY, BARR, BARKER, of Georgia, MANZULLO, PAUL, and BERRY changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. PICKERING. Mr. Chairman, on rollcall No. 352, I was detained due to traffic. Had I been present, I would have voted "no."

(Ms. PELOSI asked and was given permission to speak out of order.)

CONGRATULATIONS TO CONGRESSMAN MEEHAN AND HIS WIFE, ELLEN, ON THE BIRTH OF DANIEL MARTIN MEEHAN

Ms. PELOSI: Mr. Chairman, as we debate matters of great seriousness today, there is some good news to report, and I think a good omen, and that is last night Marty Meehan and his wife, Ellen, received God’s blessing of Daniel Martin Meehan, 9 pounds, 10 ounces, 22 inches long, in Lawrence, Massachusetts.

I know we all want to congratulate Marty and Ellen Meehan.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Pursuant to clause 6, rule XVIII, the Chair announces that he will reduce to a 5-minute vote. Pursuant to clause 6, rule XVIII, the Chair announces that he will reduce to a 5-minute vote. Pursuant to clause 6, rule XVIII, the Chair announces that he will reduce to a 5-minute vote.

AMENDMENT NO. 1 OFFERED BY MR. OBERSTAR

The CHAIRMAN pro tempore. The unfinished business is the demand for a recorded vote on amendment No. 1 offered by the gentleman from Minnesota (Mr. Oberstar), which further proceedings were postponed and on which the Chair has postponed further proceedings.

Amendment No. 1 offered by Mr. Oberstar.

Strike section 402(5) of the bill (and redesignate subsequent paragraphs accordingly).

In section 504(5) of the bill, strike "and major disasters, and other emergencies".

In the matter preceding subparagraph (A) of section 503(1) of the bill, strike "major disasters, and other emergencies".

In the preceding subparagraph (A) of section 503(1) of the bill, strike "and major disasters, and other emergencies".

In section 501(d) of the bill, strike "or major disaster".

In section 501(c) of the bill, strike "or major disaster".

In section 501(e) of the bill, strike "or major disaster".

In section 501(f) of the bill, strike "and disaster".

Strike section 501(g) of the bill and insert the following:

"(6) in consultation with the Director of the Federal Emergency Management Agency, consolidating existing Federal Government emergency response plans for terrorist attacks into the Federal Response Plan referred to in section 506(b)."
Mr. FORD and Mr. DEUTSCH changed their vote from "aye" to "no.

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 8 OFFERED BY MR. CARDIN

The CHAIRMAN pro tempore. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Maryland (Mr. CARDIN) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. Cardin: In section 401(c), add the following at the end: "The functions, personnel, assets, and obligations of the Customs Service so transferred shall be maintained as a distinct entity within the Department of Homeland Security."

RECORDED VOTE

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

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 177, noes 245, not voting 11, as follows:

(Roll No. 354)

AYES—177

Interagency Homeland Security Task Force on the approach taken by the Joint Interagency Task Forces for drug interdiction at Key West, Florida and Alameda, California, to the maximum extent feasible and appropriate.

RECORDED VOTE

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

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 210, noes 188, not voting 5, as follows:

AYES—240

Mr. SHAYS. Mr. Chairman, in consultation with the gentleman from Pennsylvania (Mr. GEKAS), I ask for a moment of silence for the 9 miners in Somerset, Pennsylvania, trapped 240 feet underground. They have been trapped there for over 48 hours under very extreme conditions.

Mr. Chairman, this is in the district of the gentleman from Pennsylvania (Mr. MURTHA), and he and others in this Chamber request the prayers of the Members of this Chamber for those miners and their families, and for the heroic work of our rescue workers.

I ask for a moment of silence.

The CHAIRMAN pro tempore. Would all Members please stand.

SEC. 782. LABOR-MANAGEMENT RELATIONS.

(a) LIMITATION ON EXCLUSIONARY AUTHORITY.

(1) In general.—No agency or subdivision of an agency which is transferred to the Department pursuant to this Act shall be so recognized for such purposes, unless an order to the extent that such order excludes any portion of an agency or subdivision of an agency as to which (A) recognition as an appropriate unit has never been conferred for purposes of chapter 71 of such title 5; or (B) any such recognition has been revoked or otherwise terminated as a result of a determination under subsection (b)(1).

(b) PROVISIONS RELATING TO BARGAINING UNITS.—(1) LIMITATION RELATING TO APPROPRIATE UNITS.—Each unit which, as an appropriate unit for purposes of chapter 71 of title 5, United States Code, as of the date before the effective date of this Act (and any subdivision of any such unit) shall, if such unit (or subdivision) is transferred to the Department pursuant to this Act, continue to be so recognized for such purposes, unless—(A) the mission and responsibilities of such unit (or subdivision) materially change; and (B) a majority of the employees within such agency or (subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) EXCLUSIONS ALLOWABLE.—Nothing in paragraph (1) shall affect the effectiveness of any order issued under section 7103(b)(1) of such title 5 after June 18, 2002, unless—(A) the mission and responsibilities of the agency (or subdivision) materially change; and (B) any such recognition has been revoked or otherwise terminated as a result of a determination under subsection (b)(1).

Mr. WATT of North Carolina and Mr. LUTHER changed their vote from "aye" to "no".

Mr. McIntyre changed his vote from "no" to "aye". The amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. BONIOR. Mr. Chairman, on rollcall No. 355, the Rogers amendment to H.R. 5005, I mistakenly cast an "aye" vote. I intended to vote no.

(By unanimous consent, Mr. SHAUS and Mr. MURTHA, joined by all other Members, were excused from further proceedings for purposes of this section of the amendment.)

H5800 CONGRESSIONAL RECORD — HOUSE July 26, 2002

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(A) consists of—

(A) defense; or

(B) consists of intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

In these circumstances, the President determines by rule whether an employee within a unit (or subdivision) which are first established on or after the effective date of this Act and any employees first appointed on or after such date, the preceding sentence shall be applied disregarding subparagraph (A).

(c) HOMELAND SECURITY.—Subsections (a), (b), and (d) of this section shall not apply in circumstances where the President determines in writing that such application would have a substantial adverse impact on the Department’s ability to protect homeland security.

(d) COORDINATION RULE.—No other provisions of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, superset, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

The CHAIRMAN pro tempore. Pursuant to House Resolution 502, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from California (Mr. WAXMAN) each will control 10 minutes.

The CHAIRMAN. Mr. Chairman, I rise in a difficult position, Mr. WELDON of Pennsylvania. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Mr. Chairman, the Morella amendment is carefully crafted. It gives the President broad flexibility to restrict collective bargaining rights when the duties of employees change. Moreover, it does not apply to over two-thirds of the employees in the Department because these employees are not currently in collective bargaining units. And it will not apply to the new units with sensitive responsibilities such as the new intelligence analysis office.

The Morella amendment would not be needed if the President and the administration had a track record of respecting employees’ legitimate rights to organize and bargain collectively. Unfortunately, the administration has not respected these rights. Earlier this year, the President stripped union rights away from clerical workers in the offices of U.S. Attorneys. Many of these employees had been in unions and they were union members for over 20 years.

So if we do not pass the Morella amendment, the same thing that happened at the offices of the U.S. Attorneys will happen in the new Department. That is why she offered the amendment in committee and why it was adopted.

So I would urge my colleagues to vote against the Shays amendment and then, when the Morella amendment is offered, to support it.

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

Mr. WELDON of Pennsylvania asked and was given permission to revise and extend his remarks.

Mr. WELDON. Mr. Chairman, I rise in a difficult position, but very supportive of the Shays amendment, and let me explain why.

First of all, as most of my colleagues certainly on this side know, I am a strong supporter of the labor movement, and let me explain why.

The Morella amendment has no meaning to it. Basically, it allows the President to do exactly what the gentleman’s amendment was seeking to prohibit.

Mr. Chairman, the Morella amendment is carefully crafted. It gives the President broad flexibility to restrict collective bargaining rights when the duties of employees change. Moreover, it does not apply to over two-thirds of the employees in the Department because these employees are not currently in collective bargaining units. And it will not apply to the new units with sensitive responsibilities such as the new intelligence analysis office.

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So I would urge my colleagues to vote against the Shays amendment and then, when the Morella amendment is offered, to support it.

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

Mr. SHAYS. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. WELDON).

Mr. WELDON of Pennsylvania asked and was given permission to revise and extend his remarks.

Mr. WELDON. Mr. Chairman, I rise in a difficult position, but very supportive of the Shays amendment, and let me explain why.

First of all, as most of my colleagues certainly on this side know, I am a strong supporter of the labor movement, and let me explain why.
NAFTA. I was one of the few Republicans that opposed my President on trade promotion authority. I supported Davis-Bacon so that our building trades have the kind of support that they need. Pension reform, minimum wage, I have been there and that is because I come from a blue collar background.

Mr. Chairman, I am the youngest of nine kids. My father worked in a factory and was a member of the Textile Workers Union. My job is to try to strike a balance between what is best for business and what is best for the worker.

In this case I have to come down not just on the side of the worker and the right to organize, but in support of our President to deal with the difficult issue of homeland security.

I have looked at this amendment. I have the highest regard for the gentlewoman from Maryland (Mrs. MORELLA), I might add, and she is an absolutely tireless worker for the rights of workers and I have the highest respect for her. But in this case the Shays amendment changes the Morella amendment by one particular issue. It calls for three levels of the process of a President to take adverse action, but he must certify that the effect on homeland security must be substantial and adverse. This just cannot be by whim that is put forth by someone in the White House or agency who was opposed to labor rights at the union representation of the workers. It must require our President to take decisive action, go beyond the fact that it is merely incompatible with national security, and must actually determine that the effect is substantial and adverse.

So for these reasons, Mr. Chairman, I think the Shays amendment is a good amendment because it does in fact continue to protect workers, but it also think the Shays amendment is a good amendment because it does in fact continue to protect workers, but it also

President to issue an executive order taking away title 5 labor management rights, including the right to be in a union, for agency or subdivisions for national security reasons.

Section 7112 of title 5 makes the bargaining unit inappropriate for numerous reasons, including the performance of national security duties. Now, because the new homeland security agency’s mission could easily all be defined automatically as national security, I am concerned that potentially tens of thousands of employees could be prevented from being members of a union, even though their work and responsibilities have not changed.

This concern is really not groundless because in January, 500 Department of Justice employees had their union rights stripped without our seeing their work even though their responsibilities had not changed. Many of them had belonged to the union for 20 years and many of them had clerical responsibilities.

So my amendment seeks to set a slightly higher standard for the President so that the transferred employees who have the same responsibilities who are already in the union, not new ones, do not see their union rights stripped for this same obvious reason as those DOJ employees.

Unfortunately, as I reiterate, the amendment offered by the gentleman from Connecticut, though well intentioned, has that escape clause which negates the purpose of my amendment.

Mr. SHAYS. Mr. Chairman, I yield myself 15 seconds, to just point out that what we want is for the President to have the same powers and collective bargaining rights as before. If national security is involved that past presidents from President Carter have had, and yet we are taking the gentlewoman’s amendment and adding an additional test so we are making it a little more difficult for this President.

Mr. Chairman, I yield 2½ minutes to the gentleman from New York (Mr. McHUGH).

Mr. McHUGH. Mr. Chairman, I would like to engage the distinguished Speaker in a colloquy regarding subsection (c).

Mr. Speaker, clearly this subsection of Mr. SHAYS’ amendment adds an additional requirement on the President over and above what currently appears in section 7112 of title 5 before this or any other President would be enabled to exempt an agency or subdivision from the provisions of the Federal Labor Management Relations Act, a very important right, very important protection.

However, and added to the original Morella amendment as the Shays amendment proposed, this could create a methodology by which a President might circumvent the limitations on that section 7103 authority that the original Morella amendment, and I commend the gentlewoman, that would have put in place under the Department.

Accordingly, I believe that subsection (c) authority should, if it ever becomes law, be limited. I believe that it should be crafted in a fashion that each time that the President should invoke authority under subsection (c) of the pending amendment, that the expiration would only be effective for a period of no more than 24 months. Further, I believe that written notification of substantial adverse impact must be conveyed to both Houses of Congress no less than 30 days prior to the invoking of that subsection (c).

Thereafter, upon any subsequent finding of substantial adverse impact on homeland security, the President could only again, upon written determination, convey to both the House and Senate a determination would only be effective for a period of no more than 24 months each, with written determination and congressional notification for each determination as described.

And lastly, Mr. Speaker, upon such time as the war is won, conditions even out and waivers are no longer extended, each bargain unit previously recognized should be reinstated with the proper rights as they existed the day before the original waiver. And I would ask would the distinguished Speaker agree with me that we should provide for congressional notification allowing us to consider those issues, make those determinations, not as under current law, but for a determined period, and when the war on terrorism is leveled out is over and won, the workers and their union organizations should fully return to their previous status and related rights.

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

Mr. McHUGH. I yield to the gentleman from Illinois.

Mr. HASTERT. Mr. Chairman, I think the gentleman makes a good point. This proposal is certainly reasonable. He has my assurance that the bill works its way through the conference with the other body, that I will do my best to make sure that the gentleman’s proposal is not only considered carefully by the Congress on both sides but we will take very, very extraordinary methods and work to make sure that type of concept is incorporated in the bill.

It could form the basis, I think, for an excellent conference agreement.

Mr. McHUGH. Mr. Chairman, I thank the Speaker for his assurance and I commend him, the gentlewoman from Maryland (Mrs. MORELLA), and the gentleman from Connecticut (Mr. SHAYS), and the people who have worked so hard on this for their leadership.

Mr. WAXMAN. Mr. Chairman, I yield 1 minute to the gentleman from Texas.
Mr. REYES. Who has personal experience on this subject that I think Members ought to know about.

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

Mr. Chairman, I want to offer my personal experience. Back in 1969 when I first joined the Border Patrol as a young officer fresh out of the military after spending 13 months in Vietnam, I joined the Border Patrol Union. I would have not had a career in the Border Patrol for 26½ years.

Union protection is vital and important, specifically for minorities, but for all employees. To somehow draw the conclusion that to be able to have bargaining rights would be contrary to this Nation’s national security is wrong.

Mr. Chairman, I intend to oppose the Shays amendment and I intend to oppose anything that would put in jeopardy the kinds of rights that gave me the opportunity to serve this country proudly in the United States Border Patrol, both as an agent ultimately retiring as the Chief. So I have been on both sides.

I would rather have our employees have the protection and have to deal with a problem employee as a responsibility of a chief than to subject employees to no protections.

Mr. SHAYS. Mr. Chairman, I yield myself 15 seconds to just respond to the gentleman from Ohio. We are not trying to do anything with collective bargaining that does not exist in present law. In fact, we are even restricting in some ways the power of the President. Collective bargaining still exists. But like with Jimmy Carter all the way down, if there is a national security issue, the President has the right to take action.

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

Mr. WAXMAN. Mr. Chairman, may I inquire as to how much time there is on each side?

The CHAIRMAN pro tempore. The gentleman from California (Mr. WAXMAN) has 4 minutes remaining, and the gentleman from Connecticut (Mr. SHAYS) has 2½ minutes remaining.

Mr. WAXMAN. Mr. Chairman, I inquire through the Chair of the gentleman from Connecticut whether he has another speaker other than himself.

Mr. SHAYS. Mr. Chairman, I will have the gentleman from Ohio (Mr. PORTMAN) to close, and I might make a comment after the next speaker. But between me and the gentleman from Ohio, I am glad he has that right.

Mr. WAXMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, if this were campaign finance reform, the gentleman from Connecticut would have a sheet in our hands saying this amendment is a poison pill designed to undermine the Morella amendment.

Mr. Chairman, this amendment is a wolf in sheep’s clothing. It tries to send a reassuring message to Federal employees that their rights will be protected and their collective bargaining rights retained. I want to tell our Federal employees who read the Morella amendment that this language provides the President with a trap door to deny union representation to anyone in this Department if he determines that it would have a substantial adverse effect on the Department’s ability to prevent homeland security.

In general, that is the law. Why yield this? To prevent the trap door to the Morella amendment. When the President removed collective bargaining rights of some 500 Department of Justice employees earlier this year, he said it was in the interest of national security. Yet most of those employees work in clerical jobs and have been union members for over 20 years.

Last month I had the opportunity to question the deputy director of the Office of Personnel Management and I asked him in the last 20 years, in the last 50 years, what has that ability now, and the OPM sent me 11 pages of attachments citing instances where union membership ever in any instance at any time adversely affected national security? I got back a two-page letter with 11 pages of attachments. It does not cite one single incident where union membership had any adverse effect on collective bargaining.

Mr. Chairman, this is a windmill that the Republicans are tilting at because they do not believe in collective bargaining. That is their right, but do not fooled. This amendment undermines and is designed to undermine, I tell my friend from Connecticut, like a poison pill, the effect of the Morella amendment. Do not tell my Federal employees, do not tell the gentlewoman from Maryland, that this is some benign offering simply to make it a little better and to give the President a little more flexibility.

Mr. Chairman, I say to my colleagues, read the law. The President has the ability now, and the OPM sent me 11 pages of attachments citing instances where every President, admitted in small instances, because this is not a problem, made such exemption.

Mr. Chairman, I say to my friends and my friends on the Republican side of the aisle, give the gentlewoman from Maryland the benefit this is some benign offering simply to make it a little better and to give the President a little more flexibility.

Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, this is not campaign finance reform, it is national security. And we want the President of the United States to have the same power previous Presidents have had for national security. This is national security. What the Morella amendment, in my judgment, is that we give the President the ability to govern this country under national security, unless we have the safety valve that we have put in there.

Mr. Chairman, the gentleman from Maryland (Mrs. MORELLA) cares as deeply about national security as any Member of this Chamber, and it has been a pleasure to work with her on this. We were not able to come together, but we tried.

The Shays amendment is identical to the Morella amendment. And by the way, the gentleman from Maryland will have an opportunity to offer her amendment. It is specified under the rule. It is a special rule offered in the rule and I am glad she has that right. But the Shays amendment has one additional feature, an extremely important and limited safety valve which would allow the President to use the provisions of existing law to exempt an employee under existing authority, that is not adversely affected, have that ability. No one in this House wants to adversely affect national security.

Mr. SHAYS. Mr. Chairman, I yield myself 15 seconds to point out that before 9/11, we could not cite certain instances of terrorist activity. The bottom line is the Morella amendment restricts the President’s ability under national security to take action. We are qualifying her restriction.

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

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

Mr. Chairman, if Mr. SHAYS and some Republicans do not support the Morella amendment, they should just vote against it. They should not engage in this kind of trick to put in what appears to be the Morella amendment, but then to negate it. If they were honest about what they would simply oppose the Morella amendment as the gentleman from Connecticut (Mr. SHAYS) did in the Committee on Government Reform.

Mr. Chairman, a majority in that committee supported the Morella amendment. I would urge the House to adopt the Morella amendment and to defeat the Shays amendment, because what it does is negate the Morella amendment.

Mr. SHAYS. Mr. Chairman, I yield the balance of our time to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Chairman, I thank the Chair. I thank Connecticut, my friend, for yielding me this time.

Mr. Chairman, the gentlewoman from Maryland (Mrs. MORELLA) cares as deeply about national security as any Member of this Chamber, and it has been a pleasure to work with her on this. We were not able to come together, but we tried.

The Shays amendment is identical to the Morella amendment. And by the way, the gentleman from Maryland will have an opportunity to offer her amendment. It is specified under the rule. It is a special rule offered in the rule and I am glad she has that right. But the Shays amendment has one additional feature, an extremely important and limited safety valve which would allow the President to use the provisions of existing law to exempt an employee under existing authority, that is not adversely affected, have that ability. No one in this House wants to adversely affect national security.
Mr. Chairman, it is a tougher standard on top of the already existing standard than any other agency of government. The employees of this Department will have more protections than the employees of any other department of the Federal government. Here is a time when we are trying to address this threat of terrorism, would it not be ironic if we took away existing national security protection that the President can employ through his waiver for the new Department of Homeland Security?

In this amendment, I believe that we have struck a sensible compromise between doing nothing and adopting the amendment offered by the gentleman from Maryland. It makes it harder for the President to exempt anything that exists law would permit. But it has an important safety valve. To make sure that it can deal with homeland security emergencies and critical situations if necessary and that protection of bargaining rights for workers will not imperil the protection of the physical safety and security of all of us Americans.

Mr. Chairman, I urge a “yes” vote on the Shays amendment. I think it is a responsible and a correct compromise. I urge a “no” vote on the Morella amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Connecticut (Mr. SHAYS).

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 229, noes 201, not voting 3, as follows:

(A) the mission and responsibilities of such department pursuant to this Act, continue to title 5, United States Code, as of the day before the effective date of this Act, be included; and

(A) the mission and responsibilities of such department pursuant to this Act, continue to title 5, United States Code, as a result of any appropriate unit for purposes of chapter 71 of such title 5; or

Amendment No. 18 offered by Mrs. MORELLA—In subtitle G of title VII of the bill, insert as above recorded.

(a) LIMITATION ON EXCLUSIONARY AUTHORITY.—In general.—No agency or subdivision of an agency which is transferred to the Department pursuant to this Act shall be excluded from the coverage of chapter 71 of title 5, United States Code, as a result of any order issued under section 710(b)(1) of such title 5 after June 18, 2002, unless—

(1) recognition as an appropriate unit has never been conferred for purposes of chapter 71 of such title 5; or

(2) Nothing in paragraph (1) shall affect the extent to which such order excludes any portion of an agency or subdivision of an agency as to which—

(A) as an appropriate unit has never been recognized for purposes of chapter 71 of such title 5; or

(B) such a unit has been recognized or otherwise terminated as a result of a determination under subsection (b)(1).
(b) a majority of the employees within such unit (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism or investigation.

(2) LIMITATION RELATING TO POSITIONS OR EMPLOYEES.—No position or employee within a unit (or subdivision of a unit) as to which continuing coverage is given in accordance with paragraph (1) shall be excluded from such unit (or subdivision), for purposes of chapter 71 of such title 5, unless the primary job duty of such position or employee—

(A) materially changes; and

(B) consists of intelligence, counterintelligence, or investigative work directly related to terrorism or investigation.

In the case of any positions within a unit (or subdivision) which are first established on or after the effective date of this Act and any employees first appointed on or after such date, the preceding sentence shall be applied disregarding subparagraph (A).

(c) COORDINATION RULE.—No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

The CHAIRMAN pro tempore. Pursuant to House Resolution 502, the gentlewoman from Maryland (Mrs. MORELLA) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from Maryland (Mrs. MORELLA). Mr. Chairman, I yield myself such time as I may consume.

I am going to offer this amendment despite the fact that the Shays amendment did pass because I believe the integrity of the Committee on Government Reform is important enough so that what they voted on in the full committee should be what is sent over to the conferences and what ultimately will become law.

The amendment that I am offering today is with the gentleman from Illinois (Mr. DAVIS), who is the ranking member on the selective committee on Civil Service, Census and Agency Organization, and very much a supporter of the Homeland Security. What the amendment does is it simply aims to protect the union rights of existing employees transferred to the new Department of Homeland Security who have the same duties.

I want to point out at the onset that the language of my amendment is similar to language that was included in the gentleman from Texas’s (Mr. THORNBERY) original Homeland Security bill and the language that was agreed to on a bipartisan basis by the Senate Committee on Governmental Affairs.

Let me just say one big agency, 22 other agencies become part of Homeland Security; therefore, everything under it is called security. Therefore, it offers an opportunity for arbitrarily saying that some union rights will be taken away from some people but hundreds of thousands of employees would be part of it. Only 50,000 employees who already belong to unions whose duties have not changed would be able to continue with the functions of their unions and collective bargaining rights. That is all. It is grandfathering those people in.

Why do we need it? Already it has been mentioned, as we discussed the Shays amendment that in January, 500 employees of the Department of Justice lost their collective bargaining rights. They lost their rights even though many of them were clerical and that even had been part of a union for about 20 years. So we do want to say that this House really should reflect, at a time when we have Local Commission No. 2, when 51 percent of our work force are eligible to retire in 5 years, when 71 percent of the Executive Service are eligible to retire in 5 years and we are trying to recruit and retain, the fact that trust is so very important.

So I ask this body, despite the fact that the Shays amendment passed, that they pass the Morella amendment so we can also send on the intent of the Committee on Government Reform as well as this Congress.

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

Mr. DAVIS of Illinois. Mr. Chairman, I am pleased to join with the gentlewoman from Maryland (Mrs. MORELLA) in cosponsoring this amendment and rise in strong support.

The Morella amendment provides that employees who have elected unions to represent them in collective bargaining, before being transferred into the Department of Homeland Security, should not lose their representation rights. Essentially the Morella amendment is a grandfather clause. All it really does is protect those individuals who have collective bargaining rights and are currently union members.

There are some people who suggest that this is going to undercut the President’s authority. Absolutely not. It only deals with those individuals who are currently union members, and it also provides enough flexibility that if individuals’ work assignments change significantly, then the President could, in fact, move them around. We all know that the President issued an executive order barring union representation in U.S. Attorney’s offices. Individuals who were doing clerical work were denied the opportunity to be represented and to have the representation. As a matter of fact, we believe in a strong Presidency. We believe that the flexibility ought to be there. But we also believe that these are hard-won rights that people have fought for over many, many years and years. They should not be diminished. They should not be taken away.

And so I simply urge my colleagues to stand with the American people who believe in Civil Service protection, who believe in the rights of the individuals that work. Stand and support the Morella amendment.

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent as the ranking Democrat on the Committee on Government Reform to manage the time on this Morella amendment.

Mr. PORTMAN. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Is the gentleman from Ohio seeking time in opposition?

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

The CHAIRMAN pro tempore. The gentleman from Ohio is recognized to control the time in opposition as a member of the select committee.

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

First of all, we have already had a good debate on this issue in the context of the Shays amendment, and I appreciate the fact that the gentlewoman from Maryland comes at this in good faith. As I said earlier, nobody in this Chamber cares more about national security. We do differ on this issue. The gentlewoman from Maryland talked a lot about the Committee on Government Reform and what the Committee on Government Reform thinks about this.

I think it is only appropriate, Mr. Chairman, to yield 2½ minutes to the gentleman from Indiana (Mr. BURTON), chairman of the Committee on Government Reform.

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding time.

First of all, let me just say that I have very high regard for the gentlewoman from Maryland. She is a very fine member of our committee. As a matter of fact, I admire her so much, we made her a subcommittee chairman. But we have a strong disagreement on this issue. We are at war, and I am talking about national security, and there is really no evidence that we have a problem. In fact, this very issue has been used very sparingly by past Presidents, both Republican and Democrat, and they have never abused the privilege.

Second, as I said, we are in a war, and the Homeland Security Department is a very, very important part of the President’s strategy of dealing with that war. This amendment would give the President less authority over the Homeland Security, less authority than he has over any other department of government. Why would we do that? Why would we give the President less authority over the security of America, the new Homeland Security Department, less authority than he has over any other department of government. Why would we do that?

Regarding this vote, this was one of the most controversial votes we had before our committee. It came right down to the last vote. It passed by one vote. When it went to the select committee, the leadership committee, that issue was reversed by one vote. So this
is a very, very difficult issue for us to deal with. That is why we supported the Shays amendment, because the Shays amendment is an amendment we think that deals with the subject very well.

Finally, let me just say, President Bush is not an antiunion President. He cares about organized labor, and he will work with organized labor. So let us not give the President less authority than he already has over every other agency in dealing with the security of our Nation. It makes absolutely no sense.

I hope Members will all vote against the Morella amendment, not because she is not a lovely lady, but because it is the wrong thing to do.

Mrs. MORELLA. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. WAXMAN), who is the ranking member of the full Committee on Government Reform.

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

At the close of the last amendment by Mr. SHAYS, the gentleman from Ohio (Mr. PORTMAN) said that the gentlewoman from Maryland (Mrs. MORELLA) was being treated fairly because she could offer her amendment.

Now, that is absolutely wrong. She is a senior Member of Congress. She is the author of an amendment that passed in the committee on a bipartisan basis, and she is being demeaned by that previous amendment that makes the vote on this amendment completely meaningless.

I support the Morella amendment. You can vote for it, you can vote against it, but it does not make any difference, because even if it passed, the previous amendment negates it. I just think that is an incredible way to treat somebody in your own party. After all, she gave the Republicans the votes to organize the House. What do they do? They turn around and deny her a fair opportunity to offer her amendment and to try to convince Members to support it and to make it the House position.

Now, if we adopt the Morella amendment it will be the House position, but we have already adopted another amendment that says the Morella amendment is not going to be the House position.

I think that this is a worst way on the process to treat this matter, and I think it is an unfair way to treat the gentlewoman from Maryland (Mrs. MORELLA). I am going to support the Morella amendment. I asked for the time so we could control it, but we were not even given that courtesy.

This is partisanship in the sneakiest, meanest, narrowest way; and not to me, but to one of their own Members. I commend the gentlewoman from Maryland (Mrs. MORELLA). She offered the amendment in committee, she argued for it, her arguments prevailed and she won on a bipartisan basis. I am going to vote for her amendment. I urge other Members to vote for it. But we all know it is meaningless.

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

Mr. Chairman, I wholeheartedly agree with the endorsement of the gentlewoman from Maryland (Mrs. MORELLA) by my friend from California and appreciate the full Committee Member, and as I said earlier, no one cares more about national security than her.

I would just make the point very clearly that notwithstanding the fact she would not be able to offer the same amendment to the same section of the bill, this rule was drafted in a way to permit that. I think it is appropriate, and she does have the right to offer her amendment today, and I am glad she does.

Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. DAVIS), a member of the Committee on Government Reform.

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

I just want to make a brief statement. I want to thank the gentleman from California (Mr. WAXMAN) for what he had said, but I want to disagree with him on one issue, because this is not meaningless. If we pass this amendment, this also indicates the intent of the House, the intent of the committee. And the battle has just begun. I will not relent until we do what is best for our Federal employees.

Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

I just want to make a brief statement. I want to thank the gentleman from California (Mr. WAXMAN) for what he had said, but I want to disagree with him on one issue, because this is not meaningless. If we pass this amendment, this also indicates the intent of the House, the intent of the committee. And the battle has just begun. I will not relent until we do what is best for our Federal employees.

Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, Congress enacted civil service protections and collective bargaining rights so the U.S. Government could attract the very best to government service. As we stand together to fight terrorism, we should also stand together for the rights and well-being of those people who are on the front lines of that fight.

It is no secret that one of the Federal Government’s biggest challenges is recruiting and retaining highly qualified workers. Within 3 short years, the Federal Government will face a mass retirement of Federal employees. Given the composition of the workforce, this is imperative.

I support the Morella amendment because it will ensure that Federal employees at the new Department of Homeland Security will retain their rights to belong to unions. As we stand together to fight terrorism, we should also stand together for the rights and well-being of those people who are on the front lines of that fight.

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It is no secret that one of the Federal Government’s biggest challenges is recruiting and retaining highly qualified workers. Within 3 short years, the Federal Government will face a mass retirement of Federal employees. Given the composition of the workforce, this is imperative.
Mr. Chairman, I rise in opposition to the gentlewoman’s amendment. I think it is going to be very, very important as we move through the process of consolidating all these agencies together into one unified Homeland Security Department. If the President of the United States has the ability to deal with the conflicting union agreements that he is going to have to try and bring together, I know the President of the United States is going to do everything he can to protect the rights of the workers.

This amendment I think is extremely strange, because it basically is saying that we are going to take the right that the President of the United States has to suspend collective bargaining agreements for national security purposes and deny it to the President of the United States within the Department of Homeland Security.

If the President, the President of the United States for national security reasons, and this is an authority that Democratic and Republican presidents have exercised authority rarely, and, when they have, they have done so appropriately. To deny it in the Department of Homeland Security to me does not make any sense.

Mr. PORTMAN. Mr. Chairman, I yield 30 seconds to the gentleman from Texas (Mr. THORNBERY), another distinguished colleague who has been at the forefront of this issue over the last several years, not just weeks or months.

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

Mr. Chairman, earlier this year a bipartisan group of House and Senate Members, a bipartisan group of Members from both bodies, introduced identical bills, and basically we said that we would reduce the rights of federal workers.

Mr. CHAIRMAN pro tempore. The gentleman from Ohio has the right to close.

Mr. SHAYS. Mr. Chairman, I yield myself such time.

There is absolutely no doubt in my mind that employees currently covered by the full rights of title 5 will have no adverse affect on our homeland security as it pertains to employment in this department. I support this amendment and urge my colleagues to vote in favor of it.

Mrs. MORELLA. Mr. Chairman, I yield 30 seconds to my colleague, the gentleman from Maryland (Mr. WYNN).

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

Mr. Chairman, I rise in strong support of the Morella amendment. I agree with her, it does not become a code word for favoritism. It applies only to those who currently have collective bargaining rights and would in NO WAY affect those employees who do not currently have these rights.

Some of the papers are using the example of a “drunken Border Patrol agent” as a reason why they would take away employee rights. This is a silly anecdote. I can tell you in New York right now, if this were to happen with one of our officers in the City, such a person would be removed immediately from their post, but due process would still be protected.

We don’t want to lose homeland security by undermining job security.

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

Mr. HOYER. Mr. Chairman, the Japanese attacked us at Pearl Harbor and we fought World War II. We went into Korea, we went into Vietnam, we went into Bosnia, we went into the Persian Gulf. We did not do this. We saw no need to do it, because we saw no threat from collective bargaining.

My colleagues, support the Morella amendment. I agree with her, it does mean something. It says to our employees, we understand that your collective bargaining rights do not in any way, at any time, undermine our national security, for which we all will fight and for which we will all support legislation to protect it.

I rise in favor of the Morella amendment.

Mr. Chairman, we must ensure that “flexibility” does not become a code word for favoritism. Furthermore, we must ensure that “flexibility” does not become a euphemism for gutting federal civil servants’ rights.

The federal civil service was created for a reason: to prevent arbitrary and capricious employment decisions based on politics and patronage rather than competence and professionalism.

All this amendment does is tell the employees who will be working in the new department, “If you will be performing the same job as you do now, you will be able to retain the right to collective bargaining rights.”

There is no doubt that certain reforms to our civil service are necessary, but stripping the rights of federal employees behind the curtain of homeland security is not the right approach.

We have an opportunity to turn national tragedy into national triumph by demonstrating to the American people, particularly the generation just entering the workforce, that employment in the Federal Government is not only honorable and patriotic, but also rewarding.

There is absolutely no doubt in my mind that employees currently covered by the full rights of title 5 will have no adverse affect on our homeland security as it pertains to employment in this department. I support this amendment and urge my colleagues to vote in favor of it.

The CHAIRMAN pro tempore. The gentleman from Ohio has the right to close.

Mr. PORTMAN. Mr. Chairman, I would like to give the gentlewoman from Maryland (Mrs. MORELLA) the right to close.

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

Mr. Chairman, again, we have had a good debate here today in the context of the Shays amendment and now the Morella amendment. The bottom line is we have a good compromise. It is the Shays amendment. It gives workers in this new department more protection than any workers in any department in government, and yet it retains in the president this extremely important national security authority. It would be ironic if during this time of addressing this new threat of terrorism we were to take away that authority altogether.

I think the compromise makes sense. I strongly urge a no vote on the Morella amendment, which would, according to the President, be the basis for a veto of this legislation.

Mr. Chairman, I yield the balance of my time to the gentleman from Connecticut (Mr. SHAYS).

The CHAIRMAN pro tempore. The gentleman from Connecticut is recognized for 2 minutes.
Mr. SHAYS. Mr. Chairman, in the 3½ years my Subcommittee on National Security has been looking at homeland security, one thing is very clear: We need to know what is going on. We need to know what is happening. We need to do what we are doing today, which is to reorganize our government to meet the terrorist threat.

When the President implements the reorganization of our Federal Government under this law that we will provide him, he needs the same flexibility President Carter had, the same flexibility President Reagan had, the same flexibility President Bush had, the same flexibility President Clinton had. He needs that same flexibility.

It is interesting to note that my colleagues have not sought to limit past presidents in their ability to have this flexibility to deal with national security. You must vote no on the Morella amendment. It is in conflict with the amendment that has passed before. We include all the features of the Morella amendment, but we had a safety valve.

When you hear of the 500 clerical employees that were impacted, they were under the National Drug Intelligence Center, the U.S. National Central Bureau of Interpol, the Office of Offender Identification, the Criminal Justice Division of DOJ. They were clericals under the professionals. But the law does not give the President the ability to leave the clericals in place, and that is what the Morella amendment speaks to. We give the President the ability to utilize his power in a way that enables him to impact only the employees we need to.

Our primary concern must be national security; it would be absolutely unbelievable if we would give the President less power to fight terrorism when terrorism is a greater threat. It is not a question of, but when, where, and what magnitude we will face the potential of chemical, biological, or nuclear attack.

We had people testify before our committee that pointed out a small group of scientists could alter a biological agent and wipe out humanity as we know it. We are talking about a threat to our national security. How can we think that Federal employees are not willing to step up to the plate and live under the same law that has existed under previous presidents? I believe they want this law and the President to have the power that previous presidents have had.

Mrs. MORELLA. Mr. Chairman, I yield myself the remaining time.

I do not see how being in a union would disallow any of those employees from performing their responsibilities.

I think, Mr. Chairman, the crux of this debate comes down to trust. It is for this reason that I simply refuse to buy the argument that we have to matter-of-factly give the administration or any administration as much flexibility as possible. I am a friend of the President, I think he has done a wonderful job guiding the country through this crisis, but on the Federal employee issues, his record is not as laudable as I would like it to be.

So my amendment speaks to those concerns. It speaks to a matter of trust that has been engendered if we have policies that are anti-Federal employee rights, and that is why I feel it is necessary to create a slightly higher standard for this department.

The fact is the President cannot take the chance on being wrong on this issue. The President's executive order authority under chapter 7103 has never been overturned, and there are simply too many Federal employees who could lose their rights for the same questionnable reason that those 500 DOJ employees did.

I have 78,000 Federal employees living in my district. This issue is important to them, and it is important to the country. I ask my colleagues to vote for the Morella amendment. It is in conflict with the amendment that has passed before. We include all the features of the Morella amendment, but we had a safety valve.

Mr. DAVIS of Illinois. Mr. Chairman, as a member of the House Committee on Government Reform, and as the Ranking Member of its Subcommittee on Civil Service, Census, and Agency Organization, I am proud to join Mr. Davis and Mr. Morella in support of this amendment. It is in conflict with the amendment that has been engendered if we have the same flexibility President Clinton had, the same flexibility President Reagan had, the same flexibility President Bush had, the same flexibility President Carter had, the same flexibility.

Our primary concern must be national security; it would be absolutely unbelievable if we would give the President less power to fight terrorism when terrorism is a greater threat. It is not a question of, but when, where, and what magnitude we will face the potential of chemical, biological, or nuclear attack.

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Mr. CONDIT changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded voting.
"(C) CONTINUING COLLABORATION.—If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

(ii) develop a method for each employee representative to participate in any future planning or development which might become necessary; and

(iii) assure that each employee representative has adequate access to information to make that participation productive.

(2) PROCEDURES.—Any procedures necessary to carry out this subsection shall be established by the Secretary and the Director jointly. Such procedures shall include measures reasonably necessary—

(A) in the case of employees within a unit with respect to which a labor organization is accorded exclusive recognition, representation by individuals designated or from among individuals nominated by such organization;

(B) in the case of any employees who are not within such a unit, representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be appropriate, consistent with the purposes of this subsection; and

(C) the selection of representatives in a manner consistent with the relative numbers of employees represented by the organization or other representatives involved.

(f) PROVISIONS RELATING TO APPELLATE PROCEDURES.—

(1) SENSE OF CONGRESS.—It is the sense of the Congress that—

(A) employees of the Department of Homeland Security are entitled to fair treatment in any appeals that they bring in decisions relating to their employment; and

(B) employees in prescribing regulations for any such appeals procedures, the Secretary of Homeland Security and the Director of Personnel Management—

(i) should ensure that employees of the Department are afforded the protections of due process; and

(ii) toward that end, should be required to consult with the Merit Systems Protection Board before issuing any such regulations.

(2) REQUIREMENTS.—Any regulations under this section which relate to any matters covered by chapter 77—

(A) shall be issued only after consultation with the Merit Systems Protection Board; and

(B) shall ensure the availability of procedures which shall—

(i) be consistent with requirements of due process; and

(ii) provide, to the maximum extent practicable, for the expeditious handling of any matters involving the Department of Homeland Security.

The CHAIRMAN pro tempore. Pursuant to House Resolution 503, the gentleman from New York (Mr. QUINN) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from New York (Mr. QUINN).

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

Mr. Chairman, the President called on the Congress to create the Department of Homeland Security in an effort to coordinate the various gosserous government agencies performing these functions into a single more manageable unit and department.

This massive realignment of people and resources which was developed to enhance the protections of our Nation, without eliminating the basic rights of our employees that comprise the Department.

The President needs the flexibility we talked about earlier today to have the right people in the right place at the right time to address rapidly evolving terrorist threats.

His vision is of a performance-based system that rewards employees who provide the right answers to the right questions and removes those who are not performing their duties adequately. With the security of our Nation at stake, it is our duty to provide this and future Presidents with that ability.

Mr. Chairman, it is an opportunity for me to also congratulate and thank the gentlewoman from Maryland (Mrs. MORELIA) for her work on this issue, to thank the administration and the President’s personal involvement these past few weeks to get us to this point this morning, to thank my good friend from New York (Mr. McHUGH), the Speaker, and the gentleman from Ohio (Mr. PORTMAN).

Once we have this system in place, however, it is important we do not compromise the basic employee protections of the workers who perform these functions. Therefore, Mr. Chairman, it is imperative that the Congress approve the amendment that I offer.

The Quinn amendment is outlined is a part of the overall picture that puts this Department in place. We improve the personnel flexibility proviso in the underlying text by expanding and broadening worker protections in the following three ways:

First of all, it ensures the direct participation of employee representatives in the planning, the development, and the implementation of any human resource management system. It accomplishes this goal by requiring that the Secretary of this new Homeland Security and the Director of Personnel Management provide each and every employee, number one, with a written description of the proposed amendments; secondly, 60 days to review the proposal; and, thirdly, a full and fair consideration of those employers’ recommendations.

In other words, Mr. Chairman, what this does is it gives the labor unions, the employees a seat at the table from the beginning to the end of the process.

Secondly, with this amendment this morning, it preserves the current appeals rights of employees, emphasizes due process, expedites resolutions, and requires consultation with the merit systems protection board which is already in place.

And, thirdly, it places a sense of Congress language directly into the underlying statute that clearly protects the employee’s right to appeal and that due process.

Mr. Chairman, this amendment allows the President to use provisions in current law to exempt an agency from collective bargaining only when he determines in writing that a substantial, adverse impact on the homeland security exists.

This standard is actually more restrictive now than current law. I believe that those protections are absolutely critical to the employees of the new Department. Mr. Chairman, it is an opportunity to point out that these employees of our Federal Government, particularly the example of 9-11, none of them asked when their shift change or when they were going to be paid overtime. Nobody said it is my time to return in a time of war, in a time when the President has to have all the tools necessary to fight terrorism and this war.

The Department are afforded the protections of the Congress that makes a performance based, for the expeditious handling of any decisions or other representatives involved.

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

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. WAXMAN) for 10 minutes.

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I rise in opposition to this amendment, and I do so because it is actually a step backwards. This is a step backwards by taking away worker rights and protections that Americans have come to cherish.

When you take away chapter 5, you talk about fighting terror, you create terror and strike terror and fear in the hearts of workers because now you are saying to them that they may not be able to get annual cost-of-living increases in their wages. That is no longer automatic. You say to those individuals who work in high-market areas that they may not get adequate compensation if they have to work in places like New York, Chicago, Washington, D.C., places where the cost of living is much greater and much higher than in other places.

It means that we do not have to give employees the right to griev and to have the protections that Americans in the workplace so rightly deserve. So I cannot imagine why it would be necessary to take these protections away under the guise of fighting terror because I can guarantee my colleagues that the answer they have been speaking with are terrorized with fear that the rights they have earned will be taken away.

Mr. QUINN. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. SWEEZY), a fellow New York City congressmen who works on this bill.

Mr. SWEEZY. Mr. Chairman, I want to thank the gentleman from California for his effort. I want to thank the Gentleman from Illinois for his opposition.

I rise to support this amendment. It is not an amendment that says the whole Department is going to have collective bargaining. It is an amendment that says the Department of Homeland Security should have collective bargaining. It says the Department of Homeland Security should have the same protections that the rest of the Federal workforce has. The Department of Homeland Security should be subject to those same protections.

Mr. Chairman, I do hope that the Congressman from California has read the bipartisan language that this amendment reflects. It is not an amendment that takes away all rights of workers. It is an amendment that says the Department of Homeland Security has certain protections. It is an amendment that gives the Department of Homeland Security the same protections that the rest of the Federal workforce has.

It means that we do not have to give employees the right to freedom of speech and we do not have to give employees the right to have a political party in the workplace.

Mr. Chairman, I do hope that we are not going to rework an amendment that was introduced on the Floor of the House and that the House of Representatives has passed.

I want to thank the gentleman from California. I think this is a good amendment. I think that it is an important amendment. It says that the Department of Homeland Security should have the same protections that the rest of the Federal workforce has. It says that the Department of Homeland Security has certain protections.

Mr. Chairman, I do hope that the Gentleman from California understands that this is an important amendment. It is an amendment that gives the Department of Homeland Security the same protections that the rest of the Federal workforce has.

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Mr. SWEENEY. Mr. Chairman, I thank the gentleman for yielding me time, and, Mr. Chairman, I rise in strong support of the gentleman from New York’s (Mr. QUINN) amendment that I believe will provide personnel flexibility broadening worker protections.

Mr. Chairman, we have had great discussions this morning and for the last several weeks about the challenges that we face in forming a new Homeland Security Department and providing for the protection of the American people. It seems in the course of those discussions we have needed to find a balance between the needs to provide those protections against terrorist attacks and worker rights, and I submit to my colleagues as the former State labor commissioner of New York State, probably the largest unionized State in the Nation, that that conflict ought not to occur, and I am very proud today that we seem to be moving in a bipartisan direction on those positive directions in passing the Shays amendment.

I will note the colloquy that my colleague, the gentleman from New York (Mr. McHUGH), had with the Speaker of the House concerning a bill that we had with the President of the United States in which they made commitments to the basic precepts of collective bargaining and the rights of workers and ensuring that workers’ rights would not be abrogated in this process. And, indeed, with this amendment from the gentleman from New York (Mr. QUINN), Mr. Chairman, it is important that we reaffirm those commitments and those rights.

As the gentleman from New York (Mr. QUINN) pointed out on September 11, a shift change had occurred at 8:45 a.m. and two planes flew into the World Trade Center. Unionized firefighters and unionized police officers did not know whether their shift was beginning or ending, simply charged into those buildings to do their jobs as they have always done their jobs and save American lives.

That is why it is important that this amendment pass. That is why it is important that we keep those commitments first and foremost and forward as we decide and deliberate how to best move to the new Department.

On a personal note, I would like to speak directly to the commitments to collective bargaining, workers’ rights, because my dad, Mr. Chairman, was a labor leader. He fought all his life for collective bargaining issues. I sat at the kitchen table discussing those issues and know, indeed, I would not have been here today representing the people of the 22nd Congressional District in New York had he not won those fights.

This is not about an abrogation of those rights. This is about ensuring that the President of the United States has the flexibility to protect American lives and American people. He has given his commitment that he will do that job and as well will ensure that the workers who fulfill those duties, who we know will fulfill those duties will as well be protected.

I fully, strongly support this amendment and all of the efforts on the part of my colleagues to keep those rights at the forefront and that the American public is protected from the terrorist attacks that we face.

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. CUMMINGS). Mr. Chairman, I want to thank the gentleman for yielding me the time.

Mr. Chairman, I rise today to ask my colleagues to vote against the Quinn amendment. This amendment does not fix the problems in the civil service provisions of the bill. In fact, the Quinn amendment is actually a step backward from the current law.

In the underlying bill, the new Department does comply with essential parts of title V. In fact, the reported bill does not guarantee the Federal employees will receive protections against unfair labor practices, get cost-of-living increases or even locally paid.

Mr. Chairman, as former ranking member of the Committee on Government Reform, Subcommittee on Civil Service, Census and Agency Organization, I firmly believe that it is critical that Federal employees transferred to this new Department will be protected. Federal employees whose responsibilities are the same today as they were a week ago or even a year ago could lose civil service protections just because the government’s organizational chart will change. This is an unfair result that I know my colleagues want to avoid.

Again, I ask my colleagues to vote against the Quinn amendment and support the Waxman-Frost amendment. Civil service protections should not be altered merely because employees are moved to the new Department. The Federal employees in the new mega agency should have the same rights as employees in other agencies.

Mr. QUINN, Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. PORTMAN). This discussion these last few weeks has been including a lot of people. The gentleman from Ohio (Mr. PORTMAN), of course, with his expertise and amendment in the House was very, very helpful.

Mr. PORTMAN. Mr. Chairman, I want to say to my friend from Maryland, and he is my friend, that this is a good amendment because it does actually enhance the worker protections in the underlying bill. I understand his concerns with the underlying bill, but this amendment expands them. It does it in a few very specific ways.

I want to commend the gentleman from New York (Mr. QUINN) and ask him to listen. He listened to the 25 percent of the employees who are coming into this new Department who are currently represented by unions, and he listened to the 75 percent of employees coming into this new Department who are not members of the union.

What he did is very simple. He got the unions a place at the table so that when we go through these new flexibilities we are going to talk about in the next amendment, the unions have a voice, and they wanted that.

He makes sure that the Secretary of this new Department could not use a worker authority to fire members out of collective bargaining for national security purposes, which is in the underlying bill. He removes that authority, again listening to the concerns of union members and their representatives.

He also preserves the appeal rights for all workers in this new Department to make sure that due process is followed to clarify the underlying language and be sure that the Merit Systems Protection Board’s appeal process is there. He also in the case of appeal, should there be a firing.

He also puts very important language in the amendment to clarify the intent of this entire bill which is exactly what we heard on the floor today by the gentleman from Maryland (Mr. WYNN) and others, to be sure that we prioritize human capital. It is the key. Good morale, working as a team, is the way this is going to work and the Federal employees are going be the heroes in this case. They are going to be the ones responding as the first responders. They are going to be the ones protecting our kids and grandkids over time. We need to be sure that this morale and this team effort is taken.

I have heard a lot of comments here today about the underlying draft in the McHugh amendment and that somehow it does not protect worker protections under title V. That is wrong. We have heard, for instance, that the merit system principles are optional. They are not. They are guaranteed in this bill and in the amendment.

Whistleblower protections are guaranteed. Political cronyism is not allowed. In fact, all the language prohibiting political coercion is absolutely in this legislation, explicitly. Veterans’ preferences are not eliminated. They are guaranteed. Annual leave, sick leave is totally guaranteed and protected. Diversity hiring is guaranteed. Nepotism prohibition, I have heard that is not in the bill. It is. It is in the bill. It is guaranteed. Arbitrary dismissals are not permitted. It is guaranteed that there is protection against arbitrary dismissals, and finally, health insurance and other retirement benefits are absolutely guaranteed in this legislation.

Mr. Chairman, the Quinn amendment improves, perfects an underlining piece of legislation which gives the President the flexibility he will need to adequately protect our homeland. I strongly support the underlying bill. I support the gentleman from New York’s (Mr. QUINN) amendment, and I hope my colleagues will support it as well on a bipartisan basis.
Mr. WAXMAN. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, let me tell my colleagues what this does not do. The gentleman from Ohio (Mr. PORTMAN) tried to make us think that civil servants were going to be protected. Well, if an annual, cost-of-living is going to other employees, there is no guarantee that employees working in this Department will get it. Nor would they be guaranteed the locality pay increases to offset the higher cost of living. The employee is almost protected against the Department if it engaged in unfair labor practices, such as coercing employees or discriminating against employees who assert their collective bargaining right. Rights are not restored. They are not protected anymore.

The employees are at the mercy of the Department, and, in fact, if an agency wanted to take an adverse action against an employee, it does not even have to give them, as existing law, the right to respond, and then if there is an adverse action taken against the employees, there is no provision to give them the appeal.

These are current rights that are being taken away, and the gentleman from Ohio (Mr. PORTMAN) does not restore those rights.

Mr. QUINN. Mr. Chairman, could I inquire as to the amount of time remaining?

The CHAIRMAN pro tempore. The gentleman from New York (Mr. QUINN) has 30 seconds remaining and the right to close. The gentleman from California (Mr. WAXMAN) has 5 and 1/2 minutes remaining.

Mr. QUINN. Mr. Chairman, I reserve my time.

Mr. WAXMAN. Mr. Chairman, I yield 1 minute to the gentleman from Maine (Mr. ALLEN).

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

Mr. Chairman, I rise in strong opposition to the Quinn amendment which weakens the already weak civil service provisions of the underlying bill. Federal employees want more than the right to consult with their employers. They want to be partners with the government in the effort to defend our Nation. Workplace rights for employees will not undermine homeland security. After all, if the first responders, the heroes of September 11, can belong to unions and enjoy workplace protections, surely the staff of the Department of Homeland Security can do the same.

Flexibility and consultation rights, with these words, the Republican majority puts lipstick on their attack on existing civil service and collective bargaining rights of Federal employees. If this new Department is to succeed, Federal employees will make it work. We should treat these professionals with the respect they deserve. Defeat the Quinn amendment and support the Waxman-Frost amendment.

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Ms. JACKSON-LEE).

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

Mr. WAXMAN. Ms. JACKSON-LEE of Texas, Mr. Chairman, I thank the distinguished gentleman for yielding me the time.

Let me offer to say to the gentleman from New York (Mr. QUINN), a good friend, I appreciate the good faith and the genuine intentions that may be behind the offering of this amendment, but let me, Mr. Chairman, suggest what we are actually seeing here in contrast to what we are supposed to be doing in a bipartisan effort to pass homeland security, and that is, that on this floor today over the last hour, we have seen a change in the method or either the focus of this legislation.

We are supposed to be fighting terrorism, Mr. Chairman. We are now fighting workers, and the reason why I say this is because we are offering legislation that is an utter disconnection, as our Homeland Security can do the same in a method or either the focus of this legislation.

We are supposed to be fighting terrorism, Mr. Chairman. We are now fighting workers, and the reason why I say this is because we are offering legislation that really implicates longstanding commitments and obligations and responsibilities to the working people of America. This bill impacts negatively our Federal firefighters, our Federal law enforcement, our military personnel. Is that what we want to say to those first responders, that we do not care about their working rights? That is what this consultation amendment does because it does not allow negotiation.

The reason why I know this House bill poses difficulty for us is because in the morning's presentation that the administration had that many of us did not secure an invitation to—even though we have responsibilities dealing with homeland security, the administration said pointedly that they did not like the other body's bill, why—because the other body had a bill that was recognized that the thrust of homeland security should be fighting terrorism and not American workers.

I do not believe that disallowing the rights that workers have makes us more secure. I am insulted for this bill to suggest that Americans, when challenged by foreign terrorist acts or domestic terrorist acts, will not come together, will not give up rights and stand united with this administration. If we are defending workers' rights, Mr. Chairman? This is what this amendment does. I would ask my colleagues to defeat it and vote for the Frost-Waxman amendment.

Mr. WAXMAN. Mr. Chairman, we have no other requests for time, and we will yield back the balance of our time.

Mr. QUINN. Mr. Chairman, I yield myself the remaining time.

Simply in closing, I would say this. I have spent a career here in the Congress, 30 years now fighting for workers' rights, fighting for labor unions and working families across the country, and I would not be here this morning offering the amendment if I did not think it helped the working families of this country and it helps our President protecting the workers, those same workers, not exclusive of each other, but the same people all at the same time, and I would urge, on those merits and the help of a lot of friends in the House passage.

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

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. QUINN).

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

RECORDED VOTE

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

A recorded vote was ordered. The vote was taken by electronic device, and there were 227 ayes, 202 noes, not voting 4, as follows:

AYES—227

Aderholt
Akkin
Akin
Alger
Bacchus
Baker
Barrett
Baxton
Bayne
Bilirakis
Brown
Butler
Buyer
Caldwell
Calver
camp
Camp
Cantor
Capito
Capito
Chabot
Chablis
Collins
Coffey
Cooper
Cox
Cransee
Crenshaw
Cubin
Culberson
Cunningham
Davis, Debbie
Davis, James
DeLay
Diaz-Balart
Dole
Dole
Dooley
Dooley
Dreier
Drake
English
Everett
Fleischmann
Flake
Fleischmann
Foley
Forbes
Franks
Frelinghuysen
Gallegly
Ganske
Gekas
Grijalva
Gill
Giffords
Graves
Green
Greenaman
Griffith
Grucci
Gutknecht
Hall (TX)
Brown (SC)
Hastings (WA)
Cooke
Cox
Cransee
Crenshaw
Cubin
Culberson
Cunningham
Davis, James
Davis, Debbie
DeLay
Diaz-Balart
Dole
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Dooley
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Dreier
Drake
English
Everett
Fleischmann
Flake
Fleischmann
Foley
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Grijalva
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Giffords
Graves
Green
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Griffith
Grucci
Gutknecht
Hall (TX)
Brown (SC)
Hastings (WA)
The CHAIRMAN pro tempore. Mr. SUNUNU. It is now in order to consider amendment No. 20 printed in House Report 107–615.

AMENDMENT NO. 20 OFFERED BY MR. WAXMAN

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

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 20 offered by Mr. WAXMAN: Strike SEC. 761. HUMAN RESOURCES MANAGEMENT.

(a) AUTHORITY TO ADJUST PAY SCHEDULES.

(1) IN GENERAL.—Notwithstanding any provision of title 5, United States Code, the Secretary, may, under regulations prescribed jointly with the Director of the Office of Personnel Management, provide for such adjustments in rates of basic pay as may be necessary to address inequitable pay disparities among employees within the Department, performing similar work in similar circumstances.

(b) APPLICABILITY.—No authority under paragraph (1) may be exercised with respect to any employee who—

(A) is an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code; or

(B) is a position for which the rate of basic pay is fixed in statute by reference to a section or level under subchapter II of chapter 53 of such title 5.

(c) LIMITATIONS.—Nothing in this subsection shall constitute authority—

(A) to fix a pay at a rate greater than the maximum amount of cash compensation allowable under Part 7103 of title 5, United States Code, in a year; or

(B) to exempt any employee from the application of such section 7507.

(d) SUNSET PROVISION.—Effective 5 years after the effective date of this Act, all authorities under subsections (a) and (b) shall cease to be available.

(e) DEMONSTRATION PROJECT.

(1) IN GENERAL.—Not later than 5 years after the effective date of this Act, the Secretary shall submit to Congress a proposal for a demonstration project, the purpose of which is to establish an employee workforce management system which in the judgment of the Secretary is necessary in order to allow the Department to carry out its mission.

(2) REQUIREMENTS.—The proposal shall—

(A) ensure that veterans' preference and whistleblowing protection rights are retained; and

(B) ensure that existing collective bargaining agreements and rights under chapter 71 of title 5, United States Code, remain unaffected.

(3) NOT VOTING.—

Mr. WAXMAN. Mr. Chairman, I yield myself 3 minutes and 30 seconds.

The Chair recognizes the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I yield myself 3 minutes and 30 seconds.
I rise in support of the Waxman-Frost amendment on Civil Service. This amendment strikes the flawed section 761 which was reported out of the Select Committee regarding civil service and replaces it with the civil service language reported by the Committee on Government Reform with unanimous bipartisan support.

Our Nation has the most honest, most professional civil service in the world, and the reason is our civil service laws. These civil service laws prevent abuses such as patronage, they guarantee important rights such as appeals to the Merit Systems Protection Board, and they provide for collective bargaining rights.

The President’s proposal eliminated these essential protections, but the Committee on Government Reform and the gentleman from Indiana (Chairman BURTON) crafted an amendment that restored the protections of title V to employees of this new Department. His amendment received unanimous bipartisan support from the Members of the committee, and we had other civil service amendments offered by the gentlewoman from the District of Columbia (Ms. NORTON) on preserving pay, the gentleman from Indiana (Mr. BURTON) for ensuring that TSA support. These were restored. His amendment did provide these protections, and these were all adopted by unanimous bipartisan support.

The amendment I am offering right now is simply the amendment of the gentleman from Indiana (Mr. BURTON) as amplified by the other amendments, adopted without dissent in our committee.

As currently drafted in the bill before us, section 761 does not guarantee Federal employees basic civil service protections. The section preserves some rights. It is an improvement over the President’s proposal, but it specifically allows the secretary to waive any of the provisions that are applied to the employees in this new department as they were transferred. It does not guarantee Federal employees basic civil service protections just because that organizational chart may change.

In essence, the bill before us makes the employees of the new department second-class employees. Degrading the employees of the new department is going to have a difficult time. The Waxman-Frost amendment is essential because the underlying bill and the Quinn amendment just agreed to contain language that actually turns back the clock on important civil service protections.

The Waxman-Frost amendment preserves the national security flexibility the President needs without sacrificing the current civil service protections for the new Department. It strikes from the bill a needlessly partisan attack on the civil service system and replaces it with the bipartisan compromise adopted unanimously by the House Committee on Government Reform, the committee with original jurisdiction and expertise on civil service.

The Waxman-Frost amendment is essential because the underlying bill and the Quinn amendment just agreed to contain language that actually turns back the clock on important civil service protections. The amendment even improves on that. I support the Portman amendment, and I did before the Committee on Rules, and for that reason I hope we will defeat this amendment that would take that out.

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

The improvements in the bill are improvements not from the language of the Committee on Government Reform but from the original bill introduced by the President. What we need to do is restore all of the provisions that were adopted by the Committee on Government Reform.

Mr. WAXMAN. Mr. Chairman, I yield 3½ minutes to the gentleman from Texas (Mr. FROST), the sponsor of this amendment.

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

Mr. FROST. I thank the gentleman for yielding me this time.

Mr. Chairman, the Waxman-Frost amendment preserves the national security flexibility the President needs without sacrificing the current civil service protections for the new Department. It strikes from the bill a needlessly partisan attack on the civil service system and replaces it with the bipartisan compromise adopted unanimously by the House Committee on Government Reform, the committee with original jurisdiction and expertise on civil service.

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Throughout this process, Mr. Chairman, some Republican leaders have thrown around attacks on worker protections in current law. The truth is the civil service system protects Americans against a “spoils” system that would allow politicians to reward their friends and punish their enemies with impermanent government jobs. And it is crucial that the Department of Homeland Security be staffed by professionals, not by the cronies of whichever party happens to hold the White House.

Mr. Chairman, Democrats and Republicans on the Committee on Government Reform recognized this fact, so they voted unanimously to protect the fundamental title V protections of employees in the new Department.

Mr. Chairman, much has been said about flexibility. I want to reassure the House that the Waxman-Frost amendment ensures that the Department of Homeland Security has the flexibility to effectively and efficiently carry out its mission to protect the American people.

Mr. Chairman, our Federal employees are our most valuable asset in the Department of Homeland Security. They are our front line of defense. We are entrusted to them because we know they will rise to the challenge and serve the Nation well. So it is critical that the new Department hires and retains the best and the brightest employees to protect our Nation from terror attacks. The question is, can we treat these people with the respect and professionalism they deserve? Or do we undermine the morale of these employees, and risk compromising the mission of the new Department, by gutting their most fundamental workplace rights?


Mr. PORTMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma (Mr. WATTS), a member of the Select Committee on Homeland Security who has been a leader on protecting the homeland actually long before September 11 and has added considerable value to the work of the Select Committee and to the debate today.

Mr. WATTS of Oklahoma. I thank my friend from Ohio for yielding me this time.

Mr. Chairman, it is interesting that a terrorist can attack us in a matter of 5 minutes, and then we have got these antiquated systems that it could take us 5 months in order to respond. What the President is asking the Congress in this new agency to give him the latitude to defend our homeland and to do the necessary things in order to respond to these terrorist attacks.

Friends, we are in a new day. I have heard all these things, and I know the gentleman from Ohio (Mr. PORTMAN) talked about this a little earlier, but I think this is worth repeating to just kind of denounce some of the myths and some of the accusations that have been thrown around.

They say the merit system principles, in the new bill that they are optional. The merit system principles are guaranteed.

Whistleblower protections. They say they are eliminated. They are guaranteed in the new bill.

Political campaign is allowed, they say. There is a prohibition on political coercion and favoritism in our bill. We have got guarantees there.

Veterans preference, they say it is eliminated. They are guaranteed in the legislation.

Sick and annual leave. Unprotected, they say. Sick and annual leave, guaranteed.

Diversity hiring, they say it is optional in this bill. Not true. Minority recruitment and reporting under title V is guaranteed.

Nepotism prohibition is guaranteed.

Protection against arbitrary dismissal, guaranteed in this legislation. Health insurance, FEHBP, guaranteed in this legislation.

The President is saying, give me the flexibility and latitude to defend our homeland, and we can still guarantee all these things. Employees will not lose any of these benefits. They are still in place. But give the President the latitude and the flexibility to defend our kids and our grandkids, our families.

Friends, we are in a new world. We need to think outside of the box without thinking outside of the Constitution. This is the right thing to do. Vote down the Waxman-Frost amendment and support the legislation.

Mr. WAXMAN. Mr. Chairman, I yield 1 minute to the gentlelman 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, I believe that preserving democracy is as important as fighting terrorism. In a democracy, one set of rights ends where the next set begins. We are hearing this business that there is not enough flexibility, that the Secretary cannot deal with individuals who are not prepared to do their job. Absolutely false. Section 7532 of title V provides: "Notwithstanding other statutes, the head of an agency may suspend an employee of his agency when he considers that action necessary in the interests of national security." You cannot be much clearer than that in terms of the ability of the Secretary to function.

The real deal is that we are suspending individual rights and protections. The Waxman-Frost amendment restores those protections. And if we want the agency to function, vote for the amendment.

Mr. PORTMAN. Mr. Chairman, I yield 1½ minutes to the gentleman from Kansas (Mr. RYUN), who has been at the forefront of these issues.

Mr. RYUN of Kansas. Mr. Chairman, the new Department of Homeland Security will be on the front lines in the war on terrorism. The people who will fulfill the Department’s mission must be highly qualified, motivated, and effective. Training and keeping this team, we will be competing against the private sector. Recognizing these challenges, the President asked the Congress to give him the maximum flexibility in putting together and managing the Department.

The legislation crafted by the select committee gives the President the flexibility he requested while at the same time preserving a number of important employment protections. This support the select committee’s bill for both the Nation’s security and those who will serve in this new Department.

First of all, the bill allows the Secretary to develop a performance management program that effectively links employee performance with the Department’s objectives and mission. Secondly, the Secretary will have the freedom to use a broad approach in making job classifications and will not be bound by our current system that confines Federal workers to 15 artificial grades. Additionally, the Secretary will not be restricted by the current rigid pay system. Rather, the Secretary will be able to meaningfully reward performance.

We are engaged in a different kind of war. We face a new enemy. We must adapt to meet this new threat. This bill ensures that we will adapt to overcome these new threats. I urge my colleagues to support the select committee’s bill and vote against Frost-Waxman.

Mr. WAXMAN. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH), a very important member of our committee.

Mr. KUCINICH. Mr. Chairman, whistleblower rights are workers’ rights. No worker should lose his or her job for exposing waste, cover-up or lies of their supervisors. It is ironic that in a bill designed to protect us, we have a provision designed to terrorize workers. Congress must be able to receive the insights of security guards, border patrol agents, policemen, military and others who may need to expose security weaknesses to Congress. Therefore, the Waxman-Frost amendment improves the law, protecting whistleblowers to ensure the security of our Nation.

We need strong remedies, the right to a civil action in U.S. district court. Remedies available would include lost wages and benefits, reinstatement, costs and attorney fees, compensatory damages and equitable, injunctive or other relief that the court considers appropriate.

If we really want our Nation to be secure, then let us make sure that the workers who are a part of homeland security are going to be protected when they do the right thing.

Mr. PORTMAN. Mr. Chairman, we have one more speaker to close. Who has the right to close?
The CHAIRMAN pro tempore (Mr. Bonilla). The gentleman from Ohio (Mr. Portman) has the right to close.

PARLIAMENTARY INQUIRY

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

The CHAIRMAN pro tempore. The gentlewoman asks a parliamentary inquiry.

Mr. WAXMAN. How is it that whenever the amendment is offered on the other side, they get the right to close, and when an amendment is offered on our side, they still get the right to close? Why do they get to propose it they close, and when they oppose it they close. Is it a rule or does it just simply go to the majority party?

The CHAIRMAN pro tempore. The Member of the committee, the select committee in this case as the only reporters when an amendment is offered always has the right to close.

Mr. WAXMAN. I see. I thank the Chair for the clarification.

The CHAIRMAN pro tempore. It is consistent.

Mr. WAXMAN. Mr. Chairman, I yield 30 seconds to the gentleman from Massachusetts (Mr. Tierney), who played a very important role in the development of this bill in our committee.

Mr. TIERNEY. I thank the gentleman for yielding me this time.

Mr. Chairman, our colleague from Oklahoma spoke a few moments ago about civil service laws meaning it would take 5 months for a response. It did not. The Quinn amendment in New York and Pennsylvania and Virginia 5 months to respond on September 11. It took minutes to respond. It has taken this administration 5 months, or more than 5 months to fulfill its promises to close up the cockpits of airplanes securely and to screen luggage and baggage for passengers.

Civil service protections are not the issue in this homeland security bill. We need to encourage good employees, not treat them as second-class employees. We need to give people an understanding that they are important. This administration and the majority should have great concern that they choose a homeland security bill to take on an ideological effort against employees.

Mr. WAXMAN. Mr. Chairman, I yield 30 seconds to the gentlewoman from Maryland (Mrs. Morell).

Mrs. MORELLA. Mr. Chairman, I rise today in strong support of the Waxman-Frost amendment. It is the exact language that the Committee on Government Reform unanimously adopted. It makes crystal clear that all Federal employees transferred to the new Department will continue to have full title V civil service rights and protections.

While I appreciate that the gentleman from Ohio (Mr. Portman) offered their select committee that what the administration had previously proposed, their language would still allow the Secretary and the Director of OPM to waive numerous sections of title V. We need to have an amendment that demonstrates the value we place in civil servants and not one that insinuates our distrust of them.

Mr. WAXMAN. Mr. Chairman, I yield the balance of my time to the gentlewoman from California (Ms. Pelosi), the very distinguished whip.

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding me time and for his outstanding leadership on protecting the civil service. We have a civil service for a reason. It has served our country, indeed, it serves democracy well. We are an example to the world. As we go forward to reduce risk and to protect the American people, we should not do so at the expense of a democratic institution like civil service.

One of the previous speakers said that we are competing with the private sector so we need this flexibility. We are competing with the private sector, and that is precisely why we need to respect our workers and give them the civil service protection that President Bush did in the mark that the President sent to this body.

Support the President's bill. Support the Waxman amendment.

The CHAIRMAN pro tempore (Mr. Bonilla). All time has expired for the gentleman from California (Mr. Waxman).

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

Mr. Chairman, I rise today in strong support of the Waxman-Frost amendment. It is the exact language that the Committee on Government Reform unanimously adopted. It makes crystal clear that all Federal agencies that are indifferent to the mission, to have that kind of morale.

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Support the President’s bill. Support the Waxman amendment.

The CHAIRMAN pro tempore (Mr. Bonilla). The gentleman from California (Mr. Waxman).

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

As any athlete will tell you, including the gentleman from Kansas (Mr. Ryun) who just spoke, you cannot be agile without being flexible first. The President, and Presidents after him, need this flexibility to be sure that this Department works. We simply cannot work with the 1950s era bureaucratic personnel practices that would otherwise be available to him, and again, to future Presidents and future Secretaries.

The Waxman-Frost amendment protects the antiquated civil service system in a few years blunts this Department’s ability to modernize, to consoli-date, to streamline, to bring together 22 different personnel systems into one team. For instance, the amendment prohibits the Secretary from using innovative compensation plans like incentive pay. There is nothing more important than having a work force with high morale that is focused on a team effort to combat terrorism. This is about human capital and the workforce. If you cannot provide the kind of incentive pay that the President and the Secretary want to provide to people who are performing, you are not going to have that kind of morale.

It takes 5 months, conceivably, to hire a bioterrorism expert under current civil service rules, whereas it only takes 5 minutes or 5 seconds to commit that bioterrorist act. Why? Developing written job descriptions, conducting personnel office, classification, conducting job analysis, developing recruiting strategies, announcing the position, rate application, rank-qualified applications, refer the top three qualified to the interviewers, conduct interviews, and so on. Five months. That is a specific example of where this Department otherwise would not have the agility to respond.

Also the Secretary could have a bureaucratic nightmare trying to decide who is a security risk and who is not. If you want to fire somebody under the current rules, it can take, yes, weeks and months. Red tape comes first; homeland security comes second. The Quinn amendment guaranteed that in the appeals process, that due process will be protected and the Merit System Protection Board would be used. The Quinn amendment made sure people would have that appeal. But matters of national security concern, things that the national security concern, where there needs to be a severance, must be disposed of immediately without any national security is at risk.

It also does not allow the Secretary to rationalize all these different departments that this coming together under one unified personnel systems. There needs to be one unified, flexible system. Not only does the Waxman-Frost language not provide any needed flexibility, it actually does not provide the ability of the Secretary to develop a human resource system at all. All it says is, unbelievably, that the new Department has to propose to Congress a new personnel system and then Congress has to work its will on it. How long would that take? I do not know. It would go through the committee and go through the House, it would go through the Senate. Other agencies and departments do not even have to go through
that process. All it does, this amendment, is allow the Department to pro-
pose a system, even not to develop a system.

We want this Department set up and ready to go immediately, and not when we finally get around to it here in Con-
gress.

Finally, while the Waxman-Frost amendment does not offer the flexi-
bility that is absolutely needed, it also does provide some civil service protections that the underlying bill provides. Yes, it mentions whistle-
blowers and veterans, but others it does not mention, including racial dis-
crimination, thrift savings, and so on.

Mr. Chairman, I ask my colleagues to give the President the flexibility he needs to protect the workers’ rights at the same time. Support the underlying bill and vote no on the Waxman-Frost amendment.

Mr. RIAZUGUE. Mr. Chairman, I rise today in strong support of workers’ rights. As we meet today to engage in the important work of enacting legislation which would guide the creation of the new Department of Home-
land Security (DHS), H.R. 5005, it is con-
cerning that this process is also put in a position to introduce an amendment to protect the rights of workers who will engage in the important work of protecting our country from terrorists attacks. The Waxman-Frost amendment will ensure workers are provided full civil serv-
ice protections as they engage in the impor-
tant work of securing our homeland.

As we move to reorganize and consolidate our efforts to ensure a strong and efficient Department, we need to be clear about the rights of its workers. H.R. 5005, as amended within the Select Committee on Homeland Security, would allow the DHS Sec-
tary to have complete control over pay and classifica-
tion systems, including whether or not to provide DHS workers with an annual pay raise, whether to provide DHS workers with an annual pay raise and whether or not to provide DHS workers with an annual pay raise.

The Waxman-Frost amendment, as paragraphs (1) and (2).

There is no in order to consider amendment No. 21 printed in House Report 107-615.

AMENDMENT NO. 21 EN Bloc Offered by Mr.

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

THE CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 21 offered by Mr. Armley:

Page 13, line 20, strike “The Secretary” and insert “With respect to homeland secu-

rity, the Secretary”.

Page 22, line 13, strike “Under the direc-
tion of the Secretary, developing” and insert “Developing”.

Page 24, lines 10 to 11, strike “and to other areas of responsibility described in section 101(b)”.

Page 25, lines 9 to 10, strike “and to other areas of responsibility described in section 101(b)”.

Page 24, line 12, strike “concerning infra-
structure or other vulnerabilities” and in-
sert “concerning infrastructure vulnerabil-
ties or other vulnerabilities”.

Page 25, lines 11 to 12, strike “concerning infrastructure vulnerabilities” and insert “concerning infrastructure vulnerabil-
ties or other vulnerabilities”.

Page 26, line 14, strike “(1)” and “(2)” and in-
sert “(2)” and “(3)”.

Page 19, line 16, strike “Director of Home-

land Security” and insert “President”.

Page 13, line 11, strike “the Congress” and insert “the appropriate congressional com-
mittees”.

Page 142, line 2, insert “including” before “interference”.

Page 142, line 4, insert a comma after “as-
ters”.

In section 811(f)(1):

(1) insert “or” before “Habor”; and

(2) strike “or Oil Spill Liability Trust

Fund”.

In section 205(c)(1):

(1) insert “or” before “Habor”; and

(2) strike “or Oil Spill Liability Trust

Fund”.

In section 205(c)(1)

strike the first place it appears.

In section 205(c)(3) insert and regulatory laws as appropriate, and strike “order” after “legislatory”.

In section 303, strike paragraph (1) and re-
designate the subsequent paragraphs in order as paragraphs (1) and (2).

In section 306(d), strike “section 302(2)(D)” and insert “section 302(D)”.

Strike section 906, and redesignate sections 907 through 913 as sections 906 through 912, respectively.

In section 301—

(1) in paragraph (8), strike “homeland secu-
rity, including” and all that follows and in-
sert “homeland security; and”;

(2) strike paragraph (9); and

(3) redesignate paragraph (10) as paragraph (9).

In title III, add at the end the following section:

SEC. 309. TECHNOLOGY CLEARINGHOUSE TO EN-
COURAGE AND SUPPORT INNOVATIVE SOLUTIONS TO ENHANCE HOMELAND SECURITY.

(a) Establishment of Program.—The Sec-

retary, acting through the Under Secretary for Science and Technology, shall establish and promote a program to encourage techno-

logical innovation in facilitating the mission of the Department (as described in section 101).

(b) Elements of Program.—The program described in subsection (a) shall include the following components:

(1) the establishment of a centralized Fed-

eral clearinghouse for information relating to technologies that would further the mis-
sion of the Department for dissemination, as appropriate, to Federal, State, and local gov-
ernment and private sector entities for addi-
tional review, purchase, or other acquisition; and

(2) the issuance of announcements seeking unique and innovative technologies to ad-

vance the mission of the Department.

(c) Technical Assistance Team.—The Secretary shall establish a technical assistance team to assist in screening, as appro-
riate, proposals submitted to the Secretary (except as provided in subsection (c)(2)) to the feasibility, scientific and tech-
nical merits, and estimated cost of such pro-
posal, as appropriate.

The provision of guidance, recom-
medations, and technical assistance, as appro-
riate, to assist Federal, State, and local government and private sector efforts to evaluate and implement the use of tech-
nologies described in paragraph (1) or (2).

The provision of information for per-
sons seeking guidance on how to pursue pro-
posal submission and development that would enhance homeland security, including information relating to Federal funding, reg-
ulation, or acquisition.

(c) MISCELLANEOUS PROVISIONS.—

(1) IN GENERAL.—Nothing in this section shall construe as authorizing the Sec-
retary or the technical assistance team estab-
lished under subsection (b)(3) to set standards for technologies to be used by the Depart-
ment, any other executive agency, any State or local government entity, or any private sector entity.

(2) CERTAIN PROPOSALS.—The technical assis-
tance team established under subsection (b)(3) shall not consider or evaluate pro-
posal submission in response to a solicita-
tion for offers for a particular procurement or for a specific agency requirement.

(3) COORDINATION.—In carrying out this section, the Secretary shall coordinate with the Technical Support Working Group (or-

In title II, at the end of subtitle A add the following:

SEC. 3. ENHANCEMENT OF NON-FEDERAL CYBERSECURITY.

In carrying out the responsibilities under section 201, the Under Secretary for Information Analysis and Infrastructure Protection shall—

(1) as appropriate, provide to State and local government entities, and upon request to private entities that own or operate critical information systems—

(A) analysis and warnings related to threats to, and vulnerabilities of, critical information systems; and

(B) in coordination with the Under Sec-

retary for Emergency Preparedness and Re-

sponse, crisis management support in re-

sponse to threats to, or attacks on, critical information systems; and

(C) as appropriate, provide technical assist-

ance, upon request, to the private sector and other government entities, in coordination with the Under Secretary for Emergency Preparedness and Response, with respect to emergency recovery plans to respond to major failures of critical information sys-

At the end of title II add the following:

SEC. 4. NET GUARD.

The Under Secretary for Information Analysis and Infrastructure Protection may estab-

ish a national technology guard, to be known as “NET GUARD”, comprised of local teams of volunteers with expertise in rel-
vant areas of science and technology, to asso-

icate local communities to respond and re-

cover from information system and communi-

cations networks.

Strike section 814.
In section 761—
(1) in the proposed section 9701(b)(3)(D) strike “title” and insert “part’; and
(2) in the proposed section 9701(c), strike “title” and insert “section”.

At the end of title VII, insert the following new section:

SEC. 774. SENSE OF CONGRESS REAFFIRMING THE CONTINUED USE OF THE ARMS FORCES AS A POSSE COMITATUS.

(a) FINDINGS.—The Congress finds the following:

(1) Section 1385 of title 18, United States Code (commonly known as the “Posse Comitatus Act”), prohibits the use of the Armed Forces as a posse comitatus to execute the laws except in cases and under circumstances expressly authorized by the Constitution or Act of Congress.

(2) Enacted in 1878, the Posse Comitatus Act was expressly intended to prevent United States Marshals, on their own initiative, from calling on the Army for assistance in enforcing Federal law.

(3) The Posse Comitatus Act has served the Nation well in limiting the use of the Armed Forces under the law.

(4) Nevertheless, by its express terms, the Posse Comitatus Act is not a complete bar to the use of the Armed Forces for a range of domestic purposes, including law enforcement functions, when the use of the Armed Forces is authorized by Act of Congress or the President determines that the use of Armed Forces is required to fulfill the President’s obligations under the Constitution to respond promptly in time of war, insurrection, or other serious emergency.

(b) Sense of Congress.—The Congress reaffirms the continued importance of section 1385 of title 18, United States Code, and it is the sense of the Congress that nothing in this Act is intended to alter the applicability of such section to any use of the Armed Forces as a posse comitatus to execute the laws.

Amend the heading for section 766 to read as follows:

SEC. 766. REGULATORY AUTHORITY AND PREEMPTION.

In section 766—
(1) before the first sentence insert the following: “(a) ‘REGULATORY AUTHORITY.—’; and
(2) at the end of the section add the following: (b) PREEMPTION OF STATE OR LOCAL LAW.—Except as otherwise provided in this Act, this Act, or any State or local law, except that any authority to preempt State or local law vested in any Federal agency or official transferred to the Department pursuant to this Act shall be transferred to the Department effective on the date of the transfer to the Department of that Federal agency or official.

Page 1, after line 8, insert the following:

SEC. 207. INFORMATION SECURITY.

In carrying out the responsibilities under section 201, the Under Secretary for Information Analysis and Infrastructure Protection shall—

(1) as appropriate, provide to State and local government entities, and, upon request, to private entities that own or operate critical information systems—

(A) analysis and warnings related to threats to, and vulnerabilities of, critical information systems;

(B) in coordination with the Under Secretary for Emergency Preparedness and Response, crisis management support in response to threats or attacks on, critical information systems; and

(2) as appropriate, provide technical assistance, upon request, to the private sector and with other government entities, in coordination with the Under Secretary for Emergency Preparedness and Response, with respect to emergency recovery plans to respond to major failures of critical information systems.

At the end of the bill add the following new title:

TITLE XI—INFORMATION SECURITY

SEC. 1101. INFORMATION SECURITY.

(a) Short Title.—The amendments made by this title may be cited as the “Federal Information Security Management Act of 2002.”

(b) INFORMATION SECURITY.

(1) In chapter 1 of part II of chapter 35 of title 44, United States Code, is amended to read as follows:

“SUBCHAPTER II—INFORMATION SECURITY

§ 3531. Purposes

‘‘The purposes of this subchapter are to—

‘‘(1) provide a comprehensive framework for ensuring the effectiveness of information security controls over information resources that support Federal operations and assets;
‘‘(2) recognize the highly networked nature of the current Federal computing environment and provide effective governmentwide management and oversight of the related information security risks, including coordination of information security efforts throughout the civilian, national security, and law enforcement communities;

‘‘(3) provide for development and maintenance of minimum controls required to protect Federal information and information systems;

‘‘(4) provide a mechanism for improved oversight of Federal agency information security programs;

‘‘(5) acknowledge that commercially developed information security products offer advanced, dynamic, robust, and effective information security solutions and provide incentives for the protection of critical information infrastructures important to the national defense and economic security of the nation that are built, and operated by the private sector; and

‘‘(6) recognize that the selection of specific technical hardware and software information security solutions should be left to individual agencies from among commercially developed products.’’

§ 3532. Definitions

(a) IN GENERAL.—Except as provided under subsection (b), the definitions under section 3502 shall apply to this subchapter.

(b) ADDITIONAL DEFINITIONS.—As used in this subchapter—

‘‘(1) the term ‘information security’ means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

‘‘(A) integrity, which means guarding against improper modification or destruction of information and includes ensuring information nonrepudiation and authenticity;

‘‘(B) confidentiality, which means preserving authorized restrictions on access to and disclosure of information and includes protecting personal privacy and proprietary information;

‘‘(C) availability, which means ensuring timely and reliable access to and use of information; and

‘‘(D) authentication, which means utilizing digital credentials to assure the identity of users and validate their access;

‘‘(2) the term ‘national security system’ means any information system (including telecommunications) used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency, the function, operation, or use of which is related to national security;

‘‘(A) involves intelligence activities;

‘‘(B) involves cryptologic activities related to national security;

‘‘(C) involves command and control of military forces;

‘‘(D) involves equipment that is an integral part of a weapon or weapons system; or

‘‘(E) is critical to the direct fulfillment of military or intelligence missions provided that this definition does not apply to a system that is used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications);’’

(3) The term ‘information technology’ has the meaning given that term in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1410); and

(4) the term ‘information system’ means any equipment or interconnected system or subsystems of equipment that is used in the automatic acquisition, storage, manipulation, transmission, display, switching, interchange, transmission, or reception of data or information, and includes—

‘‘(A) computers and computer networks;

‘‘(B) ancillary equipment;

‘‘(C) software, firmware, and related procedures;

‘‘(D) services, including support services; and

‘‘(E) related resources.’’

§ 3553. Authority and functions of the Director

(a) The Director shall oversee agency information security policies and practices, by—

‘‘(1) promulgating information security standards under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1411); and

‘‘(2) overseeing the implementation of policies, principles, standards, and guidelines on information security;

‘‘(3) requiring agencies, consistent with the standards promulgated under such section 5131 and the requirements of this subchapter, to identify and provide information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of—

‘‘(A) information collected or maintained by or on behalf of an agency; or

‘‘(B) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

‘‘(C) the development of standards and guidelines under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 5230 et seq.), with agencies and offices operating or exercising control of national security systems (including the National Security Agency) to assure, to the maximum extent feasible, that such standards and guidelines are complementary with standards and guidelines developed for national security systems;

‘‘(4) overseeing the compliance with the requirements of this subchapter, including through any other authorized action under section 5133(b)(5) of the Clinger-Cohen Act of 1996 (40 U.S.C. 1419), the accountability for compliance with such require-
“(6) reviewing at least annually, and approving or disapproving, agency information security programs required under section 3534(a);”

“(7) coordinating information security policies and procedures with related information resources management policies and procedures; and

“(8) reporting to Congress no later than March 1 of each year on agency compliance with the requirements of this subchapter, including—

“(A) a summary of the findings of evaluations required by section 3533;

“(B) significant deficiencies in agency information security practices;

“(C) planned remedial action to address such deficiencies; and

“(D) a summary of, and the views of the Director on, the report prepared by the National Institute of Standards and Technology under section 20(e)(7) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–5).

“(b) Except for the authorities described in paragraphs (4) and (7) of subsection (a), the authorities of the Director under this section shall not apply to national security systems.

* § 3534, Federated Responsibilities

“(a) The head of each agency shall—

“(1) be responsible for—

“(A) providing information security protection consistent with the risk and magnitude of the harm resulting from unauthorized access, use, disclosure, disruption, modification, or destruction of—

“(i) information collected or maintained by or on behalf of the agency; and

“(ii) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

“(B) complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines, including—

“(i) information security standards promulgated by the Director under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441); and

“(ii) information security standards and guidelines for national security systems issued in accordance with law and as directed by the President; and

“(C) ensuring that information security management processes are integrated with agency strategic and operational planning processes;

“(D) ensuring that senior agency officials provide information security for the information and information systems that support the operations and assets under their control.

“(E) ensuring that information security risks associated with sufficient deficiencies are assessed annually, and that risk assessments are effective—

“(i) in identifying, assessing, and determining the levels of information security appropriate to protect such information and information systems in accordance with standards promulgated under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441) for information security classifications and related requirements;

“(F) implementing policies and procedures to cost-effectively reduce risks to an acceptable level; and

“(G) periodically testing and evaluating information security controls and techniques to ensure that they are effectively implemented;

“(H) delegate to the agency Chief Information Officer established under section 3506 (or comparable official in an agency not covered by such section) the authority to ensure compliance with the security programs in accordance with requirements promulgated under section 3534(d) of an agency under this subchapter, including—

“(A) designating a senior agency information security officer who shall—

“(i) carry out the Chief Information Officer’s responsibilities under this section;

“(ii) possess training, experience, and qualifications, including training and experience, required to administer the functions described under this section;

“(iii) have information security duties as that official’s primary duty; and

“(iv) head an office with the mission and resources to assist in ensuring agency compliance with this section;

“(B) developing and maintaining an agencywide information security program as required by subsection (a)(4); and

“(C) developing and maintaining information security policies, procedures, and control techniques to address all applicable requirements, including those issued under section 3533 of this title, and section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441);

“(D) training and overseeing personnel with periodic assessments of the risk information security with respect to such responsibilities; and

“(E) assisting senior agency officials concerning their responsibilities under subparagraph (2);

“(2) ensure that the agency has trained personnel sufficient to assist the agency in implementing requirements of this subchapter and related policies, procedures, standards, and guidelines, and

“(B) ensuring that the agency Chief Information Officer, in coordination with other senior agency officials, reports annually to the agency head on the effectiveness of the agency information security program, including progress of remedial actions.

“(b) Each agency shall develop, document, and implement an agencywide information security program approved and promulgated under section 3533(a)(5), to provide information security for the information and information systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source, that includes—

“(1) periodic assessments of the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of information system identified in the inventory;

“(2) policies and procedures that—

“(A) are based on the risk assessments required by subparagraph (1);

“(B) cost-effectively reduce information security risks to an acceptable level;

“(C) ensure that information security is addressed throughout the life cycle of each agency information system; and

“(D) ensure compliance with—

“(i) the regulations of this subchapter;

“(ii) policies and procedures as may be prescribed by the Director, and information security standards promulgated under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441);

“(iii) minimally acceptable system configuration requirements, as determined by the agency; and

“(iv) any other applicable requirements, including standards and guidelines for national security systems issued in accordance with law and as directed by the President;

“(3) subordinate plans for providing adequate information security for networks, facilities, and systems or groups of information systems or information systems components, including—

“(A) security awareness training to inform personnel, including contractors and other users of information systems that support the operations of the agency, the risks to the agency, and the policies of the agency regarding the unauthorized access, use, disclosure, disruption, modification, or destruction of information systems, as an instance of a lack of substantial compliance under the Federal Financial Information Security Practices Act, and

“(B) their responsibilities in complying with agency policies and procedures designed to reduce these risks;

“(C) periodic testing and evaluation of the effectiveness of information security policies, procedures, and practices, to be performed with a frequency depending on risk, but no less than annually, of which such testing—

“(1) shall include testing of management, operational, and technical controls of every information system identified in the inventory required under section 3533(c); and

“(2) may include testing relied on in a evaluation under section 3533;

“(D) any improvement in or implementing, evaluating, and documenting remedial action to address any deficiencies in the information security policies, procedures, and practices of the agency;

“(E) plans for detecting, reporting, and responding to security incidents, including—

“(1) mitigating risks associated with such incidents before substantial damage is done; and

“(2) notifying and consulting with, as appropriate—

“(i) law enforcement agencies and relevant Offices of Inspector General;

“(ii) an office designated by the President for any incident involving a national security system; and

“(iii) any other agency or office, in accordance with law or as directed by the President;

“(F) plans and procedures to ensure continuity of operations for information systems that support the operations and assets of the agency;

“(G) each agency shall—

“(1) report annually to the Director, the Committees on Government Reform and Science of the House of Representatives, the Committees on Governmental Affairs and Commerce, Science, and Transportation of the Senate, the appropriate authorization and appropriations committees of Congress, and the Comptroller General on the adequacy and effectiveness of information security policies, procedures, and practices, and compliance with the requirements of this subchapter, including compliance with each requirement of this subchapter;

“(2) address the adequacy and effectiveness of information security policies, procedures, and practices in plans and reports relating to—

“(A) annual agency budgets;

“(B) information resources management under subchapter 1 of this chapter;

“(C) the cyber security information technology management under the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.);

“(D) program performance under sections 1117 and 1115 through 1119 of title 31, and sections 2801 and 2805 of title 39;

“(E) financial management under chapter 9 of title 31, and the Chief Financial Officers Act of 1990 (31 U.S.C. 501 note; Public Law 101–576) (and the amendments made by that Act); and

“(F) financial management systems under the Financial Management Improvement Act (31 U.S.C. 3512 note); and

“(G) internal accounting and administrative controls under section 3512 of title 31, and the Federal Managers Financial Integrity Act); and

“(3) report any significant deficiency in a policy, procedure, or practice identified under paragraph (1)—

“(A) as a material weakness in reporting under section 3512 of title 31, United States Code; and

“(B) relating to financial management systems, as an instance of a lack of substantial compliance under the Federal Financial Information Security Practices Act.
3535. Annual independent evaluation

(a)(1) Each year each agency shall have performed an independent evaluation of the information security program and practices of that agency to determine the effectiveness of such program and practices.

(b) Each evaluation by an agency under this subsection shall include—

(1) for each agency with an Inspector General appointed under the Inspector General Act of 1978, the annual evaluation required by the Inspector General or by an independent external auditor, as determined by the Inspector General of the agency; and

(2) for each agency to which paragraph (1) does not apply, the head of the agency shall engage an independent external auditor to perform the evaluation.

(c) For each agency operating or exercising control of a national security system, the evaluation required by this section directly relating to a national security system shall be performed—

(1) only by an entity designated by the agency head; and

(2) in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

(d) The evaluation required by this section—

(1) shall be performed in accordance with generally accepted government auditing standards; and

(2) may be based in whole or in part on an audit, evaluation, or report relating to programs or practices of the applicable agency.

(e) Each year, not later than such date established under subsection (b)(2)(A), the head of each agency shall submit to the Director the results of the evaluation required under this section.

(f) Agencies and evaluators shall take appropriate steps to ensure the protection of information which, if disclosed, may adversely affect information security. Such protections shall be commensurate with the risk and comply with all applicable laws and regulations.

3536. National security systems

The head of each agency operating or exercising control of a national security system shall be responsible for ensuring that the agency—

(1) provides information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of the information contained in such system;

(2) implements information security policies and practices as required by standards and guidelines for national security systems, issued in accordance with applicable laws and as directed by the President; and

(3) complies with the requirements of this subsection.

3537. Authorization of appropriations

There are authorized to be appropriated—

[legislation not provided due to length]
SEC. 1103. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) is amended—

(a) in the first sentence—

(1) in the matter preceding subsection (a) by striking the text of developing standards, guidelines, and associated methods and techniques for information systems;

(2) in subsections (d) and (e) by striking—

(A) the term ‘security’ has the meaning given that term in section 5332(b)(1) of title 44, United States Code; and

(b) by striking—

(1) the term ‘information security’ has the meaning given in section 5332(b)(1) of title 44, United States Code; and

(2) the term ‘information technology’ has the meaning given in section 5332(b)(2) of such title.

SEC. 1104. INFORMATION SECURITY AND PRIVACY ADVISORY BOARD.

Section 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–4) is amended—

(1) in subsection (a), by striking “Computer System Security and Privacy Advisory Board” and inserting “Information Security and Privacy Advisory Board”;

(2) in subsection (b)(1), by striking “computer or telecommunications” and inserting “information technology”;

(3) in subsection (a)(2)—

(A) by striking “computer or telecommunications technology” and inserting “information technology”;

(B) by striking “computer or telecommunications equipment” and inserting “information technology”;

(4) in subsection (a)(3)—

(A) by striking “computer systems” and inserting “information system”; and

(B) by striking “computer systems security” and inserting “information security”;

(5) in subsection (b)(1) by striking “computer systems security” and inserting “information security”;

(6) in subsection (b) by striking paragraph (2) and inserting the following—

“(2) to advise the Institute and the Director of the Office of Management and Budget for promulgation under section 5331 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441);”;

(7) in subsection (b)(3) by striking “annually” after “report”;

(8) by inserting after subsection (e) the following new subsection:

“(f) The Board shall hold meetings at such locations and at such time and place as determined by a majority of the Board.”;

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(10) by striking subsection (h), as redesignated by paragraph (9), and inserting the following—

“(h) As used in this section, the term ‘information system’ and ‘information technology’ have the meanings given in section 20.”;

SEC. 1105. TECHNICAL AND CONFORMING AMENDMENTS.

(a) COMPUTER SECURITY ACT.—Sections 5 through 8 of the Computer Security Act of 1987 (40 U.S.C. 1411 note) are repealed.

(b) FLOYD D. SPEICE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001.—The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) is amended by striking subtitle G of title X.

(c) FISHERWORK REDUCTION ACT.—(1) Section 352(g) of title 44, United States Code, is amended—

“(9) prepare an annual public report on activities undertaken in the previous year, and planned for the coming year, to carry out responsibilities under this section.”;


(4) in paragraph (10) by striking “the term ‘information technology’ has the same meaning as provided in section 5332(b)(2) of such title.”;

(5) the term ‘information security’ has the same meaning as provided in section 5332(b)(1) of such title.

(6) the term ‘information system’ has the same meaning as provided in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401); and

(7) the term ‘national security system’ has the same meaning as provided in section 5332(b)(2) of such title.”;

(3) in paragraph (3) by striking “the term ‘information security’ has the same meaning as provided in section 5332(b)(2) of such title.”;

(4) by striking “the term ‘information technology’ has the same meaning as provided in section 5332(b)(2) of such title.”.

SEC. 1104. INFORMATION SECURITY AND PRIVACY ADVISORY BOARD.

Section 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–4) is amended—

(1) in subsection (a), by striking “Computer System Security and Privacy Advisory Board” and inserting “Information Security and Privacy Advisory Board”;
(A) by adding “and” at the end of paragraph (1);
(B) in paragraph (2)—
   (i) by striking “sections 5 and 6 of the”;
   (ii) by striking “device, technology designed, developed, or modified”;
   (iii) by striking “device, device, technology designed, developed, or modified”; and
   (iv) by inserting “least annually”;
(C) by striking paragraph (3).

(2) Section 3505 of such title is amended by adding at the end—
   “(c) The head of each agency shall develop and maintain an inventory of the information systems (including national security systems) operated by or under the control of such agency.
   “(2) The identification of information systems in an inventory under this subsection shall include an identification of the interfaces between each such system and all other systems or networks, including those not operated by or under the control of the agency; for each such system the inventory shall include an identification of the interfaces between each such system and all other systems or networks, including those not operated by or under the control of the agency; “(3) Such inventory shall be—
   “(A) updated at least annually;
   “(B) made available to the Comptroller General; and
   “(C) used to support information resource management, including—
   “(i) preparation and maintenance of the inventory of information resources under section 3506(b);
   “(ii) information technology planning, budgeting, acquisition, and management under section 3506(h), the Clinger-Cohen Act of 1996, and the Federal Information Resource Management Act; and
   “(iii) monitoring, testing, and evaluation of information security controls under subchapter II; “(iv) preparation of the index of major information systems required under section 552(g) of title 5, United States Code; and
   “(v) preparation of information system inventory records management under chapters 21, 29, 31, and 33.
   “(4) The Director shall issue guidance for and oversee the implementation of the requirements of this subsection.

(3) Section 3506(g) of such title is amended—
   (A) by adding “and” at the end of paragraph (1);
   (B) in paragraph (2)—
      (i) by striking “the Computer Security Act of 1987 (40 U.S.C. 759 note)”, inserting “subchapter II of this title”;
      (ii) by striking the semicolon and inserting a period; and
   (C) by striking paragraph (3).

SEC. 1106. CONSTRUCTION.

Nothing in this Act, or the amendments made by this Act, affects the authority of the National Institute of Standards and Technology or the Department of Commerce relating to the development and promulgation of standards or guidelines under paragraphs (1) and (2) of section 29(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3(a)).

In section 732(b)(1), strike “and extensive”.

In section 732(b)(1), strike “and” and insert “or”.

In section 752(b)(6), strike “evaluation” and insert “Evaluation”. At the end of section 752(b), insert:

(7) Anti-terrorism technology that would be effective in facilitating the defense against acts of terrorism.

In section 753(d)(11), insert “or other” after “liability”.

In section 753(d)(3), strike “those products” and insert “anti-terrorism technology”.

In section 753(d)(5), strike “produce” and insert “anti-terrorism technology”.

In section 753(b)(3), strike “Federal and non-Federal”, insert “Federal and non-Federal”,

In section 754(a)(1), insert “and certified by the Secretary” after “section”. In section 755(1), strike “device, technology designed, developed, or modified” and insert “device, device, technology designed, developed, or modified”; and

Page 352, line 2, strike “and” and insert “or”.

At the end of subtitle G of title VII of the United States Code, add the following (and conform the table of contents of this bill accordingly):

SEC. 774. AIR TRANSPORTATION SAFETY AND SYSTEM STABILIZATION ACT CRESTED AUTHORITY.

The Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) in section 408 by striking the last sentence of subsection (c); and

(2) in section 402 by striking paragraph (1) and inserting the following:

“(1) AIR CARRIER.—The term ‘air carrier’ means a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation and includes employees and agents (including persons engaged in the business of providing air transportation security and their affiliates) of such citizen. For purposes of the preceding sentence, the term ‘person’ includes persons engaged in the business of providing air transportation security, shall include only persons that have contracted directly with the Federal Aviation Administration for, or after February 17, 2002, to provide such security, or are not debarred.”.

Page 12, line 5, strike “and”.

Page 12, line 9, strike the period and insert “; and”.

Page 12, after line 9, insert the following:

(G) monitor connections between illegal drug trafficking, coordinate efforts to sever such connections, and otherwise contribute to efforts to interdict illegal drug trafficking;

Page 135, line 16, after “terrorism.” insert:

“Such official shall—

(1) ensure the adequacy of resources within the Department for illicit drug interdiction; and

(2) serve as the United States Interdiction Coordinator for the Director of National Drug Control Policy.

In section 307(b)(1)—

(1) strike “and” at the end of subparagraph (A); and

(2) redesignate subparagraph (B) as subparagraph (C); and

(3) after subparagraph (A), insert the following new subparagraph:

(B) ensure that the research funded is of high quality, as determined through merit review processes developed under section 301(10); and

In section 766 of the bill, insert “sections 305(c) and 752(c)” of after “provided in”.

Add at the end of title V of the bill the following section:

SEC. 506. SENSE OF CONGRESS REGARDING FUNDING OF TRAUMA SYSTEMS.

It is the sense of the Congress that States should give particular emphasis to developing and implementing the trauma care and burn center care components of the State plans for the provision of emergency medical services using funds authorized through Public Law 105–116 to improve State, local, and hospital preparedness for and response to bioterrorism and other public health emergencies.

The CHAIRMAN pro tempore. Pursuant to House Resolution 502, the gentleman from Texas (Mr. ARMEE), and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. ARMEE).

Mr. ARMEE. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, this is the manager’s amendment for the bill. The amendment includes the following: Technical amendments requested by the Committee on Energy and Commerce;

Technical amendments requested by the Committee on Science;

Technical correction regarding Oil Spill Liability Trust Fund requested by the Committee on Transportation and Infrastructure;

Technical amendments related to DHS privacy officer;

Technical correction related to the biological agent registration function requested by the Committee on Agriculture;

Amendment to create a program to encourage and support innovative solutions to enhance homeland security requested by the gentleman from Virginia (Mr. TOM DAVIS) and the gentlewoman from California (Ms. HARMAN);

Amendment to enforce non-Federal cybersecurity activities of Under Secretary for Information Analysis and Infrastructure Protection requested by the Committee on Appropriations;

An amendment to establish the NET Guard program to promote voluntary activities in support of information technology protection activities requested by the Committee on Science;

An amendment striking Section 814 related to incidental transfers by Director of OMB requested by Committee on Appropriations;

Technical correction to section 761 to insert proper cross references;

Amendment inserting a sense of Congress provision reaffirming our support for the Posse Comitatus Act;

An amendment clarifying that this act preempts no State or local law except that any preemption authority vested in the agencies or officials transferred to DHS shall be transferred to DHS;

Amendment inserting the text of Federal Information Security Management Act of 2002 recommended by Committee on Government Reform at the request of the gentleman from Virginia (Mr. TOM DAVIS). The amendment will achieve several objectives vital to Federal information security. Specifically it will, one, remove the Government Information Security Act’s GISRA sunset clause and permanently require a Federal agency-wide, risk-based approach to information security management, with annual independent evaluations of agency and information security practices; two, require that all agencies implement a risk-based management approach to developing and implementing information security measures for all information and information systems; three, streamline and simplify the technical corrections to GISRA to clarify and simplify its requirements; four, strengthen the role of NIST in the standards-setting process; and, five, require OMB to implement
minimum and mandatory standards for Federal information and information systems, and to consult with the Department of Homeland Security regarding the promulgation of these standards.

The amendment to subtitle F of title VII relating to liability management intended to clarify ability of liability protections afforded by this title;

An amendment asserting a new section to reinstate liability cap for aviation screening companies that are under contract with the Transportation Security Administration are not debarred.

Mr. Chairman, let me be very clear about this amendment. It does not reinstate a cap for any company that has been debarred; that is, Argenbright.

Mr. Chairman, I must suggest that we will all be labored to death with ramifications against Argenbright. So let me relate again that this amendment does not reinstate a cap for any company that has been debarred. That is, in particular, Argenbright. We would like that to be considered a fact.

Mr. Chairman, amendments clarifying responsibilities of DHS and the DHS counterdrug and narcotics officer with regard to narcotics interdiction requested by the gentleman from Illinois (Mr. HASTERT);

Amendments clarifying eligibility criteria for participation in certain extramural research programs of the Department requested by the gentleman from California (Ms. HARMAN).

Mr. Chairman, you can see that the manager’s amendment is a final, full, comprehensive and respectful regard to our colleagues in their standing committees of jurisdiction and as Members of this body who wish consideration in this bill.

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

Ms. PELOSI. Mr. Chairman, I rise in opposition to the en bloc amendment and request the time in opposition.

The gentleman from California is recognized for 20 minutes.

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

Mr. Chairman, throughout the course of all of this we have striven to find our areas of agreement, and we have made some successes in that regard. Every now and then something will come along that just really takes your breath away. That happened last week when we had the markup of the bill when we had given the measurement to give an indefinite extension for the installation of detection devices for explosives in baggage and when the distinguished leader put into his mark a total immunity, a total immunity, for those who were guilty of wrongdoing and jeopardizing the safety of the American people.

So here we now have today an en bloc amendment, the en bloc amendment of the chairman, which we would all love to support. The chairman has worked hard on this bill and he has some technicalities he would like to correct, and we would like to support him. Except, once again, out of the blue, comes another amendment that fatally flails this en bloc amendment. Let us dissect that.

This amendment is fatally flawed. That means it has a flaw that kills it. It is fundamentally flawed. It is flawed in a way that undermines any reason why anyone should vote for it.

The Army amendment takes a bad provision, which gives immunity to corporate wrongdoers, and makes it even worse. I am going to have more to say on this subject as we go along.

Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Michigan (Mr. CONYERS), the distinguished ranking member on the Committee on the Judiciary.

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

Mr. CONYERS. Mr. Chairman, we have got a bit of a dilemma here. According to the General Services Administration, excluded parties listing system, page 5, Argenbright Security, Incorporated. They will be excluded. Term date 14 October 2002. So I say to the distinguished majority leader, if that is what you call debarment, that is what I call somebody getting rolled in the House this afternoon. They are debarred for exactly 2 months, and they are back in business.

Mr. Chairman, I urge my colleagues to reject this en bloc manager’s amendment that is before us now.

EXCLUDED PARTIES LISTING SYSTEM
NO. OF DEBAR TRANSACTIONS: 3
Name: Argenbright Holdings, Limited
Class: Firm
Record Type: Primary
Exclusion Type: Reciprocal
DUNS: 3465 North Desert, Atlanta, GA, 30344

Description:
CT Actions—
1. Action Date: 29-MAR-2001
Term Date: Indef
CT Code: A
Agency: GSA
2. Action Date: 29-MAR-2001
Term Date: Indef
CT Code: J1
Agency: GSA
Cr. Ref. Names:
1: AHL Services, Inc.
2: Fields, Helen
3: Lawrence, Sandra H.
4: Suller, Steven E.
Name: Argenbright, Security, Inc.
Class: Firm
Record Type: Primary
Exclusion Type: Reciprocal
DUNS: 3465 North Desert Dr., Atlanta, GA 30344

Description:
CT Action—
Action Date: 18-MAR-2002
Term Date: 14-OCT-2002
CT Code: A
Agency: STATE
Cr. Ref. Name: Argenbright, Frank A., Jr.
Name: Argenbright, Frank Jr.
Class: Individual
Record Type: Cross-Reference
Exclusion Type: Reciprocal
DUNS: Address: 3553 Peachtree Rd., NE, Suite 1120, Atlanta, GA 30326

Description:
CT Action—
Action Date: 18-MAR-2002
Term Date: 14-OCT-2002
CT Code: A
Agency: STATE
Primary Name: Argenbright Security, Inc.

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

Let me first observe that the officials at Argenbright would be much comforted by the gentleman’s speech since they called my office viciously angry and upset, disappointed that they are...
not included in this amendment. So obviously, they clearly understand themselves to be not included in this coverage, and whether or not they take comfort from the remarks we just heard I do not know.

Mr. Chairman, that being as it is, I yield 3 minutes to the distinguished gentleman from North Carolina (Mr. COBLE), my classmate and a subcommittee chairman of the Committee on the Judiciary.

Mr. COBLE. Mr. Chairman, I thank the leader for yielding me this time.

The manager's amendment as just presented by the gentleman from Texas (Mr. ARMLEY) is technical for the most part, so I am going to direct my attention generally to the bill before us.

Mr. Chairman, I traditionally oppose the capping or prohibition of damages. It is my belief that generally speaking, the matter of awarding damages should be an area where the courts realize their responsibility as an arm of the State. It should not be a matter of political reality. As a matter of fact, I believe that the courts need to be protected from the political reality as the political process.

Mr. Chairman, I yield to the distinguished gentleman from California (Mr. WAXMAN), ranking member of the Committee on Government Reform. Mr. ARMLEY. Mr. Chairman, I really cannot believe this. Yesterday, the Republicans were forced, kicking and screaming, to write legislation on corporate responsibility and today, they are proposing legislation that will give a green light to corporate irresponsibility.

Now, do you remember when they passed the Contract for America the Private Securities Litigation Reform Act? It said to accountants, they did not have to be responsible anymore, they could not be sued. So what happened? We got Enron. We got all of these scandals.

This bill exempts from liability a company that would make a defective smallpox vaccine. It would exempt from liability a seller of what was supposed to be antiterrorism technology that did not work. They would allow the people who failed to do the work of protecting the people and who are negligent in doing it not to even be held responsible. Even worse if somebody was grossly negligent and acted intentionally, they would still not be held liable.

Let me give another example. A company that is supposed to screen for our protection at an airport can hire a known felon and maybe someone that if they had checked and used reasonable due care and found out that person was a terrorist, and they would hire them and a terrible tragedy could occur, the company would not be responsible. They are not held to legal liability because they are given this exemption from any legal liability under the Arment proposal.

This is a green light to corporations to cut corners, to not have the incentive to do the job right because they are going to be second-guessed and held accountable by the courts if they did it wrong. The biggest problem they might have is they might not have their contract renewed. But do you know what? If they violate their contract, they cannot even be sued to do their part of the agreement because they are exempt from liability even under contract law.

Mr. Chairman, this is the most irresponsible provision I can imagine, and if anything, we have to wonder, how could they do this? It must be a payoff to corporations to get a lot of campaign money. How can they come up with something so irresponsible in light of what this country has gone through in the last few years and all that our economy is suffering from.

Mr. ARMLEY. Mr. Chairman, I would like to believe the gentleman from California could rise above the kind of sophomorish allegation that there are payoffs in the legislative process. I have been many times disappointed by the gentleman from California, but this is the first time I have been embarrassed for him.

Mr. Chairman, I yield 3 minutes to the gentlewoman from Ohio (Ms. PRYCE), a jurist and member of the committee.

Ms. PRYCE of Ohio. Mr. Chairman, I thank the gentleman for yielding, and I compliment him once again on the job he has done with putting this together.

Mr. Chairman, the claims arising out of the deployment of qualified antiterrorism technologies would be covered by litigation management provisions that simply provide for this; once again, very simply. A consolidation of claims in Federal court. That makes perfect sense.

The requirement that any non-economic damages be awarded only in the proportion to a party's percentage of fault. That makes perfect sense.

A ban on punitive damages. A ban on punitive damages that so often are disproportionate to any real claim or harm done. A ban on punitive damages. Once again, perfect sense.

Offsets of awards based on receipt of collateral source benefits. We can only get paid once, not twice or 3 times.

A reasonable, very reasonable limit on attorneys' fees, once again, perfect sense.

Mr. Chairman, the Safety Act provisions of this en bloc manager's amendment are vital to ensuring that the American people are protected by the most reliable and up-to-date antiterrorism technology available. Unfortunately, the flaws in our current tort system keep that from happening right now. We need the life-saving and life protecting technologies that are out there close to being developed.

But one company, for instance, based in my home State of Ohio, produces a state of the art technology that is vital to decontamination following an anthrax attack. Yet, they are prevented from using this technology to assist in the cleanup of any infected areas or buildings by the daunting and limitless liability that they could face if their patriotic efforts failed for some reason. The Safety Act provisions certainly do not provide immunity in any way from any lawsuit; they simply place reasonable and sensible limits on lawsuits so that America's leading technology innovators will be able to deploy solutions to thwart terrorist attacks.

The alternative solution of indemnification is no solution at all. It is financially irresponsible; it will attempt to put the Treasury and, through it, the U.S. taxpayers and their deep pockets at risk by those, the very people that exploit the technology producers who join in the fight against terrorism.

Mr. Chairman, this is common sense. The time is right for it to happen. The alternative solution would have a chilling effect, both on technological advances and the implementation of any new technology. I think it is a perfect place for it in the en bloc amendment; it is reasonable, it makes sense. The time is right for it. We need it today.

Ms. PELOSI. Mr. Chairman, it is my privilege to yield 4 minutes to the distinguished gentleman from Minnesota.
Mr. OBERSTAR. Mr. Chairman, I thank the gentlewoman for yielding me this time, and I compliment her on her management of the time on the floor and her splendid work on the Select Committee on Homeland Security.

For whatever valid reasons there may be to extend liability to other functions, as have already been discussed and without going into those merits, I cannot, for the life of me, imagine a reason, a valid reason for extending liability to the screener companies.

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

Mr. Chairman, the confusion about Argenbright has nothing to do with my amendment. Argenbright is today debarred. My amendment does not provide coverage to firms that are debarred. If GSA sometime in the future should report that debarment, the gentleman from Minnesota (Mr. OBERSTAR) would have an argument with GSA, but he has no argument in respect to Argenbright with my amendment. If I were the gentleman from Minnesota, I would file up here at a checkpoint. The whole terminal had to be evacuated at Louisville because of that failure. Why in heaven’s name do you want to exclude them? This defies imagination. It is the wrong policy. If I were the gentleman from Minnesota, I would; but in lieu of that, we ought to defeat the entire en bloc amendment.

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

Mr. ARMEY. Mr. Chairman, I yield 30 seconds to respond to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Chairman, this is an example of my underlying concern. Argenbright is today debarred. My amendment does not provide coverage to firms that are debarred. If GSA sometime in the future should report that debarment, the gentleman from Minnesota (Mr. OBERSTAR) would have an argument with GSA, but he has no argument in respect to Argenbright with my amendment. If I were the gentleman from Minnesota, I would file up here at a checkpoint. The whole terminal had to be evacuated at Louisville because of that failure. Why in heaven’s name do you want to exclude them? This defies imagination. It is the wrong policy. If I were the gentleman from Minnesota, I would; but in lieu of that, we ought to defeat the entire en bloc amendment.

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

Mr. ARMEY. Mr. Chairman, I yield 30 seconds to respond to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Chairman, this is an example of my underlying concern. Argenbright is today debarred. My amendment does not provide coverage to firms that are debarred. If GSA sometime in the future should report that debarment, the gentleman from Minnesota (Mr. OBERSTAR) would have an argument with GSA, but he has no argument in respect to Argenbright with my amendment. If I were the gentleman from Minnesota, I would file up here at a checkpoint. The whole terminal had to be evacuated at Louisville because of that failure. Why in heaven’s name do you want to exclude them? This defies imagination. It is the wrong policy. If I were the gentleman from Minnesota, I would; but in lieu of that, we ought to defeat the entire en bloc amendment.

Ms. PELOSI. Mr. Chairman, I yield 30 seconds to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I just want to reaffirm for the distinguished gentlewoman from Washington (Ms. PELOSI), majority leader, that Argenbright’s debarment expires in October. It then becomes eligible for liability protection under the general debarment en bloc amendment. Furthermore, the parent company of Argenbright, Securicor, is not debarred from any Federal contracts. So they are now covered by this immunization protection. And look at Argenbright. Someone last fall in the debate, and I think it was a Member on the Republican side, said Argenbright is the poster child for why we need to have a Federalized screener program.

They were in October of 2000 put on a 36-month order to pay $1,600,000 fine for failure to conduct background checks on their employees and hiring convicted felons to staff security screening checkpoints at the Philadelphia Airport between 1995 and 1999. A month after September 11, Argenbright’s probation was extended by 2 years because they continued to hire convicted felons and improperly train workers in violation of their probation terms. In the 5 years before September 11, FAA prosecuted 1,776 cases for screening violations with $8.1 million in civil penalties.

The en bloc vote furthermore extends liability protections, put Argenbright aside, to other airport security firms. Globe Aviation Services and Huntsleigh USA Corporation, the security companies responsible for checkpoint security at Logan Airport on September 11 and which continue to hold contracts with the Transportation Security Administration, why would you want to exclude them? These are the same groups whose lobbyists argued last October against the Federal screener program. It does not make sense to now exempt them.

In May of this year, Huntsleigh Security Screeners were fired for allowing a man to go through a security checkpoint with two loaded semiautomatic pistols. In February of this year, a Globe security worker was caught at a checkpoint. The whole terminal had to be evacuated at Louisville because of that failure. Why in heaven’s name do you want to exclude them? This defies imagination. It is the wrong policy. If I were the gentleman from Minnesota, I would; but in lieu of that, we ought to defeat the entire en bloc amendment.

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

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

Mr. Chairman, I do not want to ascribe motives, it is just that what I might call mirage language. Why would you want to excuse them? It is not going to help. It is not going to produce certainty of working conditions. And some of the proposals that we have had advanced as a part of this are going to produce uncertainty of working conditions, apprehension for tens of thousands of dedicated public employees; and that is going to hurt. It is not going to help.

Finally, the manager’s amendment is an example of my underlying concern. Argenbright is today debarred. My amendment does not provide coverage to firms that are debarred. If GSA sometime in the future should report that debarment, the gentleman from Minnesota (Mr. OBERSTAR) would have an argument with GSA, but he has no argument in respect to Argenbright with my amendment. If I were the gentleman from Minnesota, I would file up here at a checkpoint. The whole terminal had to be evacuated at Louisville because of that failure. Why in heaven’s name do you want to exclude them? This defies imagination. It is the wrong policy. If I were the gentleman from Minnesota, I would; but in lieu of that, we ought to defeat the entire en bloc amendment.

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

Ms. PELOSI. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Chairman, this presents us with a very interesting situation. First, we are told that the employees of the Homeland Security Department cannot have civil service protection. They cannot be unionized. We want to be flexible with them. If they make any mistakes, we want to throw them out. Yet, at the same time, what corporate entities that work for the Homeland Security Department? If the Secretary approves any design for any material or
product that they sell to homeland security, so long as the Secretary approves it, that corporation is exempt from any product-liability suits.

The manager’s amendment, however, goes even further. It protects corporate wrongdoers from any kind of action whatsoever; if the product does not work, if the product does not work because the corporation was fraudulent in its submission, if the product does not work because they willfully or maliciously made it so that it would not work effectively, nevertheless, they are exempt from any kind of lawsuits.

This situation that we are presented with and asked to vote for is totally absurd. You want to have a circumstance whereby people are going to feel protected and will be protected. And if they are going to be protected, you have to have the ability to have confidence in the corporate entities, the private sector people who are supplying the new homeland security office. Under the provision of this bill and particularly under the amendment, all of that confidence goes out the window.

Why should we have any ounce of confidence if people can produce bad products to be responsible for the product they produce? This is a bad piece of legislation.

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

Mr. SHAYS. Mr. Chairman, I rise to thank the Members on both sides of the aisle for the basic decorum that has existed during the past 2 days. I am beginning to feel that tempers are getting a little short, but we do not have much further to go.

I, for one, have been the focus of the majority leader’s disappointment sometimes, but I have never ever questioned his sincerity, his fairness, or his motives. They are beyond reproach. And I would say to the Members there is a danger, obviously, when you have a manager’s amendment that has 19 parts. There is going to be something that somebody does not like. That is the risk. Everyone can find some part of a comprehensive amendment they do not like. They can find a reason to vote against it.

There are just too many important parts of this amendment to cause its defeat. We need this manager’s amendment.

Having said this I know would like to take the time to express my disappointment that I did not make the manager’s amendment, that I did not have an amendment I wanted called to order. I would like Members to listen to what this was.

My amendment said the “Director of Central Intelligence shall, to the maximum extent practical, in accordance with the law, render full assistance and support to the Department and the Secretary.”

I am told this was not included because the Permanent Select Committee on Intelligence had a problem with this. That, to me, is the very reason why it should have been included. What is amazing to me is that this very language is the identical language that can be found in the establishment of the Office on the National Drug Control Policy. Implicit in our bill is, obviously, support by the head of the CIA; but nowhere does it state it. I am very, very concerned this is lacking in our legislation.

I am trying to get it in the Senate bill, and I am using this opportunity to say to the distinguished gentleman from California (Mr. ARMEY), I am lobbying them up front and in this Chamber to please include this language when we have the Conference Report and final passage. It is needed. It is the very problem I encountered in my committee on national security. When we wanted the CIA to come and testify about the relationship they had with the corporation that supplied equipment to the Department of Defense and the CIA, they were not able to do so.

I believe we need to have very explicit language stating that the Director of the Central Intelligence Agency will cooperate with the Department of Homeland Security. I thank the leader for what he and the gentleman from California (Ms. PELOSI) have done to shepherd this bill through Congress. I think what we have in this amendment is an extraordinarily fine piece of legislation. I think it will be made better by the manager’s amendment.

The CHAIRMAN pro tempore (Mr. BONILLA). At this time, the Chair would inform the managers on both sides that the gentleman from Texas (Mr. ARMEY) has 4 minutes remaining and the gentleman from California (Ms. PELOSI) has 4 minutes remaining, and the gentlewoman from California (Ms. PELOSI) does have the right to close.

Mr. ARMEY. Mr. Chairman, I might ask the gentlewoman then how many more speakers she has?

Ms. PELOSI. Mr. Chairman, we will be looking forward to the distinguished leader’s remarks, and then I will close.

Mr. ARMEY. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Virginia (Mr. TOM DAVIS), one of the hardest working and quite frankly most able legislators we have in this body, a good friend and Member that has important provisions in this manager’s amendment.

MR. TOM DAVIS of Virginia asked and was given permission to revise and extend his remarks.)

Mr. TOM DAVIS of Virginia. Mr. Chairman, I thank the gentleman for yielding me the time.

First of all, just to correct a couple of things I keep hearing from the other side about a government contractor not being able to be sued if something goes wrong, nothing could be further from the truth. We do change traditional tort law in that punitive damages are capped and that we have comparative negligence and these kind of items. The reason we do this, of course, in the amendment is to try to hold contractors to be able to share some of their innovations with the government.

Also, on the Argenbright debarment issue, debarment is traditionally done by professionals in the procurement office of the Federal Government by the Congress. Whether it extends or not, I am certain that that will be extended at that level.

I rise today in strong support of this language and the technical innovations language that is included in the gentleman from Texas’ (Mr. ARMEY) en bloc amendment. This title is going to strengthen information security management for the Federal Government, and this is critical in the war against terrorism because if we are vulnerable anywhere it is in our critical infrastructures. This language goes a long way towards strengthening that, which seems to me would be a prime target for terrorists.

Information security management has persisted in both the public and private sectors long before information technology became ubiquitous engine driving governmental, business and even home activities. As our reliance on technology and our desire for interconnectivity have grown over the past decade, intensifying with the advent of the Internet, our vulnerabilities to attack on Federal information systems has grown exponentially.

The high degree of dependence between information systems, both internally and externally, exposes the Federal Government’s computer networks to benign and destructive disruptions.

Moreover, the Federal Information Security Management Act of 2002, which I introduced with the gentleman from California (Mr. HORN) is included in this manager’s amendment. This requires the agencies utilize information security best practices that could help ensure the integrity, confidentiality and availability of Federal information services and doing a lot of other things as well.

I also want to thank the gentleman from New York (Mr. BOEHLENT), the Committee on Science chairman and the gentleman from Louisiana (Mr. TAUTZEN), the Committee on Energy and Commerce chairman, for working on this language. In addition to this, we have technical innovation language in this legislation that will allow the most up-to-date innovations in technology to come forward quickly and be processed by the homeland security agency where they can start looking as they set their requirements and find that the technologies that we have in technology in this country that we can use to help fight terrorism.
In February, we held a hearing on this, the challenges facing us, and one theme that was expressed unanimously by industry was the need for an organized, cohesive and comprehensive process within the government so we could evaluate private-sector solutions to improve our homeland security. We have a lot of contractors with great ideas running around, but there is no place to really take them at this point.

This manager’s amendment now has a central clearinghouse for these. They are part of the solution. With the creation of the homeland security in the bill before us today the gentleman from Texas (Mr. ARMEY) has included language in this legislation that closes the loop and provides a vehicle to get these solutions into the government and to the front lines in the war against terrorism as soon as possible.

I urge adoption of the manager’s amendment.

In extraordinary times, primarily because of recent acquisition reforms, the current acquisition system will enable the new Department of Homeland Security to buy what it needs with reasonable efficiency. While we all hope that it will never be needed, we also know that in an emergency the new Department may have to quickly and efficiently acquire the high-tech and sophisticated products and services needed for its critical mission. The carefully limited authorities contained in the Homeland Security Act on the floor today are based on the Davis/Turner amendment, which was accepted and incorporated into the Government Reform Committee’s version of the Homeland Security bill. The bi-partisan provisions would permit the Department to quickly acquire the emergency goods and services it needs while maintaining safeguards against wasteful spending.

The amendment builds on contracting authorities currently in place, in fact, the procedures appear in Part 13 of the Federal Acquisition Regulation—and provides for an extension of these authorities only upon a determination by the Secretary of Homeland Security or one of his Senatorially confirmed officials that the terror fighting mission of the new Department would be seriously impaired without their use. The new authorities would sun-set at the end of fiscal year 2007. The GAO would be required to report to the Committee on Government Reform assessing the extend to which the authorities contributed to the mission of the Department, the extent to which the prices paid reflect best value, and the effectiveness of the safeguards put in place to monitor the use of the new authorities. The current government-wide procurement laws will govern the Department’s “normal” purchases.

Specifically, the provisions would raise the current micro-purchase threshold from $2,500 to $5,000. It would raise the current $100,000 threshold to $175,000 and permit the application of the current streamlined commercial acquisition procedures and statutory waivers to non-commercial goods and services and increase the current $5,000,000 ceiling on the use of streamlined commercial procedures to $7,500,000.

How could these new authorities be used? Well, for example, the increase in the micro-purchase threshold could be used in the event of a terror attack, to permit a Department of Homeland Security official at the scene to rent several floors of a nearby hotel to house rescue workers by simply presenting his Government credit card.

The increase in the simplified acquisition threshold would permit a Department official to quickly enter into a $175,000 contract for specialized medical services for rescue workers responding to a terror attack.

The application of streamlined commercial acquisitions would permit the Department to conduct a limited competition among high technology firms for a specialized advisory and assistance services contract valued at $7,500,000 to fight a cyber-attack.

Mr. Chairman, I also rise in strong support of Title XI information security language and the technical innovations language included in Mr. Army’s en bloc amendment. This Title will strengthen the information security management infrastructure of the Federal Government.

The election of September 11th and the ensuing war on terrorism have raised an unprecedented awareness of the vulnerabilities we face. This has naturally focused more attention on security issues, particularly with respect to information security. From my work in the Government Reform Committee, it is clear that the state of federal information security suffers from a lack of coordinated, uniform management. Federal information systems continue to be woefully unprotected from both malevolent attacks and benign interruptions.

Poor information security management has persisted in both the public and private sectors long before it became the ubiquitous engine driving governmental, business, and even home activities. As our reliance on technology and our desire for interconnectivity have grown over the past decade, intensifying with the advent of the Internet, our vulnerability to attacks on Federal information systems has grown exponentially. The high degree of interdependence between information systems, both internally and externally, exposes the Federal government’s computer networks to benign and destructive disruptions.

Therefore, I introduced the Federal Information Security Management Act of 2002 (FISMA) with Chairman Stephen Hahn, Chairman of the Government Efficiency, Financial Management and Intergovernmental Relations Subcommittee. FISMA is the basis for Title XI in the Homeland Security bill we are considering today.

FISMA will require that agencies utilize information security best practices that will ensure the integrity, confidentiality, and availability of Federal information systems. It builds on the foundation laid by the Government Information Security Reform Act (GISRA), which requires our department to develop and implement security policies that include risk assessment, risk-based policies, security awareness training, and periodic reviews. Our Subcommittees held joint legislative hearings on FISMA, and I worked closely with Chairman Horn, and agencies to develop a bill that is satisfactory to all parties.

FISMA will achieve several objectives vital to Federal information security. Specifically, it will:

1. Remove GISRA’s sunset clause and permanently require a Federal agency-wide risk-based approach to information security management with annual independent evaluations of agency information security practices;

2. Require that all agencies implement a risk-based management approach to developing and implementing information security measures for all information and information systems;

3. Streamline and make technical corrections to GISRA to clarify and simplify its requirements;

4. Strengthen the role of NIST in the standards-setting process; and

5. Require OMB to implement minimum and mandatory standards for Federal information and information systems, and to consult with the Department of Homeland Security regarding the promulgation of these standards.

At a time when uncertainty threatens confidence in our nation’s preparedness, the Federal government must make information security a priority. We demand that in our networked era, where technology is the driver, every Federal information system must be managed in a way that minimizes both the risk that a breach or disruption will occur and the harm that would result should such a disruption take place. Title XI is vitally important to accomplishing our objective. Chairman ARMEY understands this and has shown tremendous leadership by including this critical language in his en bloc amendment.

I would like to take a moment to thank Science Committee Chairwoman SHERWOOD BOEHRERT and Energy and Commerce Chair- man BILL TAUzin for working with the Committee on Government Reform to reach a substantive agreement on Title XI. And I would also like to thank Congresswoman CONNIE MORELLA, Congressman LAMAR SMITH, and Chairman ARMY for their strong support and invaluable efforts to promote Title XI.

Also, the En Bloc amendment includes language that I developed to allow for reaching out to new technology companies that may not be doing business with the government. We all know that the Federal, State and local governments will spend billions and billions of dollars to fight the war against terror. Contentious floor debates aside, we all support these efforts. But to me, the question isn’t simply how much we spend, but how well we spend it.

Since the tragic events of 9/11 the Government, in general, and the Office of Homeland Security, in particular has been overwhelmed by a flood of industry proposals offering various solutions to our homeland security challenges. Because of a lack of staffing expertise, many of these proposals have been sitting unevaluated, perhaps denying the government breakthrough technology.

In February, I held a hearing in my Subcommittee on Technology and Procurement Policy on homeland security challenges facing the government. One theme that was expressed unanimously by industry was the need for an organized, cohesive, comprehensive process within the Government to evaluate private-sector solutions to homeland security problems. Now we have part of the solution, with the creation of the new Department of Homeland Security in the bill on the floor today. Chairman ARMY at my request included language in a new Section 309 which requires that in H.R. 4629, legislation I introduced in May, this language be included in the bill and provide a vehicle to get these solutions into government and to the front lines in the war against terror.
Chairman Army's Manager's amendment included a new section 309 in the Homeland Security Act to the establishment within the Department a program to meet the current challenge faced by the Federal government, as well as by state and local entities, in leveraging private sector innovation in the fight against terrorism. The amendment would establish a focused effort by:

- Creating a centralized Federal clearinghouse in the new Department for information relating to terror-fighting technologies for dissemination to Federal, State, local and private sector entities and to issue announcements to industry seeking unique and innovative anti-terror solutions.
- Establishing a technical assistance team to assist in screening proposals for terror-fighting technology to assess their feasibility, scientific and technical merit and cost.
- Providing for the new Department to offer guidance, recommendations and technical assistance to Federal, State, local and private efforts in research and development of technologies and provide information relating to Federal funding, regulation, or acquisition regarding these technologies.

Since September 11, we have all been struggling to understand what changes will occur in our daily lives, in our economy, and within the Government. We now will establish a new Department of Homeland Security to focus and coordinate the war against terror. The new section 309 in this landmark legislation will be the new Department's framework to examine and act on the best innovations the private sector has to offer.

I would also like to offer my thanks to the staff of the Science and Energy and Commerce Committees who collaborated with my staff in developing this amendment.

And finally, Mr. Chairman, I would also like to thank the Chairman for including my bipartisan legislation that I developed with Congressman Jim Moran that will promote voluntary information sharing about our nation's critical infrastructure assets. As many of you know, over ninety percent of our nation's critical infrastructure as owned and operated. In Presidential Decision Directive 63 issued by the previous Administration, concerns about the Freedom of Information Act, antitrust, and liability were identified as primary barriers to facilitating information sharing with the private sector.

The critical infrastructure of the United States is largely owned and operated by the private sector. Critical infrastructures are those systems that are essential to the minimum operation of the economy and government. Traditionally, these sectors operated largely independently of one another and coordinated with government to protect themselves against threats from conventional warfare. Today, these sectors must learn how to protect themselves against unconventional threats such as terrorist attacks, and cyber intrusions.

We must, as a nation, prepare both our public and private sectors to protect ourselves against threats from conventional and unconventional warfare. We went to the caves in Afghanistan, the Al Qaeda groups had copies of GAO reports and other government information obtained through FOIA. While we work to protect our nation's assets in this war against terrorism, we also need to ensure that we are not arming terrorists.

Today, the private sector has established many information sharing organizations (ISOs) for the different sectors of our nation's critical infrastructure. Information regarding potential physical or cyber vulnerabilities is now shared within some industries but it is not shared with the government and it is not shared across industries. The private sector stands ready to expand in this effort and I have expressed concerns about voluntarily sharing information with the government and the unintended consequences they could face for acting in good faith.

Specifically, there has been concern that industry could potentially face antitrust violations for sharing information with other industry partners, have their shared information subject to the Freedom of Information Act, or face potential liability concerns for information shared with the government.

Mr. Chairman, this manager's amendment exists in 19 parts. Eight of the 19 parts are included in the amendment at the request of the various committees of the House. The remainder are included at the request of different Members of the body from both sides of the aisle.

We have had the opposition to the manager's amendment focused on one of the 19 provisions, a provision that provides liability coverage to providers of services to homeland defense and a provision that has been here in this House before. It is not something new. The only thing that is different about this provision now, as opposed to the time in which it was passed earlier in this session, is that we now have an identifiable pair of providers within that population who are debarred from providing and would not benefit. They have been identified under it.

The overall manager's amendment, when considered in the context of the selective coverage and to my understanding of the comment of this chairman in that it gave first priority, first preference, first respect to the standing committees and to the Members of this body and their shared commitment to making this Nation safe from terrorism, and I urge its passage.

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

Ms. PELOSI. Mr. Chairman, I yield the remainder of my time.

Mr. Chairman, in his closing remarks, our distinguished leader explained how many elements there were to this en bloc amendment and said that we were finding fault with a small part of it. The fact is that we would like to find no fault with an en bloc amendment. There are many provisions in it. I dare say most of us have not the faintest idea what they are, but we trust the Chairman on those technicalities and recommendations from the committee.

This is usually a noncontroversial measure that most Members would expect to support. That is why it is so disappointing that this en bloc amendment is being used to put a very controversial amendment in. To use the engine of an en bloc on technicalities for a substantive change in the bill that is controversial is unusual, and that is why we oppose it, because of the substance of the provisions.

It has been said that this is about protecting the American people. Let us keep our standard before us. How do we protect the American people best? In the bill, and another amendment will come up later, the Turner amendment to strike it, but in the bill, under section 753 of the bill, corporations can submit designs for antiterrorism products to the Homeland Security Department if those designs are approved by the Secretary. Those corporations get total immunity from product liability laws and under the government contractor defense of any kind, even if there is wrongdoing, including willful and malicious corporate misconduct.
Mr. Chairman, we hear so much about responsibility in this House. Yet when it comes to all kinds of lawsuits. Even if a product does not work, they cannot sue for breach of contract, etcetera, but this would give it immunity for willful wrongdoing to corporations that provide services and software.

I have heard people say that this is important so that we can get people to bid. The Turner amendment addresses that next with a wise amendment that addresses the concerns of the private sector in a responsible way.

In this bill, the Armey amendment immunizes airport screening companies whose negligence may have contributed to the September 11 attacks, and I have heard people say here, of course, the Federal government can sue under this bill. Let me just jump from the en bloc amendment.

It talks about the presumption and it says, The presumption shall only be overcome, in other words the presumption of innocence, that this presumption shall only be overcome by evidence showing that the seller acted fraudulently or with willful misconduct in submitting information to the Secretary. Only in submitting information to the Secretary. Not in how the product manufactured the product or spelled out how it should be used.

So this, the standard that is set in this bill, is how a person makes their case to the Secretary. Not about how they deliver on the promise to protect the American people.

We all know that in a time leading up to September 11, there were many causes for the tragedy coming our way, and one of them was the fact that the airport screening companies played Russian Roulette with the safety of the American people. Sooner or later there was going to be a tragedy because of their lax approach to safety in the security and the screening process.

This bill that we have before us, on a day when we are discussing how to make the country safer in the best possible way, says that we will make matters worse by passing this en bloc amendment.

I would urge my colleagues to do the responsible thing and reject this en bloc amendment.

Mr. RODRIGUEZ. Mr. Chairman: the debate today should be on improving our homeland defense. We should be focused on finding ways to encourage the responsible development, testing and deployment of new technologies and products that will enhance the protection of the American people.

Mr. Chairman, we hear so much about responsibility in this House. Yet when it comes to corporate responsibility, the Majority seems to run for cover.

The bill crafted by the House majority, and the amendment offered by the Majority Leader, represent a wholesale attack on our long-standing system of justice. They rob the American people of their ability to receive compensation for irresponsible or even grossly negligent conduct. In the name of homeland defense, they conduct a brazen assault on our ability to hold corporate wrongdoers accountable for their misconduct or simply their failure to make product that works.

That’s right. The product could fail completely, but the manufacturer would have no liability. The product could backfire, misfire, or not fire at all, yet the company that made it could simply walk away with not even a slap on the wrist.

It is an outrage. It undermines our security.

One of the foundations of our democracy is the system of checks and balances. Within the world of product development and the provision of services, our legal system is the check on substandard conduct.

Without that check, without the threat of being held accountable, we will see an increase in poor product design and faulty service delivery. It is simply human nature.

Corporations won’t need to worry about making sure these products are safe and effective. They won’t have to worry about the potential harm they cause. They won’t have incentives to improve their safety. They will simply have blanket immunity. Forever.

Those injured in the process—whether it’s our soldiers, police officers, firefighters, homeland defense volunteers, or victims of product failure—will be left out in the cold. With no legal recourse, they and their families will suffer, they will not receive the care they need, they will receive no compensation for the harm caused by the products.

This is nothing short of the legalization of corporate irresponsibility.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. ARMNEY).

The CHAIRMAN pro tempore. The ayes appeared to have it. Ms. PELOSI. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 18 of Rule XVIII, further proceedings on the amendment offered by the gentleman from Texas (Mr. ARMNEY) will be postponed.

It is now in order to consider Amendment No. 22 printed in House Report 107-415.

AMENDMENT NO. 22 OFFERED BY MR. TURNER. MR. TURNER. MR. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment. The text of the amendment is as follows: Amendment No. 22 offered by Mr. TURNER: Strike subtitle F of title VII and insert the following: Subtitle F—Risk Sharing and Indemnification

SEC. 751. RISK SHARING AND INDEMNIFICATION. (a) Definitions. Section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) is amended by adding at the end the following new paragraphs:

(16) The term ‘anti-terrorism technology and services’ means any product, equipment, service or device, including information technology, system integration and any other kind of service (including support services) related to technology, designed, developed, modified or procured for the purpose of preventing, detecting, identifying, or otherwise deterring acts of terrorism.

(17) The term ‘act of terrorism,’ means the calculated attack or threat of attack on persons, property or infrastructure to inculcate fear, intimidate or coerce a government, the civilian population, or any segment thereof, in the pursuit of political, religious or ideological goals.

(18) The term ‘insurance carrier’ means any corporation, association, society, order, firm, company, mutual, partnership, individual, aggregation of individuals, or any other legal entity that provides commercial property and casualty insurance. Such term includes any affiliates of a commercial insurance carrier.

(19) The term ‘liability insurance’ means insurance for legal liabilities incurred by the insured resulting from:

(A) loss of or damage to property of others;

(B) ensuing loss of income or extra expense incurred because of loss of or damage to property of others;

(C) bodily injury (including death) to persons other than the insured or its employees;

(D) loss resulting from debt or default of another.

(20) The term ‘ homeland security procurement’ means any procurement of anti-terrorism technology and services, as determined by the head of the agency, procured for the purpose of preventing, detecting, or otherwise deterring acts of terrorism.

(b) The term ‘information technology’—

(A) means any equipment or inter-connected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information;

(b) includes computers, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related resources; and

(c) does not include any equipment that is acquired by a Federal contractor incidental to a Federal contract.

(c) In order to be eligible for an indemnification, a contractor—

(1) the anti-terrorism technology and services are needed to protect critical infrastructure and services; and

(2) the supplier of the anti-terrorism technology is unable to secure insurance coverage adequate to make the anti-terrorism technology and services available to the Government.

(d) The head of the agency may exercise authority in this section only if authorized by the Director of the Office of Management and Budget to do so.
such types and in such amounts, to the max-
imum extent practicable as determined by
the agency, to satisfy otherwise compensable
third party claims resulting from an act of
terrorism when its anti-terrorism technolo-
gies and services have been deployed in defense
against acts of terrorism.

(d) An indemnification provision included in a con-
tract under the authority of this sec-

tion shall be without regard to other provi-
sions of law relating to the making, perform-
ance, amendment or modification of con-
tracts.

(e)(1) The indemnification provision to be
included in a contract under the authority of
this section shall provide that in whole or in
part, the contractor for liability, including
reasonable expenses of litigation and settle-
ment, that is not covered by the insurance
required under subsection (c), for:

(A) Claims by third persons, including
employees of the contractor, for death, per-
sonal injury, or loss of, damage to, or loss of
use of property, or economic losses resulting
from an act of terrorism;

(B) Loss of, damage to, or loss of use of
property of the Government; and

(C) Loss of, damage to, or loss of use of
property of the contractor.

(2) Claims arising from (i) from indemni-
fication agreements between the contractor and
a subcontractor or subcontractors, or (ii) from
such arrangements and further indemni-
fications between subcontractors at any tier,
provided that all such arrangements were entered into
pursuant to the terms of this section.

(f) Liabilities arising out of the contrac-
tor’s willful misconduct or lack of good faith
shall not be entitled to indemnification
under the authority of this section.

(g) An indemnification provision included in a con-
tract under the authority of this section
shall be negotiated and signed by the agency,
contracting officer and an authorized
representative of the contractor and ap-
proved by the head of the agency prior to the
commencement of performance of the con-
tract.

(h) The authority conferred by this sec-

tion shall be limited to the following agen-
cies:

(1) The Department of Homeland Secu-
rity;

(2) The Department of Agriculture;

(3) The Department of Commerce;

(4) The Department of Defense;

(5) The Department of Energy;

(6) The Department of Health and Human
Services;

(7) The Department of the Interior;

(8) The Department of Justice;

(9) The Department of State;

(10) The Department of the Treasury;

(11) The Department of Transportation;

(12) The Federal Emergency Management
Agency;

(13) The Federal Reserve System;

(14) The General Services Administration;

(15) The National Aeronautics and Space
Administration;

(16) The Tennessee Valley Authority;

(17) The U.S. Postal Service;

(18) The Central Intelligence Agency;

(19) The Architect of the Capitol; and

(20) Any other agency designated by the Secretary of Homeland Security that en-
gages in homeland security contracting ac-
tivities.

(i) Any suit or action is filed or any
claim is made against the contractor for any
losses to third parties arising out of an act of
terrorism when its anti-terrorism technolo-
gies and services have been deployed such that the cost and expense of the losses may be indemnified by the United States
under this section, the contractor shall—

(1) Notify the Secretary and promptly
furnish copies of all pertinent pa-
ers received;

(2) Authorize United States Government
representatives to collaborate with counsel
for the contractor’s insurance carrier in set-
ting or defending the claim when the
amount of the liability claimed may exceed
the amount of insurance coverage; and

(3) Authorize United States Government
representatives to settle or defend the claim
and to represent the contractor in or to take
charge of any litigation, if required by the
United States Government, when the liabil-
ity is not insured.

The contractor may, at its own expense, be
associated with the United States Government
representatives in any such claim or
litigation.

(6) In this subsection, the definitions in
paragraphs (18) through (23) of section 4 of
the Office of Federal Procurement Policy
Act shall apply.

(7) IMPLEMENTING REGULATIONS.—Not later
than 60 days after the date of the enactment
of this Act, the Federal Acquisition Regula-
tion Act shall be amended to ensure consist-
ency between the Federal Acquisition Regulation
and this section.

The CHAIRMAN pro tempore. Pursu-
ant to House Resolution 502, the gentle-
man from Texas (Mr. TURNER) and a
member of the minority party are both
opposed each will control 20 minutes.

Mr. TURNER. Mr. Chairman, I yield mas-
ter 2’s minutes.

Mr. Chairman, the amendment that we are offering here on the floor today
is the language that was approved by the
Committee on Government Reform
that was sent to the special panel. In the
Committee on Government Reform
it was adopted without opposition, with
bipartisan support.

The amendment is very important
because it allows the timely deploy-
ment of advanced technology in the
fight against terrorism, while at the
same time preserving the legal rights
and remedies that are available to the
victims of any terrorist incident.

The amendment extends to the De-
partment of Homeland Security and
other agencies that purchase anti-ter-
rorism technologies a common practice
of indemnity that has been around for
a long, long time at the Department of
Defense. In fact, this authority has ex-
ist since 1968 when President Eisen-
hower issued an executive order under
law which allowed indemnity to be
granted by the Secretary of Defense to
certain of our defense contractors.

The concept of indemnity is not only
one that has been with us for a while,
but has been used most recently by
President Bush when he granted the
Secretary of Health and Human Serv-
ces the authority to give indemnity to
the manufacturers of Cipro after the
anthrax scare.

The language that we offer today
came to the attention of the gentle-
man from Virginia (Mr. TOM DAVIS) as the
Chairman of the Subcommittee on
Government Reform of the Commit-
tee on Government Reform
and to me as the ranking member. It
was brought to our attention by Fed-
eral contractors, a coalition including
Lockheed Martin, Northrop Grumman
and the Information Technology Asso-
ciation of America.

Our language, which was adopted by
the committee, allows discretion in the
Secretary of Homeland Security to grant in whole or in part indemnity against potential liabilities.

It requires that the companies carry insurance up to the amount that they reasonably can.

This legislation is modeled, as I said, after existing law and practice; and as they say, "If it ain’t broke, don’t fix it." So we are again offering today our language, which we believe is fiscally responsible, which is understandable, and which is supported in a bipartisan way. The language that we have in our amendment protects the Federal Treasury.

It has been suggested by those who support the alternative language that is in the bill that somehow we open the doors of the Treasury if we grant indemnity. Our language makes it very clear that the indemnity offered by the Secretary can be limited, limited in amount, limited in scope. And once the Secretary makes the decision to grant indemnity, it must be approved by the Office of Management and Budget.

We believe this is a much superior way to enable technology deployment in a rapid manner, which is what this amendment is all about. The alternative language in the bill is going to slow down the process. It requires an FDA-type approval procedure that would allow the director of Homeland Security to examine the equipment and then certify it. We think that is the wrong approach, and we will urge adoption of our amendment.

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

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

The CHAIRMAN pro tempore (Mr. Bonilla). The gentleman from Texas (Mr. ARMEY) is recognized for 20 minutes.

Mr. ARMEY. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa (Mr. Nussle), the distinguished chairman of the Committee on the Budget.

Mr. NUSSEL. Mr. Chairman, I want to thank the distinguished majority leader for his fine work on this piece of legislation and congratulate him on it.

We have a good bill here, my colleagues; and we are about to just blow a hole so wide in the budget we have not seen nothing. In fact, we asked CBO, the Congressional Budget Office, to score this amendment because we wanted to at least be able to nail down a ballpark figure of what this would cost. And even CBO, who has been known from time to time to guess and predict, and sometimes guess wrong, correctly even, will not even hazard a guess of what this bill costs. In fact, what they tell us in the letter is that they know it is going to cost something, but they have no idea how much.

And why is that? Because none of us can predict one thing, and that is that Congress will respond. To just fully indemnify and throw in this blanket check into this bill, without recognizing the perspective and the understanding of where we have been this year, would be, I believe, irresponsible.

Let us just review this year. Even before passing the supplemental, we increased homeland security funding this year, already almost by 45 percent in 2001 and 65 percent in 2002. Forty billion dollars, my colleagues, we, in a bipartisan way, spent in response to two supplemental for reconstruction and for the war; $8.4 billion in economic assistance to the victims of a modern approach. And so I rise in support of this legislation and encourage my colleagues to vote "yes" on the Turner amendment.

Mr. ARMEY. Mr. Chairman, it is my pleasure to yield 3 minutes to the gentleman from Texas (Mr. Delay), the distinguished majority whip.

Mr. DELAY. Let me first, Mr. Chairman, say that those that are on the cutting-edge of technology and wanting to provide it are protected in the base text of the bill by limiting their liability and banning punitive damages, just like we have done in the Transportation Safety Administration and other instances.

But, Mr. Chairman, there is an unacceptable demand that America needs to know about right now. Some of the largest and most profitable corporations in the country are attempting to pass off legal liability for their products onto average Americans. These defense contractors are trying to feed the taxpayers public to the crocodiles of the plaintiffs bar.

American taxpayers should not be asked to absorb the devastating financial consequences that would flow from creating an enormous new unfunded liability. Taxpayers should not be foot- ing the bill for a gigantic new windfall for trial lawyers even now, the plaintiff's bar is eagerly anticipating new ways to exploit the new terrorist attack through litigation against the companies that are developing terror fighting tools.

What is even more outrageous is that multibillion dollar defense contractors
have the nerve to come to Congress, hat in hand, to demand that taxpayers foot this bill. If these defense contractors bear the responsibility for the failure of their technology, then they should be held responsible. And if these contractors are being unfairly sued and being forced to pay out of pocket because of the flawed tort system, then our courts fail to contribute to the anti-terrorism effort in this country, then these lawsuits need to be stopped. And that is exactly what our base text ensures. We defang frivolous lawsuits that do nothing but line the pockets of lawyers.

What we need is broad-base litigation reform. What we do not need are multi-billion dollar defense contractors making American taxpayers responsible for the quality of their technology. This would truly be a case of corporate welfare. It is ironic that Members of the minority, who routinely malign Republicans as the party of corporate America, are so willing to subject taxpayers to a bottomless pit of unfunded liability corporations. As the party of corporate America, are so willing to subject taxpayers to the dangers created for taxpayers by the injured victims and against lawsuits by the airlines or other groups who purchase the product. We do not need to be giving blanket immunity to all corporations. Too many companies are acting in ways that are contrary to the public interest, and too many of our constituents are suffering as a result. We should not pass such a Draconian amendment.

Clearly, supporters of this amendment place a far greater weight on the wishes of their trial lawyer friends than they do to the dangers created for fiscal discipline and the American taxpayer. Some colleagues vote "no" on the Turner amendment.

Mr. TURNER. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, I thank the distinguished member of the Committee on Government Reform. It provides a sensible alternative to the bill, and particularly to the Army amendment we just debated.

H.R. 5005, the Homeland Security Act, only requires sellers to carry liability insurance to the extent that it is reasonably available from private sources at prices and terms that will not unreasonably distort the sales prices of sellers’ antiterrorism technology. That simply means that if a company cannot obtain insurance that is reasonably priced, it does not need to have any insurance whatsoever and victims cannot recover one penny for their injuries.

Amazingly, the Army amendment is even worse. It would give total immunity from lawsuits for any kind of wrongdoing, including willful and malicious corporate misconduct. This is true so long as the designs for the antiterrorism products and services have not been approved by the Department of Homeland Security. The only exception is if the seller acted fraudulently or with willful misconduct prior to that approval. The seller is free to deceive the public or continue to market a product subsequently determined to be dangerous or defective.

Even worse, the Army amendment protects corporate wrongdoers against all other kinds of lawsuits, so a buyer who suffers a breach of warranty, breach of contract, public nuisance, or anything else. In other words, the corporation’s protection allows it to make products that do not even work. The Army amendment protects these corporations not merely by the injured victims and against lawsuits by the airlines or other groups who purchase the product. We do not need to be giving blanket immunity to all corporations. Too many companies are acting in ways that are contrary to the public interest, and too many of our constituents are suffering as a result. We should not pass such a Draconian amendment.

What we should do is support the Turner amendment. This amendment maintains a cap on the liability of corporations, recognizing the importance of doing so in order to stabilize the liability insurance market. That stability makes it easier for corporations to obtain capital to develop technologies.

The Turner amendment also includes an indemnity clause, such as the one used by the Department of Defense. This will enable victims to receive compensation from the government for costs that exceed the corporate liability cap. The Turner amendment will also apply to the real problems we are facing as a Nation. Let us protect companies and compensate victims. Support the Turner amendment.

Mr. ARMLEY. Mr. Chairman, I am proud to yield 3 minutes to the gentleman from Oklahoma (Mr. WATTS), the distinguished conference chairman and a member of the Select Committee on Homeland Security.

Mr. WATTS of Oklahoma. Mr. Chairman, I thank the chairman for yielding me this time.

Mr. Chairman, the Turner amendment is fiscally irresponsible because it hands over the keys of the United States Treasury to trial lawyers. It would have the American taxpayer, not the corporations, pay nearly infinite damages caused by terrorists. We need the safety act provisions to ensure that Americans get the protections they deserve against future terrorists.

The fatally flawed tort system in America and the unbounded threat of liability are blocking deployment of anti-terrorism technologies that can protect the American people. I want to give one illustration of where this really comes into play and give Members some idea of the lack of common sense that the Turner amendment would tear down.

The insidious dynamic that prevails under current law works as follows: A company might produce a smallpox detection device and deploy 100 of them. Terrorists strike, and 99 of the devices might work saving millions of lives. One device may not work and several thousand people might die. Lawsuits will follow. The potentially infinite liability to which the company currently exposes itself will prevent the company from being able to deploy any of the 100 smallpox detection devices in the first place. The 99 that worked will be pulled off the market which, if that happens, would put thousands of Americans at risk. It would expose the company. That is the tragic consequence the SAFETY Act is designed to protect.

The SAFETY Act provisions place reasonable and sensible limits on lawsuits so American technology companies will be able to deploy solutions to defeat terrorists.

What the Turner amendment does, it actually takes the liability away or takes the safety features away from these companies that go to the malls that go to the stadiums, the water treatment facilities, they will not be able to have access to these technologies that protect us, that protect our families, that protects this Nation. It just makes no sense.

It is time for Congress to stand up to the trial lawyers yet again and say no, especially now that we are at war against terrorists who will stop at nothing to harm innocent Americans. We saw it on September 11. We saw it on April 19, 1995, in Oklahoma City. This is about protecting American life, it is not about limitless lawsuits. Vote "no" on the Turner amendment.

Mr. TURNER. Mr. Chairman, I yield 1½ minutes to the gentleman from South Carolina (Mr. SPRATT), a distinguished member of the Committee on Armed Services.

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

Mr. SPRATT. Mr. Chairman, this amendment is very basic. What it does is provide blanket immunity which is added to this bill plus indemnify it with selective indemnity. The bill as it stands would exonerate contractors who provide all kinds of equipment, gear and protective devices, under-taking the most serious sort of responsibility from any liability whatsoever for the products they provide. Any. Just across the board, blanket immunity.

Instead it would say let us go back to the model of an old law called Public Law 85-804 and allow on a case-by-case basis, not a priori, but case-by-case indemnification to be provided to these contractors so they would have protection if they were sued in certain cases under certain circumstances. It makes far more sense than to try and sit here in judgment on all kinds of liability situations which we cannot even begin to foresee, much less render final judgment on.

58-804 has been on the books for as long as anyone around here can remember. Lockheed Aircraft Corporation almost went bankrupt in 1971. It
was the authority of 85-804, the extra-
dordinary authority of that law that
had been carried forward for at least 60
years that allowed us to put Lockheed
back on its feet. It is the largest con-
tractor today.

This is basically what we are saying
here today. Let us use the extraor-
dinary authority given agency heads
which has been used sparingly, to nego-
tiate these agreements selectively case
by case as opposed to doing this across
the board. What we are doing here with
this so-called government contractor
that is novel and new, untried and vast,
with something that has proven to
work. It is that basic, that simple, and
that is why we should adopt this
amendment.

Mr. ARMNEY. Mr. Chairman, I yield 3
minutes to the gentlewoman from Ohio
(Ms. PRYCE), a member of the Com-
mittee on Rules.

Ms. PRYCE of Ohio. Mr. Chairman, I
thank the gentleman for yielding me this
time.

Mr. Chairman, we keep hearing ref-
terence to the word responsibility. We
must have responsibility, and the
SAFETY Act, the provision included in
the en bloc amendment, the manager’s
amendment, is replacing the wrong-doers re-
 sponsible. This indemnification amend-
ment makes the taxpayers responsible.
Responsibility is very important, but
we cannot make the taxpayers of this
country responsible for everything that
goes wrong. We do not even know how
much this will cost. Proponents did not
even ask for a cost estimate. All we
know is that the Congressional Budget
Office tells us that it will cost a lot
over a period of 5 years. We should find
out how much this will cost before we
proceed by adopting this amendment.

Mr. Chairman, the SAFETY Act does
not provide immunity from lawsuits, it
simply provides that products approved
by the Federal Government for use in
home and security, and deployed in co-
operation with customers other than
the Federal Government in order to
save lives, should be allowed the ben-
et of the existing government con-
tractor defense. We already know that
this works. It is already in law.

Under these provisions, any person or
entity who engages in criminal or ter-
orist acts, including corporate crimes
such as consumer fraud and govern-
ment contract fraud, they are denied the
protections. They do not get them.

The bill cannot have it both
ways. The SAFETY Act that is in
the manager’s amendment is the fastest
and the most efficient way to deploy
anti-terrorism technologies, much-
needed technologies that will save
lives. It did it without extending
any immunity and it does it without
leaving the American taxpayers hold-
ing the bag.

The Turner provision will do just
that. It will leave the American tax-
payers holding the bag. We get this
segment all too often, Mr. Chairman.
Allow the reasonable insurance cov-
erage to kick in, provide for very lim-
ited tort reform, and we have the an-
swer. We can go forward.

Mr. TURNER. Mr. Chairman, I yield
1½ minutes to the gentleman from
Georgia (Mr. BISHOP).

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

Mr. Chairman, I rise in strong sup-
port of the Turner amendment, which is
a reasoned, bipartisan alternative to
an irresponsible liability provision in
the bill. There currently exists a myr-
ad of new and undeveloped technologies
which are needed now to protect Amer-
ica from the threat of nuclear, biologi-
 cal, chemical and other terrorist
threats.

However, under current law, many of
the technologies may never be de-
ployed because they cannot be insured
under our current legal liability struc-
ture. Section 753 of the bill addresses
this problem, but it is extremely mis-
guided and irresponsible. Under the
bill, firms cannot be held liable for
personal injuries because the corporate
wrong-doer enjoys total im-
 munity from lawsuits by any kind of
wrongdoing, including willful and mall-
cious corporate misconduct under the
so-called government contractor de-
fense.

Mr. Chairman, this is wrong. It is un-
American. It is overkill. It is throwing
the baby out with the bath water. The
Turner amendment is narrowly tai-
rored to address this issue. It allows
the new Department of Homeland Se-
curity and other agencies that are re-
sponsible for homeland security the
discretion to indemnify providers of
anti-terrorist technology from liability
above and beyond the coverage that
they are able to obtain in the private
marketplace. This approach is modeled
after successful indemnification laws
which are targeted and fiscally respon-
sible.

Mr. Chairman, the Turner amend-
ment gives America the technologies
that we need to remain secure while
guaranteeing the victims’ rights that
they deserve and are entitled to under
the law. It is the right thing to do, and
I strongly urge Members to support it.

Mr. ARMNEY. Mr. Chairman, I yield 1
minute to the gentleman from Virginia
(Mr. TOM DAVIS).

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

Mr. TOM DAVIS of Virginia. Mr.
Chairman, the concept of contractor
indemnification, which is core to the
term, is not a new plan. It has been
around since the 1950s under Public
Law 65-804. And, so Members under-
stand, less than $100 million has been
paid out over the course of 45 years be-
cause the discretion that the agencies
have in exercising that, and also be-
cause under this, it would also be sub-
ject to OMB approval.

In order to get protection under ei-
ther the Turner plan or the Army
 plan, the contractor has to acquire in-
urance to fully protect to the extent
the risk is not covered by insurance.
And if supplier technology engages in
willful misconduct or displays a lack of
good faith, neither plan saves it. The
solutions proposed differ, but I think
each represents a viable solution to
the dilemma faced by the Pentagon.

Our committee liked the indem-
nification plan because it was written
into current law. The Army plan,
though, has been the policy of the
House as we have moved legislation
forward. I thank the gentleman from
Texas (Mr. TURNER) for working with
 us on this language in the committee.
I appreciate what the gentleman has
done on this.

Mr. TURNER. Mr. Chairman, I yield
2 minutes to the gentleman from
Michigan (Mr. CONYERS).

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

Mr. Chairman, I just wanted to ex-
press my sympathies for my distin-
guished friend, the gentleman from
Virginia (Mr. TOM DAVIS), whose
amendment this was when we were in
committee and in rules. Now all of a
sudden, something happened on the
way to the floor. I just express to the
gentleman, maybe I can find out in the
cloakroom what happened that caused
this sudden change of heart and the
support of the Turner amendment.

Here we go again. We have unprece-
dented corporate immunity in subtitle
F of the homeland security bill. I am
-going to tell the other side of the aisle
they were going to lose votes on final
passage by continuing to immunize
these corporations against liability.

First it was the airport security
group, and some of the lousiest con-
tractors in the business are now going
to get immunized. Here we are going
to give companies corporate immunity
that will not be able to be penalized by
injuries.

Mr. Chairman, what is this? This is
not the liability bill. This is a home-
 land security department that we are
trying to create. All of this foolishness
is not doing the other side of the aisle
any good. Extending this product li-
ability immunity to anti-terrorist
products is a bad idea, and I hope that
we will reject this amendment; and, if
necessary, reject the whole bill.

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

Mr. TURNER. Mr. Chairman, I yield
2 minutes to the distinguished gentle-
woman from New York (Mrs. MALONEY).

Ms. MALONEY of New York. Mr.
Chairman, I rise in support of the
Turner amendment.

The Turner amendment is narrowly
targeted and fiscally responsible. The
Republican majority’s immunity provi-
sions in the bill are the ultimate anti-
terror laws. These provisions are living
proof that the leadership is not seri-
ous about increasing corporate ac-
countability.
The Turner amendment addresses one of the challenges that we have experienced in New York after September 11 where one of the biggest problems we have is the lack of available insurance. It is stifling our economy. Commerce, cannot go forward without insurance. Congress must act quickly on antiterrorism insurance.

Similarly, we have very talented private sector industries developing cutting-edge technologies to make our homeland secure. But without sufficient insurance coverage and liability, these technologies simply will not be offered. And without a safety net for catastrophe, businesses simply will not do antiterrorism business.

What this amendment does is that it indemnifies providers of antiterrorism technology, which we desperately need, only after they have obtained all the insurance that they can from the private market and above that insurance they are indemnified for additional liability.

I might say that they must also get the approval of the Secretary of Homeland Security and of OMB. So I urge my colleagues to support the Turner amendment. It merely gives companies that are working with the new Department of Homeland Security the same protections, the same indemnity protections to companies that work with other agencies like the Department of Defense.

I urge my colleagues to vote in favor of the Turner amendment.

Mr. ARMEY. Mr. Chairman, it is my pleasure to yield 3 minutes to the distinguished attorney and Member of this body, the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Chairman, I thank the leader for yielding me this time, and I commend him for his very strong work in creating the legislation that will allow homeland security to be consensual, the department of our government and also on his work to make sure that we can effectively make sure that our country is indeed secure.

Mr. Chairman, I strongly oppose the amendment offered by the gentleman from Texas. Advanced technology companies are developing technologies that can help detect and prevent acts of terrorism. However, these companies are effectively prohibited from making these advances widely available because they would be subjected to unlimited liability and uninsurable risks.

As we sadly learned from the tragic events of September 11, our terrorist enemies will not limit their attacks to government targets. In choosing their targets, terrorists make no distinction between military personnel and civilian men, women, and children. Therefore, it is imperative that our local shopping malls, ball fields, schools and office buildings be protected from terrorism.

I urge the hands of technology companies and allow them to provide the best technologies available to the private sector without fear that they will be put out of business for doing so.

The provisions in the bill help ensure that effective antiterrorism technologies that meet very stringent safety and effectiveness requirements are deployed and required that companies will be able to obtain the maximum amount of liability insurance possible. It also ensures that victims are compensated for demonstrable injuries as equitably as possible.

Opponents of the bill provide for immunity to corporations who willfully sell defective products. But they are simply wrong. Nothing in these provisions provide immunity from lawsuits. Further, any person or company who engages in criminal or terrorist acts, including corporate crime such as consumer fraud and government contract fraud, is denied the protections of the act. In addition, under the act, if a company engages in any fraud or willful misrepresentation on product safety to the Secretary of Homeland Security, it will be denied the opportunity to even assert the government contractor defense.

I urge my colleagues to join me in supporting these provisions of the bill so that Americans may be protected by the best technologies available without sticking American taxpayers with the bill in the case of catastrophe caused by terrorists.

Mr. DOGGETT. How very disappointing this afternoon that the leadership has chosen to reject a successful bipartisan initiative by the gentleman from Texas (Mr. ARMey) and endorsed by a number of major corporations. It seems to me that public safety should be the first, the last, and the only goal of this Homeland Security bill. Yet with this last-minute legal loophole that has been tacked onto the bill, the goal is clearly to rid corporations of responsibility for the harm their products cause.

If the wrongdoer does not bear the responsibility, then who will bear the responsibility? Well, the decision the gentleman from Texas (Mr. ARMey), who has made is to place all of the responsibility for wrongdoing on the victim. This is basically a "blame the victim," "let-the-victim-bear-the-full-cost-of-the-wrongdoer approach. And the timing is so strange not only the last-minute in which it was slipped in after the Committee on Government Reform approved the bipartisan, moderate approach, but strange timing this that many workers, many so many workers, so many insurers are paying the very painful cost of corporate irresponsibility, that this Congress would say, "let us have a little more unaccountability." The Reserve Officers Association, certainly no group that has been involved in any of these high-profile debates over tort issues, has stated its unusual opposition to this special indemnification that this legislation provides, noting that even unscrupulous government contractors guilty of willful misconduct will be let off the hook when they provide anti-terrorism technology to our American troops.

The United States is not about liability limits. It is a debate about corporate accountability limits, a debate about corporate responsibility limits. And I do not think we ought to limit that responsibility, particularly at this time in American history. Clearly, there are no limits to the willingness of this leadership to provide backdoor favors to their friends. Protecting Americans working at home and fighting abroad means holding corporations responsible for their misconduct. That is what we need to do, instead of blaming the victim, instead of saying that it will be the soldiers, the fathers, the mothers, the children and other innocents, all the victims, that must pay the price for corporate misconduct. That is what we need to make a firm statement in favor of a reasonable, bipartisan approach that the gentleman from Texas (Mr. TURNer) advances.

Mr. TURNER. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. Mr. Chairman, I rise in support of this amendment. Today, our Nation faces a new threat and a new enemy. And while the terrorists we fight have new ways of attack, we have much greater new abilities to defend this great Nation.

America has always been the arsenal of democracy, and we remain so. And the new tools we possess are the technologies that are deployed, the technology of the American mind. We have seen those technologies deployed in the Gulf War, in Afghanistan, and now those new technologies help protect us here at home.

In order to encourage the private sector to use its ingenuity to develop these defensive capabilities, they must have the ability to protect themselves from excessive exposure and liability. There is a mechanism in existing law that provides indemnity on a case-by-case basis for those under contract with the Department of Defense. And as demonstrated by the extraordinary work of the Department of Defense, this targeted indemnity works. The Turner amendment, based on a bipartisan agreement attested to by those who have contracted with the Department of Defense, restores this targeted indemnity. The opposition says that what has worked for the Department of Defense is not enough. They want an indemnity so broad it threatens to remove some of the vital and powerful incentives for technology
makers to make sure they get it right. This goes too far.

We want to incentivize the development of new technologies that work, that meet their promise, that live up to their expectation, that protect this country and all of us from it. The Turner amendment will do this. Nothing more and nothing less.

Mr. TURNER. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to support the Turner amendment, and I ask a question today on this very important debate: Are we fighting terrorism, or are we fighting the American people? Nothing in the Turner amendment will thwart the intent of the Department of Homeland Security to save lives and to prevent terrorism.

The Turner amendment will, in effect, encourage innovative devices and technology to be presented to the government. It will not, on the other hand, provide the corporate escape that the manager’s amendment gives to this particular bill by inserting immunity provisions in the bill for Corporations that have technology that might harm us if it fails. What the Turner amendment does is say use your innovative devices, use your innovative technology and we will identify you and your restrictions. Those restrictions will be the Secretary of the Department of Homeland Security and the OMB Director. What more can you ask for? Are we here to save lives? Are we here to help the American people? Are we here to fight terrorism? Or are we here to stuff money into corporate America’s pocketbook?

Support the Turner amendment.

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

I want to thank, first, the gentleman from Virginia (Mr. TOM DAVIS) for his efforts with me in crafting this language. We both worked with Lockheed Martin, Northrop Grumman, and the Information Technology Association to come forward with this language that we reported out of the Committee on Government Reform unanimously without opposition. The gentleman from Virginia and I brought the amendment to the attention of the Committee on Rules. And I am very grateful we had the opportunity, Mr. Leader, to offer the amendment.

I must say that it is somewhat surprising to hear the criticism from the other side today of what is existing law. The Department of Defense grants indemnity to companies that launch missiles because of the concern of those corporations about business risk. I was quite surprised to hear the provision criticized, because it has been in the law since 1958 and was first implemented by President Eisenhower and most recently used by President Bush when he authorized the Department of Health and Human Services to indemnify the manufacturers of Cipro who would not provide that to our government unless we did so.

Our amendment follows existing law, existing practice and, most importantly, does not take anyone’s legal rights away. It would urge Congress to pressure the House to join with us in supporting this bipartisan amendment. Twenty Democrats and 21 Republicans wrote a letter to the special panel asking them to include our language in the bill. We enjoy both a Republican and a majority of Democrats.

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

Mr. Chairman, we have heard a great deal about the bipartisan support of this amendment. Irony of ironies, where there is bipartisan support there can be bipartisan rejection.

Let me say, Mr. Chairman, this amendment had an interesting experience in the committee of jurisdiction, one of the 12 standing committees that worked on this bill. When it was proposed on the eve of the night markup of this bill in that committee, it was opposed by the majority. But I am chairman of the committee, the gentleman from California (Mr. WAXMAN), who said, and I quote, “It really is opening up the Treasury of the United States to a lot of companies that might have exercised due care. And, more importantly, when companies are indemnified, even if they are negligent, there is not the incentive to avoid being negligent.”

This approach to the problem was contemplated in the other body and, indeed, in this case the ranking minority member, a Republican member in the other body, intended to offer this amendment in the other body’s markup just yesterday and was dissuaded from doing so by the majority members, the Democrats of the committee, who thought it imposed too big a burden on the Treasury of the United States.

Mr. Chairman, I am not a lawyer, so I have to rely on other legal experts like, for example, the Supreme Court. In this debate it has been argued that when a government contractor has a defense, it is an immunity. I only point out that the majority of the Supreme Court has said a defense is not an immunity. Always going back to the legal questions that baffle us so much as what the meaning of the word “is” is, but in this case the meaning of the word “defense” is not immunity.

Let me, Mr. Chairman, that what we are trying to do was well described by several people. We are trying to encourage that practical American genius to bring its product to the defense of America. What this base language that would be set aside by this amendment does do is provide a consolidation of claims in Federal court to stop venue-shopping. It has a requirement that noneconomic damages be awarded under the majority, not feasible, 70 percent of fault. It has a ban on punitive damage. It takes a sort of simple practical American notion that if someone is a victim, they should not be treated as if they were a perpetrator. A rather novel idea, I am sure, in some circles but quite well understood by most Americans.

The underlying language says offsets are awarded based on receipt of collateral source benefits providing compensation for the same injuries; no double-dipping. This is something that I have in other contexts referred to as the Daschle provision, having been enacted in law pursuant to the innovation of the distinguished Democrat majority leader in the other body. The underlying language has a defense modeled on government’s contractor defense that applies following sales of qualified antiterrorism technologies in the private sector, and it caps liability and insurance.

This has been enacted in this body before. This is not some Johnny-come-lately notion new to this body. It was part of the Aviation Security Act. It was part of the Air Stabilization Act. It was part of the Terrorism Risk Insurance Act. It was part of the Class Action Reform bill passed in this body in this year.

What we do not do in the underlying language that would be set aside by this amendment is put a cap on attorneys’ fees, provide any immunity for anybody anywhere at any time, or exempt criminals from coverage.

Mr. Chairman, I do not ask much, but I do ask for accuracy in debate. I have been far from perfect. I ask the body to reject this amendment and uphold the underlying language.

Mr. RODRIGUEZ. Mr. Chairman, I fully support the amendment offered by the Gentleman from Texas [Mr. TURNER]. This amendment balances the need to encourage responsible development of new homeland defense technologies and products with the need to maintain a system that holds wrongdoers responsible for their misconduct.

His amendment would allow appropriate considerations by the Secretary of Homeland Security to provide indemnification to the manufacturers of anti-terrorism products, much like the Secretary of Defense today can provide indemnification to companies making products critical to our national defense.

This approach, any victims of product failure would still be able to receive full compensation. They would not be left to suffer alone.

Companies do not get a free ride: they must take out the maximum level of insurance possible, and they can get the indemnity coverage only after they convince the Department of Homeland Security and the White House’s Office of Management and Budget that they qualify for indemnification.
At the same time, the many companies which make the products and develop the technologies we need also won't be asked to take inordinate risks. The Turner Amendment would provide them the incentives to invest aggressively in homeland defense technology without upsetting the entire system of checks and balances within our civil justice system.

Just earlier this week, we celebrated the passage of legislation to hold corporate executives accountable for misconduct. Shockingly, the majority now tries to exempt those same companies from any responsibility for the products they make.

Mrs. MEEK of Florida. Mr. Chairman, I rise in strong support of the Turner Amendment that seeks to add to the indemnification provisions that the Government Reform Committee had recommended for inclusion in the bill. The Turner Amendment does not require any indemnification by the Federal Government. It simply permits such indemnification when the head of a Federal agency and the head of the new Office of Homeland Security deem it in the public interest to do so.

The blanket corporate immunity in Subtitle F of the bill is not in the public interest. Our goal is to achieve homeland security, not reflexively deem it in the public interest to do so.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.
Mr. CANNON changed his vote from "aye" to "no." The result of the vote was announced as above recorded.
The text of the amendment is as follows:

Amendment No. 23 offered by Mr. OBERSTAR.

Strike section 409 of the bill.

Redesignate section 410 of the bill as section 409.

The Chair recognizes the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, all of the amendments we debated last night and so far today have had important consequences for the operation of the Department of Homeland Security, for various aspects of our domestic life.

The one I propose at this point is quite possibly the one that is of the highest order of importance. It is the one that we will consider in this legislation. Because whether or not explosive detection systems are installed at airports and whether or not complete screening of checked luggage is accomplished at the Nation’s domestic airports will determine whether a terrorist can get a bomb aboard an aircraft and blow it out of the sky, as happened with Pan Am 103 over Lockerbie, Scotland. Make no mistake about it, there are serious consequences. Life and death consequences for what we do in this piece of the legislation.

Previously, on the en bloc amendment of the majority leader, I said I cannot understand why anyone would want to protect the security of only the large hub airports from liability. In this amendment, in this the provision of the committee bill, I can understand why Members are confused and why there was an attempt to extend the deadline for compliance with the law that we enacted a year ago, 8 months ago in this body, to extend the time for compliance with that law. They are wrong. The law provides alternative means if we cannot get explosive detection systems in place. If we have to meet the deadline, do my colleagues know what DFW is going to have to do? They are going to have to hire 1,500 temporary employees. They are going to have to put up folding tables. They are going to have to check by hand almost every bag that comes in to be checked.

That is going to be long lines. It is going to cost $12 million just at DFW, and they are still going to have to come in with a permanent solution within the next year that is going to cost another $150-170 million.

Why not give them a little extra time? They still have to be working on the solution. They still have to try to get it done, but if they do not, there are not going to be any penalties imposed. There are not enough equipment manufacturers to meet the sophisticated equipment for the larger hub airports that have to be in place if we literally tried to get it all done by December 31.

Let me give my colleagues an example. As of today, all of the 429 airports that are subject to the existing law, only 24, one out of five, 5 percent have had a complete TSA inspection and had the sign-off on the plan. There are another 129 airports that have had some negotiations, some contacts with TSA. That means that 64 percent of the Nation’s airports that TSA has not even come to the airport yet, and we want them to meet this arbitrary deadline by December 31? It is physically impossible and philosophically unnecessary.

Mr. OBERSTAR. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New Jersey (Mr. PORTMAN).
Mr. MENENDEZ. Mr. Chairman, I represent Newark International Airport where United Airlines Flight 93 departed before crashing in Pennsylvania in 2001. I also pay my respects to the families of over a hundred victims who lost their lives in the attack on the World Trade Center. I have consoled enough families who were the victims of terrorist attacks, and I do not want there to be a reason to console anymore.

I ask my colleagues, if God forbid, a plane is blown up by a device that could have been prevented by the deployment of these bomb detection devices, explosive detection devices, had TSA met its requirements or had we kept TSA's feet to the fire, who among us wants to go and console those families? Who among us wants to go and tell them that we delayed? Who among us wants to say that in expectation of some evidence that has not been approved yet, that we waited? I do not and I do not know anybody here who does, and that is why in the first round in our Select Committee on Homeland Security, my amendment was approved striking this language.

The Congress charged the Transportation Security Administration with the responsibility, not the airports, TSA, to determine whether or not an extension is needed. It is the responsibility of the administration nor the Secretary of Transportation nor the Committee on Transportation and Infrastructure has asked for such an extension. As a matter of fact, the Committee on Transportation and Infrastructure in a unanimous, bipartisan vote said this should not be in the bill.

The December 31 deadline that we imposed was in the Act that passed this House 410 to 9, and the deadline was necessary to ensure the security of our aviation system. As a matter of fact, Members on both sides of the aisle got up on this floor and criticized the other body's bill because it did not have the deadlines, and now, there are those who would seek to erase that. When we look at what section 469 says, it extends in my mind the deadline indefinitely because it says they must develop a plan for the modifications, and the deadline for executing the plan for that modification is a year from this December, but nowhere in the bill, nowhere in the bill, does it set a deadline for deployment of the explosive detection systems. That is a travesty, and it does not ensure the traveling public, and it certainly does not belong in this bill.

That is why my colleagues should vote for the Menendez amendment.

Mr. PORTMAN. Mr. Chairman, I yield 2 1/4 minutes to the distinguished gentleman from Arizona (Mr. PASTOR).

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

Mr. PASTOR. Mr. Chairman, I find myself in a very awkward situation, because I think this is the only time that I have been in opposition to my two friends from California in the caucuses. The gentleman from New Jersey (Mr. MENENDEZ) and I are good friends, and I have always followed the lead of the gentleman from Minnesota (Mr. OBERSTAR), and people to be less secure as they get on a plane? The answer is no. I fly twice a week so obviously there is a self-interest to make sure that the baggage is examined and it is safe.

Did I vote for this bill? Yes, I did. At the time I thought it was needed and the deadline was there. I am a member of the Committee on Appropriations Subcommittee on Transportation, and since I voted for this bill and to date, I have been involved in a number of briefings, and also three hearings that involve the TSA, and I have to tell my colleagues that after listening to the testimony and reading the evidence presented to me, that I have come to the conclusion that the airports need an extension, not because they have pressured me, but because I think it is the right thing to do.

If we talk about the equipment, and there is a variety of equipment, but if we talk about the detector, it is about as big as an SUV, and it costs about $1 million, and I have been told at least in the evidence I have seen that probably it works for one out of three baggage. So at 30 percent, it is effective. I feel that if there is the case, then possibly this technology may not be the proper one, but then if my colleagues persuade me, say Ed, you know we need it and we cannot delay, let us put down more of these machines, well, then, I would tell my colleagues that at least the evidence I have seen and testimony I have heard, the machines are going to take a long time to put in operation. In fact, the operator is not going to have much equipment to install, and so in installing this equipment, it is going to take hundreds of millions of dollars for the airports to install them.

I would say let us take three deep breaths and let us make a decision that would allow the airports to take reasonable time to make sure that they are safe and secure with our luggage.

Mr. OBERSTAR. Mr. Chairman, I yield myself 5 seconds to point out to the gentleman from Arizona, whom I have great respect and affection, that the explosive detection system is certified to detect explosives in all checked luggage. The question is the throughput rate. If we go high throughput rate, we may have a higher number of false positives but it works. It is certified by the FAA and the TSA.

Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. PASCRELL), a distinguished member of our committee.

Mr. PASCRELL. Mr. Chairman, I rise in strong support of the Oberstar-Menendez amendment to strike the extension for airline baggage screening.

It is no secret that there have been serious problems at the Transportation Security Administration with fund shortfalls and organizational issues causing troubles. However, extending the deadlines in this manner is not the way to go about securing our homeland. No Federal agency has asked for delay. The administration has not asked for delay. Do we hope of newer yet nonexistent technologies into the work of the TSA. We cannot and we should not allow the TSA to slow their efforts toward implementing a program of 100 percent explosive screening at all commercial airports by year's end.

The DOT Inspector General, who is always brutally honest when reporting to Congress, told the Subcommittee on Aviation just this past Tuesday that "we will be in a much better position in a month to judge what is or is not feasible to accomplish by the deadlines." One month to 45 days to be exact, according to the IG. Now is not the appropriate time to delay. The Congress should not be undermining a law that the House passed 410 to 9.

This is important for the security of everybody in this room here on the floor and up in the gallery. Tell them, tell America what is going on here. The airlines are suffering economic damage, and yet we do not want to help people get back on the airplanes so that they feel more secure. It does not make sense. There is not one Federal agency that supports a delay. All we are doing is bailing out an organization and organizations that for years have been told they had better secure the baggage.

Until I came to the Congress, Mr. Chairman, I thought every piece of baggage was checked. Boy, was I sadly wrong. We should not go backwards. We need to go forwards so we put our actions where our mouth is.

Mr. PORTMAN. Mr. Chairman, I yield 4 minutes to the gentlewoman from Texas (Ms. GRANGER), a member of the Committee on Appropriations, Subcommittee on Transportation.

Ms. GRANGER. Mr. Chairman, this Congress set December 31 as the deadline for screening checked baggage for
out there if we could recruit and train you are seeing the problem. Let us talk seconds.

And let us now go to personnel. We had a big debate over Federal baggage screeners, and upon our instructions TSA began hiring. Thus far, TSA has hired 166 Federal baggage screeners at the very rate one every other day to meet the requirement and demand for a December deadline, TSA has to recruit, hire, and train another 21,434 baggage screeners in the next 159 days. That means not one every other day but one every 11 minutes.

And it gets worse because if you add the 30,525 passenger screeners still needed to be hired, TSA will have to speed up to one new Screener every 4&frac12; seconds.

Equipment, personnel, but I think you are seeing the problem. Let us talk about one other problem that would be out there if we could recruit and train those people and hire them every 4&frac12; seconds and install the equipment every 11 minutes. All airports are not alike and you know it and I know it. In fact, they are greatly different in design and configuration. But we set very specific instructions as to how each airport would accommodate those SUV-sized machines if they were alike.

So if it were possible to get them and man them in the next 5 months, we would have to reconfigure one out of every four of our major airports in the country. I am talking about moving walls, elevating floors, major renovations. In one airport alone we are talking $200 million in construction in 5 months, construction completed. It just cannot be done.

And last but not least, there is the work of the Transportation Security Administration that has to approve every plan, visit every airport, and report to Congress on what we have demanded. How is this working? I will tell my colleagues, the airport I fly in and out of, they submitted their plan in March, and it has not been approved to this day. Others have not even started because TSA has not told them what kind or how many machines are even needed.

Is there a solution? Yes, there is a solution, a solution that gives TSA a deadline, gives a deadline to airports, demands reporting to Congress, and also it is, by the way, our original date. What if we do not do this? What if we do not fix it today? We will spend millions of dollars unnecessarily, we will allow airlines to use a less than ideal solution, we will dismiss hundreds of people who will be dismissed when their interim machines are scrapped, and we will force 3 and 4-hour waits at every major airport in this Nation at one of the most heavily-used times in the year, December. And that is a security problem that I do not want to face. That is not what I want to be a part of. So let us do the right thing today. Let us quit posturing. Let us do something that is reasonable and responsible.

And, by the way, in the time we have debated this, we have missed by four people and one machine.

Mr. OBERSTAR. Mr. Chairman, I yield myself 10 seconds.

If this is war, as the President has repeatedly said, then I am astonished by the repetition of the cannot-do attitude that I have been hearing so far. At the outset of World War II, we took on a million men in one year.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Oregon (Mr. DeFAZIO), fearless champion of aviation security.

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

Fourteen years ago, Pan Am 103 was blown from the sky over Scotland. In response the British Government screened every piece of baggage. And we are told we cannot do it here. Guess where they bought the technology? Right here in the United States of America. Every machine that I observe has been manufactured in this country, but we cannot do it in the United States. Why not? Because special interests are holding us back and because of the incompetence of this administration.

Ten years ago, Ramsi Yousef developed a plan to blow 12 747s simultaneously from the sky, U.S. planes, over the Pacific. He was only discovered and thwarted by accident. They will return to these patterns. This is a known threat.

How quickly we have forgotten September 11 in this body. How quickly we bow to the powerful special interests and campaign contributors. We can meet this threat.

Now, last week the Bush administration fired the head of the Transportation Security Administration for incompetence. Thank God he is gone. He was doing a horrible job. Now we have a man in charge who knows how to get things done—General Loy. Let him come to us with a plan in September. I know he can get this job done. We have someone in charge.

Then they say, well, there is not enough money. Guess what? The night before the money was voted on, the Office of Management and Budget, the head of whom is appointed by the President of the United States, and works, I think, pretty closely with the President, and the White House, recommended cutting $219 million from this program to detect explosives to make Americans safe, and now the Republicans say there is not enough money.

Does the right hand of the administration know what the left hand is doing? Until a week ago, there was not one person in the administration that said they could not meet these deadlines. Then they fired the incompetent head of the agency, and we have a competent head now. What changed in a week? Politics changed. Special interests changed.

Shame on you. If you do not support this amendment when a plane goes down, I will expect you to talk to the grieving families.

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

Mr. Chairman, as a member of the Select Committee, I heard a lot of this discussion, and I just wanted to make a comment on some of the comments we have had on the floor. Not referring to the gentleman from Minnesota (Mr. OBERSTAR), but a lot of raising of voices and yelling is not going to get the job done.

We all share the same goal, and that is that the flying public be safer. My own airport, the Greater Cincinnati Airport, says they cannot meet the deadline, even though they are pushing hard.

Mr. DEFAZIO. Will the gentleman yield?

Mr. PORTMAN. No, I will not.

Mr. DEFAZIO. Well, since the gentleman referred to me, will the gentleman yield?

Mr. PORTMAN. Mr. Chairman? The CHAIRMAN. The gentleman from Ohio controls the time.

Mr. DEFAZIO. The gentleman will not yield, clearly.

Mr. PORTMAN. Mr. Chairman, more raising of voices and more yelling is not going to solve this problem. What is going to solve the problem is putting together a plan to get it done.

Mr. DEFAZIO. Will the gentleman yield on that?

The CHAIRMAN. The gentleman from Ohio controls the time.

Mr. DEFAZIO. So he does not want to discuss the issue, he just wants to cast aspersions.

The CHAIRMAN. The gentleman from Ohio controls the time.

Mr. PORTMAN. As has been stated earlier in the debate, three-quarters of our airports can probably meet the deadline. They will push hard and they will meet it. For those who cannot make it, the question is will the flying public be safer if we force this deadline or will the flying public be safer if we
give them a plan where they have to meet the deadline over a specified period, which is 1 year.

Incidentally, it is the same date that passed this House by an overwhelming bipartisan vote, December 31, 2002. I do not think it would have the gentleman voted who is now walking off the floor, but that was the vote in this House.

The DOT Inspector General Ken Mead has recently told us, and this is a quote from him, and this is the Department of Transportation Inspector General. "The challenge facing TSA in meeting the December 31 deadline of this year is unprecedented. An effort of this magnitude has never been executed in any single country or group of countries."

That is what we have heard from the gentlewoman from Texas (Ms. Granger) and others. Most of the airports are going to meet it, but those who cannot, we need to be sure they have a plan to meet it so that the flying public is safer.

Now, if we force machines into these airports that do not work as well as machines that would be able to be in place within this plan, within the 1-year extension, is the flying public safer? I do not think so. More important is the flying public is going to meet it, but those who cannot, we need to be sure they have a plan to meet it so that the flying public is safer.

Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. Isakson), who has spent a lot of time on this issue.

Mr. ISAKSON. Mr. Chairman, I thank the gentleman for yielding me this time, and I certainly thank the gentlewoman from Texas (Ms. Granger) for her leadership.

I have great respect for the gentleman from Minnesota (Mr. Oberstar), and I accept the fact that he is a gentleman from Minnesota (Mr. Oberstar) for her leadership.

This is about us doing the right thing. This is not about us being irresponsible. This is about the most important thing the U.S. economy could have: Our aviation industry. I visited my airport. I serve on the Subcommittee on Aviation. I have done my due diligence. If TSA needs the opportunity to adjust to sable, then they should have that authority.

Facts are stubborn things. We are all responsible for our votes. We are all responsible for what we do. We need to be sure that TSA has the funding they need to be able to install explosive detection systems, to allow the right installation to be done on a timely basis, they should have that authority.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. Strickland).

Mr. STRICKLAND. Mr. Chairman, I would like to yield to the gentlewoman on this side of the aisle. If you knew for sure that an airplane was going to be blown out of the sky on March 15 of next year, would you dare, would you dare not support this amendment?

How ironic, how ironic that in a bill that is supposed to create a new Department of Homeland Security we are taking an action that will make the traveling American public less secure.

Mr. Chairman, I am raising my voice because I think this is a serious matter. How would Members feel if they vote against this amendment and in February, March, April, or May of next year, an American passenger plane is blown out of the sky? How will Members feel?

The American people are watching us today, but the terrorists are also watching us today. We must not give them an easy way to kill additional Americans. Do not push the wishes of the special interests above the safety of the American people.

Mr. PORTMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. Mica), the chairman of the Subcommittee on Aviation.

Mr. MICA. Mr. Chairman, this is not a time to come before the House of Representatives or the American people and make charges that are not correct. Every Member in this body would want to make certain that their family is secure, that every American is secure as they travel our airways.

I have had the great honor and privilege of working with the ranking member of the full committee, the gentleman from Minnesota (Mr. Oberstar), and the ranking member of the subcommittee, the gentleman from Illinois (Mr. Lipinski). We set goals that are very difficult to meet, and I do not think that we should back off from those goals. I also know that the math does not add up. To accomplish the task that we set forth in the law November 19, the math does not add up. Here is the appropriations that we passed and voted for, and we approved 45,000 employees.

Here is a report by the inspector general, the facts. We need 67,000 employees to complete the task. The gentleman from Minnesota (Mr. Oberstar) and I heard testimony that in fact they can only produce 800 machines because we have missed the deadline by the delay in the appropriations measure, in passing the supplemental appropriations measure.

What we have is the potential, if we pass this, of leaving a state of chaos and disorder for the December deadline. We do not need chaos and disorder. We need the plan that has been put together first by the gentlewoman from Texas (Ms. Granger), and then modified so it requires that when we do not meet the technical or personnel requirements that we put in place a plan. Do we want chaos or order? This requires order. The amendment does not.

Are we to build bureaucracy in the name of security? I say no. But we have a responsibility. I just met with the President of the United States downstairs, and he talked about homeland security. That is what this bill and this measure is about, acting responsibly, putting the facts together and doing the best job we can as representatives of the people to secure for us the best security possible.

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

Mr. MICA. I yield to the gentleman from New Jersey.

Mr. MENENDEZ. Did the President ask this House for an extension?

Mr. MICA. No; but we need to act responsibly.

Mr. OBERSTAR. Mr. Chairman, I yield 30 seconds to the gentleman from Minnesota (Mr. Sabo).

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

Let us be clear. We have appropriated every dollar asked for, for equipment. We have appropriated more dollars than asked for, for installation. We have approved thousands of employees for this agency, very few who have been hired. They clearly have the ability to manage the personnel to put them where they are needed. There may or may not be a reason for this amendment, but the reason there is delay does not relate to money. It relates to management.

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

Ms. WATERS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise to support the Oberstar-Menendez amendment that deletes the deadline extension for airports to install explosive detection equipment.

Since September 11, Congress and the administration have been consumed with fighting the war on terrorism. Congress has responded to all of the administration's requests, developed its
own initiatives, and bent over backwards to protect the American people from further terrorist attacks.

Today we are completely considering of H.R. 5005, the Homeland Security Act, a massive and complex piece of legislation that is to guide and coordinate the Department of Homeland Security. Members of Congress have been working hard on this legislation. Eleven standing committees of the House of Representatives have made individual recommendations on various aspects of the legislation in order to improve the Nation's ability to anticipate and prevent every conceivable type of potential terrorist attack.

Now at the 11th hour, we are being asked to undo a critical provision of the legislation that we passed last year. We are being asked to extend for a whole year the December 31, 2002, deadline for airports to install explosive detection equipment. This equipment would allow commercial airlines to screen the baggage that is passed last year. We are being asked to ask the administration to implement those systems that can make a difference in ensuring that our air travel is safe.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. Mr. Chairman, I rise in support of the Oberstar amendment. We must not delay. We must accept no excuse for any delay in the immediate improvement of the security at our airports. Congress has acted unmistakably; it's time to get the job done now. Can it be done by the end of the year? Yes. The Secretary, the administration and the agency charged with this responsibility all say it can be done. Will it be difficult? Yes.

The deadline extension was not recommended by the committee of jurisdiction or the administration. Even if some airports are unable to meet the deadline, last year's law gives the Department of Transportation Administration the flexibility to have baggage screened by other means while the installation is being completed. These alternatives include positive bag matches, manual searches, and bomb-sniffing dogs. We must maintain the deadline in last year's law. We want every airport to make every effort to install explosive detection equipment as quickly as possible.

Mr. PORTMAN. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. DOOLEY).

Mr. DOOLEY of California. Mr. Chairman, I rise in opposition to this amendment. Even if some airports are unable to meet the deadline, last year's law gives the Department of Transportation Administration the flexibility to have baggage screened by other means while the installation is being completed. These alternatives include positive bag matches, manual searches, and bomb-sniffing dogs. We must maintain the deadline in last year's law. We want every airport to make every effort to install explosive detection equipment as quickly as possible.

Mr. WATTS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma (Mr. PORTMAN) and was given permission to revise and extend his remarks.

Mr. PORTMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma (Mr. WATTS) and was given permission to revise and extend his remarks.

Mr. WATTS. Mr. Chairman, as I have served the last 8 years in the United States House of Representatives, I have often said that America is a country that can do the moon. Now we have people around here saying America is a country that cannot even check baggage.

Why would Members want to take a bill called the homeland security bill and change it into the home air insecurity bill. Members are darn right that there are some challenges in getting this done, but it does not help that this administration has demonstrated rank incompetence for months and months doing nothing on this issue.

It took them 7 months to order the first machine after September 11. I will not allow or vote for this administration's rank ineptness to endanger my fellow public for the very next year. If you cannot get this done, turn the administration over to us and we will do it because we know if you want some horses to go, you put the spurs to them and this administration needs it. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. SAM JOHNSON).

Mr. SAM JOHNSON of Texas asked and was given permission to revise and extend his remarks.

Mr. SAM JOHNSON. Mr. Chairman, let me set the record straight. The Secretary, based on current facts, says that they are unable to make these deadlines without us giving
them a billion dollars more. I know the contract is with Boeing-Siemens. I have talked to those people. They can do it by the end of the year, but only to have the machines by the end of the year. That does not mean they are in the air.

I am concerned that, worst-case scenario, the Transportation Security Agency is going to be unable to train personnel and install necessary equipment to meet this deadline. Under the best-case scenario, I am concerned that TSA may meet the deadline but only by implementing an ineffective and outrageously expensive temporary solution. Either way, the safety of our air travelers and the security of our system will benefit from giving TSA flexibility to focus on a long-term, permanent solution and not a quick fix.

Unfortunately, only 75 percent of our airports are going to be able to make that December 31 deadline. These are the smaller airports that are going to rely on government for their long-term solution. They are going to be using primarily small machines. It is no longer feasible to meet the December 31 deadline for larger airports, especially like my hometown DFW. Since they submitted their plan in March, they still have yet to hear back from the TSA to find out if they have been approved and are on the right track. For larger airports like DFW, it is impossible for them to be ready by the end of the year.

Have we not provided enough bureaucracy? It is ridiculous that opponents to this commonsense measure would rather have airports miss the deadline altogether. This is not a one-size-fits-all solution.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New Jersey (Mr. MENENDEZ), a member of the select committee.

Mr. MENENDEZ. Mr. Chairman, I heard about facts.

Fact: the House voted 410-9 for these deadlines.

Fact: neither the President, the Secretary of Transportation, TSA nor the Committee on Transportation and Infrastructure has asked for an extension.

Fact: the bill extends the execution of a plan for another year, but it has no deadline for deployment of explosive detection systems.

Fact: technology to detect bombs exists now and is certified. No other technology is certified.

Fact: alternatives exist under the law if the deadlines cannot be met, and they are the same as the bill before us.

Fact: Congress delayed in a similar case in the ‘80s on technology to avoid collisions midair, and we had three midair collisions. Who went to those families and said, We’re sorry we delayed; we waited for better technology?

Ask your constituents if after the events of September 11, would they rather save a few minutes or save lives? The answer would be, save lives. That is what this Oberstar-Menendez amendment does, and that is why you should be voting for it.

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

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington.) The gentleman from Minnesota is recognized for 3½ minutes.

(Mr. OBERSTAR asked and was given permission to revise and extend his remarks."

Mr. OBERSTAR. Mr. Chairman, we have all come to this issue with good will and those who advocate the extension of the deadline have come genuinely inspired by their airports or airlines out of a concern, as repeated speakers have said, we can’t meet the deadline. I have always thought of America as a can-do Nation, not a can’t-do Nation.

In World War II, we put a million men under arms in 1 year. In World War II, we produced an average of 60,000 war planes a year, starting from zero. Why can we not do this now? We can do it, it is the point.

I have heard the argument about long lines, that you have to ask yourself is which do you fear more, long lines or a bomb aboard an airplane?

I also read the language proposed very carefully. Many are not aware of the language and amendment proposed to give the airport the decision on whether to demand a delay, not the Transportation Security Administration who is paying the cost, and also vests with airports the authority to develop a plan to the maximum extent practicable to do certain things. This is a change in the fundamental way the program is operating. I was not aware of that until late last night, early this morning, reading this language more carefully. That should not be done.

We have provided authority in the basic law that was enacted 410-9 for alternative means to check luggage, to screen luggage checked aboard aircraft if you cannot meet the December 31 deadline for explosive detection systems. It includes authority for the TSA to certify, or to verify the use of explosive trace detection systems if they cannot deploy the explosive detection systems. There is ample authority to use other means. We are all human beings. That leadership here keeps us till late at night, because we work against deadlines. The distinguished whip knows that.

But I come for another purpose. Twelve years ago, as a member of the Pan Am 103 commission, I stood at Lockerbie, Scotland, at the abyss of Pan Am 103 where a trench 14 feet deep, 40 feet wide, and 120 feet long was dug by that airplane, and 259 lives aboard that plane and 11 on the ground were incinerated because a bomb was aboard that plane, that did not have a passenger accompanying it. And we members of that commission, two of us from the House, John Paul Hammerschmidt, a distinguished Member from Arkansas, and I, looked in the abyss and said, ‘Never again will we allow this to happen. We are going to pass tough legislation to make aviation security the best in the world.’ And we passed it.

Now we stand on the abyss again. Never again do I want to confront families and say, We didn’t do enough. Please, do not let that happen. Do not extend that deadline.

Mr. PORTMAN. Mr. Chairman, I yield the balance of my time to the gentleman from Texas (Mr. DELAY), the distinguished majority whip and a member of the Select Committee on Homeland Security.

The CHAIRMAN pro tempore. The gentleman from Texas is recognized for 2½ minutes.

Mr. DELAY. Mr. Chairman, that almost brought a tear to my eye; but I have got to tell you, after Lockerbie, England went for this technology that the gentleman wants to install. It took them 8 years to install it. Eight years. That was 12 years ago. That same technology is what he wants to buy. 20-year-old technology that does not work, or is not as good as other technology that is being suggested.

Let me just clear the air here a little bit. First of all, I think it is irresponsible to try to scare people away from flying. The rhetoric on this floor is irresponsible in doing that. Let me just say that 100 percent, 100 percent of your bags today are being checked before they go on the plane. What this argument is about is buying a machine, a bomb detection machine to try to make it more efficient to check your bags. They want you to buy a 20-year-old technology that is wrong 30 percent of the time.

Let us get this works. Thirty percent of the time it is wrong; so when it is wrong, you have to take it off the machine and check it by hand, adding to the time of that plane taking off. If that is what we want to buy that is not ready, it just needs to be certified, that has less than a 5 percent error rate. Technology is coming on line. And besides, these deadlines that they are so interested in, this House voted 286-139 for the deadline that is in this bill. The deadlines that were put in there, and I will not argue the deadlines, but what is really interesting about this is that the deadlines that they are so adamant to have and have all this wonderful rhetoric and pressure added to it, is that the deadlines have no penalties. Their deadlines have no sanctions. So it does not matter. If they cannot meet the deadlines, they cannot meet the deadlines. You are stuck; we are going to meet these deadlines, and you cannot make them do anything.

So what we have done is realized that there is a problem here, that we can put good technology in as quickly as possible, and we can do that through a solid process by which to implement this and we are suggesting that process.

There is a process that we go through.
This makes sense. It makes common sense. It faces reality. Vote down the Oberstar amendment.

PARLIAMENTARY INQUIRY

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

The CHAIRMAN pro tempore. The gentleman is recognized.

Mr. DeFAZIO. Mr. Chairman, is it required that one use accurate facts during debate on the floor of the House?

The CHAIRMAN pro tempore. The purpose of debate is to discuss issues as Members see them.

Mr. DeFAZIO. Does it require the use of accurate facts or is fabrication allowed?

The CHAIRMAN pro tempore. Accuracy in debate is for each Member to ascertain in his own mind.

Mr. DeFAZIO. I thank the gentleman. We just heard fabrication.

Ms. LOWEY. Mr. Chairman, I rise in strong support of the Oberstar Amendment.

My colleagues, the first obligation of our government is to protect our citizens.

While I strongly believe we are united in our determination to win the war on terrorism and committed to reorganizing the federal government to better serve our country during these times, I continue to be puzzled by the actions of some of my colleagues.

In the fall, the Leadership took only three days to start bailing out the airline industry, but dodged the issue of aviation security for months.

Democrats fought hard, constantly reminding our colleagues that in order to assure the public that our skies are safe we had to require that the federal government to assume passenger security responsibilities, expand its air marshal program, and screen all checked baggage for explosives.

Although our efforts were successful, some of my colleagues have been working bit by bit to unravel the commitment we made to Americans.

When the TSA asked for $4.4 billion, Republicans shortchanged them by $1 billion.

Now, they are using the bill designed to set up a department to ensure homeland security to postpone the federal government's deadline for installing bomb-detecting equipment at airports. The Administration says it cannot meet the deadline of December 2002 due to the delay in passing the emergency supplemental and the lack of necessary funding—the fault of the House Republicans.

To that I say, I am truly disappointed that any of us would backtrack in the face of a self-imposed deadline. We should hunker down and work together to tackle this deadline because compromised security in our skies and airports is a clear and present danger.

My colleagues, we cannot break our promise. When we passed the transportation security act last year, we acknowledged the immediate need to make aviation security a matter of national security. We must vote to restate the burden of this deadline, and stand by our promise to have every bag screened, on every flight, every day by the new year.

Our homeland won't be secure until our skies are secure. I urge you to carefully consider the risks we would take by postponing this deadline.

Vote for the Oberstar amendment.

EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, with some reluctance, I rise in opposition to the Oberstar-Menendez amendment regarding the deadline for installation of explosive detection systems at the nation's airports.

Let me first say that I would have much preferred that this issue not have been highlighted so prematurely. If airports continue to be vulnerable, we do not need to be announcing that for all the world to see.

I understand the concerns of airports and their desire to extend the deadline. Many of them, particularly large airports like DFW in my district, have made a compelling case that the existing deadlines cannot be met.

The Transportation and Infrastructure Committee, on which I serve, has been looking at this issue carefully. Earlier this week, it held a hearing on TSA's implementation of the Aviation and Transportation Security Act, featuring Secretary Mineta and the DOT Inspector General's office.

Secretary Mineta indicated concern that the TSA might not be able to meet the deadline for EDS deployment because of insufficient funding in the FY2002 supplemental for TSA. TSA might not be able to meet the deadline for installing explosive detection systems at the nation's airports over a year to meet the current deadline due to two major issues: checked bag screening and the Federalization of security for passenger and baggage screening.

For example, there is concern regarding the effectiveness and efficiency of the new required baggage screening equipment, with the possibility that the equipment required for installation may be less effective in reaching desirable screening than other smaller and less expensive alternative equipment now in production and with the likelihood that some of the new equipment now to be required would need to be replaced within a few years.

The deadline extension included in H.R. 5005 offers realistic, cost-effective and efficient flexibility. The provision makes it clear that airports will still be required to install equipment to detect weapons and bombs. However, the installation will be done in a manner that takes into account not only safety, but also cost, efficiency, and reliability.

Mr. Chairman, rather than taking ineffective interim steps, every effort must be made to get it right the first time. Therefore, this Member urges his colleagues to oppose the Oberstar Amendment.

Ms. DeLAURO. Mr. Chairman, I rise in strong support of this amendment. We may have disagreements regarding some of the specifics of this legislation, but its goal—ensuring America's safety—is something we all support.

So why then was a provision slipped into this legislation to extend the deadline by which the Transportation Security Administration must screen all baggage for explosives? Why are we risking the safety of the American people when we already have the certified technology necessary to ensure that every bag can be screened?

Some suggest that we must extend the deadline because we are awaiting the development of better technology down the road. As there always is, Mr. Chairman. I am not willing to risk another year of randomly screening a few bags when we have the technology to screen all of them now while we wait for a superior technology a year from now. By then, it might very well be too late.

If we must revisit this issue in a year and begin upgrading the equipment, so be it. No price is too high when it comes to ensuring the safety of the American people. But without this amendment, we will put American lives needlessly at risk.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in support of the Oberstar-Menendez Amendment, to strike the provision extending the date for screening airline baggage for explosives.

Mr. Chairman, I am bewildered that we are even arguing about this. We are here to find ways to increase the Security of our Homeland. Last year, in an intelligent step in the right direction, we passed the Aviation and Transportation Security Act, in overwhelming bipartisan fashion by a vote of 410 to 9. That Act gave the Transportation Security Administration and our nation's airports a year to
get into place systems that would prevent ter-
rorists from stowing bombs in baggage being
loaded onto airplanes. That seems to make
good sense.

We have equipment that has already been
certified to be able to detect explosives that
could destroy an airplane in flight. Just last
week, Transportation Secretary Norm Mineta
came before the Select Committee, and gave
testimony that yes indeed, the TSA would
meet the December 31, 2002 deadline to get
that equipment installed. Again, everything
seemed to be on track.

But all of a sudden, because the job is
hard and it may be challenging to get the
job done exactly on time, we are going to dou-
tle the amount of time given to get the job
done. We are going from one year to two
years. At a time when we have been warned
that terrorists may still be walking our land,
and on a day that we are trying to make his-
tory by securing our nation, we are going to
say, “Don’t worry about the deadline. Let’s
leave the window open to terrorists for another
year.” As a former lawyer in the Pan Am 103
air crash case, where I represented the family
of a deceased flight attendant, I cannot take
the chance that a suitcase bomb could ex-
plode on a passenger-full airplane. To change
the deadline is a profoundly bad idea.

The argument for leaving the window open
is that if you can’t use better technology, or install the equipment more effi-
ciently. The problem with that argument is that
we are vulnerable now. The American people
deserve protection now. It is like if you had
cancer. There are always better drugs coming
out each year. So if you get cancer, do you
wait a year until the next generation of drugs
come out, or do you work with what you’ve
got? Of course you work with what you’ve got.
And that is the position we are in today. Ter-
norism is like a cancer that has the potential
to destroy us. We have to take the medicine
now.

But we don’t even need to look beyond the
aviation industry for such analogies. We have
paid the price of “waiting for the next best
ting” before. In the 1980s we had an oppor-
tunity to avoid an accident, called TCAS II, in-
 stalled in all of our airplanes. TCAS II worked pretty well, but it only gave
vertical directions for evasive actions to the
plane. So, the FAA waited. While they waited
for TCAS III, three tragic midair collisions oc-
curred—three deadly crashes that could have
been avoided if the FAA had moved when it
had the chance. After the third crash, legisla-
tion was finally passed that required the instal-
lacement of TCAS II even though it was not per-
fected and would eventually be replaced.

Let us not wait hundreds of lives again.

Keeping the TSA and our nation’s security
airports on track to get a baggage screening system into
place by the end of this year is not a rash
action. If extenuating circumstances present at
a few airports, the Aviation and Transportation
Security Act already authorizes alternatives to
keep our airports open to code. They can em-
ploy positive bag match, manual search,
search by dogs, or any other technology ap-
proved by the TSA. Even if they do not, there
are no established penalties or punishments
for non-compliance. There is no reason to risk
taking an extra year to complete this critical
task.

Since September 11th we have been
marching forward on the path toward home-
land security. Let us not take a step backward
today.

I encourage my colleagues to support the
Oberstar/Menendez Amendment, and keep our
nation in the spirit of progress, and our air-
ports moving in the right direction.

The CHAIRMAN pro tempore. The ques-
tion is on the amendment offered by the gentleman from Minnesota (Mr.
OBERSTAR).

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

Mr. OBERSTAR, Mr. Chairman, I de-
mand a recorded vote.

The CHAIRMAN pro tempore. Pursuant
to clause 6 of rule XVIII, further proceed-
ings on the amendment offered by the
gentleman from Minnesota (Mr. OBERSTAR)
will be postponed.

The Committee will rise informally.

The Speaker pro tempore (Mr. SIMP-
SON) assumed the chair.

MESSAGE FROM THE SENATE

A message from the Senate by Mr.
Monahan, one of its clerks, announced
that the Senate has passed without
amendment concurrent resolutions of
the House of the following titles:

H. Con. Res. 448. Concurrent resolution
providing for a special meeting of the Con-
gress in New York, New York, on Friday,
September 6, 2002, in remembrance of the
victims and heroes of September 11, 2001, in
recognition of the courage and spirit of the
City of New York, and for other purposes.

H. Con. Res. 449. Concurrent resolution
providing for representation by Congress at
a special meeting in New York, New York,
on Friday, September 6, 2002.

The message also announced that the
Senate has passed a bill and a concur-
rent resolution of the following titles in
which the concurrence of the House is
requested:

S. 2771. An act to amend the John F. Ken-
dedy Center Act to authorize the Secretary
of Transportation to carry out a project for
construction of a plaza adjacent to the John
F. Kennedy Center for the Performing Arts,
and for other purposes.

S. Con. Res. 132. Concurrent resolution
providing for a conditional adjournment and
re-
sumption of the Senate and a conditional adjourn-
ment of the House of Representatives.

The message also announced that the
Senate insist upon its amendment to the
bill (H.R. 4546) “An Act to author-
ize appropriations for fiscal year 2003
for military activities of the Depart-
ment of Defense, for military construc-
tion, and for defense activities of the
Department of Energy, to prescribe
personnel strengths for such fiscal year
for the Armed Forces, and for other
purposes,” requests a conference with
the House on the disagreeing votes of
the two Houses thereon, and appoints
Mr. LEVIN, Mr. KENNEDY, Mr. BYRD, Mr.
LIEBERMAN, Mr. CLELAND, Ms.
LANDRIEU, Mr. REED, Mr. AKAKA, Mr.
NELSON of Florida, Mr. NELSON of Ne-
braska, Mrs. CARNABY, Mr. DAVTON,
Mr. BUTCHER, Mr. BURDON, Mr. THUI-
mond, Mr. MCCAIN, Mr. SMITH of New
Hampshire, Mr. INHOFE, Mr. SANTORUM,
Mr. ROBERTS, Mr. ALLARD, Mr. HUTCH-
inson, Mr. SESSIONS, Ms. COLLINS, and
Mr. BUNNING, to be the conferees on
the part of the Senate.

The message also announced that
pursuant to Public Law 105–227, the
Chair, on behalf of the President pro tempore, appoints an individual to the
National Skill Standards Board for a term of four years:

Upon the recommendation of the Rep-
publican Leader:

Betty W. DeVinney of Tennessee,
Representative of Business.

The message also announced that
pursuant to Public Law 107–171, the
Chair, on behalf of the Republican
Leader, announces the appointment of
Mr. Robert H. Forney, of Indiana, to
serve as a member of the Board of
Trustees of the Congressional Hunger
Fellows Program.

The SPEAKER pro tempore. The
Committee will resume its sitting.
Ms. SCHAKOWSKY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, on behalf of the gentlewoman from Hawaii (Mrs. MINK) and the gentleman from Ohio (Mr. Kucinich) I offer an amendment that will prevent the Department of Homeland Security from becoming the “department of homeland secrecy.” I want to commend the gentleman from California (Mr. WAXMAN) and his staff, as well as the Select Committee, particularly its ranking member, the gentlewoman from California (Ms. PELOSI).

First, this amendment strikes sub-title C of section VII of the underlying bill, language that excludes from the Freedom of Information Act information submitted voluntarily from corporations regarding critical infrastructure information. It strikes language that preempts all State and local open records laws.

Second, this amendment strikes section on language that allows the Secretary to circumvent the Federal Advisory Committee Act, FACA, by putting all the deliberations of those advisory committees beyond public reach.

Third, this amendment provides real teeth against retaliation for whistleblowers, the kind of individuals who have been the lifeblood of exposing failures at the FBI to heed warnings of terrorists within the country, and exposing corporate misconduct.

The Freedom of Information Act is a law carefully crafted to balance the ability of our citizens to access information and the interests of those who want to protect such information from public scrutiny. There are nine exemptions to FOIA, including national security information and business information. FOIA currently protects information that is a trade secret or information that is commercial and privileged or contains confidential information. President Reagan issued Executive Order 12600 that gives businesses even more opportunities to oppose disclosure of information.

In fact, I and other Members of the Committee on Government Reform repeatedly have asked proponents of this exclusion, including the FBI and Department of Commerce, for even one single example of when a Federal agency has disclosed voluntarily submitted data against the express wishes of the industry that submitted that information. They could not name one case.

Instead, we are told that FOIA rules just are not conducive to disclosure, that corporations are not comfortable releasing data needed to protect our country, even if we are at war.

Is our new standard for deciding such fundamental questions of openness and accountability in our democracy how comfortable industry will be? Environmental groups, open government groups and press organizations support my amendment because the broad secrecy provisions of the new Department would hide information critical to protecting public safety, such as chemical spills, results of testing to determine levels of water and air pollution, compliance records, and maintenance and repair records. Corporations could dump information they want to hide into this new department under the critical infrastructure information exclusion.

Corporate lobbyists can meet with government officials in the name of critical infrastructure protection and hide their collusion behind this exclusion.

If we create the Department without my amendment, corporations will no longer need to bury their secrets in the footnotes, or even shred their documents. They can hide them in the FOIA exclusion at the Department of Homeland Security. No longer will industry officials have to hide their meetings with government officials. The exemption from FACA will offer them a safe haven within which to have those secret meetings. State and local authorities would also be barred from and subject to jail sentences for disclosing information that they require to make public, even if it is because it is withheld at the Federal level.

This amendment also protects the rights of whistleblowers. My colleagues will go into more detail. But most whistleblowers are not as high profile as Sharon Watkins of Enron or Coleen Rowley of the FBI, to whom we owe a great debt, and many of them suffer retaliation. They often lose their jobs or are demoted as punishment for speaking out. It is clear that the protections currently available simply are not working. Since the Whistleblower Protection Act was amended in 1994, 74 of the 75 court decisions have gone against whistleblowers. So my amendment gives whistleblowers the right to go to court instead of going through the administrative process and requires the same burden be placed in whistleblower cases as in all other cases involving personnel actions.

Mr. Chairman, I believe that we are in great danger today of tipping the delicate balance between security and basic, precious freedoms, those rights that uniquely define our American democracy. We can have both, and I urge my colleagues to restore the balance and support my amendment.

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

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

The CHAIRMAN pro tempore. The gentleman from Texas is recognized for 15 minutes.

Mr. ARMLEY. Mr. Chairman, I am happy to yield 2 minutes to the distinguished gentleman from Texas (Mr. THORNBERY).

Mr. THORNBERY. Mr. Chairman, I thank the gentleman for yielding me time. I am very impressed with the arguments that have been made in opposition to this amendment.

Mr. Chairman, I oppose this amendment because I believe that this amendment will significantly damage the ability of the Department of Homeland Security to be effective.

Now, let me make a couple of points clear from the beginning. Whistleblowers are protected in the legislation now. That is one of the specific protections we were talking about earlier in the various management flexibility amendments which were offered. Whistleblowers are protected now.

Now, under current law, various counterparts and industries have to disclose certain information. Nothing changes under this bill. They still have to disclose that information, and we add no loopholes. There are no new requirements, and they cannot hide. They still have to meet the current requirements. But our hope is that under the new law, the Department of Homeland Security will receive additional information voluntarily from industries. They will tell us their vulnerabilities. They will tell us what they are worried about in their critical infrastructure. Tell us what they are worried about in their infrastructure.

We want them to tell the Federal Government that information voluntarily so that we can know that infrastructure. They will not disclose that information if you just turn right around and make it public. It could be trade secrets, it could be information that you are giving to the terrorists. We certainly do not want to help them.

So, to go as far as the amendment does in requiring this additional information, which is voluntarily disclosed by the government, the corporations, and make all that public means that companies simply will not disclose it, we will not know their vulnerabilities, and this Department will not be able to do its job to protect infrastructure.

Mr. Chairman, I would suggest the better course would be to reject this amendment. There are essential protections already in the bill. We do not need more.

Mr. SCHAKOWSKY. Mr. Chairman, I yield 3 minutes to the gentlewoman from Hawaii (Mrs. MINK), a cosponsor of the amendment.

Mrs. MINK of Hawaii. Mr. Chairman, I thank the gentlewoman for yielding me time.

Mr. Chairman, I would like to directly respond to the prior speaker, who made a case for further extension of the exemptions for the Freedom of Information Act by arguing that it was necessary in order to protect private sources of information that might be necessary for this new Department.

I want to call the attention of the House to the current Freedom of Information Act, which already includes numerous exemptions for several agencies, including the Defense Department and all the other security-type organizations that now exist that fall under the Freedom of Information Act and have done so for the last 30 years, because they are protected under the exemptions that exist under current law.

The exemptions are all classified documents. The government has the power...
to classify documents. So if there is something in their possession that is essential to the national security or homeland security, they could classify those documents. They have that power inherent in the FOIA legislation. As far as information which is private, trade secrets, or something which is essential to the protection of business.

All of these rules exist. The exemptions exist: they were part of legislation which I helped to work out in the early 1970s, and they have stood the test of time.

It has created a broad range of protections for the people of the United States. We now have the right of access to the government, as I have said before, the FOIA, that we have is that we as individual citizens of this country have the right to information that the government possesses, and we do so by making a FOIA request.

In creating that right, I am not in the business of enlarging the nine exemptions that already exist. What kind of a Department of Homeland Security are we creating? Why does it have to have all of the super protections of private information, when we already have nine exemptions that exist that can protect every single suggested item that has been discussed here on the floor?

So I hope that people will realize that we are talking climate, being concerned about terrorism and the protection of property and the protection of life and so forth, we cannot jeopardize those things that we have fought for so hard, so diligently, and which have, to a large extent, enabled that liberty, that freedom, that we have is that we as individual citizens of this country have the right to information that the government possesses, and we do so by making a FOIA request.

I can conceive of a broader FOIA, but I cannot conceive of enlarging the nine exemptions that already exist. What kind of a Department of Homeland Security are we creating? Why does it have to have all of the super protections of private information, when we already have nine exemptions that can protect every single suggested item that has been discussed here on the floor?

So I hope that people will realize that we are talking climate, being concerned about terrorism and the protection of property and the protection of life and so forth, we cannot jeopardize those things that we have fought for so hard, so diligently, and which have, to a large extent, enabled that liberty, the United States to know what is going on. The nuclear tests out in the Midwest and the terrible things that happened from them would have continued to be the secrets of the government. Just last year it was discovered that the widely used implementations of the simple network management protocol, a fundamental element of the Internet, contained vulnerabilities that made the system vulnerable to attack. Many companies were reluctant to give the government information about these vulnerabilities, which were not yet mentioned in the general press, for fear that the vulnerability information would be forced to be disclosed once it was in the government's hands and this could create substantial risk to their customers and to the Internet and the U.S. economy.

I believe that we have FOIA, which was written for the protection of private companies and information and FACA changes, it allows the government to classify as non-commercial, trade秘密, or something which is essential to the protection of business.

We narrowly tailor these so we do not take away what FOIA offers the general public, very important protections. But if we do not allow it in these narrow instances, I am afraid we are not going to have the tools to fight terrorism. This legislation I think, helps the private sector, including the ISOs, to move forward without fear from the government. It is essential.

Mr. Chairman, I oppose this amendment.

Mr. SCHAKOWSKY. Mr. Chair, I am proud to yield 2 minutes to the gentleman from California (Mr. WAXMAN), the ranking Democrat on the Committee on Government Reform and a leader in this House on both homeland security and good government.

Mr. WAXMAN. Mr. Chair, I thank the gentlewoman for yielding me time.

Mr. Chair, it is remarkable, the position of the Republican Party today. It really shows the bankruptcy of that party. The Republican Party used to stand for the idea that there should be some distrust of government. The theory was it can get too big, too bureaucratic; the assertion was that government could interfere in the lives of individuals and start dictating policies from Washington. So what does this bill do? It grows the bureaucracy. It wastes money. With these Freedom of Information and FACA changes, it allows the government to keep things secret.

You know who wrote the Freedom of Information Act? Barry Goldwater wrote it. Barry Goldwater wrote FOIA, and he said a government that has so much power can intrude in the lives of individuals, and he wanted the public to know what was going on.

This bill and the way it is drafted without the Schakowsky amendment would allow this administration to meet in secret with business executives and lobbyists, just like it did in the Energy Task Force Vice President Cheney chaired. The administration could keep it all quiet. It could, in the name of national security, prevent companies out there that have information that could be exposed to the Internet.

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distinguished chairman of the Committee on Government Reform, the committee of jurisdiction.

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I would just like to say to my good friends, the gentleman from California (Mr. WAXMAN) and the gentlewoman from Illinois (Ms. SCHAKOWSKY), I have high regard for both of them. We have tried to work on this in a bipartisan manner, and I really hope that this issue does not degenerate into a political name-calling session, because we all want the same thing. We want to make sure Americans are secure and free from the threat of terrorism.

Now, the President wants to encourage the private sector to give information to the Department of Homeland Security to enhance the safety of the American people. He is concerned that the people we are talking about will not volunteer information if they think whatever they turn over will be released to the public under the Freedom of Information Act. I think he is right. You would not want some terrorist getting some of this information that would be voluntarily given to Homeland Security.

Let me give you an example. If a business owner recognizes that some part of his business infrastructure might be vulnerable to a terrorist attack, we want him to be able to come to the government and tell us about what he thinks might be done and how to deal with it. We want him to go to the Department of Homeland Security and be very candid. We wanted to be proactive, not reactive.

This is the sort of information we must have to prevent tragedy to the American people. But if the business man is worried and if his lawyers are worried that whatever he voluntarily discloses might find its way into the public domain and hence maybe to the terrorists, as we said earlier today, then he probably will not do it.

We are in a war. I hope my colleagues all remember that. We are in a war. We need to take steps to guarantee that those people will come to us with that information to protect the safety of the American people, and that is why I oppose this amendment.

I think the concerns raised by the sponsor and I have high regard for all of them, are misplaced. The Freedom of Information Act will not be harmed. The legislation we will vote on today will not allow people to dodge the Freedom of Information Act. This bill does not change FOIA or the rules of FOIA for any other forms that businesses have to produce to any agency of the Federal Government. The only thing that will not be subject to FOIA information are the vulnerabilities to terrorist attacks.

The amendment needs the kind of information we are talking about, and we will not get it unless there is a voluntary decision by the business people and the private sector to disclose it to government. They are not going to do it if they feel like they are going to be threatened or they will expose something that might lead to a terrorist attack.

This is a commonsense, real world proposal, and we should not tie our hands behind our backs when it comes to fighting terrorism and protecting the American people.

I hate to say this, but I have high regard for the gentleman from Illinois and the gentleman from California (Mr. WAXMAN), but this amendment would do more harm than good.

Chairman pro tempore Mr. SWEENEY). The Chair wishes to inform Members that the gentleman from Texas (Mr. ARMEY) has 7 minutes remaining and the gentleman from Illinois (Ms. SCHAKOWSKY) has 5½ minutes remaining.

Ms. SCHAKOWSKY. Mr. Chairman, I yield 3½ minutes to the gentleman from Ohio (Mr. KUCINICH) whose whistleblower amendment passed in the Committee on Government Reform, the language included in this bill.

Mr. KUCINICH. Mr. Chairman, it would be unfortunate, in our efforts to improve homeland security, if suddenly our government became less open, less transparent. It would appear if we do that, then the terrorists win, because their attack is on our basic premise of democracy, of a free and open society.

The current language in the bill fails to protect transferred homeland security, civil servants from whistleblower reprisals. Under the current Whistleblower Protection Act, the standard bureaucratic response has been to silence messengers blowing the whistle on national security breakdowns.

Now, the Schakowsky-Kucinich-Mink amendment is designed, and it is needed, to protect national security whistleblowers by allowing them to petition Congress directly and providing an effective remedy for any reprisal taken by the new agency.

Whistleblower rights are workers' rights and no worker should lose his or her job for exposing waste, cover-up, and lies of his or her superiors. It is ironic that in a bill which is designed to fight terrorism we have a provision designed to terrorize workers.

The passage of this amendment is vital to protect the security of the American people. The September 11 terrorist attacks highlight a long-standing necessity to strengthen free speech protections for national security whistleblowers, a number of whom have already made significant contributions in reducing U.S. terrorist vulnerability.

Now, Mr. Chairman, I just want to offer one example of a case that this House ought to be aware of, the case of Mark Graf.

Mark Graf was an alarm station supervisor and Therefore, after working 17 years at the Department of Energy's Rocky Flats Environmental Technology Site. After the Wackenhut Services, a private security agency, took over this site with more than 20 tons of uranium and plutonium, Mark Graf witnessed the elimination of their bomb detecting unit, sloppy emergency drills, and negligence in taking the plutonium for months at a time. He and several other high-level officials raised serious concerns about a terrorist risk to the security of plutonium, as more than a ton of the material is unaccounted for at Rocky Flats. He took his concerns to management, which took no action.

In 1995, after blowing the whistle to a Member of Congress, Mr. Graf was immediately reassigned from the area now renamed 'the Graf place.' In a classified memo to the site supervisors and later to the Defense Nuclear Facilities Safety Board, he outlined specific vulnerabilities which, if exploited, could result in catastrophic consequences.

With no corrective action being taken, he did an interview with CBS News. After the interview, he was subjected to a psychological evaluation and placed on administrative leave. As a condition of returning to work, he was gagged from speaking to Congress, the media, and the agency, and also under the threat of job termination.

In 1998, he filed and later won a whistleblower reprisal complaint currently being appealed by his employers. His disclosures contributed to legislation in the 1998 Defense Authorization Bill requiring an annual review of the security and security program.

We have a nuclear industry in this country with nuclear power reactors, many of which have been relicensed and have reactor vessels that have been embrittled. We have a hole in a reactor that is trying to be repaired in Toledo, Ohio. Nuclear reactors are part of the critical infrastructure. This bill would let a cover-up be, in effect, okay in the name of national security so that the public would never know about a hole in a nuclear reactor or anything that was done that compromises the security of people who lived in the area.

This amendment is designed, and it is in the interests of our national security and our public health.

Mr. ARMEY. Mr. Chairman, it is my pleasure to yield 2 minutes to the distinguished gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Chairman, I think the FOIA concerns over parts of this amendment have already been made by others, but I will say just to Mr. Graf, a friend from Ohio, that is clearly not the intent of the underlying bill nor is it the impact of the underlying bill. All of the FOIA requirements that
we would have, including right to know, would continue to be operative. This is a very narrow stipulation that, with regard to infrastructure information provided by the private sector, that we would get limited FOIA protection, which is absolutely necessary for national security, and that has been discussed.

This amendment would also create a plaintiff lawyers’ dream as I see it, and that is the civil actions open to punitive damages for whistleblowers claiming to have exposed their employers from requiring them to keep mere threat of these punitive damages can cause defendants, including the government, to settle cases; and it does, to settle cases that have questionable merit just to reduce that risk of an extreme verdict.

The opportunity of punitive damages for a plaintiff, can make an otherwise meritless case look awfully tempting to pursue, just in case the jury does come in with a big verdict. It is excessive. Let us be clear. The committee bill does have traditional whistleblower protections in it. I am kind of tired of hearing it does not. Please turn to page 185 of the bill, because it is right there. These are the whistleblower provisions that we have currently and they should be continued. They are important.

We should be promoting team spirit at this new Department, collaboration. The bill gives the Department the chance to give rewards, performance bonuses in order to make this department work better as a team. That is the right incentive.

Let us not give incentives to start disputes in the off chance that a clever plaintiffs’ lawyer might find something to win in a settlement. Let us stick with the strong whistleblower protections we have in the underlying legislation. Let us stick with the FOIA provisions which are appropriate to provide this very important with regard to infrastructure information that is important to protecting the national security of this country. Let us vote down this amendment and support the underlying bill.

Ms. SCHAKOWSKY. Mr. Chairman, could I inquire as to how much time we have remaining.

The CHAIRMAN pro tempore. The gentleman from Illinois (Ms. SCHAKOWSKY) has 2 minutes remaining.

Ms. SCHAKOWSKY. Mr. Chairman, I am proud to yield 1 minute to the distinguished gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Chairman, how many times will this Congress need to relearn the very basic lesson that an accountable government is an irresponsible government? When we confront difficult problems, we can either work to try to solve them, or we can seek to hide them. Without the amendment that is being advanced at the moment, it is the latter choice that is being made.

Exempting so much of this new bureaucracy from the Freedom of Information Act and denying basic protections to whistleblowers is a true ticket to trouble for America. It is a “kill-the-messenger” and “hide-the-body” approach that tries to sweep all problems, including ones that endanger basic public health and safety, under the carpet by increasing the power of self-appointed censors and denying whistleblowers protection from retaliation.

The only lesson that some people have learned from Enron is the value of secrecy. After all, who exposed Enron’s misconduct? A whistleblower named Sheeran Watkin. Certainly no one in this Congress exposed it. Indeed, some are still trying to ignore the causes of what happened at Enron. Meanwhile, with this Administration, this is not the only place where secrecy is beloved. Just ask Vice President CHENEY about his “Energy Policy Development Group”. We can ask, but he will not tell until a court makes him do it.

Congress should not shield unscrupulous employers who wield the powerful weapon of the pink slip to intimidate their workers into silence in order to conceal and perpetuate activities that endanger America.

Mr. ARMEY. Mr. Chairman, I am proud to yield 2 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I really like and respect its author, but I have to urge my colleagues to vote against the Schakowsky amendment on the Freedom of Information Act.

This is a very narrow restriction on public disclosure of information about the private industry’s critical infrastructure. We all rely on that privately owned infrastructure of this Nation: computer networks, phone and power lines, airplanes, et cetera. As the gentleman from Virginia (Mr. TOM DAVIS) said, 90 percent of our critical infrastructure is owned by the private sector.

In President Clinton’s Directive 63, and put into place to enable the owners of this infrastructure to communicate with each other and formulate effective response plans to terrorism, extortion, and hacking. However, PD-63, that Presidential directive, found that companies would not share information about threats to their infrastructure because of their lawyers’ concerns about FOIA and antitrust. Sharing such information would put them in an even more vulnerable position with respect to their customers, their shareholders, and their competitors.

I have to say, some of the objections that this amendment addresses are misleading. It is not unprecedented. Congress passed Y2K legislation to exempt information-sharing about critical infrastructure vulnerabilities from use in lawsuits and disclosure to third parties. It is narrower than that Y2K legislation. It contains numerous definitions. It provides no immunity from liability, no limit on discovery or lawsuits, no free pass on criminal activity. All required disclosures under the Clean Air and Clean Water Act must continue.

If we do not include this limited FOIA provision and vote for the Moran amendment, which comes up next.

Mr. ARMEY. Mr. Chairman, I yield myself the balance of my time.
Mr. Chairman, the amendment of the gentlewoman from Illinois (Ms. SCHATZ) would do two things. It would set aside some very carefully crafted language that modifies FOIA out of consideration for private sector firms. It would also contain a provision to share critical information with the government. That would be a mistake to set that aside. We need these firms that own so much of our infrastructure to cooperate.

Let me just say, FOIA was designed for the American people to understand what is going on in this government; not designed, nor would I think many Americans would think it appropriate, to use FOIA to force private citizens or corporations to give their information up to people like trial lawyers, newspaper editors, or college professors, the three practical categories of people who access FOIA information.

The second part of the gentlewoman’s amendment is predicated on the misrepresentation that we do not protect whistleblowers in this legislation. This myth has been running amok in public discourse since the President proposed this. It was always the President’s intention, and I believe discerning people would have recognized the President’s intention in everything he said and submitted. It certainly is our intention on page 185 of this bill to protect whistleblowers.

So, one, Mr. Chairman, the argument that this bill contains no protection for whistleblowers is just plain false. The texts of any eight-letter word that can read would reveal that to anyone.

Now, what the gentlewoman does, building on the myth that there is no protection, is to provide extra special protections in the form of compensatory damages. Also, and I like this one, lawyers across America must be licking their chops over this one: “any other relief that the court considers appropriate not currently available to whistleblowers.”

Mr. Chairman, if Members want to win the lottery, they should buy a ticket. In the meantime, vote down the noes appeared to have it. Chairman pro tempore announced that no time has expired. This amendment and defend the rights ticket. In the meantime, vote down win the lottery, they should buy a whistle.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The gentleman from Connecticut is recognized for 10 minutes in opposition.

Ms. DELAUR. Yes, Mr. Chairman, I do. I seek the time to control in opposition to this amendment.

The CHAIRMAN pro tempore. The gentleman from Connecticut is recognized for 10 minutes in opposition.

Mr. DELAUR. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I rise in strong opposition to this amendment, which would take a bad idea and make it worse. We all understand the need to safeguard sensitive information relating to national security. The FOIA statute already contains exemptions for critical infrastructure information, confidential business information, for national security information. In effect, the tools are in place to protect this kind of information without curtailing the public’s right to know.

This provision defines infrastructure information so broadly that it covers all kinds of lobbying requests, even lobbyists asking for liability protections. In essence and in effect, this provision is a lobbyists’ protection act. An energy company could shield itself from liability from radioactive materials that leaked from its nuclear power plant, and lobbyists and industry officials would be allowed to communicate with staff charged with critical decisions without any public disclosure. We saw that already with the protracted fight with the administration, with the Energy Department, where they were forced to turn over documents that showed much of the White House energy plan was written by the energy lobbyists.

We have another example of the kind of information that could be kept from the public if this amendment passes. After a fatal Amtrak derailment in southern Iowa, investigation showed that a stretch of privately owned railroad track which suffered from over 1,500 defects was partly to blame. The FOIA exemptions in this bill would have protected this information from the public.

We should not be using this bill to curtail the public’s right to know about critical health information, safety information. We should not use it, if
and other computer systems. But everything worked, and there were no Y2K disasters because of that legislation, which did very much the same thing that this legislation does.

The success of our approach to Y2K should be followed now. As with Y2K, we have a requirement in our Department of Homeland Security where private industry can discuss and share with the government information about threats, best practices, and defenses against terrorism.

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And I have to say, I do not think the objections raised are based on an accurate description of the language in this bill. Contrary to what its opponents are saying, our FOIA provisions are not a mechanism to hide corporate wrongdoing or environmental disasters. The FOIA provisions in this bill provide no immunity from liability. There is no limit on discovery of lawsuits, and no free pass on criminal activity. Moreover, all required disclosures under the environmental statutes such as the Clean Air Act or the Clean Water Act must continue.

Without this legislation, we will not be able to answer why we did everything we could to prepare our people and prevent disasters and defend our homeland. This very limited restriction on FOIA can contribute to winning the war on terrorism. That is why we need to support it.

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

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

Ms. DELAURO. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I thank the gentlewoman very much for yielding me time.

The Freedom of Information Act provisions in this bill are a continuation of the current administration’s onslaught on the public’s right to know and they should be struck from the bill. Now we have the Davis amendment which dramatically expand them.

We know what this administration has done so far. It would not disclose what lobbyists and energy companies met with the Chaney energy task force. It issued an executive order limiting the release of presidential records. It rejected the House information request by Congress, including even basic census information. Now it wants a huge statutory loophole inserted in the Freedom of Information Act. The majority says this is to protect information that may be necessary to protect homeland security.

Let me submit to the Members that what they really want to do is to protect lobbying groups, special interest groups, from having the fact that they have gone in and asked for special favors to be disclosed.

Under this amendment, a chemical company can go to the EPA and ask to relax the requirement that it report chemicals stored at its facility; it would make this request on the grounds that this information could be useful to terrorists. It could also be useful for the public to know. Under this amendment, they would say that has to be exempt from disclosure. A chemical company in the Department of Health and Human Services to relax human testing requirements for drugs that might have homeland security uses. And under this amendment, this information would be exempt from disclosure.

So what happened? The bill went to the Select Committee on Homeland Security and it struck it out. What does that tell you? Why would the members of the Select Committee strike that out? I would use this to pressure the lobbyists that come ask for special favors. This is just like they want to protect the groups that might be negligent in giving services or devices that they are going to sell to the government.

It is a giveaway. It is a giveaway to special interest groups that I am sure are major contributors to the Republican campaign committee. I believe it and I see evidence of it over and over again. There is no attempt to make this a bipartisan bill. They want it to be partisan and they want it for their special contributors.

The CHAIRMAN pro tempore (Mr. SWEENEY). The Chair wishes to advise Members that the gentleman from Connecticut (Ms. DELAURO) has 5 minutes remaining. The gentleman from Virginia (Mr. MORAN) has 1½ minutes remaining. The gentleman from Virginia (Mr. TOM DAVIS) has 3 minutes remaining.

Ms. DELAURO. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Chairman, we are told over and over again as we create this Department of Homeland Security that we are at war, that these are very special times. And clearly we need to know about infrastructure vulnerabilities. There is no question about it. Such information is essential.

Well, I wonder if it occurred to the majority that one way to get that information might be to use this amendment as a vehicle for this purpose. For an issue as critical as national security, it is striking that the administration is apparently unwilling to require
companies to submit information on vulnerabilities, but instead willing only to rely on coaxing it from them voluntarily by relaxing the disclosure law that is a cornerstone of open government.

Now, the gentleman from Virginia (Mr. DAVIS) purported to give an example of how information regarded as confidential by a company was released as an example of why we have to have this. But, instead, actually what he told us was how a company refused to give it to us because they did not trust the government.

Again, over and over what we are told here is not that the Freedom of Information Act as currently written really does not have enough exemptions but that the lawyers for private corporations do not trust it. Do we not trust the new Secretary, whoever that may be, of the Department to say we will exempt those things that are a threat to national security, that are a threat to potential proprietary information of a company? We have put all kind of power in his hands. Certainly we can trust him to do that.

I think it was the gentleman from Virginia (Mr. DAVIS) also said that the Senate had language in this language or the earlier language, the FOIA language, in their version of the bill, but that is not true. One important exception is the Senate bill does not preempt State and local Freedom of Information and other public information disclosure laws. It is important we should vote down this amendment. It is dangerous to our democracy.

The CHAIRMAN pro tempore. The Chair wishes to further inform Members that the order of closure will be the gentleman from Virginia (Mr. MORAN), who has 1½ minutes remaining, then the gentleman from Virginia (Mr. TOM DAVIS), who has 3 minutes remaining, and then the gentlewoman from Connecticut (Ms. DELAURO), who has 3 minutes remaining.

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

Mr. Chairman, let me put a couple of things to rest.

First of all, we are simply taking the base text of the bill as it is currently drafted as this House has approved, and we are extending the information that could be obtained by the Secretary of Homeland Security and are allowing in his discretion to share information that would not otherwise be attainable by the government, to share this information with other Federal agencies if it will help protect our critical infrastructure so that we can obtain the information that we keep our security systems, our cybersecurity in the Department of Defense or in the FBI or the CIA, and the information that we receive through Homeland Security will protect those systems. We can share that information.

This is a very narrowly tailored amendment. This amendment, in fact, is more narrowly tailored than an exemption that was passed by this House and signed by the President on the Y2K Readiness Act. So we have done our best to make sure the Freedom of Information Act is protected.

This does not apply to lobbyists. I do not know how the language was taken out by the other committee. I certainly accepted antilobbying language at the committee level where we were before, but perhaps they took it out because such language is redundant.

The language is very clear that only information that would otherwise not be attainable by government would now be able to be shared to protect our critical infrastructure and that it has to pertain to critical infrastructure information. If it pertains to anything else, it does not fit the exemption and it would be as it currently is, available under the current statute.

Now, this legislation has nothing to do with campaign contributions, and I think those kinds of statements belong in this discussion. I think we are people of good will here who are doing our best to make sure that in developing a Department of Homeland Security we are getting the best information available to combat terrorism.

We are all familiar in that. In the caves of al Qaeda we found government documents obtained through the Freedom of Information Act that lay in terrorists’ hands that they were using to destroy us. And just as the Romans built a system and a network that took them to all corners of the Earth, it was the same barbarians that used those roads to come in to destroy Rome.

What we want to do is as we build this infrastructure, we want to protect it from those barbarians, in this case, the terrorists.

Since the infrastructure is 90 percent owned by the private sector, we are soliciting comments, we are soliciting the experience from the private sector. It is not a way that will not be used to the private sector’s detriment, so that the private sector’s competitors, so that terrorists, so that lawyers cannot come in and get this information that would otherwise be attainable and use it against them. And without that protection, what we are finding out is companies, innovators, small innovators are reluctant to share that information with the government because it could bankrupt those companies.

This is narrowly crafted. The Senate agrees, at least, on the Federal portion of this. I concur with the previous speaker, it does not apply to State and local on the Senate side. We do because critical infrastructure also applies to State and local. I urge adoption of the amendment.

Ms. DELAURO. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Chairman, this amendment is the logical extension of a very bad idea of spreading secrecy throughout our government. It would enlarge a giant black hole. You pour taxpayer money in one side and out the other side, the only thing that comes out are the government-approved leaks.

For over 2 decades while the Soviet Union existed and the Berlin Wall divided Europe, the Freedom of Information Act maintained a crucial balance between the public’s right to know and our national security. Why today then have some leaders lost confidence in this landmark law?

Well, apparently, the answer is found in the language deleted from the bill that we are now told amazingly is “redundant”. Language that clearly assumed that lobbying contacts would be revealed has been removed. And so the clear legislative history of this bill is that when lobbyists are seeking special treatment from this new bureaucracy, no one but them and their benefactors will know it occurred. Where our public safety is at stake, when we begin by burying secrets, we will end with burying troubles. This amendment ought to be rejected.

The CHAIRMAN pro tempore. Does the gentlewoman from Connecticut (Ms. DELAURO) wish to close?

Ms. DELAURO. Mr. Chairman, yes, I do. How much time do I have remaining?

The CHAIRMAN pro tempore. The gentlewoman from Connecticut (Ms. DELAURO) has 2 minutes remaining.

Ms. DELAURO. Mr. Chairman, I yield 1 minute to the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK of Hawaii. Mr. Chairman, I thank the gentlewoman for yielding me time.

I will want to make sure the government has tools with which to operate efficiently, effectively, to safeguard the people and property of this country. The government is out there collecting information with its own resources, with tax dollars. All of that information should be accessible to the public under FOIA. Why is it we have to generate an exemption to the private sector for voluntary information?

If this information is necessary for homeland security, the government ought to be required to get that information; and then, if necessary, that information coming from a private source can be classified. It can be deemed to be business-related information.

I submit that all of the powers of the government that now allow these exemptions already exist in the nine categories that are in current law, that have been effective for the last 30 years to protect private interests, private business trade secrets, careful balance in the private sector; but we have not touched in any way the right of the public to know what it is that the government is doing, and there should be no secrets. Let the public have the absolute right to know.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume to close.
Mr. Chairman, the distinguished gentleman from California (Mr. WAXMAN) threw me for a loop a bit there when he said the language restricting lobbying had been taken out. But in looking through this, it is moot because this has not much to do with lobbying.

The Congress just passed legislation to address corporate accountability. The President is going to sign it. There are a total of 11 sections in title 18 of the Civil Service Code. These are criminal law provisions. They govern the behavior of federal employees and they restrict and prohibit acting as a lobbyist, being lobbied, revolving-door activities, financial conflicts of interest, making political contributions, lobbying with appropriated monies.

The information that we are talking about here has nothing to do with lobbying. It is critical infrastructure vulnerabilities to terrorism. Electric dam supervisors are not going to be having anything to do with lobbying. It has to be in good faith and no evasion of law is allowed. These are telecommunications managers, they are financial service people, they are people that have identified vulnerabilities, vulnerabilities that we need to be protected by. We have been told by the FBI, by the Office of Critical Infrastructure Protection. The dilemma we need this kind of language. The Department of Homeland Security needs it. Otherwise we cannot act effectively. We are not going to be able to protect the people of this country if our private sector that runs 90 percent of critical infrastructure is not able to disclose all of the information that might be relevant to protecting the American people. That is the reason for this amendment. It has nothing to do with lobbying. And it has everything to do with protecting the security of the American people.

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

The CHAIRMAN pro tempore. Ms. PELOSI. Mr. Chairman, I ask unanimous consent that after debate concludes on all amendments made in order under the rule, it be in order to recognize both the gentlewoman from California (Ms. DelAuro) and myself for the purpose of offering a pro forma amendment to conclude debate.

The CHAIRMAN pro tempore. Mr. ARMEY. Mr. Chairman, I ask unanimous consent that after debate concludes on all amendments made in order under the rule, it be in order to engage in colloquy with the gentlewoman from Texas (Ms. Pelosi) and myself for the purpose of offering a pro forma amendment to conclude debate.

Mr. ARMEY. Mr. Chairman, I ask unanimous consent that after debate concludes on all amendments made in order under the rule, it be in order to engage in colloquy with the gentlewoman from California (Ms. Pelosi) and myself for the purpose of offering a pro forma amendment to conclude debate.

The CHAIRMAN pro tempore. Mr. ARMEY. Mr. Chairman, I ask unanimous consent that after debate concludes on all amendments made in order under the rule, it be in order to engage in colloquy with the gentlewoman from California (Ms. Pelosi) and myself for the purpose of offering a pro forma amendment to conclude debate.

Ms. PELOSI. Mr. Chairman, I sought that time in order to engage the majority leader in colloquy about section 770 of H.R. 5005. Mr. ARMEY. Mr. Chairman, if the gentlewoman will yield, I would be happy to engage in colloquy with the gentlewoman from California.

Ms. PELOSI. Mr. Chairman, I thank the gentleman from Texas (Mr. ARMEY).

This section would prohibit the Government from putting in place the Bush administration's TIPS program, the Terrorist Information and Prevention System. Is it the majority leader's intent that section 770 ban both the TIPS program, any other successor program to the TIPS program called “TIPS” and any other successor program that might be considered that would have the same or similar characteristics as TIPS? In other words, would section 770 bar the TIPS program from being used? Would the Government be barred from using the same program under a different name or a program under a different name with similar characteristics to the proposed TIPS program?

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

Ms. PELOSI. I yield to the leader. Mr. ARMEY. Mr. Chairman, I ask unanimous consent that after debate concludes on all amendments made in order under the rule, it be in order to engage in colloquy with the gentlewoman from Texas (Ms. Pelosi) and myself for the purpose of offering a pro forma amendment to conclude debate.

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

Mr. HOLT. Mr. Chairman, I wish to engage in a colloquy with the gentlewoman from Texas, who is the majority leader, the gentleman from New York. I yield to the gentleman from New York. Ms. PELOSI. I yield to the leader.

Mr. HOLT. Mr. Chairman, I wish to engage in a colloquy with the gentlewoman from Texas, who is the majority leader, the gentleman from New York.
York and the gentleman from Delaware.

Mr. Chairman, I am troubled by reports indicating that due to financial pressures, Amtrak has been forced to make drastic reductions in the security personnel that patrol the Trenton Train Station, 30th Street Station in Philadelphia and others.

According to recent media accounts in Trenton, New Jersey, the staff reductions are so severe that they are now only on duty on a rota-
tional basis. This lack of security personnel not only compromises security but the safety of passengers. A strong railroad security is an essential part of a strong homeland security, and I hope that the gentleman from Texas will make certain that the commitment to rail security, particularly Amtrak police office-
ers, is not reduced.

I am currently working with the gentle-
man from New York (Mr. Crowley) on a letter to the Committee on Appropri-
tations to ask that they address this important issue in their transportation appropriations bill, and I hope that we can address it in this legislation as well.

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

Mr. HOLT. I yield to the gentleman from Delaware.

Mr. CASTLE. Mr. Chairman, I thank the gentleman from New Jersey for yielding to me, and Mr. Chairman, I want to associate myself with the gentle-
man from New Jersey’s comments because what he is talking about is indi-
cative of a larger problem.

Unfortunately, last year Congress and the administration provided Amtrak only $5 million for rail security in comparison to $33.8 billion for the Transportation Security Agency to improve aviation security. In my opinion, this imbalance must be addressed.

I do not know how many Members are aware of this, but I would like to point out that Amtrak’s tunnels run under the House and Senate of-
ifice buildings and the Supreme Court. We literally cannot afford to ignore rail security any longer.

I would say to the gentleman from Texas (Mr. ARMEY) that I respectfully request that when the House and Senate meet to negotiate the final details of this bill, that adequate security funding be included for Amtrak.

Mr. HOLT. Mr. Chairman, I thank the gentleman for his comments.

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

Mr. HOLT. I yield to the gentleman from New York.

Mr. QUINN. Mr. Chairman, I share the sentiments expressed here by my two colleagues, and I thank the distin-
guished majority leader for engaging in this discussion this afternoon.

As chairman of the Subcommittee on Railroads in our full Committee on Transportation and Infrastructure, I think it is important for us to remember that regardless of any Member’s position on the future of Amtrak and passenger rail service here in our country, I think all of us can agree that security on that rail system is es-

sential. Reducing rail security per-
sonnel while we continue to wage a war on terrorism is misguided and unac-
cceptable.

I join my colleagues in asking the gentleman from Texas for his assur-
ance, even during a period of uncer-
tainty surrounding Amtrak, to reaff-
irm our commitment to the security of our national rail infrastructure, in-
cluding police personnel.

Mr. HOLT. Mr. Chairman, I thank the gentleman for his remarks.

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

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

Mr. ARMEY. Mr. Chairman, I thank the gentle-
man for yielding, and let me say to all three of my colleagues, I thank them for their interest in the issue, and yet assure my colleagues that I share their concern about the se-
curity of our Nation’s rail system.

I would also like to assure them that we will work in conference committee to make certain that the commitment to rail security on Amtrak and Amtrak officers, is not re-
duced so that rail stations such as the Trenton Train Station may remain secure.

Mr. HOLT. Mr. Chairman, I thank the gentle-
man from Texas for his comments and my colleagues.

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

The CHAIRMAN pro tempore. It is now in order to consider Amendment No. 26 printed in House Report 107-615. AMENDMENT NO. 26 OFFERED BY MR. CHAMBLISS

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

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

Amendment No. 26 offered by Mr. CHAMBLISS:

At the end of title VII add the following new subtitle:

Subtitle H—Information Sharing

SEC. 789. SHORT TITLE.

This subtitle may be cited as the “Home-
land Security Information Sharing Act”.

SEC. 781. FINDINGS AND SENSE OF CONGRESS.

(a) FINDINGS.—The Congress finds the fol-

lowing:

(1) The Federal Government is required by the Constitution to provide for the common defense, which includes terrorist attack.

(2) The Federal Government relies on State and local personnel to protect against terror-
ist attack.

(3) The Federal Government collects, cre-
ates, manages, and protects classified and sensitive but unclassified information to en-
hance homeland security.

(4) Some homeland security information is needed by State and local personnel to prevent and prepare for terrorist attack.

(5) The needs of State and local personnel to have access to relevant homeland security information are changing as determined terrorism must be reconciled with the need to preserve the pro-
tected status of such information and to pro-
tect the sources and methods used to acquire such information.

(6) Granting security clearances to certain State and local personnel is one way to fa-
ilitate the sharing of homeland security information, but defining specific terrorist threats among Federal, State, and local levels of government.

(7) Methods exist to declassify, redact, or otherwise adapt classified information so it may be shared with State and local per-
sonnel without the need for granting addi-
tional security clearances.

(8) State and local personnel have capabili-
ties and opportunities to gather information on suspicious activities and terrorist threats not possessed by Federal agencies.

(9) The Federal Government and State and local governments and agencies in other ju-
risdictions may benefit from such informa-
tion.

(10) Federal, State, and local governments and intelligence, law enforcement, and other emergency preparation and response agen-
cies must act in partnership to maximize the benefits of information gathering and anal-
ysis to prevent and respond to terrorist at-
tacks.

(11) Information systems, including the Na-
tional Law Enforcement Communica-
tions System and the Terrorist Threat Warning System, have been established for rapid sharing of classified and sensitive but unclassified information among Federal, State, and local entities.

(12) Increased efforts to share homeland se-
curity information should avoid duplicating existing information systems.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal, State, and local enti-
ties should share homeland security informa-
tion to the maximum extent practicable, with special emphasis on hard-to-reach urban and rural communities.

SEC. 782. FACILITATING HOMELAND SECURITY INFORMATION SHARING PROCEDURES.

(a) PROCEDURES FOR DETERMINING EXTENT OF SHARING OF HOMELAND SECURITY INFORMA-

TION.—

(1) The President shall prescribe and im-
plement procedures under which relevant Federal agencies—

(a) share relevant and appropriate home-
land security information with other Federal agencies, including the Department, and ap-
propriate State and local personnel;

(b) identify and share classified and secu-

rity information that is sensitive but unclas-
sified; and

(c) to the extent such information is in clas-
sified form, determine whether, how, and to what extent to remove classified informa-
tion, as appropriate, and with which such personnel it may be shared after such informa-
tion is removed.

(2) The President shall ensure that such pro-
cedures apply to all agencies of the Fed-
eral Government.

(b) PROCEDURES FOR SHARING OF HOMELAND SECURITY INFORMATION.—

(1) Under procedures prescribed by the President, all appropriate agencies, includ-
ing the intelligence community, shall, through information sharing systems, share homeland security information with Federal agencies and appropriate State and local per-
sonnel to the extent such information may be shared, in accordance with subsection (a), together with assessments of the credibility of such information.
(2) Each information sharing system through which information is shared under paragraph (1) shall—
(A) have the capability to transmit unclassified information, through which procedures and recipients for each capability may differ;
(B) have the capability to restrict delivery of information to specified subsets of users based on geographic type, organization, position of a recipient within an organization, or a recipient’s need to know such information;
(C) follow the efficient and effective sharing of information; and
(D) be accessible to appropriate State and local personnel.
(3) The procedures prescribed under paragraph (1) shall establish conditions on the use of information shared under paragraph (1) that—
(A) to limit the dissemination of such information to ensure that such information is not used for an unauthorized purpose;
(B) to ensure the security and confidentiality of such information;
(C) to protect the constitutional and statutory rights of any individuals who are subjects of such information; and
(D) to provide due process through the timely removal and destruction of obsolete or erroneous names and information.
(4) The procedures prescribed under paragraph (1) shall—
(A) establish procedures to ensure, to the greatest extent practicable, that the information sharing system through which information is shared under such paragraph include existing information sharing systems, including, but not limited to, the National Law Enforcement Telecommunications System, the Regional Information Sharing System, and the Terrorist Threat Warning System of the Federal Bureau of Investigation.
(B) Each appropriate Federal agency, as determined by the President, shall have access to each information sharing system through which information is shared under paragraph (1), and shall therefore have access to all information, as appropriate, shared under such paragraph.
(5) The procedures prescribed under paragraph (1) shall ensure that appropriate State and local personnel are authorized to use such information sharing systems—
(A) to access information shared with such personnel; and
(B) to share, with others who have access to such information sharing systems, the homeland security information of their own jurisdictions, which shall be marked appropriately as pertaining to potential terrorist activity.
(7) Under procedures prescribed jointly by the Director of Central Intelligence and the Attorney General, each appropriate Federal agency, as determined by the President, shall review and assess the information shared under paragraph (6) and integrate such information with existing intelligence.
(c) SHARING OF CLASSIFIED INFORMATION AND SENSITIVE BUT UNCLASSIFIED INFORMATION WITH STATE AND LOCAL PERSONNEL—
(1) The President shall prescribe procedures under which Federal agencies may, to the extent the President considers necessary, share with appropriate State and local personnel homeland security information that remains classified or otherwise protected or of a foreign government.
(2) With respect to that information that is sensitive but unclassified, entering into non-disclosure agreements with appropriate State and local personnel.
(3) Increased use of information-sharing partnerships that include appropriate State and local personnel, such as the Joint Terrorism Task Force, the Federal Bureau of Investigation, the Anti-Terrorism Task Forces of the Department of Justice, and regional Fusion Centers.
(d) RESPONSIBLE OFFICIALS.—For each affected Federal agency, the head of such agency shall designate an official to administer this Act within that agency.
(e) FEDERAL CONTROL OF INFORMATION.—
(1) Each information sharing system, including, but not limited to, the National Law Enforcement Telecommunications System, the Regional Information Sharing System, and the Terrorist Threat Warning System of the Federal Bureau of Investigation, the Anti-Terrorism Task Force, or the National Counterintelligence Center, shall ensure that appropriate State and local government from a Federal agency under this Act shall remain under the control of the Federal agency, and a State or local law authorizing or requiring such a government to disclose information shall not apply to such information.
(f) DEFINITIONS.—As used in this section:
(1) The term "homeland security information" means any information possessed by a Federal, State, or local agency that—
(A) relates to the threat of terrorist activity;
(B) relates to the ability to prevent, interdict, or disrupt terrorist activity;
(C) would improve the identification or investigation of a suspected terrorist or terrorist organization;
(D) would improve the response to a terrorist act.
(2) The term "intelligence community" has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).
(3) The term "State and local personnel" means any of the persons involved in prevention, preparation, or response for terrorist attack:
(A) State Governors, mayors, and other locally elected officials; and
(B) State and local law enforcement personnel and firefighters.
(C) Public health and medical professionals.
(D) Regional, State, and local emergency management agency personnel, including State adjutant generals.
(E) Other appropriate emergency response agency personnel.
(F) Employees of private-sector entities that affect infrastructure, cyber, economic, or public health security, as designated by the Federal government in procedures developed pursuant to this section.
(G) The term "State" includes the District of Columbia and any commonwealth, territory, or possession of the United States.
(h) CONSTRUCTION.—Nothing in this Act shall be construed as authorizing any department, bureau, agency, office, or employee of the Federal Government to request, receive, or transmit to any other Government entity or personnel, or transmit to any State or local entity or personnel otherwise authorized by this Act to receive homeland security information, any information collected by the Federal Government solely for statistical purposes in violation of any other provision of law relating to the confidentiality of such information.
SEC. 783. REPORT.
(a) RECOMMENDATIONS REQUIRED.—Not later than 12 months after the date of the enactment of this Act, the President shall submit to the congressional committees specified in subsection (b) a report on the implementation of section 782. The report shall include any recommendations for additional measures or appropriation requests, beyond the requirements for such updates of the system, for the efficiency or the reactivity of sharing of information between and among Federal, State, and local entities.
(b) SPECIFIED CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsection (a) are the following committees:
(1) The Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.
(2) The Select Committee on Intelligence and the Committee on the Judiciary of the Senate.
SEC. 784. AUTHORIZATION OF APPROPRIATIONS.
There are authorized to be appropriated such sums as may be necessary to carry out section 782.
SEC. 785. AUTHORITY TO SHARE GRAND JURY INFORMATION.
Rule 6(e) of the Federal Rules of Criminal Procedure is amended—
(1) in paragraph (2), by inserting "or of guidelines jointly issued by the Attorney General and Director of Central Intelligence pursuant to Rule 6;", after "Rule 6;" and
(2) in paragraph (3)—
(A) in subparagraph (A)(ii), by inserting "or of a foreign government" after "(including personnel of a state or subdivision of a state);"
(B) in subparagraph (C)(i)—
(i) in subclause (I), by inserting before the semicolon the following: "or of a foreign government" after "to an appropriate official of a State or subdivision of a State;" and
(ii) by striking "or" at the end;
(C) in subparagraph (C)(iii)—
(i) by striking "Federal" after "or of a foreign government" after "to an appropriate official of a State or subdivision of a State;" and
(ii) by striking the period at the end of clause (V) and inserting "or;" and
(iv) by adding at the end the following: "(VI) when matters involve a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, that may affect the national security of the United States, or in an official duty of the officer making or receiving such information, any information collected by the Federal Government to request, receive, or transmit to any other Government entity or personnel, or transmit to any State or local entity or personnel otherwise authorized by this Act to receive homeland security information, any information collected by the Federal Government solely for statistical purposes in violation of any other provision of law relating to the confidentiality of such information.
SEC. 786. AUTHORITY TO SHARE ELECTRONIC, WIRE, AND FUSION INTERCEPTION INFORMATION.
Section 2317 of title 18, United States Code, is amended by adding at the end the following:
"(7) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to a foreign investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the duties of the foreign investigative or law enforcement officer receiving the disclosure, and foreign investigative or law enforcement officers may use or
disclose such contents or derivative evidence to the extent such use or disclosure is appropriate to the proper performance of their official duties.

(8) If any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to any State, local, or foreign official or agency, or an agent of a foreign power, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, for the purpose of preventing or responding to such a threat.

Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person’s official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this use that information only consistent with such guidelines as the Attorney General deems necessary.

The CHAIRMAN pro tempore. Pursuant to House Resolution 502, the gentleman from Georgia (Mr. CHAMBLISS) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Georgia (Mr. CHAMBLISS).

Mr. CHAMBLISS. Mr. Chairman, I ask unanimous consent to modify the amendment with the modification that I have placed at the desk.

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

The following was added by Mr. CHAMBLISS:

In lieu of amendment #26 printed in House Report 107–615.

At the end of title VII add the following new subtitle:

Subtitle H—Information Sharing

SEC. 780. SHORT TITLE.

This subtitle may be cited as the “Homeland Security Information Sharing Act”.

SEC. 781. FINDINGS AND SENSE OF CONGRESS.

(a) FINDINGS.—The Congress finds the following:

(1) The Federal Government is required by the Constitution to provide for the common defense, which includes terrorist attack.

(2) The Federal Government relies on State and local personnel to protect against terrorist attack.

(3) The Federal Government collects, creates, manages, and protects classified and sensitive but unclassified information to enhance homeland security.

(4) Some homeland security information is needed by the State and local personnel to prevent and prepare for terrorist attack.

(5) The needs of State and local personnel to have access to relevant homeland security information to combat terrorism must be reconciled with the need to preserve the protected information and to protect the sources and methods used to acquire such information.

(6) Granting security clearances to certain State and local personnel is one way to facilitate the sharing of information regarding specific terrorist threats among Federal, State, and local personnel.

(7) Methods exist to declassify, redact, or otherwise adapt classified information so it may be shared with State and local personnel without granting additional security clearances.

(8) State and local personnel have capabilities and opportunities to gather information on suspicious activities and terrorist threats not possessed by Federal agencies.

(9) The Federal Government and State and local governments and agencies in other jurisdictions may benefit from such information.

(10) Federal, State, and local governments and intelligence, law enforcement, and other emergency preparation and response agencies must act in partnership to maximize the benefits of information gathering and analysis to prevent and respond to terrorist attacks.

(11) Information systems, including the National Law Enforcement Telecommunications System and the Terrorist Threat Warning System, have been established for rapid sharing of classified and sensitive but unclassified information among Federal, State, and local personnel.

(12) Increased efforts to share homeland security information should avoid duplicating existing information systems.

(b) SENSE OF CONGRESS.—It is the sense of Congress that State, Federal, and local entities should share homeland security information to the maximum extent practicable, with special emphasis on hard-to-reach urban and rural communities.

SEC. 782. FACILITATING HOMELAND SECURITY INFORMATION SHARING PROCEDURES.

(a) PROCEDURES FOR DETERMINING EXTENT OF SHARING OF HOMELAND SECURITY INFORMATION.—

(1) The President shall prescribe and implement procedures under which relevant Federal agencies:

(A) share sensitive but unclassified homeland security information with other Federal agencies, including the Department, and appropriate State and local personnel;

(B) identify and classify homeland security information that is sensitive but unclassified;

(C) to the extent such information is in classified form, determine whether, how, and to what extent to remove classified information, as appropriate, and with which such personnel it may be shared after such information is removed.

(2) The President shall ensure that such procedures apply to all agencies of the Federal Government.

(3) Such procedures shall not change the substantive requirements for the classification and safeguarding of classified information.

(4) Such procedures shall not change the requirements and authorities to protect sources and methods.

(B) PROCEDURES FOR SHARING OF HOMELAND SECURITY INFORMATION.—

(1) Under procedures prescribed by the President, all appropriate agencies, including the Department, shall, through information sharing systems, share homeland security information with Federal agencies and appropriate State and local personnel, subject to any limits on such information that the President determines by the President, shall review and assess the information shared under paragraph (6) and integrate such information with existing information sharing systems, including, but not limited to, the National Law Enforcement Telecommunications System, the Regional Information Sharing System, and the Terrorist Threat Warning System of the Federal Bureau of Investigation.

(2) The procedures prescribed under paragraph (1) shall ensure that appropriate State and local personnel are authorized to use such information sharing systems:

(A) to access information shared with such personnel; and

(B) to share, with others who have access to such information sharing systems, the information in a manner that is consistent with their own jurisdictions, which shall be marked appropriately as pertaining to potential terrorist activity.

(3) Under procedures prescribed jointly by the Director of Central Intelligence and the Attorney General, each appropriate Federal agency, as determined by the President, shall review and assess the information shared under paragraph (6) and integrate such information with existing intelligence systems.

(C) PROCEDURES FOR SHARING OF CLASSIFIED INFORMATION AND SENSITIVE BUT UNCLASSIFIED INFORMATION WITH STATE AND LOCAL PERSONNEL.—

(1) The President shall prescribe procedures under which Federal government agencies may, to the extent the President considers necessary, share with appropriate State and local personnel homeland security information that remains classified or otherwise protected after the determinations prescribed under the procedures set forth in subsection (a).

(2) It is the sense of Congress that such procedures may include one or more of the following means:

(A) Carrying out security clearance investigations with respect to appropriate State and local personnel.

(B) With respect to information that is sensitive but unclassified, entering into non-disclosure agreements with appropriate State and local personnel.

(C) Increased use of information-sharing partnerships that include appropriate State and local personnel.
and local personnel, such as the Joint Terrorism Task Forces of the Federal Bureau of Investigation, the Anti-Terrorism Task Forces of the Department of Justice, and regional fusion centers.

(d) RESPONSIBLE OFFICIALS.—For each affected Federal agency, the head of such agency shall designate an official to administer this Act at such agency.

(e) FEDERAL CONTROL OF INFORMATION.—Under procedures prescribed under this section, information obtained by a State or local government from a Federal agency under this section shall remain under the control of the Federal agency, and a State or local law authorizing or requiring such a government official to disclose information shall not apply to such information.

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

(1) The term ‘homeland security information’ means any information possessed by a Federal, State, or local agency that—

(A) relates to the threat of terrorist activity;

(B) relates to the ability to prevent, interdict, or disrupt terrorist activity;

(C) would improve the identification or investigation of a suspected terrorist or terrorist organization;

(D) would improve the response to a terrorist act.

(2) The term ‘Intelligence community’ has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(3) The term ‘State and local personnel’ means any of the following persons involved in prevention, preparation, or response for terrorism—

(A) State Governors, mayors, and other locally elected officials.

(B) State and local law enforcement personnel and firefighters.

(C) Public health and medical professionals.

(D) Regional, State, and local emergency management agency personnel, including State adjutant generals.

(E) Other appropriate emergency response agency personnel.

(F) Employees of private-sector entities that affect critical infrastructure, cyber, economic and, public health security, or a foreign intelligence service that is identified by the Federal government in procedures developed pursuant to this section.

(G) Construction.—Nothing in this Act shall be construed as authorizing any department, agency, office, or employee of the Federal Government to request, receive, or transmit to any other Government entity or personnel, or transmit to any State or local entity or personnel otherwise authorized by this Act to receive homeland security information, any information collected by the Federal Government.

(h) CONSTRUCTION.—Nothing in this Act shall be construed as authorizing any department, agency, office, or employee of the Federal Government, or any State, local, or foreign government official for the purpose of preventing or responding to such a threat.

(i) C in paragraph (c)(i)—

(1) in subparagraph (V), by inserting ‘: or’;

(2) in clause (vi), by striking clause (vi); and

(3) in clause (vii), by striking the period at the end of such clause.

(j) SEC. 785. AUTHORITY TO SHARE GRAND JURY INFORMATION.—Rule 6(e) of the Federal Rules of Criminal Procedure is amended by inserting at the end the following:

(2) The Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

SEC. 784. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out section 782.

SEC. 785. AUTHORITY TO SHARE GRAND JURY INFORMATION.

Rule 6(e) of the Federal Rules of Criminal Procedure is amended by inserting at the end the following:

(2) The Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

SEC. 786. AUTHORITY TO SHARE ELECTRONIC, WIRE, AND ORAL INTERCEPTION INFORMATION.

Section 2517 of title 18, United States Code, is amended by adding at the end the following:

(1) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, as defined under such provision of section 782, to increase the effectiveness of sharing of information between and among Federal, State, and local entities.

(b) SPECIFIED CONGRESSIONAL COMMITTEES.—Each congressional committee referred to in subsection (a) are the following committees:

(1) The Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.

(2) The Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

(c) DISSEMINATION AUTHORIZED.—Section 203(c) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001 (Public Law 107-56, 50 U.S.C. 405d) is amended by adding at the end the following:

(1) the Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

(d) RESOURCES.—The Select Committee on Intelligence shall designate an official to administer this Act at such committee. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person’s official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.

SEC. 787. FOREIGN INTELLIGENCE INFORMATION.

(a) DISSEMINATION AUTHORIZED.—Section 283(d)(1) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001 (Public Law 107-56, 50 U.S.C. 405d) is amended by adding at the end the following:

(1) by adding at the end the following:

(2) The Select Committee on Intelligence

SEC. 788. INFORMATION ACQUIRED FROM AN ELECTRONIC SURVEILLANCE.

Section 10601(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806) is amended by inserting after ‘law enforcement officers’ the following: ‘or law enforcement personnel of a State or subdivision of a State—including the chief executive officer of that State or political
subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision”.

SEC. 789. INFORMATION ACQUIRED FROM A STATE OR POLITICAL SUBDIVISION

Section 305(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1825) is amended by inserting after “law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)”.

Mr. CHAMBLISS (during the reading). Mr. Chairman, I ask unanimous consent that the modification be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Georgia?

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

There was no objection.

Mr. CHAMBLISS. Mr. Chairman, I ask unanimous consent, that unless we have someone rising in opposition, that the gentlewoman from California (Ms. HARMAN) be entitled to the 10 minutes that normally would be claimed by the opposition.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. CHAMBLISS. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, information sharing is the key to cooperation and coordination in homeland security, and better information sharing among government agencies and with State and local agencies needs to be a higher priority.

The idea for this amendment was developed during a series of public hearings which my Subcommittee on Terrorism and Homeland Security held last fall. Witnesses ranging from former New York City Mayor Rudy Giuliani to Oklahoma Governor Frank Keating stressed the importance of increasing the level of information sharing between Federal Intelligence and law enforcement agencies and local and State law enforcement personnel.

Mr. Chairman, information sharing is the key to cooperation and coordination in homeland security, and better information sharing among government agencies and with State and local agencies needs to be a higher priority.

The idea for this amendment was developed during a series of public hearings which my Subcommittee on Terrorism and Homeland Security held last fall. Witnesses ranging from former New York City Mayor Rudy Giuliani to Oklahoma Governor Frank Keating stressed the importance of increasing the level of information sharing between Federal Intelligence and law enforcement agencies and local and State law enforcement personnel.

We must make certain that relevant intelligence and sensitive information relating to our national security be in the hands of the right person at the right time to prevent terrorist attacks.

The gentlewoman from California (Ms. HARMAN) and I introduced the Homeland Security Information Sharing Act, which overwhelmingly passed this House in June. Our bill has strong support from groups such as the National Association of Police Organizations as well as the American Ambulance Association and the National Sheriffs Association.

Our amendment is virtually the same as H.R. 4598. We believe that it is critical that we increase the level of cooperation between State, local, and Federal law enforcement officials. Only by communicating on a more regular basis and sharing more information can we effectively prepare for and defend against future attacks.

In talking to community leaders and emergency responders all across Georgia, I am convinced that we must get this legislation signed into law. We know that joint information-sharing has opened the door to the tragic events of September 11. Our amendment will go a long way toward filling those gaps and helping our law enforcement officials protect us by giving them the tools they need to do their jobs better.

I appreciate the improvements to the amendment that were made by the gentleman from Connecticut (Mr. SHAYS), the gentleman from New Jersey (Mr. MENENDEZ), and others. I urge my colleagues to join me in supporting this very important amendment.

Mr. Chairman, I submit for the RECORD letters of support from the groups I previously mentioned:

AMERICAN AMBULANCE ASSOCIATION,

HON. SAXBY CHAMBLISS,
House of Representatives,
Washington, DC.

DEAR SAXBY: It is with great honor that I send this letter of support to you for your introduction of the Homeland Security Information Sharing Act (H.R. 4598).

As you and I have discussed, the American Ambulance Association (AAA) represents ambulance services across the United States that participate in serving more than 95% of the urban U.S. population with emergency and non-emergency care and medical transportation services. The AAA is composed of individual ambulance operations which serve patients in emergency and non-emergency care, and is comprised of all types of ambulance service providers including for and not for profit, municipal and fire department and hospital based.

Our members greatly appreciate the commonsense approach the subcommittee you chair used in drafting this legislation. Visiting with local ambulance providers about their real needs, and then formulating federal law that is consistent with these needs, is indeed refreshing to us out there on the frontline of providing health care to our communities. As you have identified in your bill, first responders at the state and local level have specific credible threats in order to help prevent and better respond to a terrorist incident. H.R. 4598 would greatly improve the flow of this information and enhance the emergency response system. The focus on local providers and their needs will give first responders and medics the tools and capabilities to better ensure the safety of the American public.

Again, thank you for your tireless efforts and tremendous work in drafting this piece of legislation. You are truly a representative of the people of this great nation. The AAA stands ready to help assist you in anyway to ensure passage of H.R. 4598.

Sincerely, BEN HINSON, President.
As our Subcommittee on Terrorism and Homeland Security Report found last week, information-sharing is the most critical need in our intelligence community and the best way to arm our first responders and average Americans to stop terrorist attacks. What we have in the field, and all of us going home each weekend, from police, fire, emergency responders, and average people is they are receiving all this general information, but they do not know what to do about it.

They need to get more specific threat warning information, stripped of sources and methods so that those without security clearances can get it, the sooner we can reduce panic, empower Americans, and make certain that, to the maximum extent, we prevent attacks, shore up our infrastructure, and respond effectively should they come our way.

So this amendment, I think, is our first tool in the homeland security arsenal. Working today we received the overwhelming support of this body, and it is supported by the White House and by the office of Governor Ridge. It is vital for our hometowns. And as Governor Ridge often says, ‘hometown security without hometown security. I urge support of this amendment.

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

Mr. CHAMBLISS. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Connecticut (Mr. SHAYS), the chairman of the Subcommittee on National Security, Veterans’ Affairs and International Relations of the Committee on Government Reform, a gentleman who has been very actively involved in the issue of homeland security for a number of months, even before September 11.

Mr. SHAYS. Mr. Chairman, I am very pleased to join the gentleman from Georgia (Mr. HARMAN), the gentleman from California (Ms. HARMAN), and the gentleman from New Jersey (Mr. MENENDEZ) in offering this amendment.

Protecting the safety and security of the Nation against terrorist attacks requires absolute unprecedented cooperation between Federal, State, and local agencies. Timely information-sharing is an indispensable element of the Nation’s ability to detect, preempt, disrupt or respond to any terrorist threat. The Committee on Government Reform’s Subcommittee on National Security, Veterans’ Affairs and International Relations has heard repeatedly from State and local officials about the stubborn procedural and cultural barriers blocking access to sensitive information. In particular, elected officials and law enforcement officers have said they need the ability to obtain security clearances in order to get meaningful access to data on terrorist activity.

Whether it is intelligence about terrorist activity at the international level, or criminal history information shared between local jurisdictions, the electronic exchange of information is one of the most powerful tools available to protect our communities. This amendment calls for new procedures to maximize the potential of modern technologies, reduce bureaucratic barriers, and also make sure essential homeland security data flows where it is needed most.

Mr. Chairman, the day is late; we started last evening, and so I would like to just use this time to thank my colleagues, the gentleman from Georgia (Mr. CHAMBLISS) and the gentlewoman from California (Ms. HARMAN) for the incredible job they have done. I also wish to thank the gentlewoman from California (Ms. Pelosi) and the majority leader for the work they have done. I also would like to thank the gentlewoman from California (Ms. HARMAN) and the gentleman from Texas (Mr. THORNBERRY) for the work they did with the gentleman from Florida (Mr. TODD) and the gentlewoman from California (Mrs. TAUSSCHER) on homeland security legislation before it was in vogue.

I am in awe to have had the opportunity to work with these colleagues. I believe we have answered the call of the Nation in responding to the terrorist threat. I know we have a lot of work ahead of us. I am a little troubled by some of the partisan debate that has happened in the past few hours. I was hoping there might be an amendment or two on the side of the aisle that could have accepted during the debates today. But that notwithstanding, this is excellent legislation drafted by people of good will on both sides of the aisle.

I think the President can be proud of what the House will do today. I am certainly proud to have worked with such wonderful men and women on both sides of the aisle.

Ms. HARMAN. Mr. Chairman, I thank my colleagues for their lovely and generous comments, and would inquire of the Chair as to how much time remains.

The CHAIRMAN pro tempore (Mr. SWEEENEY). The gentlewoman from California (Ms. HARMAN) has 1½ minutes remaining, and the gentleman from Georgia (Mr. CHAMBLISS) has 4½ minutes remaining.

Ms. HARMAN. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas (Mr. BONN). Mr. Chairman, I thank the gentlewoman for his kind comments.

Mr. REYES. Mr. Chairman, I yield 3 minutes to the gentleman from Nevada (Mr. GIBBONS), the vice chairman of my Subcommittee on Terrorism and Homeland Security, and also the chairman of the Subcommittee on Human Intelligence, Analysis and Counterintelligence within the House Permanent Select Committee on Intelligence.

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

Mr. GIBBONS. Mr. Chairman, I thank the gentleman from Georgia for yielding me this time, and I do support this amendment.

Mr. Chairman, over the last several years, many of our government organizations, both State and Federal, have handled information-sharing and analysis in vastly different ways, much like various people would in trying to put a puzzle together. For many of these organizations, when they get information, it is like reaching into a bag or box full of mixed-up puzzle parts, grabbing a handful of it, and running into their office to try to put the puzzle together without ever sharing any information with anyone else in another room. Just trying to put it all together all alone. And this has led to information gaps and analytical failures. The so-called Phoenix memo is a perfect example of this type of information hoarding.

I am pleased to support this bipartisan legislation which I believe helps...
Mr. Chairman, I am very pleased that this amendment, which is being considered on the floor today, I commend the gentleman from Georgia (Mr. CHAMBLISS) and the gentlewoman from California (Ms. HARMAN) for their work on this over the long term. This bill passed the floor 412-2. It had been our hope to include it in the base bill that would come to the floor, but it was rejected by a 5-4 vote in the Select Committee. I am pleased that we have another chance for Congress to work its will on this important issue on the floor this evening.

As I have quoted previously real estate, the three most important words are location, location, location. When it comes to homeland security, the three most important words are localities, localities, localities. Our work on homeland security should begin and end in the localities. That is largely where the threat is. That is where the ideas are, and that is where the needs are. The gentleman from Georgia (Mr. CHAMBLISS) and the gentlewoman from California (Ms. HARMAN) have traveled the country having hearings on this subject.

We hear from our experts that information sharing is absolutely essential. They have pled with us to make this part of any homeland security. I want to praise them for the response they have received thus far from Congress, and hope that result will even be better today.

In any event, the need for information is essential for us to reduce risk to protect the American people better, and that is why this is so essential. I hope that we can do it in a department of homeland defense that is technologically maximizing the capabilities of the new technologies, and it will further enable information to be shared to protect the American people.

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

This is the kind of bipartisan debate that this bill, H.R. 5005, deserves. I am pleased that on a bipartisan basis, every single speaker has been for this good idea. I hope our first responders are listening because they are about to be secured. Shared information will empower those responders with critical information that they need to know what to do with it.

Mr. MENENDEZ. Mr. Chairman, I yield the balance of my time to the gentleman from New Jersey (Mr. MENENDEZ), who has shown extraordinary leadership on this issue and the related issues in this bill we are considering today as head of the House Democratic Caucus on Homeland Security.

Mr. MENENDEZ. Mr. Chairman, I commend the gentlewoman from California (Ms. PELOSI), the ranking member on the House Permanent Select Committee on Intelligence, on which I serve, and the Democratic Whip.

Ms. PELOSI. Mr. Chairman, I thank the gentlewoman for yielding me this time, for her kind words, but most of all for her leadership.
effective when it is unclassified, but it protects all of the sources and methods and the work that my colleagues have done in this regard, which is I think exceptionable and is to be commended to the House in that regard.

If that that is why I support this amendment adopted, we can guarantee that information sharing takes place across the Federal Government and then across the landscape of our country from States, counties, and municipalities. With that when we know that information is being shared, we are secure. I urge adoption of the amendment.

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

We are coming to a close of two long days of debate on what is the most major restructuring of the Federal Government that we have seen in 60 years. This is probably the most important piece of legislation that in, my 8 years I have served in this great institution that we will take up and pass. I am very pleased that this particular amendment is going to be included in the bill that is going to be finally passed in this House, because I am told that because of this particular amendment, because we are going to be able to now get information in the hands of local and State officials, law enforcement officials, the folks who are on the front line, the folks like Sheriff Ridge Clavin, Sheriff Bunch Conway, those folks on the front lines are going to have information now to be able to disrupt and stop terrorist activities.

I want to conclude by just commending our President under his leadership, his particular step to take this bold action of restructuring our Federal Government to ensure that our children and our grandchildren are able to live in the same safe and secure society that all of us have enjoyed is a major, major step in the right direction.

This Department of Homeland Security is going to allow us to give our children and grandchildren that safe and secure America. I again thank the gentlewoman from California (Ms. HARMAN) for the gentlewoman’s hard work on this. We have traveled a long trail with this, and it is good that we are coming to a conclusion with it.

Mr. CHAMBLISS. Mr. Chairman, I rise in support of this amendment, which will improve the sharing of relevant terror threat information between federal agencies and local governments and our first responders.

To me, this is the very foundation of our efforts, and the fundamental basis of a sound homeland security and an effective Department of Homeland Security. Since September 11th, I have worked closely with my colleagues to secure funding to equip our first responders, as they are our first line of defense in the fight against terrorism. However, to succeed effectively against terrorist efforts, we must provide our first responders with more than equipment and money. In order to safely and effectively perform their jobs and prevent or respond to a terrorist attack we must share critical homeland security threat information with our first responders and local officials.

I am sure that we have all heard from first responders and local officials in our districts about the need to strengthen lines of communication between federal and local governments regarding Homeland Security information. This amendment directly addresses the concerns that I have heard from Maine officials. The more information provided to them, the better they are able to perform their duties and protect our citizens. Finally, I would like to thank my colleagues for their work on this important amendment.

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

The amendment, as modified, was agreed to.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 27 offered by Mr. WELDON of Florida:

At the end of section 402 (relating to functions transferred) insert the following:

(b) Any security concerns involving the sharing of relevant terrorist threat information in the hands of local and State officials, law enforcement officials, the folks who are on the front line in our districts with our first responders and local officials.

In section 403 (relating to visa issuance) strike subsections (a) through (f) and insert the following (and redesignate subsection (g) as subsection (1)):

(A) Authority:—Notwithstanding the provisions of section 104 of the Immigration and Nationality Act (8 U.S.C. 1104) or any other law, the Secretary shall have exclusive authority to issue regulations with respect to, administer, and enforce the provisions of this Act and all other immigration and nationality laws relating to the granting or refusal of visas.

(b) Transition.—

(1) IN GENERAL.—During the 2-year period beginning on the effective date of this Act, there shall be a transition period. During this period consular officers (as defined in section 101(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9)) of the Department of State and other foreign service officers in the Visa Office, to the extent they are involved in the granting or refusal of visas or any other documents required for entry under section 214(b) of the Act (8 U.S.C. 1104) or the effect of failure to establish eligibility for nonimmigrant status described in such section, are to be detailed to the Department of Homeland Security. A detail under this subsection may be terminated at any time by the Secretary.

(2) MAINTENANCE OF ROTATION PROGRAM.—During the transition period described in paragraph (1), the Secretary of State shall maintain and administer the current rotational program (at least at the employment level in existence on the date of enactment of this Act) under which foreign service officers are assigned functions involved in the adjudication, review, or processing of visa applications.

(3) TERMINATION OF TRANSITION PERIOD.—The transition period may be terminated within the 2-year period described in paragraph (1) by the Secretary after consultation with the Secretary of State.

(c) TRAINING PROGRAM.—The Secretary shall provide for the training of Department personnel involved in the adjudication, review, or processing of visa applications, specifically addressing the following:

(A) The proper role, if any, of foreign nationals in such processing.

(B) Any security concerns involving the employment of foreign nationals.

(C) Whether there are cost-effective alternatives to the employment of foreign nationals.

(d) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report on the findings of the study under paragraph (2) to the Committee on Government Reform, Committee on the Judiciary, and Committee on International Relations of the House of Representatives and the Committee on Governmental Affairs, Committee on the Judiciary, and Committee on Foreign Relations of the Senate.

(e) LEGAL EFFECT.—

(1) IN GENERAL.—(A) The proper role, if any, of foreign nationals in such processing.

(B) Any security concerns involving the employment of foreign nationals.

(C) Whether there are cost-effective alternatives to the employment of foreign nationals.

(D) The burden of proof placed upon persons making application for a visa or any other document required for entry under section 214(b) of the Act (8 U.S.C. 1104) or the effect of failure to establish eligibility for such visa or other document described in such section.

(E) NONREVIEWABILITY.—No court shall have jurisdiction to review any decision or refusal of a visa by the Secretary or a designated officer of the Secretary.

(f) REFUSAL OF VISAS AT REQUEST OF SECRETARY OF STATE.—Upon request by the Secretary of State, the Secretary of Homeland Security shall refuse to issue a visa to an alien if the Secretary of State determines that the refusal is necessary in the interests of the United States.

(g) REVIEW OF PASSPORTS ISSUED TO AMERICAN OVERSEAS.—The Secretary shall have the authority to review requests for passports by citizens of the United States living or traveling overseas.

(h) CONFIRMING AMENDMENTS.—Section 104 of the Immigration and Nationality Act (8 U.S.C. 1104) is amended to read in part—

(1) In subsection (a), by striking “conferred upon consular officers” and inserting “conferring upon the Secretary of Homeland Security”.

(2) In subsection (c)—

(A) in the first sentence, by striking “, a Visa Officer,” and

(B) in the second sentence, by striking “Directors of the Passport Office and the Visa Office.”
Office" and inserting "Director of the Passport Office, and the head of the office of the Department of Homeland Security that administers the provisions of this Act and other immigration and nationality laws relating to the granting or refusal of visas.

(3) By striking subsection (e).

The CHAIRMAN pro tempore. Pursuant to the instructions of the gentleman from Florida (Mr. WELDON) and the gentleman from California (Mr. LANTOS) each will control 10 minutes.

The Chair recognizes the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, why are we passing this bill? Why are we creating this Department of Homeland Security? As I see it, we are doing it because if we are ever attacked again, we want to be able to respond better; but more importantly, we never want to be attacked again. We also believe that this is going to be a very long fight. Why else would we put all of the intelligence agencies and the military under one agency? Why else are we putting them all under Homeland Security? We certainly would not be doing this if we thought that this was just going to last for a few short years.

It is important to note that this is not just an issue of protecting real estate, although the damage to the Pentagon and the loss of the Twin Towers hurt us, and hurt us badly. What hurt us much, much more is the loss of lives. I knew someone who was killed at the Pentagon. Many Members knew people as well. Thousands of innocents are dead. We all agree, never again do we want to see Americans killed like we did on 9/11. I ask Members, what is the single most effective thing that we can do to prevent another terrorist attack on American soil? I think the answer is obvious. Never let another terrorist into our Nation, a difficult task, granted, but nothing less than that should be our goal. The mandate.

I ask Members, what are we doing in this bill to respond to this mandate? Well, we are moving border patrol and INS into homeland security. We are moving the Customs Service, the Coast Guard, even APHIS. Why are we leaving the State Department's visa office, the very agency responsible for issuing all 19 of the September 11 terrorist visas, why are we leaving them out of the new department?

Many of the Rep. H. have some of the reasons from some of the opponents to my amendment. I want to make two important points. We may hear that Colin Powell will be able to reform State's troubled visa office and give homeland security the priority it needs. Colin Powell is not going to be there forever. Deciding who we let into this country is arguably the most important homeland security function of all. Why leave this in the hands of diplomats? We may be fighting this battle for decades. The present foreign service officers - I mean the officers and employees of our government by Harry Truman provided the tools that were used throughout the Cold War by all Presidents who followed, Democrat and Republican alike. Should we leave the visa office out of the Department of Homeland Security simply because today we have a very capable person who understands security at the Department of State?

I say that is not a valid reason. I will tell Members another reason why many people are fighting to move the Office of Visa Issuance into the Department of Homeland Security. The office next year will generate $630 million for the State Department. They do not spend that much money.

Concerns about jurisdiction and money must not prevent us from doing what is best for our Nation. This amendment transfers the visa function to the Department of Homeland Security where it belongs, and provides singular management of the visa process. It allows for a 2-year transition period during which those foreign service officers currently on the visa line will remain there, and the State Department can continue to perform its mission.

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

Mr. LANTOS. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE of Illinois. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida (Mr. KELLER).

Mr. KELLER. Thank you.

Mr. HYDE. Mr. Chairman, this is a bipartisan bill which has been approved by the Committee on Homeland Security. The training, the regulatory power, the authority, the running of the whole operation is turned over to Homeland Security. But the ministerial work out in the field, in the 200 offices around the globe, is left with the Foreign Service Department of State because they have the experience, they know what they are doing, and they are in place. It would take 2 years to replace them all. I do not know where you would get the people to replace them.

This is not going to work. You are not helping Homeland Security by giving them this monumental task which has little to do with homeland security.

I do not ask that the gentleman reconsider. I know that is not going to happen, but I hope that his amendment is defeated and this compromise that has been worked out with the administration and with four standing committees is not upset.

Mr. WELDON of Florida. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida (Mr. KELLER).

Mr. KELLER. Thank you.

Mr. HYDE. Mr. Chairman, this is a simple issue. There are 12 million, give or take, applications for visas every year submitted around the world. There are about 200 stations around the world where foreign service officers process those applications for visas. What the gentleman from Florida wishes to do is to take the issuing of the visas, the administrative function, 12 million of them every year, and put them in the Homeland Security Department. I am suggesting that that is impractical, that it is not going to work.

You are not doing the Homeland Security Agency any favor by dumping an administrative task in their lap. The present foreign service officials have done, for the most part, a very good job, although I will agree with the gentleman from Florida, we do need some changes. This is not status quo. The gentleman from California (Mr. LANTOS) and the gentleman from California (Mr. Berman) are cosponsors of this bipartisan bill which has been approved by the Committee on the Judiciary, the Committee on International Relations, the Committee on Government Reform, and the Select Committee on Intelligence.

What we do is we do turn over the administration of the office to the Homeland Security. The training, the regulations, the power, the authority, the running of the whole operation is turned over to Homeland Security. But the ministerial work out in the field, in the 200 offices around the globe, is left with the Foreign Service Department of State because they have the experience, they know what they are doing, and they are in place. It would take 2 years to replace them all. I do not know where you would get the people to replace them.

This is not going to work. You are not helping Homeland Security by giving them this monumental task which has little to do with homeland security.

Mr. LANTOS. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Chairman, I reserve the balance of my time.
Mr. Chairman, I rise in strong opposition to the Weldon amendment and I ask unanimous consent to revise and extend my remarks. Mr. Chairman, Chairman HYDE and I worked together on a bipartisan basis on H.R. 5005 with other members of the International Relations Committee to propose a rational plan relating to visas. This provision is now in section 403 as reported by the Select Committee. Under our proposal, the Secretary of Homeland Security would have exclusive authority to set visa policies and consular officers will continue to process the visas. The Secretary of Homeland Security can overturn decisions of consular officers to grant a visa, alter visa procedures now in place, and can develop programs of training for consular officers. In addition, our proposal would allow Homeland Security employees to be assigned abroad to review cases that present homeland security issues and deal with homeland security issues that arise abroad.

I am very pleased that the White House has announced its support for this proposal, and that in addition to the Select Committee, all three other House committees that considered it adopted virtually the same amendment. Moreover, I understand that Governor Ridge and Mr. Weldon will allow the Homeland Security employees to perform their homeland security mission. By authorizing the presence of Homeland Security officers in our overseas posts to identify and deal with homeland security issues, Section 403 has offered the best protection for our homeland security.

Do not upset this balance. Oppose the Weldon Amendment. Mr. Chairman, I reserve the balance of my time.

Mr. WELDON of Florida. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Colorado (Mr. TANCREDO).

Mr. TANCREDO. Mr. Chairman, many of our colleagues have come to the floor today to express their deep commitment to doing everything that can be done to ensure the protection of the American people. It is a laudable sentiment, but one that rings hollow when juxtaposed against the fact that today our borders are just as porous when juxtaposed against the fact that today our borders are just as porous when juxtaposed against the fact that today our borders are just as porous. We have done everything we can do, but that would be far from the truth. Just last week a television program documented the ease with which human smugglers illegally bring people into the United States, including potential terrorists. This is 10 months after September 11. This situation will improve only marginally by the creation of this new agency, and that is because of only one thing. It is the consolidation of the various border enforcement activities that now reside in a myriad of Federal agencies, each one operating within a vacuum, with little if any communication between and among them. But even this effort is being crippled because perhaps the most moribund of all our agencies, namely the Department of State does not want to give up a responsibility that they have so disgracefully failed to uphold.
We have heard the horror stories, but it is not all due to just incompetence. Much of the slippshod process is a result of a culture within the Department of State. Consular officials are told that their primary responsibility is to treat every applicant fairly as a ‘visa customer’ and to expedite the process as quickly as possible with as little inconvenience to the ‘customer’ as possible. Hence, most interviews are completed literally in seconds. Of course, some of those customers show no inclination for this consideration by crashing airplanes into our buildings.

Even today, attempts to enforce security standards are resisted by the State Department. In Mexico, consular officials today have been told to ignore FBI requests to fingerprint and record all applicants on particular watch lists. They are told that it would take, quote, “too much time.”

I ask you, if you were leaving home at night, would the State Department be the type of neighbor with whom you would leave the keys to your house? Vote for the Weldon amendment.

Mr. WELDON of Florida. Mr. Chairman, I am delighted to yield 1 minute to the distinguished gentleman from California (Mr. BERMAN).

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

Three points: first, the logic of the amendment from the gentleman from Florida is simple. Consular employees, State Department consular employees have granted visas to bad people. They have made mistakes. Therefore, eliminate them. Eliminate the State Department role. Under that logic, the CIA should be taken out of intelligence-gathering because they didn’t know that Iraq was developing nuclear weapons during the 1980s. The central office of the FBI should be collapsed because that act on the Phoenix and Minneapolis offices regarding suspicious activities fast enough to warn us about September 11. I would suggest that for 2 days we have been debating amendments with arguments tossed back and forth. “Listen to the committees of jurisdiction, they have expertise.”

“Defer to the administration, they know what is best.”

“Take the approach of the Special Committee on Homeland Security because they have the right synthesis.”

Well, in this case the administration, the three committees of jurisdiction, and the Special Committee on Homeland Security have considered the gentleman’s amendment and have rejected it. Moreover, had the other gentleman from Florida (Mr. KELLER) talked the amendment from Florida (Mr. WELDON), I am sure he would have learned that in the case of Saudi Arabia, the Weldon amendment, the other Weldon amendment, exists in this bill that says as to Saudi Arabia visas, someone from Homeland Security has to make every single interview in this context.

In this bill, policies, training and ultimate final decisions are made by the Department of Homeland Security but do not try to re-create, because you will not be able to, an incredible bureaucracy of language-trained people in many countries to do this process. It will fall on its face.

This compromise is the sensible compromise. I urge the amendment be rejected.

Mr. WELDON of Florida. Mr. Chairman, may I inquire who has the right to close?

The CHAIRMAN pro tempore (Mr. Sweeney). The gentleman from Florida, the proponent of the amendment, has the right to close.

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

Mr. LANTOS. Mr. Chairman, I am delighted to yield 1 minute to the distinguished gentleman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Mr. President, I want a Homeland Security Department, but I want a deliberative and thoughtful process. I thank the ranking member. I thank the gentleman from California (Mr. BERMAN), and the gentleman from Illinois (Mr. HYDE) for a thoughtful process. This is the way to have this work effectively.

How does it work? First, it gives the Homeland Security officers authority to oversee the visa process. Those officers can actually refuse visas and develop programs for training the consular offices. But at the same time, we do not throw away the expertise of the State Department and all the expertise of our outstanding foreign service staff persons who deal with diplomacy every day, who speak the language and the culture. We keep the employees in the State Department, but the hard-line rules and the instructions and the way to protect us and the security direction is with the Department of Homeland Security. I believe the Weldon amendment will undermine this expertise and will take us further away from being secure; and it should be defeated and we should keep the language and the format as it is in the bill.

Mr. President, I want a bill, but I want it to be deliberative and effective on behalf of the security of the American people.

As the ranking member of the Judiciary Subcommittee on Immigration, Border Security and Claims, I, like many others in this body, have sat through many a hearing and markup about the creation of the Department of Homeland Security (DHS). At every hearing and every markup that I have attended regarding the DHS, visa processing has been a contentious and difficult issue. There are the State Department for its role in the events of September 11.

Yes, we all know that the nineteen terrorists who attacked the U.S. on this infamous date, traveled to the United States on legally issued visas. What they fail to realize, however, is that the consular agents who man the front lines of the war on terror and interview and verify the rules upon which visa processing, have no way of knowing that a visa applicant is a terrorist, but for the information they are provided about the applicant through the FBI, CIA or other organizations and institutions that make up the Intelligence Community in the United States, I distinctly recall the testimony of the Under Secretary for Management at the State Department before my Subcommittee. He unflinchingly stated that “There is no way, without prior identification of these applicants as terrorists through either law enforcement or intelligence channels and the conveyance of that knowledge to consular officers abroad, that we could have known [the terrorists] intention.” I would underscore this point by adding that the largest of these intelligence organizations, we all know who they are, are not even a part of the newly created DHS.

I, for one, find the prospect of placing the entire visa issuance function, currently the responsibility of the State Department, within the exclusive authority of the Secretary of Homeland Security troubling. Everyday, in consular posts around the world, issues arise as to how a policy or regulation should apply in a specific case. Cases often turn on questions that have a significant impact on U.S. foreign policy interests, U.S. business interests, or the American values of family unity and human rights protection. The Secretary is simply re- side within the expertise of the State Department and should be resolved in consultation with it.

During, the Judiciary Committee’s markup of its recommendations for the Department of Homeland Security, my colleagues Mr. HYDE and Mr. BERMAN, offered an amendment that addresses these important issues. I spoke in favor of the provisions of the Hyde-Berman amendment and I do the same today as it is currently the prevailing language of H.R. 5005. This amendment provides that any provision of the visa issuance function be carried out by State Department employees under the policy and regulatory guidance of the DHS. I had planned to offer an amendment creating a fifth division of the DHS. My amendment includes the Hyde-Berman Amendment language.

The Weldon amendment is opposed by the White House and Secretary of State Powell and is contrary to the bipartisan decision of the four House Committees that considered this issue, including the Select Committee. If passed, the amendment would strip authority of the Secretary of Homeland Security from the task of securing the United States by forcing the new Department not only to absorb all the agencies described in H.R. 5005, but also to create a whole new bureaucracy and career track for processing between 10 and 12 million visa applications a year—of which the overwhelming majority are from bona fide tourists, business people, and relatives of U.S. citizens who pose no danger to homeland security.

The House International Relations, Judiciary and Government Reform Committees considered this issue and determined that the visa function should remain with the State Department, which will act under the guidance of the policies and regulations developed by the new
Mr. LANTOS. Mr. Chairman, I yield myself my remaining time.

Mr. Chairman, my colleagues have made all the arguments but one: Buying into the Weldon amendment would incur a vast and indeterminable cost in building a gigantic overseas bureaucracy to perform administrative functions. Homeland Security has full authority to reject any visa application they choose. The State Department officers must continue to issue visas. I ask all my colleagues to reject this ill-advised amendment.

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

Mr. WELDON of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this body passed a bill creating a large bureaucracy to protect our airline security, so the argument that was just made, as far as I am concerned, is not really valid, particularly when you look at the fact that I do not create a new bureaucracy. I transfer the visa office to the Department of Homeland Security.

What will happen if we do that? Well, some of the Department of State personnel will stay on in the new Department of Homeland Security, because they have been doing visa issues for years, and then the Department of Homeland Security will have to hire new people.

The important thing they will do is they will hire people who are trained more like police officers, that have more security in mind. The people who are currently occupying these positions essentially are people who are interested in becoming diplomats. Is that the right thing? Do we want the people who screen who comes in to be people who really want to do diplomatic and economic policy?

Finally, I want to say one important thing about the current supposed compromise. Under current law, the Justice Department under the Attorney General defines policy for visa issuance and the State Department carries it out. Under this supposed compromise, the Department of Homeland Security will define these policies and the State Department will carry it out.

I do not see the current language as going obviously far enough. In committee I managed to get an amendment through that at least gave the Department of Homeland Security Secretary the authority to deny visas, which I would have to say is somewhat of an improvement. But it simply does not go far enough.

The most effective thing we can do is transfer the visa office. I ask my colleagues again, why are we moving all of these other functions into the Department of Homeland Security and leaving this vital function out? I was in Afghanistan and if you deploy to the field, protecting your perimeter was the most important thing. If you could not do that, you were not going to be able to be a fighting force. Protecting our borders is the most important thing; Vote yes on the Weldon amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, as the ranking member of the Judiciary Subcommittee on Immigration, Border Security and Claims, I, like many others in this body, have sat through many a hearing and markup about the creation of the Department of Homeland Security (DHS). At every hearing and every markup that I have attended regarding the DHS, visa processing has been a contentious and difficult issue. There are the State Department for its role in the events of Sept. 11.

Yes, we all know that the nineteen terrorist who attacked the U.S. on this infamous day, traveled to the United States on legally issued visas. What they fail to realize, however, is that the consular officers are on the front lines of the war on terror and interview and carry out the rules which govern visa processing, have no way of knowing that a visa applicant is a terrorist, but for the information they are provided about the applicant through the FBI and the CIA and the agencies and institutions that make up the Intelligence Community in the United States. I distinctly recall the testimony of the Under Secretary for Management at the State Department before my Subcommittee. He unflinchingly stated that “There is no way, without prior identification of these [applicants] as terrorists through either law enforcement or intelligence channels and the conveyance of that knowledge to consular officers abroad, that we could have known [the terrorists] intention.” I would underscore this point by adding that the largest of these intelligence channels we all know who they are, are not even a part of the newly created DHS.

I, for one, find the prospect of placing the entire visa issuance function, currently the responsibility of the State Department, within the exclusive authority of the Secretary of Homeland Security troubling. Everyday, in consular posts around the world, issues arise as to how a policy or regulation should apply in a specific case. Cases often turn on questions that have a significant impact on U.S. foreign policy, immigration, and national security. Consular officers are in the front line of the war on terror and the DHS, unfortunately, are not.

During the Judiciary Committee’s markup of its recommendations for the Department of Homeland Security, my colleagues Mr. HYDE and Mr. BERMAN, offered an amendment that addresses these important issues. I spoke in favor of the provisions of the Hyde-Berman amendment and I do the same today as it is currently the prevailing language of H.R. 5005. This bill provides that the administration of visa issuance function be carried out by State Department employees under the policy and regulatory guidance of the DHS. I had planned to offer an amendment creating a fifth division of the DHS. My amendment includes the Hyde-Berman Amendment language.

The Weldon amendment is opposed by the White House and Secretary of State Powell contrary to the bipartisan decision of the four House Committees that considered this issue, including the Select Committee. If adopted, the amendment will distract the Secretary of Homeland Security from the task of securing the United States by forcing the new Department not only to absorb all the agencies described in H.R. 5005, but also to create a whole new bureaucracy and career track for processing between 10 and 12 million visas applications a year—of which the overwhelming majority are from bona fide tourists, business people, and relatives of U.S. citizens who pose no danger to homeland security.

The House International Relations, Judiciary and Government Reform Committees considered this issue and determined that the visa function should remain with the State Department, which will act under the guidance of the policies and regulations developed by the new Department of Homeland Security. Transferring exclusive policy and regulatory authority over visa issuance to the Secretary of Homeland Security will put security concerns at the forefront of visa decisions without losing the talent, training and experience of consular officials currently serving at the State Department.

Mr. Chairman, I urge my colleagues to oppose the Weldon Amendment.

Mr. WELDON of Florida. Mr. Chairman, it would be my suggestion the gentlewoman take her 5 minutes of rule XVIII, further proceedings on the amendment will be postponed.

Mr. ARMEY. Mr. Chairman, I ask unanimous consent to speak for 1 minute.

Ms. PELOSI. Mr. Chairman, I rise to speak to inquire of the distinguished majority leader how he would like to proceed.

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

Ms. PELOSI. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Chairman, we have come to the conclusion now of the consideration of all our amendments. We will soon move on to votes. The gentlewoman from California may note that under a previous unanimous consent request, both she and I will be recognized for 5 minutes to speak out of our appreciation of the process and our colleagues.

Mr. Chairman, it would be my suggestion the gentlewoman take her 5

Mr. WELDON of Florida. Mr. Chairman, I demand a recorded vote.
minutes and then, as has been my custom, I will cling to the last word.

Ms. PELOSI. Mr. Chairman, reclaiming my time, if I may further inquire of the distinguished majority leader, would it then be the intention that we would move to the votes and any other business before we move to final passage?

Mr. ARMEY. The gentlewoman is right.

Ms. PELOSI. Mr. Chairman, would the gentleman like to shed any light on the schedule for the remainder of the evening?

Mr. ARMEY. Mr. Chairman, if the gentlewoman will continue to yield, we will soon be completing this bill. I would guess we would probably go to the bankruptcy conference report that so many of us have waited upon with such great expectations. Then, other business make itself available after that, we would be prepared. I would like Members to be prepared to work until sometime later in the evening, but that we should conclude our work before we adjourn tonight’s session and be available, I think, for first flights in the morning.

Ms. PELOSI. Mr. Chairman, I thank the gentleman from Texas (Mr. Arney) for his kind words. I think the bipartisan staff of the standing committee, as well as of the committees of jurisdiction, who worked very, very hard over the past few weeks. Personally I want to commend on my own staff Carolyn Bartholomew, George Crawford and Nathan Barr for their good work; Kristi Walseth of the staff of the gentleman from Connecticut (Ms. Delauro), and as I say, all of the staff of the standing committee.

Mr. Chairman, we are gathered here today to honor a compact that our government has with the American people, and that compact is to provide for the common defense. It is embodied in our Constitution and our civil liberties, and that is what we set upon to do in this legislation.

On September 11, our country was attacked in a way that was unimaginable up until that time, and is unforgettable. President Bush has visited Ground Zero in New York, the Pentagon or the crash site in Pennsylvania knows that they have walked on hallowed ground. Indeed, in our work here today and in the past few weeks, we, too, are on hallowed ground. We have a solemn obligation to those heroes who died as martyrs to freedom and to their families to respond in a way that reflects the greatness of our country. That greatness, again, calls for protecting our country and our civil liberties in the best possible way.

Mr. Chairman, I am sad to report that I do not think that the legislation before us meets that standard. We have tried to find common ground, and where we found agreement, we resolved differences. But on some issues that are fundamental to us on both sides, we could not find agreement.

We are in a stage of the legislative process where we hope that, as we go forward, we will be able to resolve some of these differences further, so that at the end of the day we will have bipartisan agreement on the Department of Homeland Security, which we all agree need new direction, and that we have the bipartisan agreement over what form it should take.

I myself had hoped that we could present to the American people a Department of Homeland Security that was lean and of the future, not a monstrous bureaucracy of the ‘50s that would have been obsolete even then. I had hoped that this new lean department would, instead of bulk, capitalize on the technological revolution in order to achieve communication and coordination.

I had hoped that the Secretary of Homeland Security would be able to coordinate functions, rather than have to manage and administer staff. Indeed, the very size of this Department is alarming. It will have, by low estimate, 170,000 employees, and the Government Accounting Office says it may even have 200,000 employees.

Mr. Chairman, there are 85,000 jurisdictions in the United States, cities, towns, municipalities, governments, and only 120 of them, of the cities in our country, have a larger population than the Department of Homeland Security. Salt Lake City, Utah, Providence, Rhode Island, Portsmouth, Maine, Reno, Nevada, I name a few, are smaller in their population than the Department of Homeland Security will be.

I am sad that in the bloated bureaucracy that undermines the civil service, that gives unlimited immunity even to wrongdoers is the best way to protect the American people.

I am very concerned about the liability provisions, the total immunity given to businesses, even those guilty of fraud and wrongdoing. Unlimited immunity. We had a nice alternative, a good alternative that the business community agreed to offered by the gentleman from Texas (Mr. Turner) which lost by one vote on the floor. I hope that we can revisit that issue.

So I put it to my colleagues. Is it your judgment that a bloated bureaucracy that undermines the civil service, that gives unlimited immunity even to wrongdoers is the best way to protect the American people?

As my colleagues know, our tragedy started at the airports, Mr. Chairman, and in this legislation, there is protection for the very kinds of security companies that were a part of the problem to the need for a strong Office of Homeland Security in the White House.
to begin with. Not only are we not trying to improve the situation, we are protecting the wrongdoers very specifically.

So as my colleagues can see, I have some concerns about the bill. It does not mean I have some concerns about the leadership of the Department that is about to be the Department of Homeland Security. We all hope that in working together through the rest of the legislative process, we can come closer to a department that will do the job. What we have created is a department that the majority leader for accomplish his mission and producing a plan that upheld the President’s vision and brought us to a safer, stronger America. Members were right to keep a sharp eye against any measure that would cripple our effort. We simply could not afford to invest this new Department with the inefficiency that hobbles much of the Federal bureaucracy. This is a reorganization that we can be proud of, a reorganization that will ensure our security at home.

Mr. ARMEY. Mr. Chairman, as we saw earlier, on June 18, the President of the United States sent up here a request for legislation to create a Department of Homeland Security which we all recognize to be a daunting task. On the very next day, on June 19, this body enacted resolution 449, which established the Select Committee on Homeland Security and the procedure by which we would act upon the President’s request. In just these few short weeks, all 12 of our standing committees were asked to do their work. The Select Committee has done its work and it has been done judiciously and comprehensively, with a sense of focus on this Nation’s security that demands and commanded our respect.

The Select Committee on Homeland Security was privileged to have the work of these 12 different committees and to work with that work, and I hope with all of my heart that that which we brought before this body tonight justifies the quality of commitment that we have acted judiciously and comprehensively, with a sense of focus on this Nation’s security that demands and commanded our respect.

Let me, if I may, talk about a few people in addition to, of course, our standing committees, those members of the President’s administration and those staff that worked with us on that 12 committees. We will vote on that in a minute, but one thing is for certain. By the time we take a final vote tonight, every Member of this body will know: I had my say, I had my influence, I had my input, and I have a part of what we produced here.

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and I think you all will agree, with consideration and charm.

Margaret Peterlin served as the Select Committee on Homeland Security’s general counsel, and she has been my right-hand man. Margaret worked day and night, and we may have, I say to myself, have learned the days around here, but Margaret Peterlin owned the nights and she kept everything on hand, and everybody enjoyed working through her good cheer and her kindness.

Stephen Headmaker, you even worked through your birthday, Stephen, bless your heart, as the Select Committee on Homeland Security’s chief counsel. He came to us from the House Committee on International Relations and his expertise was outstanding, and we now know your secret, Mr. Chairman, why your committee produces such quality work.

Hugh Halpern served as the Select Committee on Homeland Security’s Parlak. Hugh took an early leave of duty from the House Committee on Financial Services to serve with the Select Committee on Homeland Security, and he sat at my side through some of the difficult things and I admired why the gentleman from Ohio (Chairman Oxley) looks so good in committee. I hope I look nearly as good. But for the extent to which I may or may not have it, it was Hugh that made it possible for me to not look as bad as I could have.

Kim Kotlar served as the senior professional staff member. Kim came to the Select Committee on Homeland Security from the office of one of our brightest stars in this Chamber, my good friend, the gentleman from Texas (Mr. Thornberry), long before September 11. The gentleman from Texas (Mr. Thornberry) was on the job on this deal, and Kim obviously is the brains of that, and she has been so sharp with us.

Richard Diamond served as the Select Committee on Homeland Security’s Press Secretary. Richard first started in my Texas office, he has done so many things, but he is, I say to my colleagues, the conscience of the conservativ when it comes to basic foundation human rights. In my office, Richard is my guy. He is the one that spots the transgressions and calls them to my attention.

Joanna Yu overcame an educational handicap as a Princeton graduate. Joanna has worked so hard as the select staff member providing support to all of our general efforts.

Michael Twinchek from the House Committee on Resources served as clerk for the Select Committee on Homeland Security. Mike kept our hearings and markup running smoothly, and proved that it was not just the chairman that knew how to mispronounce a name.

Willy Moschella, as counsel from the Committee on the Judiciary to the Select Committee on Homeland Security, was a vast resource for us.

I would also like to thank members of the majority leader staff who pitched in to help. Liz Tobias and Tiffany Carper who helped to plan, organize, and implement our grueling days of hearings and markup. Terry Holt, who served double duty on the press front, also do believe helped the notion to see and appreciate what it is we were trying to accomplish. Those are just a few of the people I might mention.

Let me say what it is I think we tried to do, all of us working together. The need for a Select Committee on Homeland Security to work with the President’s proposal and the 12 committees of jurisdiction and the Members of this body to create a Department of homeland defense was born out of one of the most horrible moments of terror in the history of this Nation.

1930

It was certainly the most in any of our lifetimes. But we believed that we could rise beyond that. America is a great Nation that refuses to have its future and its expectations about its future defined by its fears. We believe that we have helped to craft a department of this government that will focus the resources of this government on our safety and on our security, on the defeat of villainy, so thoroughly well that this great Nation can get back to its business of living by its greatest expectations, its hopes, and dreams.

Should we have done that right, Mr. Chairman, we will look back some day and we will say, we had a hand in that, and are we not proud.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore (Mr. Sweeney). Pursuant to clause 6 of rule XVIII, proceedings will now resume on the pending business is the demand for a Select Committee on Homeland Security, amendment No. 25 offered by the gentleman from Minnesota (Mr. Oberstar).

AMENDMENT NO. 25 OFFERED BY MR. OBERSTAR

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

RECORDED VOTE

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

The vote was taken by electronic device, and there were—ayes 211, noes 217, not voting 5, as follows:

[Roll No. 362]

AYES—211

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The vote was taken by electronic device, and there were—aye 188, noes 240, not voting 5, as follows:

[Roll No. 363]

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Mr. SCHAKOWSKY.

The CHAIRMAN pro tempore (Mr. SWEENEY). The pending business is the demand for a recorded vote on the amendment No. 24 offered by the gentleman from Illinois (Ms. SCHAKOWSKY) on which further proceedings were postponed and on which the noes prevailed by voice vote. The Clerk will redesignate the amendment.

RECORDED VOTE

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

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.
Mr. TURNER, Mr. FOSSIELLA, and Mr. ADERHOLT changed their vote from "no" to "aye," so the amendment was rejected. The result of the vote was announced as above recorded.

AMENDMENT 27 BY MR. WELDON OF FLORIDA

The CHAIRMAN pro tempore (Mr. SWEEENEY). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Florida (Mr. WELDON) on which further proceedings were postponed and on which the noes prevailed by voice vote. The Clerk will redesignate the amendment. The Clerk redesignated the amendment.

RECORDED VOTE

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

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 118, noes 309, not voting 6, as follows: [Roll No. 365]
Mr. MURTHA. Mr. Chairman, I yield myself the balance of my time.

I am willing to withdraw or not ask for a vote after we hear the explanation from the gentleman from Kentucky (Mr. ROGERS).

Mr. ROGERS of Kentucky. Mr. Chairman, I claim the time in opposition.

The CHAIRMAN pro tempore (Mr. SWEENEY). The gentleman from Kentucky (Mr. ROGERS) is recognized for 5 minutes.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment simply tries to use the template, the model, of the Nation’s drug interdiction program which is coordinated in two different places, in Key West, Florida, for the east side, South America, and the Caribbean, and Alameda, California, for the West Coast, Mexico and South America.

These centers are under no one’s command. These are voluntary, governmental agencies that cooperate together in those centers under a memorandum of understanding. It is not controlled by anyone. Yet in those centers, and I recommend that Members visit them, we see the Nation’s military, our civilian agencies, our intelligence agencies, in a boiler-room operation, all working 24 hours a day, 7 seven days a week, receiving intelligence from all sorts of places, and then acting on it with whatever resource may be available from whatever agency of the government that may be on the scene.

Now, they recognize posse comitatus; military is only used offshore. If there is a domestic or civilian aspect of what they do, they turn to the proper domestic civilian authorities, the sheriffs, the police departments, and so on. So there is a high recognition of posse comitatus there. This amendment requires if the secretary sets up such an operation, that he must model it after those models that I mentioned, which recognize posse comitatus.

Number two, the underlying bill in the manager’s amendment reaffirmed that we are operating under posse comitatus, that we are operating under posse comitatus. All civil liberties are completely protected under this amendment. The amendment grants no new authorities or powers to the components of the proposed task force, recognizing the existing Posse Comitatus Act.

Number two, we wrote this amendment so it is even permissive. We do not direct the Secretary to do this. He may if he chooses; but if he does, he must recognize posse comitatus. If Members believe that the war against foreign terrorism must be coordinated, then Members should be for this. There is no better model that we have than...
what exists in Key West and Alameda, which can easily be transferred if the secretaries deems necessary to the fight against foreign terrorism.

Mr. Chairman, I appreciate the concerns of the gentlemen who have expressed their reservations. It is too bad we have to debate this last night at 12:30 or 1 in the morning. We had 5 minutes, and it was too bad that the gentleman was busy in his home district in Pennsylvania. If the gentleman has questions about it, I will be happy to answer by whatever means the gentleman deems necessary.

The CHAIRMAN pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MURTHA).

The motion was rejected.

Mr. OXLEY. Mr. Chairman, I rise today in strong support of H.R. 5005 and the hard work of the Select Committee on Homeland Security. By creating the Department of Homeland Security, we send a clear message to the world that the United States will not sit idly by while our enemies plot against us. It is critical that we quickly approve this legislation in order to ensure that the President has the tools necessary to protect our citizens from evil acts perpetrated by those who hate our free and open society.

The creation of a Department of Homeland Security is a logical and necessary step. There are over 100 different federal agencies which are charged with protection of our borders. By consolidating this collection of bureaus into a single Department, we will eliminate duplication of effort and conserve resources.

As Chairman of the Financial Services Committee, I have reviewed the Committee’s jurisdiction over three programs within the Federal Emergency Management Agency that would become the responsibility of the new department. These programs are: the National Flood Insurance Programs, the Defense Production Act, and the Emergency Food and Shelter Program. FEMA’s mission is to prevent, prepare for, respond to and recover from disasters of all types. The Financial Services Committee believes that FEMA’s expertise in consequence management is critical to the function of the proposed Office of Homeland Security and that all of these programs should remain within FEMA at this time.

I commend the Committee’s proposal to move the United States Secret Service to the new Department and maintain it as a “distinct entity” outside the four major jurisdictional cylinders established under the new Secretary. The long dual-role history of the Service—investigation and law enforcement—clearly message to the world that our borders must be protected.

In carrying out this mission, the Department of Homeland Security will perform a host of front line enforcement activities. Activities that should reorganize the INS by placing enforcement functions within the new Department of Homeland Security and leaving the immigration services functions in a different Cabinet-level department—the Department of Justice. Although we would further by consolidating all the immigration services that are shared by the Department of Justice and the Department of State, this bill does most of what I proposed and is needed to make our immigration system work.

Some have argued in the past that the two functions—enforcement and services—are complementary and must be coordinated by a single government official. But this concept was tried for decades through a failed experiment known as the INS, and has caused great harm. We cannot make the same mistake again. The price is too high as we wage our war on terrorism.

As we create this new Cabinet department, we must give the highest priority to ensuring that the responsibilities given to the Undersecretary for Border and Transportation are not assigned based simply on the current structure of the affected bureaucracies. The various agents and inspectors at a port-of-entry today, such as Customs officials, INS officials, Transportation officials, and Agriculture officials, will all be “Homeland Security officials” with the same management, same uniform, same communication and information networks, and the same policies and guidelines.

We should not maintain the current bureaus separately within the new Bureau for Border and Transportation Security. It is essential that all these border functions be fully consolidated under the same, seamless management structure. Of course, the consolidation of the many agencies along the border will take time, but the bill before us today moves us significantly toward this vision.

Finally, I am pleased that the Select Committee on Homeland Security’s recommendation would keep the statutory authority for revenue collecting with the Department of Treasury, while transferring law enforcement and trade responsibilities exercised by the existing Customs Service to the Department of Homeland Security. However, we must not diminish the capability of the Customs Service to carry out its diverse missions. Trade responsibilities that Customs should be separated from the enforcement activities. Among them, what should remain at the Department of Treasury or be shifted to the U.S. Trade Representative’s office include: rulings; legal determinations and guidelines relating to classification and value of merchandise; and the responsibility for identifying and planning for major trade issues.

Trade is a critical component of the U.S. economy. The flow of imports and exports contribute enormously to our economic growth as well as that of the global economy. We should not assign purely commercial decision making responsibilities to the new Homeland Security Department. It will have neither the mission nor the core competency to perform that role adequately. Nonetheless, it should be obvious that the Department of Homeland Security will perform a host of front line enforcement responsibilities that intersect with commercial or trade related spheres.

This legislation to create a new Homeland Security Department comes as close to solving our immigration problems as could be done without a comprehensive overhaul of our immigration policies. I enthusiastically support this bill. I believe it will have a positive impact on southern Arizona and the entire nation in the years to come.

I urge my colleagues to support this legislation.

Mr. DREIER. Mr. Chairman, in creating a new Department of Homeland Security, the House of Representatives is considering legislation which restructures the federal government in order to properly address a new threat. This bill promotes security, integrates new solutions to address new threats, recognizes the value and service of first responders, and defines clear lines of government authority.

The primary mission of this new department will be prevention of terrorist attacks within the United States, to reduce America’s vulnerability to terrorism, and to minimize the damage and recover from attacks that may occur. In carrying out this mission, the Department of Homeland Security must be equipped with the proper expertise available in the various government agencies which currently perform the functions of border security, emergency preparedness and response, information analysis, and infrastructure protection.

In all of this, the focus must remain the broader protection of our neighborhoods and communities from the threat of terrorism. On the front lines of that effort are first responders—local law enforcement, firefighters, rescue workers, and emergency response teams. This bill establishes a National Council of First Responders charged with the responsibility to provide first responder best practices, latest technological advances, identify emerging threats to first responders, and identify needed improvements for first response techniques, training, communication, and coordination.

With this emphasis on improving first responder capabilities, we must not ignore the integral role of our local governments in the ability of first responders to succeed in their mission. Local governments have already

Mr. KOLBE. Mr. Chairman, I rise in strong support of the Homeland Security Act. The Select Committee on Homeland Security and the other Committees, recognizing the gravity of this matter, have moved swiftly to bring this legislation to the Floor. But they have given adequate consideration for the many different points of view about the legislation. One of the guiding principles of the Select Committee is that there should be no great parity than defending the promise of America and that individual liberty and personal safety come before bureaucratic regulations, rules and red tape. I could not agree more.

I represent the people of southeastern Arizona, an area of the country that borders Mexico and has considerable experience with border security needs. We have been struggling for years to reform and improve the coordination and effectiveness of federal law enforcement efforts along the southwest border.

During the debate on reorganizing the INS earlier this year, I hoped to offer my legislation implementing the Jordan Commission’s recommendation to separate the two divergent functions within the INS—immigration services and benefits, but I was not provided the opportunity to offer this substitute. The bill before us today would reorganize the illegal immigration responsibilities of the INS and change the INS function for years to reform and improve coordination and effectiveness of federal law enforcement efforts along the southwest border.

I commend the Committee’s work of the other component agencies of the new Department known as the INS, and has caused great harm. We cannot make the same mistake again. The price is too high as we wage our war on terrorism.

As we create this new Cabinet department, we must give the highest priority to ensuring that the responsibilities given to the Undersecretary for Border and Transportation are not assigned based simply on the current structure of the affected bureaucracies. The various agents and inspectors at a port-of-entry today, such as Customs officials, INS officials, Transportation officials, and Agriculture officials, will all be “Homeland Security officials” with the same management, same uniform, same communication and information networks, and the same policies and guidelines.

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This legislation to create a new Homeland Security Department comes as close to solving our immigration problems as could be done without a comprehensive overhaul of our immigration policies. I enthusiastically support this bill. I believe it will have a positive impact on southern Arizona and the entire nation in the years to come.

I urge my colleagues to support this legislation.

**H5872**

**CONGRESSIONAL RECORD — HOUSE**

**July 26, 2002**
dedicated millions of dollars on increased se-
curity, preparedness, and emergency re-
sponse costs since September 11. Cities and
counties have upgraded security at key public
facilities, enhanced information technology and
communications systems, and improved local
bioterrorism response capabilities.

Congress approved the Fiscal Year 2002
Emergency Supplemental Appropriations bill
this week, which includes $151 million in
grants to first responders. In providing this fed-
eral assistance, I requested consideration of
local input regarding the application of federal
first responder grants. In response, the bill re-
quires state strategic plans for terrorism re-
sponse to fully consult local governments.

While this provides a good first step in inte-
grating our local governments, we must keep
the application of resources for first respond-
ers a top legislative priority.

In order to successfully secure our commu-
nities and provide effective emergency re-
sponse, it is critical that local governments are
integrated in the National Council of First
Responders, and in any regional strategic plann-
ing system. In my opinion, this is especially
important, local governments must be given the
opportunity to directly access available re-
sources. The task at hand is too critical to
allow funding and other assistance to be swal-
lowed up by bureaucracy, or hijacked to mask
deficits. We must ensure in the process of cri-
sation to understand what the first responders
in their community need and must remain inte-
grally involved in determining the allocation
of resources.

I strongly support H.R. 5005 and commend
the various committees of jurisdiction that del-
iberatively and expeditiously contributed to the
creation of the new Department of Homeland
Security. I applaud the leadership of the Select
Committee on Homeland Security, with-
out which we may not have had the oppor-
tunity to enact this historic legislation.

Mrs. CHRISTENSEN. Mr. Chairman, I rise
as a staunch supporter of homeland defense,
but in strong opposition to H.R. 5005, the
Homeland Defense Bill.

This bill is seriously flawed in many areas,
and some of its measures would undermine
civil liberties and deny work protections, while
protecting contractors who could supply
flawed, even deadly products.

Overall, the bill as currently constructed,
would in my opinion put us more at risk than
we are now, or was in September 10, 2001.

While the leadership sought input from the
relevant committees in writing the bill, in the
end that process turned out to be no more
than a sham. As they have done time and
again, the regular order, processes that have
served this body and our country well;
over 200 years have been cast aside.

That is a dangerous precedent, and does nothing
to ensure expert input into a very complex bill
and agency.

I am particularly concerned about the rush
to create headlines by having the bill ready on
September 11th of this year. There can be no
other reason.

This is a massive undertaking, and reorga-
nization. It needs to be well thought out, and
planned. Personally, I do not feel that the merging of all different agencies is at all nec-
essary, and it provides the unfortunate functions of many of them.

We should look at the difficulties encoun-
tered with a much smaller project—the cre-
ation of the Transporting Security Agency, and
take counsel on what happens when we rush
headlong into something, without proper fore-
thought and expert input.

Our homeland Defense is too important to
give it such short shrift in our deliberations. As
we strive to keep the country safe since Sep-
tember 11th, we are throwing everything at
the problem, hoping that something will stick
and be effective. That is no way to lead.

Because caution, due diligence, and respect
for process has already been called for by many on this side of the aisle, I know that this plea
will fall on deaf ears, but nevertheless, I am asking the leadership of this body, to
stop this rush to meet an unnecessary and unwise deadline. The people of this country
do not want a sound bite or photo-op, they want real leadership from us, and they want real
homeland security.

Mr. BORSKI. Mr. Chairman, I would like to
take this opportunity during debate on H.R.
5005 to apprise my colleagues of a Coast
Guard issue that, if not properly addressed,
will have serious consequences on our ability
to deal with drug trafficking.

As the Coast Guard is to be transferred to the Department of Homeland Defense under this Act, the subject
is more relevant than ever to today's debate.

The Coast Guard recently launched a new
mission known as HITRON. A combination of
ships, helicopters, and drug runners in fast boats.

Following a competition in 2000, the Coast Guard leased 8 MH-68A heli-
copters as a part of a new mission to dramati-
cally improve the nation's ability to interdict
drug traffickers. The helicopters fleet became
fully operational this winter and has had a 100
percent interdiction success rate with 13 chases, 13 busts and a seizure of cocaine and
marijuana valued at nearly $2.4 billion. Thus

the mission is proven, the effectiveness of the
helicopter is proven and HITRON has been
made permanent by the Commandant.

On April 26, Congressman Howard Coble
and I led 39 Members of Congress in a re-
quest to the Appropriations Committee to pro-
vide the Coast Guard with plus-up funding of
$50 million the purpose of purchasing 8 MH-
68A helicopters. The Coast Guard leased
this lease to the Coast Guard, plus 4 additional
helicopters. We believe buying the helicopters
would be a better investment than a continu-
ing to lease the Coast Guard to extend the lease of the MH-68A fleet for up to
5-years to get us from here to there. I also
support specific funding to provide more pro-
tection for the crews of these helicopters. I
go to my colleagues will join my efforts to
ensure that there is no interruption in this vital
interdiction security program, and to secure the
resources necessary to add further protection
for our brave pilots and crew who have al-
ready done so much.

Mr. PAUL. Mr. Chairman, the move to cre-
ate a federal Department of Homeland Secu-
rity, as called for by the new homeland security legislation, was not initiated in response to the terro-
attacks of September 11 and subsequent revelations regarding bureaucratic bungling and
ineptness related to those attacks. Leaving
aside other policy initiatives that may be more
successful in reducing the threat of future ter-
rorism, I believe the President was well-
 intentioned in suggesting that a streamlining of functions might be helpful.

Mr. Speaker, as many commentators have
pointed out, the creation of this new depart-
ment represents the largest reorganization of
federal agencies since the creation of the De-
partment of Defense in 1947. Unfortunately,
the process by which we are creating this new
department bears little resemblance to the
process by which the Defense Department
was created. Congress began hearings on the
proposed department of defense in 1945—two
years before President Truman signed legisla-
tion creating the new Department into law! De-
spite the lengthy deliberative process through
which Congress created the new department,
reporting and legislative subcommittees continued
to bedevil the military establishment, requir-
ing several corrective pieces of legislation.
In fact, Mr. Speaker, the Goldwater-Nicholas
Department of Defense Reorganization Act of
1986 (PL 99-433) was passed to deal with
problems stemming from the 1947 law. The
experience with the Department of Defense
certainly suggests the importance of a more
deliberative process in the creation of this new
agency.

The current proposed legislation suggest
that merging 22 government agencies and de-
partments—compromising nearly 200,000 fed-
el employees—into one department will ad-
dress our current vulnerabilities. I do not see
how this can be the case. If we are presently under terrorist threat, it seems to me that turning 22 agencies upside down, sparking scores of turf wars and creating massive logistical headaches—does anyone really believe that even simple things like computer and terror networks will be up and running in the short term?—is hardly the way to maintain the readiness and focus necessary to defend the United States. What about vulnerabilities while Americans wait for this massive new bureaucracy to begin functioning as a whole even to the levels at which its components were functioning before this legislation was taken up? Is this a risk we can afford to take? Also, isn’t it a bit ironic that in the name of “homeland security” we seem to be consolidating everything except the government agencies most critical to the defense of the United States: the multitude of intelligence agencies that make up the Intelligence Community?

Mr. Speaker, I come from a Coastal District in Texas. The Coast Guard and its mission are important to us. The chairman of the committee and the Coast Guard expeditionary force have expressed strong reservations about the plan to move the Coast Guard into the new department. Recently my district was hit by the flooding in Texas, and we relied upon the Federal Emergency Management Agency (FEMA) to make sure that the victims of that disaster were provided with the proper services. As a district close to our border, much of the casework performed in my district offices relates to requests made to the Immigration and Naturalization Service.

There has been some confusion of opinion between committees of jurisdiction and the administration in regard to all these functions. In fact, the President’s proposal was amended in no fewer than a half dozen of the dozen committees to which it was originally referred. My coastal district also relies heavily on shipping. Our ports are essential for international trade and commerce. Last year, over one million tons of goods was moved through just one of the Ports in my district! However, questions remain about how the mission of the Customs Service will be changed by this new department. Significant issues have been raised by my constituents, and may well affect their very livelihoods. For me to vote for this bill would amount to giving my personal assurance that the creation of this new department will not adversely impact the fashion in which the Coast Guard and Customs Service provide the services which my constituents have come to rely upon. Based on the expedited process we have followed with this legislation, I do not believe I can give such assurance.

We have also received a Congressional Budget Office (CBO) cost estimate suggesting that it will cost no less than $3 billion just to implement this new department. That is $3 billion dollars that could be spent to capture those responsible for the attacks of September 11 or to provide tax-relief to the families of the victims of that attack. It is three billion dollars that could perhaps be better spent protecting against future attacks, or even simply to meet the fiscal needs of our government. Since those attacks this Congress has gone on a massive spending spree. Spending three billion additional dollars now, simply to rearrange offices, governmental structures, is not a move. In fact, Congress is actually jeopardizing the security of millions of Americans by raiding the social security trust fund to rearrange deck chairs and give big spenders yet another department on which to lavish pork-barrel spending. The way the costs of this department have skyrocketed before the Department is even open for business leads me to fear that this will become yet another justification for Congress to raid the social security trust fund for pork-barrel spending. This is especially true in light of the fact that so many questions remain regarding the ultimate effect of these structural changes. Moreover, this legislation will give the Executive Branch the authority to spend money appropriated by Congress that has not been authorized. This clearly erodes Constitutionally-mandated Congressional prerogatives relative to control of federal spending.

Recently the House passed a bill allowing for the arming of pilots. This was necessary because the Transportation Security Administration (TSA) simply ignored legislation we had passed previously. TSA is, of course, a key component of this new department. Do we really want to grant authority over appropriations to a Department containing an agency that has been authorized by the will of Congress as recently as has the TSA?

In fact, there has been a constant refusal of the bureaucracy to recognize that one of the best ways to enhance security is to legalize the second amendment and allow private possession of firearms for self-defense. Instead, the security services are federalized.

The airlines are bailed out and given guaranteed insurance against all threats. We have made the airline industry a public utility that get to keep its profits and pass on its losses to the taxpayers, like Amtrak and the post office. Instead of more ownership responsibility, we get more government controls. I am reluctant, to say the least, to give any new powers to bureaucrats who refuse to recognize the vital role free citizens exercising their second amendment rights play in homeland security.

Mr. Speaker, government reorganizations, though generally seen as benign, can have a deleterious affect not just on the functioning of government but on our safety and liberty as well. The concentration and centralization of government undermine the safety and liberty as well. The concentration and centralization of government undermine the safety and liberty of each and every American. There were too many warning signs that should have been acted on by our government. It is clear that there are many gaping holes between numerous agencies in responding to terrorist threats and that those agencies have not cooperated properly in analyzing and working to eliminate these threats.

The legislation before us today addressed areas such as border security, immigration enforcement, and infrastructure preparedness, under the guise of protecting freedom. The bill also has a blanket waiver for Congress to raid the social security trust fund in order to finance pork-barrel spending. In fact, Congress is actually jeopardizing the security of American citizens and their property. I stand ready to have that debate, but unfortunately this bill does nothing to begin the debate and nothing to begin to protect our national borders. At best it will provide an illusion of security, and at worst these unanswered questions will be resolved by the reorganization that entities such as the Customs Service, Coast Guard and INS will be less effective, less efficient, more intrusive and mired in red tape. Therefore, we should not pass this bill today.

Mr. EVANS. Mr. Chairman, I rise in support of legislation creating the Department of Homeland Security.

We will never forget the tragic events of September 11th. That day truly ushered in a new era when we, as a nation, can never take for granted the security of our borders or terrorist threats.

If anything, the tragedies that unfolded on that day demonstrated that we have much work to do to guarantee the safety of average Americans. There were too many warning signs that should have been acted on by our government. It is clear that there are many gaping holes between numerous agencies in responding to terrorist threats and that those agencies have not cooperated properly in analyzing and working to eliminate these threats.

The legislation before us today addressed areas such as border security, immigration enforcement, and infrastructure preparedness, under the guise of protecting freedom. The reorganization will better facilitate communication and intelligence sharing between many of these agencies that are on the front line of fighting and preventing terrorist acts. The reorganization will also prepare our communities to address weaknesses in physical cyber-security.

Despite the strengths of the legislation, I do have serious reservations about some provisions that needlessly restrict the rights of Americans and would not contribute to the greater safety and more secure homeland. For example, provisions in this legislation unnecessarily abridge civil service protections for the 170,000 federal employees being transferred to the Department of Homeland Security. We should not view civil service protections as a hindrance to fighting terrorism, nor should the cover of anti-terrorism be used to roll back these protections.

This legislation would allow employees transferred to the new department to have their salaries arbitrarily reduced, as well as insist that many thousands of federal employees be transferred to the new department by merit board proceedings. Many Americans are making sacrifices to fight terrorism, but to ask federal employees to forfeit these basic job protections is callous and unnecessary. There are some in this body that would likely eliminate all civil service protections, but using the cover of terrorism is considered.

The bill also has a blanket waiver for contractors who produce anti-terrorist devices and products from civil product liability. Contractors who even exhibit fraud or willful misconduct in manufacturing could not be brought to justice under the contract act. This would likely eliminate all civil service protections, but using the cover of terrorism is considered.

I must oppose creation of this new department.

Until we deal with the substance of the problem—serious issues of American foreign policy about which I have spoken out for years, and important concerns with our immigration enforcement in light of the current environment—efforts such as we undertake today at improved homeland security will amount to, more or less, rearranging deck chairs—or perhaps more accurately office chairs in various bureaucracies. Until we are prepared to have serious and frank discussions of policy this body will not improve the security of American citizens and their property. I stand ready to have that debate, but unfortunately this bill does nothing to begin the debate and nothing to begin to protect our national borders. At best it will provide an illusion of security, and at worst these unanswered questions will be resolved by the reorganization that entities such as the Customs Service, Coast Guard and INS will be less effective, less efficient, more intrusive and mired in red tape. Therefore, we should not pass this bill today.
I am also very disappointed that the committee did not include an amendment by Representative DeLauro to deny government contracts to American firms that skirt their tax liability by using offshore havens. The DeLauro amendment would have restored a similar bipartisan provision that passed unanimously in the Ways and Means Committee but was deleted by the Republican leadership when they drew up their version of the legislation to be offered on the floor of the House. I believe that Companies that avoid their tax liability should not be eligible for contracting and procurement for a department that is charged with protecting the size of Puerto Rico's entire economy.

I encourage my colleagues to support this legislation and support the Morella and DeLauro amendments when they come up for a vote. Their addition would help improve what is largely a worthwhile and effective piece of legislation that will greatly aid our nation in its war on terrorism.

Ms. DeGETTE. Mr. Chairman, although I believe it is imperative to install explosion detection devices at our airports as soon as possible, I must also understand what is reasonable and not lull the public into false hopes by setting arbitrary and unattainable deadlines. We need to listen to the experts and agree to an extended deadline for implementing explosion detection systems to improve baggage screening at our nation's airports. That is why I am voting against the amendment to strike language from the homeland security bill to extend the Transportation Safety Administration (TSA) deadline. I remain deeply concerned about passenger safety and I believe we ought to take aggressive steps to ensure it. Nevertheless, December 31, 2002 is an arbitrary deadline. Worse than that, it is an arbitrary deadline that our nation's largest airports cannot meet.

For example, in my district, Denver International Airport (DIA) has already implemented many safeguards that exceed TSA standards. However, TSA has failed to fund the equipment that needs to be installed. As a result, if we push forward with a band-aid solution, the large machines that are currently TSA-certified passenger screening machines to stand outside waiting for their bags to be checked. We are talking about Denver, Colorado. We have cold winters. And having crowds of people waiting outside where cards drive up to let out passengers would create a new safety hazard. An interim solution that provides a less-than-optimal level of security and that will result in unacceptable delays to the traveling public is unacceptable.

Increasing passenger safety is our mutual goal and there is technology that will better achieve verification that is necessary. It has been shown to have a greater rate of positive detection, a decreased rate of false positives, and it is a more reasonable size. Denver is planning on implementing this technology and will serve as a test site for the rest of the nation. TSA needs to certify this superior technology and make the financial commitment to allow airports like DIA to begin working on these vital projects. Thus far, the TSA's funding delays have hindered DIA's ability to commence building the necessary infrastructure. DIA and other airports should not be punished for the lack of coordination and support from the TSA.

Let's get it right the first time and implement the technology that will best achieve greater safety and reassure the flying public. We need to recognize the very real, very serious and very costly obstacles the TSA and airports face and allow the airports to continue to utilize one or more of the current screening methods required by the TSA beyond the December 31, 2002, deadline. Let's not insist on an arbitrary deadline that will not and cannot be met. This should not be construed as a weakening of Congress' resolve. Our nation's airports and airlines have a responsibility to ensure the safety of the flying public. However, in order to achieve this, it needs to happen with all due speed.

Mr. CRANE. Mr. Chairman, today I rise in support of House Resolution 5005 creating a new Department of Homeland Security. Like the rest of Congress, I applaud the President for his bold decision to reorganize the government and make homeland security the highest priority. Like others, however, I also have had questions about the details of this transition and how it would affect the existing agencies and responsibilities transferred to the new department. The bill before us has answered my questions and provides real protection for our Nation.

Let me focus on one of the important sections dealing with the security of collecting revenue and the economically critical mission of trade facilitation.

Mr. Chairman, the requirement to generate revenue for this country through Customs duties, which was the very first Act of Congress, was the primary reason Customs was established in the fifth Act of Congress as the first Federal agency of the new Republic. This function is still important today as demonstrated by the fact that Customs collects over $20 billion of revenue.

Today, under the direction of the Department of the Treasury, Customs enforces over 400 provisions of law for at least 40 agencies. In addition to collecting revenue, Customs safeguards American agriculture, business, public health, and consumer safety and ensures that all imports and exports comply with U.S. laws and regulations.

Through the work of this Congress, the new Department now has the tools it needs to protect our borders while at the same time ensuring that revenue is generated and that goods keep moving across the border with little delay.

For these reasons I urge a YES vote on H.R. 5005.

Mr. CAMPA. Mr. Chairman, today I rise in support of H.R. 5005, the Homeland Security Act of 2002. I would like to thank the distinguished Majority Leader for his hard work and leadership on the Select Committee to bring this legislation to the Floor.

The U.S. has no higher purpose than to ensure security of American citizens and to preserve our democratic way of life. The proposal before us creates the Department of Homeland Security, a Cabinet-level agency that will unite essential agencies and responsibilities to protect America and, in the current, uncertain international climate, there is no one department that has homeland security as its primary mission. In fact, responsibilities for homeland security are scattered among more than 400 different government organizations. We need to strengthen our efforts to protect America and the current governmental structure limits our ability to do so.

As a northern border state, Michigan is on the frontline in border security. We enjoy the longest unmilitarized border in the world with our friend and ally, Canada. With over $1.9 billion in goods and over 300,000 people crossing the border every single day, the connection between our societies is critical to the economic stability of both nations. However, this openness can become a challenge for our ability to combat terrorism at the front lines. In this regard, I am pleased that this bill defines the U.S. territories as part of the geographic homeland. I am...
equally pleased that this bill ensures coordina-
tion on the part of the Department of Home-
land Security with the territorial and local gov-
ernments of Guam, American Samoa, Puerto Rico, the Virgin Islands, and the Common-
wealth of the Northern Mariana Islands.
I write today to thank the Select Committee on Homeland Security, in particular the Majority
Leader, Mr. ARMLEY, and the Democratic Whip,
Ms. PELOSI, for their acceptance of my request to
doi...
we must protect America’s borders from those who seek to cause us harm. Under this legislation, protection of our borders is a primary function. This legislation will encompass INS enforcement functions, the Customs service, the border functions of the Animal Plant Health Inspection Service (APHIS) and the Coast Guard all together in the new Department of Homeland Security. H.R. 5005 will also ensure that our neighborhoods and communities are prepared to address any threat or attack we may face. The Federal Emergency Management Agency (FEMA) will also be included in the Department of Homeland Security.

Thus, if an attack should occur, it will be clear who is responsible for consequence management and whom our first responders can quickly communicate with. Additionally, H.R. 5005 places a high priority on transportation safety. The Transportation Security Agency is transferred entirely to the Department of Homeland Security. TSA has the statutory responsibility for security of all modes of transportation and it directly employs transportation security personnel.

These are just a few of the agencies that will encompass the Department of Homeland Security. Only those agencies whose principal missions align with the Department’s mission of protecting the homeland and are included in this proposal. The current unfocused configuration of government agencies is not the best way to organize if we are to effectively protect our homeland, as responsibility is too scattered across the federal government. This has led to confusion, redundancy and ineffective communication.

Even though this legislation addresses issues concerning personal privacy, government disclosure, and individual rights, lawmakers and citizens alike must be vigilant against any government encroachment on traditional liberties. Specifically, this bill prohibits the implementation of the Terrorism Information and Prevention System (TIPS), a national ID card system, guarantees whistle-blower protections, details Freedom of Information provisions, and establishes a Privacy Officer responsible for ensuring privacy rights of citizens. I believe an accountable government is an irresponsible government and in addition to a vigilant watch against abuses of individual rights, we must hold government accountable to taxpayers and not allow the Department to expand beyond its fiscal and bureaucratic parameters.

Mr. Chairman, the new Department of Homeland Security will be the one department whose primary mission is to protect the American Homeland. It will be the one department to secure our borders, transportation sector, ports, and critical infrastructure. One department to synthesize and analyze homeland security intelligence. One department to coordinate communications with state and local governments, private industry and first responders, and one department to manage our federal emergency response activities.

We owe the American people nothing less than the absolute best to protect its citizens. Reorganization of America’s homeland security functions is critical to defending the threat of terrorism and is vital to the nation’s long-term security.

Mr. NETHERCUTT. Mr. Chairman, I rise today in support of H.R. 5005, a bill to create a much-needed Department of Homeland Security in the Presidential Cabinet.

For the first time, America will have all its border protection services under one authority. The Immigration and Naturalization Service (INS) enforcement, the Customs Services, the border activities of Animal and Plant Health Inspection Service (APHIS) and the Coast Guard will be able to work more closely than ever to ensure that our borders—especially the disputable border in the world—are protected from threats. Whether those threats are from terrorists, illegal immigrants, drug smugglers or smugglers of other contraband, the Department of Homeland Security will be in a position to synthesize and analyze homeland security intelligence. One department to coordinate and manage the flow of information to aid the free flow of legal commerce.

The legislation before us today varies from the President’s initial proposal in a very meaningful and positive way. It incorporates language I supported with the Science Committee to include an Undersecretary for Science and Technology who will be given the task of coordinating homeland security-related scientific research government-wide. One agency with an equal responsibility for ensuring the safety of our federal partners with small businesses that have innovative technologies to offer. Other Technology Authority, as it is called, has been used successfully by the Defense Advanced Research Projects Agency (DARPA) and I believe it is equally important to advance critical and life-saving technology in this new Department. I am pleased that the President has embraced these changes.

Mr. Chairman, I am also pleased that this Department will be organized almost entirely out of existing government agencies. Congress could have easily taken this opportunity to create more government bureaucracy. The terrorist threat that faces our great Nation requires that we move quickly and we believe that an excuse has broadened the size and scope of the federal government. The bill before us today does not take that approach, but rather reorganizes, consolidates, streamlines and focuses those federal agencies responsible for homeland security. With those agencies under one Secretary of Homeland Security, I am confident that our nation is in a better position to prepare for and responds to any threat to our domestic security.

This legislation will provide the flexibility the President needs in order to make staffing changes and provide for the national security, and to reorganize activities within the Department so that agencies work with one another to make our country safe. At the same time, this bill provides the Constitutionally mandated Congressional oversight necessary to maintain separation of powers and prevent excessive and abusive government. For example, this bill preserves the authority of Congress and the Appropriations Committee to prescribe levels of funding for Executive Branch functions. Furthermore, H.R. 5005 will prohibit the unwise Terrorist Information and Prevention System (TIPS) program, which would have encouraged neighbors to spy on neighbors. I am pleased with the privacy protections built into this act, which will prevent an intrusive ‘Big Brother’ government which violates our Constitution.

I thank the members of the Select Committee on Homeland Security, and the distinguished Majority Leader and Chairman of the Committee, Mr. ARNETT, for their hard work crafting this bill.

Mr. ETHERIDGE. Mr. Chairman, I rise in support of H.R. 5005, a bill that establishes the new U.S. Department of Homeland Security.

Since September 11th, the United States has made protecting the American homeland from terrorism and fighting terrorism abroad our top priority. I support the reform and reorganization of the departments, agencies and strategy to address threats to the American homeland, are the best way to improve the safety and security of the American people. I call on the Secretary to operate the new Department in an open and fiscally responsible manner. Through this legislation we have given the Department Secretary the requisite statutory and budget authority to effectively and efficiently protect America from terrorism.

Make no mistake: this bill is far from perfect. The House Republican leadership in too many instances misused H.R. 5005 to score political points instead of legislation. I am hopeful the conference with the Senate will overcome these deficiencies and Congress can pass a final Homeland Security bill that produces real security for the American home.

As we protect and defend our country, we must also protect and defend the Constitution, the Bill of Rights, our civil liberties, and the protection of civil service employees. Futhermore, the development and operation of the Department of Homeland Security must involve the bottom-up process with the input and recommendations of local first responders and local officials from America’s cities, small towns and rural communities. They are our first line of defense against terrorism, and also the first to answer a call in case of attack.

The security of our country, our people and our freedoms are paramount. The new Department of Homeland Security will allow us to devote time, people and resources in a coordinated and effective manner to deter any more tragedies like September 11th.

Mr. STENHOLM. Mr. Chairman, I rise today in support of the bill H.R. 5005, the ‘Homeland Security Act of 2002.’

At the very outset, I want to express my thanks to the Members of the Select Committee on Homeland Security, from both sides of the aisle, all of whom were very gracious in considering and ultimately accepting the recommendations from the House Agriculture Committee. I am convinced that through this cooperation we were able to make significant improvements to the sections involving the transfer of the Plum Island Laboratory and the border inspection functions of the USDA Animal and Plant Health Inspection Service (APHIS). In addition, I want to acknowledge the support and cooperation of the Administration in our efforts to improve these specific provisions as well.

Despite my support for moving the process forward today, however, I would not be fully honest if I didn’t express serious concern about the accelerated pace at which we have developed this legislative package and about some of the uncertainties associated with it. Many in Congress are concerned that, in our haste, we may not have given adequate consideration to unintended consequences that could result from the current effort.
Little that I have heard during this abbreviated process has reassured me that the American people will be significantly safer from terrorist threats as a result of the passage of this bill and its enactment into law. Of course, the vast majority of this bill is really not about creating new protections for the American Homeland. Rather, much of this bill relates to a gigantic reshuffling and potential expansion of the federal bureaucracy—the largest new federal bureaucracy created since World War II. This too is a source of serious concern to me.

While I realize that efforts have been made to ensure that no important functions are lost or degraded by this reorganization, I would feel much more comfortable if we had been able to question the Administration about these matters during the hearings held by the House Agriculture Committee. Unfortunately, representatives for the Administration did not choose to accept our invitation to appear, and we consequently had to do our work with less information and assistance from them than I would have liked.

Nonetheless, I do remain hopeful, that through our actions today, some improvements in intragovernmental communication and coordination may take place. I am also pleased that we were able to address the issues related to the USDA Animal and Plant Health Inspection Service in a way that will preserve important agricultural functions, while assisting the effort to consolidate homeland security protections.

Given these positive steps, I will be voting for the legislation before us today. I am hopeful that, as a result of this legislation, at least one American family will be spared additional loss and suffering at the hands of those who hate us and our way of life.

Mr. SERRANO. Mr. Chairman, I rise in re- luctant but strong opposition to the Homeland Security Act before us today.

It has been clear since September 11th—indeed it was clear well before that date—that the Federal government needs to change to better face the threats posed by terrorists, to better coordinate and focus prevention, preparedness, and response efforts. The bill before us attempts to do that, but I have several serious concerns with the approach the President and the majority are taking.

First, let me praise the Select Committee for including in the new department an Office for Civil Rights and Civil Liberties. This represents an acknowledgement that our fundamental values must be preserved as we fight against forces that seek to destroy those values.

However, on a number of other issues, equally important values, such as fairness and openness, are undercuts.

I am deeply concerned that what is proposed in the bill goes too far too fast and actual risks disrupting our efforts to detect and prevent future terrorist acts against America and Americans. Changed priorities and re- structuring are very disruptive to any organization, and it will be extremely difficult to maintain a focus on its primary missions when so many different entities with so many different cultures are being merged.

The Comptroller General has testified that, based on review of organizations undertaking similar “transformational change efforts”, it could take between five and ten years for the department to become fully effective.

I am also deeply concerned that the non- homeland security activities of many of the agencies proposed to move to the new depart- ment will suffer within an organization focused on homeland security. While the new depart- ment’s primary mission is critical to the well-being of our people, so are the Coast Guard’s search and rescue function and FEMA’s re- sponses to natural disasters. They must not lose attention or resources because the main focus of the department and its top managers is on homeland security.

Another problem I see with the bill is that it rewrites or even abandons an array of good government protections in the name of “flexi- bility”. As several of my colleagues have noted, we got through World War II, the Cold War, Korea, and Vietnam without needing to exempt the federal workforce from civil service protections, nor did the government rewrite collective bargaining agreements to whistleblower protection. It is simply wrong to turn hardworking, loyal civil servants into second-class employees because their box is moved to a new place on an organizational chart.

It is also wrong and unnecessary to fiddle with the Freedom of Information Act and the Federal Advisory Commission Act. Both have sufficient protections against disclosure of sensitive information and should be retained.

Mr. Chairman, others have identified other serious problems with this bill, but I believe the fundamental problem is that it tries to do too much all at the same time. The real problems were not the structure of the government—these involved priorities that did not include counter-terrorism, as well as failures of coordination and information-sharing among existing agencies.

As an example of a more focused, less dis- ruptive approach, a team from the Brookings Institution recently suggested that initially agencies involved in border and transportation security and infrastructure protection and creating a new intelligence analysis unit, and stressed strong management in the depart- ment and central White House coordination of government-wide strategy and budgets as crucial to the success of the reorganization. Other activities and agencies could be considered for inclusion later; as the department finds its footing. This is not the only approach, but I think it shows it is possible to address the real need for restructuring on a smaller, less disruptive scale.

Mr. Chairman, I continue to believe that we must reorganize our government—and Con- gress—this is one of the biggest threats against us. But this is not the right way to do it and I urge my colleagues to vote against it and start over.

Mrs. TAUSCHER. Mr. Chairman, I reluctantly must oppose the Oberstar-Menendez amendment. As a Member of the Transportation Com- mittee, I have a great deal of respect for my Ranking Member and Mr. Menendez, but I must oppose their amendment.

As a Member of the Aviation Subcommittee, making air travel safer is my highest priority. But I do not believe that forcing arbitrary deadlines on our local airports will actually make air travel safer.

On the contrary, if airports are forced to set up temporary solutions to meet these dead- lines, the result will be wasted tax dollars and huge crowds of passengers standing in lines inside and outside airport lobbies, which will create an entirely new security risk.

Congress has taken many bold, new steps to respond to the terrorist attacks since Sep- tember 11th.

One of these is the sweeping aviation security reforms we passed last year.

As a member of the committee that drafted last year’s bill, I can tell you that the deadlines established in the legislation were arbitrary and are unenforceable.

The United States had never experienced such an attack.

And because Congress’ response was swift, the details on how to achieve such sweeping reforms were untested.

Our airports, which are responsible for im- plementing these mandates on the ground, have told us for months that these deadlines are unworkable.

I have been contacted by all of the Bay Area airports: SFO, Oakland, San Jose and Sacramento International airports urging me to allow the TSA to have the flexibility it needs to deploy the most reliable explosive detection equipment as soon as possible.

Secretary Mineta testified before our sub-committee three days ago that due to the funding cuts and new mandates in the supple- mental appropriations bill, the TSA could not meet these deadlines.

I think the Secretary knew before two days ago that these deadlines were unachievable; and I find it too convenient that the adminis- tration is now trying to blame Congress for this.

But the underlying fact still remains: These deadlines are not realistic.

We should not be playing political chicken with common-sense aviation security.

Instead, we should be working together to find real solutions at each of our airports.

The Granger language included in the un- derlying bill requires the TSA to work with every airport to customize its unique security needs and establish goals to achieve 100 percent baggage screening.

The Frost language sets an outer limit of one year to achieve this goal at every airport.

My understanding is that most airports will be able to comply with this well before the year deadline.

I, like all of you, want to keep the pressure on to ensure that all baggage is screened as soon as possible.

I believe the underlying bill will do that while still addressing the reality of implementing this at our nation’s airports in a cost effective and responsible way.

I urge my colleagues to oppose the amend- ment and support the common-sense lan- guage in the underlying bill.

Mr. SCHROCK. Mr. Chairman, I first would like to thank the members of the Select Com- mittee for all of their hard work to craft this legislation. I also want to thank the President for moving forward to establish a Department of Homeland Security. The Government Re- form Committee and many other House Com- mittees gave the Select Committee many amendments to work with, and they skillfully sifted through these amendments to come up with what I think is a bill that sets up the best framework to protect our nation.

The characteristic of this department is of particular interest to the people I represent as they live every day with the threat of terrorism.

The greatest security threat that we in the Second Congressional District of Virginia face is an attack on our seaport.

The characteristics that make Hampton Roads an ideal seaport—a great location and an efficient intermodal transportation system— also makes it a prime target.
A ship sailing through Hampton Roads steams within a few hundred yards of the Norfolk Naval Base, home to the Atlantic Fleet, and Fort Monroe, home of the US Army Training and Doctrine Command. The detonation of a ship-based weapon of mass destruction would have disastrous effects on our military and our economy.

Under the current framework, the Coast Guard, the Customs Service, the Immigration and Naturalization Service, and the Animal and Plant Health Inspection Service all have some jurisdiction over ships coming into the Port of Hampton Roads.

These agencies have different, often limited, powers to search and inspect ships and cargo and lack a formal process for sharing information with each other. In some cases, federal laws even prevent the sharing of information between these federal agencies.

These problems became clear at a workshop I recently held on port security. Putting these agencies under one umbrella will enable them to communicate more effectively and work together, filling the security gaps that exist between these federal agencies.

Also, this homeland security plan will help goods get to market more efficiently. Under exist today.

Many government agencies want to work together, filling the security gaps that exist between these federal agencies. They are not currently allowed to share information with each other. In some cases, federal laws even prevent the sharing of information with each other. This framework did not exist or impose unnecessary impediments on their work.

I am confident the President’s proposal will ensure security remains our top priority during the inspection of ships, while also providing for a more efficient flow of goods to their ultimate destination through the reduction of duplication.

Many government agencies want to work together to ensure homeland security, but in the past, either the framework did not exist or legal barriers prohibited their cooperation. The system unnecessarily impedes the agencies’ ability to share sensitive information.

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therefore critically important that we make our decisions based on careful and thoughtful analysis before voting to institute far-reaching changes altering the face of government and the way we prepare for and respond to terrorist threats. It is vitally important to combine the newness and most effective organizational ideas and the need for change.

There is considerable agreement in America, including Congress, that some kind of organizational reform is necessary. I applaud President Bush for proposing a plan. The question now is whether it is wise how and to what extent. In Congress, twelve committees considered the President’s proposal and offered some thoughtful improvements, although most of them were rejected by the Select Committee.

While I have strongly supported the President’s creation of the White House Office of Homeland Security, I maintain serious reservations about this approach to establishing a new department. My objections are not solely based on the Department’s personnel policies or even the absence of Posse Comitatus protection. Rather, my reservations are based on this “1960’s” type of approach to reorganizing existing agencies and my belief that this form of restructuring will not be able to respond to terrorist threats with improved agility, flexibility and collaboration.

The legislation considered today is the only solution we have been offered. The bill will shuffle tens of thousands of government employees and billions of dollars in new federal spending without achieving what should be the core mission: to provide sufficiently flexible and responsive intelligence resources and information gathering; reliable analysis and effective sharing to executive agencies; and field agents, intelligence personnel and first responders who are thoroughly trained and prepared. Indeed, the last thing our nation needs now is a hastily conceived Department of Homeland Security. This monumental undertaking, if cut rate and cautiously thought through, could produce an unwieldy and oversized bureaucracy that would exacerbate the current situation and render the country more vulnerable to certain weaknesses.

I have been proud to serve on the Select Committee on Intelligence and the Congressional Joint Inquiry, which has for the last two months been intensely focused on the role of the core components of the intelligence community, particularly the CIA, FBI and NSA. This inquiry has also heavily scrutinized information resources and intelligence collection, analysis and information sharing. Following dozens of briefings and lengthy hearings, I have concluded that increasing resources and technology for intelligence and improving information management are some of the keys to reform. We must improve the ability of our services to turn lots of information into knowledge and therefore actionable intelligence.

Rather than folding dozens of executive agencies under one tent and moving desks from one department to another, the bill should increase efficiencies for compute equipment, and technology in order to assure that we communicate more quickly between federal offices with e-mail and databases to the field where terrorists might be located. The intelligence community is challenged by the use of increasingly sophisticated technology, such as encryption systems, that require a far different effort than we have employed over the last few decades to combat technology used by terrorists.

One of the amendments I proposed, which was not accepted by the Committee on Rules, would have bolstered the intelligence functions of the Department by creating stronger directorates for intelligence and critical infrastructure protection. In my view, these directorates would have fused and analyzed intelligence from all sources in a more integrated approach than that proposed by the Administration’s proposal.

Another amendment I proposed would have prohibited the transfer of the Federal Emergency Management Agency into the new Department. FEMA’s mission is reactive, responsive, and rehabilitative. Folding them into the Department would threaten to disrupt one of our most respected and effective independent federal agencies from delivering premier first-responders. In addition, FEMA’s independent status and ensured that our nation’s increased focus on terrorism preparedness will be in addition to, and not at the expense of, FEMA’s natural disaster response capabilities.

Mr. Speaker, H.R. 5005 focuses on reorganization and insists on the misguided notion that if law enforcement and related agencies are swept under one roof, they will be able to communicate and respond to threats more quickly and efficiently. Our agents should be able to communicate via email and hand-held technology with tremendous speed and efficiency. It is not always necessary for them to be located under the same roof to achieve their mission. Information management is another key to securing homeland security, preventing terrorist attacks and protecting our assets. Effectively using intelligence is one of the most useful and powerful instruments we have to prevent, or at least mitigate, the likelihood and consequences of a possible future attack. However, the bill’s approach toward information management and accountability seems limited and flawed. If the new Department is to function effectively, its access to information relating to terrorist threats must not be restricted as it is under this bill.

For example, the Secretary of Homeland Security would only limited access to “raw data” on information collected by the intelligence community and law enforcement agencies. The bill specifically provides that the Secretary can obtain unanalyzed information “only if the President has provided that the Secretary shall have access to such information.” This approach seems designed to keep the new department dependent on the good will of the intelligence community and law enforcement agencies and hostage to their partial clues on insufficient information. This would be a grave mistake.

I believe we should modestly increase the size and scope of the current White House Office of Homeland Security, headed now by Director Ridge. That position should have Cabinet-level status, a larger budget, and analytical intelligence function, and jurisdiction over the Coast Guard, among some other agencies and responsibilities. But it should not be combined with 22 federal departments and 180,000 workers costing taxpayers $38 billion.

Mr. Speaker, for many of these reasons, I have serious reservations about the bill. I do not cast this vote lightly. I believe that we should provide accountability and maximum efficiency in our effort to provide homeland security. Congress should rework this bill and try again. We should break the mold, think “outside the box,” and create the agency of the new century, not the bureaucracy of the 1960’s. After all, we are not targeting the former USSR and missile silos in Siberia, but targeting against terrorists that can swiftly move from Hamburg, Germany to New York and kill thousands of Americans.

Mr. UDALL of Colorado. Mr. Chairman, I rise in support of this bill. I do have some concerns about it, but I think it deserves to be passed.

I am united with my colleagues and with the President in a shared determination to win the war against terrorism. We must do everything we can to reduce the risks of further attacks. I believe we must reorganize our government to meet that goal.

What we have chosen to take on in the aftermath of September 11th is an enormous task, the largest reorganization of the government in half a century, a total rethinking of how we approach security. We need to plan for the protection of all domestic people, places, and things. We need to fundamentally restructure our government to be more responsive to terrorism.

This is a tall order. Homeland security has always been an important responsibility of federal, state and local governments. But in the aftermath of the terrorist attacks, the scope of this responsibility has broadened.

The bill before us has much in common with a report that we received just last year from a commission headed by former Senators Gary Hart of Colorado and Warren Rudman of New Hampshire. The report recommended sweeping changes, including the establishment of a Department of Homeland Security.

I have reviewed the commission’s report carefully and discussed it with Senator Hart, and I have been impressed with the soundness of the report’s recommendations. I have also cosponsored two bills dealing with this subject.

So I am glad that the President has come to agree that a new Department of Homeland Security is necessary.

The question we face today is whether the bill before us is up to the challenge. Will this bill make the American people safer? I’m not entirely certain. I believe this bill generally heads in the right direction, but it still contains a number of troubling provisions.

One concern I have is that in our rush to create this new department, we may be asking for an unwieldy bureaucracy instead of a nimble department that can be quick to respond to the challenges at hand. The proposed department’s size, cost and speed may well hamper its ability to fight terrorism.

We need to recognize that no department can do everything. Homeland security will be the primary responsibility of that bill, but it will also continue to be the responsibility of other departments, of states and local government, and of all Americans.
It's also true that many of the agencies that will be subsumed by this new department have multiple functions, some of them having nothing to do with security. That's why I think it's right that the bill abolishes the INS and includes its enforcement bureau in the new DHS, while leaving a bureau of immigration services in the Department of Justice. I also think it's right that the bill moves only the agricultural import and entry inspection functions of the Animal and Plant Health Inspection Service into the new department, while leaving the rest of that bureau's functions to continue in the Department of Agriculture. I believe the same model should apply to the Federal Emergency Management Administration, or FEMA, which this bill would move as a whole into the new department. While it may seem that FEMA—as the central agency in charge of disaster response and emergency management—should constitute the heart of the new DHS, FEMA is primarily engaged in and especially effective at responding to natural hazards. This bill should leave FEMA outside the new department, or at a minimum transfer its Office of National Preparedness to the new department, while leaving FEMA's Disaster Response and Recovery and Mitigation Directorate today to leave FEMA outside the new department because I fear FEMA's current mission and focus will be lost in the new bureaucracy we are creating.

I am hopeful that the President will continue to work with us to make sure the agencies moved to the new department will be supported in their many other important duties even as they focus anew on their security roles.

I have other concerns aside from the organization of the agency.

The bill includes language that denies basic civil service protections for the federal workers who would be transferred to the new department. While I am encouraged by the passage of two amendments that slightly improve the bill's language in these areas, I remain fearful for the 170,000-plus employees of the new DHS whose jobs this bill would put at risk in an attempt to give the President “flexibility” to manage in a “war-time” situation. That's why I voted to preserve the bargaining rights, whistleblower protections, and civil service rules that have protected career employees for over 75 years. I don't believe we should use the creation of a new department as an excuse to take away these protections—protections that Congress enacted so that we could attract the very best to government service. Taking away these protections now signals that we don't value our federal workers, their hard-won rights, or the integral role these workers will continue to play at an effective Department of Homeland Security against terrorism.

I also supported an amendment striking the overly broad exemptions in the bill to the Freedom of Information Act, or FOIA, which was designed to preserve openness and accountability. As offered by the Administration, the bill includes an exemption excluding information voluntarily submitted to the new department from the requests for disclosure, it would also preempt state disclosure laws. FOIA does not require the disclosure of national security information, sensitive but unclassified information, or information protected by specific confidentiality agreements, like the exemptions to FOIA in this bill unnecessary in my view.

I think that these parts of the bill will need to be revised, and I will do all I can to improve them.

There is one provision we debated today that I do think should remain in the bill. Last year, I strongly supported the airport security bill by bringing before us the need that we get federal workers out of the baggage screening system. But today I would extend the baggage screening deadline established in the airport security bill because it doesn't make sense to me to mandate a deadline that clearly is impossible for a quarter of airports in this country to meet. It has been clear for some time that although 75% of airports would be able to meet the December 31st deadline, 25% of this country's largest airports would not. Denver International Airport (DIA) is among those airports still waiting for the Transportation Security Administration (TSA) to approve its security plan. TSA has developed its own plan that would employ a baggage-screening system that costs approximately $85 million to implement, versus $130 million for the system currently approved by Congress. Before us today, TSA today will say that it will now take a bit more time. So I am pleased that this bill includes an extension on the baggage screening system.

In summary, I am pleased that this bill echoes the overall approach of the Hart-Rudman report recommendations. I am also pleased that the bill includes important Science Committee contributions, such as the one establishing an Under Secretary for Science and Technology in the new department, as well as provisions I offered in the Science Committee markup requiring the new department and NIST to engage in a systematic review and upgrading of voluntary consensus standards. I believe it is important that the bill include language reaffirming the Posse Comitatus Act, which prohibits the use of the armed forces for civil law enforcement. And it is important that the bill prohibits the government from implementing the proposed “Operation TIPS,” an Orwellian program under which designated citizens would be trained to look for and report suspicious behavior on the part of their fellow citizens.

Despite the problems in the bill, I am voting for it today because I remain committed to a strongly effective Department of Homeland Security. I am hopeful that the problematic issues I highlighted and other concerns will be successfully addressed in the conference committee.

Mr. Chairman, this Member generally appreciates the improvements the Select Homeland Security Committee made to the bill regarding the tasking for the collection of intelligence gathering by the Intelligence Community under existing law and this Committee's particularly appreciative of the Select Committee on Homeland Security's willingness to accept these recommendations and incorporate them into H.R. 5005 by establishing the meaningful analytical organization we recommended. However, during the Select Homeland Security Committee's markup, an unfortunate decision was made to delete the new Department's seat at the table when it comes to intelligence-gathering instructions. The members of the Select Committee expressed the concern that the new Homeland Security Department should not ask intelligence services to gather information on American citizens.

Mr. Chairman, the protection in individual liberties of American citizens is an understandable and appropriate priority. This Member fully concurs that the Homeland Security Department should not be allowed to issue instructions that the CIA gather information on Americans.

However, to ensure that the Department's analytic capability is robust, it must have a role in tasking our intelligence services to gather information on foreign individuals, entities, and threats. Without a seat at the mission formulation table, the policy decisions of the Homeland Security Department will rely on whatever foreign threat information our Intelligence Community happens to collect under the tasking decisions they make according to their respective agency and collective priorities.

This Member must express deep regret that the amendment to H.R. 5005 he had hoped to offer today was not made in order by the Rules Committee. This is an unfortunate error in judgment, apparently reflecting the advice of various persons in the Executive Branch. The amendment was a simple and straightforward
one that would have offered a slightly modified version of language that received bipartisan support in the Intelligence Committee. It should be emphasized that this Member's amendment was narrowly constructed and would have specifically authorized such tasking only on foreign adversaries, not U.S. citizens or other persons legally resident within the United States.

The tasking for information on foreign adversaries is not a trivial concern, Mr. Chairman. Without the proper information, the Homeland Security analysts may not be able to devise appropriate defenses. The other departments of government have different missions (for example, the State Department is to advance diplomacy, the Department of Defense is to win wars, and the FBI is to prosecute criminals) and their analytic needs are quite different.

It is unfortunate that this Member's amendment was not made in order as it would have made a critical improvement to the final bill. Without this authority for the Department of Homeland Security to both participate in the tasking for the collection of foreign intelligence, we will have a major and continuing gap in information which the DHS will need to do its job well in protecting our citizens and homeland. It is this Member's hope that the other body may include this authority.

Mr. Chairman, this Member has grave concerns about the overall approach to the creation of the Department of Homeland Security as proposed by the Administration. Its drafting may well have been a defensive reaction to a proposal by the junior Senator from Connecticut (Mr. LIEBERMAN) and by other Members of Congress to establish a new cabinet post in the Federal Government to better address the dangers facing our nation.

The bill as reported to the House by the Select Committee on Homeland Security fell short in a number of key areas. During the long amendment process of the last two days, I engaged the administration to make improvements that would have improved this bill. As a result, I cannot support this legislation at this time.

I am particularly disappointed that the amendment offered by Representative Oberstar to establish an independent body to extend the deadline for airports to install the explosive detection equipment that is critically needed to check airline passenger luggage for bombs. Last fall, this House voted overwhelmingly to have this equipment in place by the end of this year. There is no good reason to extend this deadline for another twelve months as this bill does.

I hope that this and other flaws in the House bill will be addressed in conference with the Senate. This is the largest reorganization of the Federal Government ever attempted. It concerns the security of our nation and the safety of American citizens of their civil liberties and protections. It would deprive hundreds of millions of Federal employees of their labor protections. With such a short time to stimulate national debate and to review the above issues, I cannot support this measure.

Mr. LEVIN of Georgia. Mr. Chairman, it is impossible for me to support this legislation. It is not constitutional, it is not just, and it is not fair.

This bill would strip hundreds and thousands of Federal employees of their labor protections. It would deprive hundreds of millions of American citizens of their civil liberties and fundamental rights.

This bill is nothing less than a power grab by our President and this administration. It would be the largest consolidation of power in recent American history.

By denying our citizens their basic rights, by taking the power of the Supreme Court and the Presidency of the United States and giving it to this administration, this bill would effectively declare Marshall law. It would violate the Constitution and the Bill of Rights.

Even the name—‘Homeland Security’ conjures images of Banana Republics where individuals rights are a mere afterthought. This is America. Our government does not deny our citizens fundamental rights in the name of homeland security. We are greater than that. We are better than that.

As Thomas Jefferson said, “the price of freedom is eternal vigilance.” Our Colleagues, let us heed the warnings of the authors of our Bill of Rights. It is time to be vigilant. Now is the time to stand up for all of our citizens. Now is the time to do what is right.
Do not deny our people their fundamental rights. Vote “no” on this ill-conceived bill.

Mr. BENTSEN. Mr. Chairman, I regretfully rise in opposition to H.R. 5005, the Homeland Security Act of 2002, which establishes a Department of Homeland Security, as an executive department in the United States, headed by a Secretary of Homeland Security.

Mr. Speaker, while I support the core concept of H.R. 5005, as I believe that our government is sorely in need of reorganization to anticipate, prevent and react to potential future terrorist attacks on our soil, I have strong concerns with several aspects of this measure, especially those that should never have become political issues. Certainly, when it comes to defending our nation and prosecuting our war on terrorism, we must spare no expense. Those entities who attacked us on that unfortu-
nate day on September 11, 2001 cruelly ex-
plotted our weaknesses, and it is our responsi-
bility to make sure that we close all the gaps in our national safety infrastructure.

Neither should we spare the principles of democracy we seek to defend in this very bill. And our desire to move quickly to arrest the threat should not be done with such haste as to not fully comprehend the model, structure and mission we wish of this new mega-
Department. But in fact, Mr. Speaker, after two days of debate, I am afraid that is exactly what has happened thus I am urging Del-
ight not against the concept of a Department which better coordinates our efforts, but against the plan as it has been laid before us in the hope that deliberation in the other body and in conference will yield a better, more effi-
cient product.

H.R. 5005, as it stands, is not the ideal so-
lution to this problem. The defeat of Rep-
resentative MORELLA’s amendment will subject employees to less protection from political in-
terference than is now the standard. The bill goes too far in exempting this new, powerful department from contractor liability and the Freedom of Information Act, exceeding that which is already afforded to other national secu-
ity entities such as the Department of De-
fense. The bill would gut “whistle blower” pro-	ection for Department employees, potentially increasing political interference and intimid-
ation. Surely we have learned from our recent experiences with the Federal Bureau of Invest-
igation that rank-and-file employees need to be allowed to speak up. And, Mr. Speaker, the adoption of Representative ROGER’s amendment seeks to undermine the longstanding concept of “posse comitatus” by opening the door for domestic police action by our armed forces, something which goes against the very essence of our system of government.

Indeed, if H.R. 5005 becomes law, we will see the largest reorganization and outward growth of the federal government in decades, all done without sufficient, thoughtful consider-
ation on how this will affect the responsibilities and organization of numerous Cabinet Depart-
ments and agencies. All of us want to do what we can to protect the nation, but we should do it right.

As this measure takes further steps in the Congress toward final passage, I am hopeful that these key issues are resolved in a man-
ner that is in the best interests of all parties af-
ected, and that we will one day have a De-
partment of Homeland Security that offers unrivaled protection. Therefore, Mr. Speaker, as the measure stands, I oppose H.R. 5005.

I implore my colleagues to consider that this measure is in need of refinement, and that if we do not resolve these outstanding issues, all this debate and consideration will be counterpro
ductive and harmful to our nation.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I strongly support the idea, Scep
ticism the Homeland Security Act of 2002. We are rushing to undertake the most dramatic re-
organization of the federal government in dec-
ades, and I am uncertain whether the particu-
lars of this plan are well thought out.

As a member of the Transportation and In-
frastructer Committee I have heard my friend Mr. OBERSTAR speak about the deliberative process that went into the creation of the De-
partment of Transportation in 1966. That effort took over 9 months and the final product has produced lasting benefits for Americans.

In comparison, we are rushing this bill in less than 9 weeks. We are pulling together disparate elements from all over the federal government. I am uncertain whether these pieces really do fit together, and even if they do, it will take years for them to come together as a coherent department that protects the homeland.

I strongly object to partisan manner in which the bill’s authors are, under the guise of homeland security, attempting to make the civil service protections of our nation’s federal workers.

There is no justification for this proposal. If we are to maintain the morale and profes-
sionalism of employees of the new depart-
ment, they will need the basic protections that we afford all other federal workers.

Finally, I wish to reiterate that the provisions to push back by one year the deadline for de-
ployment of EDS equipment at the nation’s airports do not belong in this bill. As I indi-
icted earlier, the purpose of this bill is to wait for the DOT IG’s recommendation forth-
coming in late August. We will have plenty of time to address this issue when we come back from the recess.

Because of the aforementioned reasons, I intend to vote against final passage today. I do so with great misgiving because it would be ideal for members to stand together in a united front in our war against terrorism.

It is my sincere hope that the Senate will fix the defects of the bill’s composition and that the conferees will produce a final product I can support.

Mr. MOORE. Mr. Chairman, in October, I co-sponsored H.R. 3026, the Office of Home-
land Security Act of 2001, to establish an Of-
fice of Homeland Security within the Executive Office of the President. Eight months later, President George W. Bush gave impetus to the creation of a Department of Homeland Secu-
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As proposed, this administration bill would permit the Secretary of Homeland Security to choose how or whether their employees would be covered by current legal protections against reprisal when they call attention to in-
stances of agency misfeasance. The bill also would exempt from the Freedom of Informa-
tion Act (FOIA) any information about infra-
structure vulnerabilities given to the Homeland Security Department by any private or non-
Federal entity.

In congressional hearings, members of both parties have made it clear that the administra-
tion is overreaching, especially with regard to whistle-blowers and exemptions to the Free-
dom of Information Act. The need for whistle-
blowers and for their protection was evidenced by the recent cases of Special Agent Coleen Rowe of the FBI and former Austin District Attorney General Rowley. The need for whistle-blowers was made apparent by the recent cases of Special Agent Coleen Rowley of the FBI and former Austin District Attorney General Rowley.

In June, I sponsored H. Res. 436, commen-
sing Special Agent Coleen Rowley for outstanding performance of her duties. As a former district attorney, I know any law en-
forcement organization is only as good as its people and their ability to gather and analyze information. FBI agent Rowley courageously came forward to reveal critical breakdowns in the FBI’s information gathering processes be-
fore September 11. She did this without any regard for her own career or prospects for ad-
van-
sion. Agent Rowley personifies the American tradition of demonstrating integrity and selflessness in the service of our nation.

Experts have been saying for years that the U.S. needed a Department of Homeland Se-
curity. A Department of Homeland Security is essential to coordinating the U.S. war on ter-
rorism. Arguably our tactical and strategic mis-
sions and goals have been forever changed since the events of September 11th. H.R. 5005 is a bipartisan piece of legislation with input from all House standing committees with jurisdiction. H.R. 5005 also shows what Con-
gress can actually achieve when given a deadline and an issue above the fray of par-

Mr. COSTELLO. Mr. Chairman, I rise today to oppose H.R. 5005, legislation to create a cabinet-level Department of Homeland Secu-

ity, and I urge my colleagues to do the same. This experience reminds me of the efforts of President Clinton to overhaul our nation’s healthcare system. As with that plan, Presi
dent Bush’s homeland security proposal, while intended, goes too far, too fast in creating a massive new Federal department, a bill well

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must do more to protect our country from threats posed by those who wish us harm and those who wish to alter the way we live our lives. There is no question that all members want to protect the American public. Unfortunately, the bill we are considering today does not take the right approach to accomplishing that goal.

At the outset of this process, I said that any new proposal to address our national security shortfalls must pass three basic tests. First, the plan must actually make us safer. Second, the plan must not compromise our precious civil liberties and civil rights. Finally, the critical non-security functions of government entities must not be compromised. This legislation fails to adequately address those critical tests.

The bill before us today creates a new Department of Homeland Security. As we debated the bill originally proposed by the Administration, we were able to make several significant improvements to it. I am pleased that the legislation includes a provision establishing an Office of Civil Rights and Civil Liberties within the new department. I offered an amendment that would give the Office of Civil Rights and Civil Liberties the authority to exempt from FOIA information that would guarantee American patriots who come forward to expose improprieties and threats to our security a guarantee that, if they are retaliated against for their actions, they will have a right to legal recourse. Sadly, under the current bill, the Administration was able to remove those protections from the bill, those who risk their future to shed light on issues of concern to the public will have no guarantees and no real protection. By withholding very basic rights and protections for whistleblowers, we are actually subjecting those with information that should be shared with Congress or the public will be reluctant to do so—leaving us in the dark about threats we might otherwise be able to eliminate.

This bill creates an exclusion from the Freedom of Information Act to all information dealing with infrastructure vulnerabilities and is voluntarily submitted to the new department. This is an unnecessary provision because, under current law, the government already has the authority to exempt from FOIA information that is protected under provisions, including that which is related to national security and trade secrets. While the current law simply requires the Administration to review information voluntarily submitted for possible exemptions from FOIA, this bill provides a blanket exclusion, thereby removing the discretion of the Administration completely. Even worse, the same section of the bill preempts state and local good government and openness laws.

This bill also exempts committees created by the Secretary of Homeland security from the Federal Advisory Committee Act. This would allow the Secretary to create secret forums where lobbyists for all sorts of special interests could push their agendas with the Administration without concern that the public would find out and regardless of whether their discussions are about security or business goals.

The legislation before us today negates the Congressionally-mandated requirement that all airports have the ability to screen checked baggage for explosives. One of our most frightful and realistic vulnerabilities is the status of our air travel system in this country. It is a sad message to send to our constituents and the flying public that we are not willing to do what it takes to ensure the skies are truly safe. Many on the Republican side have argued that the task of providing equipment to secure our planes and prevent terrorist devices from making their way on board is too costly. I would submit that we cannot afford to do otherwise.

Finally, this bill is flawed because it provides an exemption from liability for manufacturers of equipment used for national security purposes. This broad protection for industry would apply even if company officials willfully neglect the welfare of the public in order to make profits. If a new defense or machine company knows that its product is not reliable but does not inform the government, we will not be able to seek legal recourse if that company's product, as anticipated by company officials, fails to work and leads to loss of life.

September 11 made us all painfully aware of the limitations of our current national security and anti-terrorism apparatus. We have become painfully aware of the shortcomings of the CIA and FBI. If we pass this bill, I urge all members to be painfully aware of the need to act decisively to correct our flawed system.

If we want to be able to prepare our nation and to guarantee America’s security, we must improve communications, invest in language translation capabilities, enhance our public health infrastructure, provide necessary training and resources to emergency first responders and focus on improving the capabilities and the capacity of state and local authorities, and more. Moving the boxes from one agency to another will not accomplish these important tasks.

Unfortunately, this bill fails to address even the most obvious and immediate concerns. Instead, what the President and the Republicans in the House put forth is a massive reorganization of the federal government, nothing more than a reshuffling of the deck, with a few added tools for the Administration. Simply shifting people and agencies will not make America safer and that is all we will accomplish. I urge all members to reject this flawed legislation and to focus on efforts that will actually enhance our security and maintain our American way of life.

Mr. BUYER. Mr. Chairman, I rise in strong support of H.R. 5005, the Homeland Security Act, and am pleased to be an original cosponsor of the legislation.

With this legislation, we will organize and focus on the resources of the executive branch of the federal government on the task of ensuring the security and safety of our citizens inside our borders. While many of the functions of the new Department have been performed by dedicated federal employees for many years, such as insuring the quality of imported food and public health needs, a new dedicated machine will be added to the tasks of the new Department: that of preventing terrorist attacks within the United States and reducing the vulnerability of the United States to further terrorist attacks. This is a high calling.

I am pleased that the Select Committee maintained the transferred Coast Guard and the Federal Emergency Management Agency to the new Department of Homeland Security. The Coast Guard will play a significant role in maintaining the security of our borders, the longest of which is our coasts. It is also crucial that FEMA’s expertise be tapped by the Department when plans are developed to respond quickly to the damage and recovery of local communities.
Let me also express my support for provisions in the legislation that give the new Department the authority to assist with the cybersecurity of information systems of federal agencies. The Secretary will have the duty to evaluate the security of federal systems; assist federal agencies with the identification of risks; and conduct research and development on security techniques.

I commend the Majority Leader for working through the difficult issues in the creation of the new Department and believe he has brought to the floor a product worthy of our consideration.

The CHAIRMAN pro tempore. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HASTINGS of Washington) having assumed the chair, Mr. SWEENEY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5005) to establish the Department of Homeland Security, and for other purposes, pursuant to House Resolution 502, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

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

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

MOTION TO RECOMMEND OFFERED BY MS. DELAURO
Ms. DELAURO. Mr. Speaker, I offer a motion to recommit.

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

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

MOTION TO RECOMMEND OFFERED BY MS. DELAURO
Ms. DELAURO. Mr. Speaker, I offer a motion to recommit.

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

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

MOTION TO RECOMMEND OFFERED BY MS. DELAURO
Ms. DELAURO. Mr. Speaker, I offer a motion to recommit.

MOTION TO RECOMMEND OFFERED BY MS. DELAURO
Ms. DELAURO. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut (Ms. MALONEY).
home and abroad, they deserve a level playing field on which to compete.

If a Bermuda-bound company does not have to pay taxes on some of its income, of course it can underbid those who stay loyal to America, pay their taxes, and work here at home. We should let those who come here paying when they seek Federal contract dollars, and yet will not contribute to the security of our country.

I recall a communication from a company in Houston that had this very type of situation where a competitor exited, while it remained based in Texas loyal to all of us here at home.

Tonight, let us together send a bipartisan message that if companies want a slice of the American pie, they had better help bake it.

Mr. ARMLEY. Mr. Speaker, I claim the time in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Texas (Mr. ARMLEY) is recognized for 5 minutes.

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

Mr. Speaker, let me appreciate the concern that the gentlewoman expresses over the burden of our taxes that make American corporations undertake regrettable action.

Mr. Speaker, that is just one of the burdens of our current Tax Code that would be corrected by the flat tax. But, Mr. Speaker, I think everybody in the body would agree that tonight on this subject for 5 minutes is not the time to be talking about tax reform.

We ought to be talking, ladies and gentlemen, about the security of our Nation, homeland security. And that, Mr. Speaker, is my point.

This issue has nothing to do with homeland security. Mr. Speaker, I am disappointed that after 2 days of constructive discussion on how best to protect our homeland, we are dealing with a motion to recommit that relates to politics.

Mr. Speaker, the gentlewoman has a right to offer this motion, and I would like to address its shortcomings:

First, the issue is being dealt with, and being dealt with in a much more serious and substantive way, in the Committee on Ways and Means, the committee of jurisdiction. Hearings have been held and legislation has been introduced that actually addresses the underlying problems that lead to the most regrettable and deplorable process of corporate inversions.

Second, Mr. Speaker, even if this were the right place to deal with this issue, this motion to recommit creates more questions than answers. Clearly, this was not written by one of our standing committees. For example, Mr. Speaker, what does it mean when it says that a corporation has the United States sit down and it states, “the principal market for public trading of the corporation’s stock”? Does that mean 10 percent of trading, if trading in all other foreign countries is less than 10 percent? Do we want to, in fact, encourage further with this kind of legislation American firms to trade in European or Japanese exchanges? Why stock? How about debt? Or employees? Or corporate connections? Why some tax havens defined and not others? Does the gentlewoman like some countries with lower tax rates better than she likes other countries with lower tax rates?

Mr. Speaker, one of the concerns that is often times expressed about corporate inversions is the suggestion that jobs are lost by American employees. If indeed you deny to American firms producing in this country the ability to sell to the Federal Government, will that not result in real job losses before their employees?

Under this motion to recommit, you could have a longstanding United States or Swiss company that incorporates many years ago in Mexico and that happens to have the best new technology for fighting terrorists, but this entity would be prohibited from helping us fight the scourge of terrorism. Is this what we want?

Unbelievably, the result of this motion to recommit could be that we would be hampered in our mission to secure the homeland for reasons that have nothing to do with so-called corporate inversions. Perhaps an inadvertent result, but a result nonetheless.

Mr. Speaker, in summary, this poorly drafted motion to recommit is not about homeland security but about American politics. After a serious, thoughtful and bipartisan 7-week process by this Congress to respond to the President’s challenge, I am disappointed that this would be the final issue before we vote on this historic legislation to protect our families from the very real threat of terrorism.

I would urge the Members of this body to vote “no” on this motion to recommit, and I strongly urge a resounding “yes” vote on final passage of this historic bill.

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The Chair would advise Members that it is in violation of the House rules to have cellular phones on the floor and the Chair would ask Members to turn off their phones.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question on the motion to recommit. The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.
CONGRESSIONAL RECORD — HOUSE

RECORDED VOTE

Mr. PORTMAN, Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered. The SPEAKER pro tempore. This will be a 5-minute vote.

The Clerk announced that there were 295 ayes, 132 noes, not voting 6, as follows:

[Roll No. 367]

Ayes—295

Akerdahl
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Akin, Dan
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Baird
Barrett
Barth
Bass
Berkley
Bilirakis
Bishop
Boehlert
Boehner
Bonilla
Boozman
Boucher
Boyce
Bordallo
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Bourlier
Boyer
Brown
Bullock
Calvert
Camp
Cappio
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Casting
Chabot
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CONGRESSIONAL RECORD — JULY 26, 2002

Mr. ARMNEY. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 5005, the Clerk be authorized to correct section numbers, punctuation, spellings and cross-references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House.

The SPEAKER pro tempore (Mr. HASTENOS of Washington). Is there any objection to the request by the gentleman?

There was no objection.

PERSONAL EXPLANATION

Mr. WATKINS of Oklahoma. Mr. Speaker, I ask that the Record show that I was present and thought I voted “aye” on rollcall votes 293 and 348. I was having trouble with my voting card, and it was inaccurately recorded.

REPORT ON H.R. 5263, AGRICULTURE APPROPRIATIONS FOR FISCAL YEAR 2003

Mr. BONILLA, from the Committee on Appropriations, submitted a privileged report (Rept. No. 107-163) on the bill (H.R. 5263) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2003, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

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

☑ 2145

RECESS

The Speaker pro tempore (Mr. SIMPSON). Pursuant to clause 1, rule XXI, all points of order are reserved on the bill.

☑ 2315

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SIMPSON) at 11 o’clock and 15 minutes p.m.

WAIVING REQUIREMENT OF CLAUSE 6(A) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. REYNOLDS, Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 507 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

CONFERENCE REPORT ON H.R. 3009, TRADE ACT OF 2002

Mr. THOMAS (during consideration of H.R. 507) submitted the following conference report and statement on the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes:

CONFERENCE REPORT (H. Rept. 107-624)

The Committee on the disagreed votes of the two Houses on the amendment of the Senate to the bill (H.R. 3009), to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede 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:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Trade Act of 2002”.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISION A.—Trade Adjustment Assistance.
(b) DIVISION B.—Bipartisan Trade Promotion Authority.
(c) DIVISION C.—Andean Trade Preference Act.
(d) DIVISION D.—Extension of Certain Preference Trade Treatment and Other Provisions.
(e) DIVISION E.—Miscellaneous Provisions.
(f) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 1. Short title.

Sec. 2. Organization of Act into divisions; table of contents.

DIVISION A—TRADE ADJUSTMENT ASSISTANCE

Sec. 101. Short title.

TITLE I—TRADE ADJUSTMENT ASSISTANCE PROGRAM

Subtitle A—Trade Adjustment Assistance For Workers

Subtitle B—Reauthorization of trade adjustment assistance program

Sec. 111. Filing of petitions and provision of rapid response assistance; expedited review of petitions by secretary of labor.

Sec. 112. Group eligibility requirements.

Sec. 113. Qualifying requirements for trade readjustment allowances.

Sec. 114. Waivers of training requirements.

Sec. 115. Amendments to limitations on trade readjustment allowances.

Sec. 116. Annual total amount of payments for training.

Sec. 117. Provision of employer-based training.

Sec. 121. Coordination with Title I of the Workforce Investment Act of 1998.

Sec. 121. Expenditure period.

Sec. 122. Repeal of NAFTA transitional adjustment assistance program.

Sec. 123. Repeal of NAFTA transitional adjustment assistance program.
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<td>CHAPTER 2—CHILD CYBER-SMUGGLING CENTER OF THE CUSTOMS SERVICE</td>
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<td>Authorization of appropriations for program to prevent child pornography/child sexual exploitation.</td>
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<td>CHAPTER 3—MISCELLANEOUS PROVISIONS</td>
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<tr>
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<td>(b) Assistance for Firms—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2273b) is amended by striking “October 1, 1996, and ending September 30, 2001” and inserting “October 1, 2001, and ending September 30, 2007,”.</td>
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<td>(c) Termination—Section 255 of the Trade Act of 1974 is amended to read as follows:</td>
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<td>SEC. 255. TERMINATION.</td>
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<td>(1) Assistance for Workers.—</td>
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<tr>
<td>(A) In General.—Except as provided in paragraph (2), trade adjustment assistance, vouchers, allowances, and other payments or benefits may not be provided under chapter 2 after September 30, 2007.</td>
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<tr>
<td>(B) Exception.—Notwithstanding paragraph (1), a worker shall continue to receive trade adjustment assistance benefits and other benefits under chapter 2 for any week for which the worker meets the eligibility requirements of that chapter, if on or before September 30, 2007, the worker is—</td>
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<tr>
<td>(A) certified as eligible for trade adjustment assistance benefits under chapter 2 of this title; and</td>
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<td>(B) otherwise eligible to receive trade adjustment assistance benefits under chapter 2.</td>
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<td>(2) Other Assistance.—</td>
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<td>(A) Assistance for Firms.—Technical assistance may not be provided under chapter 3 after September 30, 2007.</td>
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<td>(B) Assistance for Farmers.—</td>
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<tr>
<td>(A) In General.—Except as provided in subparagraph (B), adjustment assistance, vouchers, allowances, and other payments or benefits may not be provided under chapter 6 after September 30, 2007.</td>
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<tr>
<td>(2) SEC. 112. FILING OF PETITIONS AND PROVISION OF RAPID RESPONSE ASSISTANCE, EXPEDITED REVIEW OF PETITIONS BY SECRETARY OF LABOR.</td>
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<tr>
<td>(a) Filing of Petitions and Provision of Rapid Response Assistance. —Section 221(a) of the Trade Act of 1974 (19 U.S.C. 2211) is amended to read as follows:</td>
<td></td>
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<tr>
<td>(a)(1) A petition for certification of eligibility to apply for adjustment assistance for a group of workers under this chapter may be filed simultaneously with the Secretary and with the Governor of the State in which such workers’ firm or subdivision is located by any of the following:</td>
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<tr>
<td>(A) The group of workers (including workers in an agricultural firm or subdivision of any agricultural firm).</td>
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<tr>
<td>(B) The certified or recognized union or other duly authorized representative of such workers.</td>
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</table>
| (C) Employers of such workers, one-stop operators or one-stop partners (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)), including State employment security agencies, or the State dislocated worker.
unit established under title I of such Act, on be-
half of such workers.

“(2) Upon receipt of a petition filed under para-
graph (1), the Governor shall—

(A) provide for response assistance, and
appropriate core and intensive services (as
defined in section 134 of the Workforce In-
authorized under this Act, and are directed to
the workers covered by the petition to the extent
authorized under such laws; and

(B) assist the Secretary in the review of the
petition, certifying such information and pro-
viding such other assistance as the Secretary
may request.

“(3) Upon receipt of the petition, the Secre-
tary shall promptly publish notice in the Fed-
eral Register that the Secretary has received the
petition and initiated an investigation.”.

(b) EXPEDITED REVIEW OF PETITIONS BY SEC-
RETARY OF LABOR.—Section 223(a) of such Act
(19 U.S.C. 2273(a)) is amended in the first sen-
tence by striking “60 days” and inserting “40
days.”

SEC. 113. GROUP ELIGIBILITY REQUIREMENTS.

(a) TRADE ADJUSTMENT ASSISTANCE

—

PROGRAM. —

(I) IN GENERAL.—Section 222 of the Trade Act
of 1974 (19 U.S.C. 2272) is amended

(b) by amending subsection (a) to read as fol-
lores:

“(a) A GENERAL.—A group of workers (in-
cluding apprentices in any agricultural firm or sub-
division of an agricultural firm) shall be cer-
tified by the Secretary as eligible to apply for
adjustment assistance under this chapter pursu-
ant to a petition filed under section 221 if the
Secretary determines that—

“(1) a significant number or proportion of the
workers in such workers’ firm, or an appro-
priate subdivision of the firm, have become to-
ially or partially separated, or are threatened to
become totally or partially separated; and

“(2) the workers’ firm (or subdivision) is a
supplier or downstream producer to a firm (or
subdivision) that employed a group of workers
who received a certification of eligibility under
subsection (a), and such supply or production is
related to the article that was the basis for such
certification (as defined in subsection (c)(3) and
(4)); and

“(3) either—

(A) the workers’ firm is a supplier and the com-
ponent parts it supplied to the firm (or subdi-
vision) described in paragraph (2) accounted for
at least 20 percent of the production or sales of
the workers’ firm; or

(B) a loss of business by the workers’ firm
with the firm (or subdivision) described in para-
graph (2) contributed importantly to the work-
ners’ separation or three of separation deter-
mimed under paragraph (1).”.

(b) DEFINITIONS.—Section 222(c) of such Act,
as redesignated by paragraph (1)(A), is amend-
ed

(I) in the matter preceding paragraph (1), by
striking “(a)(3)” and inserting “this section”; and

(2) by adding at the end the following:

“(D) DOWNSTREAM PRODUCER.—The term
‘downstream producer’ means a firm that per-
forms additional, value-added production pro-
cessing, or a firm that performs final assembly or
finishing, directly for another firm (or subdivi-
sion), for articles that were the basis for a cer-
tification of eligibility under subsection (a) if
the certification of eligibility under subsection (a) is based on an increase in imports from, or a shift in pro-
duction to, Canada or Mexico.

“(E) SUPPLIER.—The term ‘supplier’ means a
firm that produces and supplies directly to an-
other firm (or subdivision) component parts for
articles that were the basis for a certification of
eligibility under subsection (a) of a group of
workers employed by such other firm.”.

SEC. 114. QUALIFYING REQUIREMENTS FOR
TRADE READJUSTMENT ALLOW-
ANCES.

(a) CLARIFICATION OF CERTAIN

REDUCTIONS. — Section 223(a)(3)(B) of the Trade Act of 1974 (19 U.S.C. 2291(a)(3)(B)) is amended by inserting after “any unemployment insurance” the fol-
lores: “, except additional compensation that is funded by an employer and is not reimbursed from any Federal funds.”.

(b) ENROLLMENT IN TRAINING REQUIRE-
MENTS.—Section 223(a)(3)(A) of such Act (19 U.S.C. 2291(a)(3)(A)) is amended

(I) by inserting “(i)” after “(A)”; and

(2) by adding “and” after the comma at the end; and

(3) by adding at the end the following:

“(ii) the enrollment required under clause (i)
occurs no later than 6 months after the date that
the waiver is issued, unless the Secretary determines oth-
ernesswise.

“(B) REVOCATION.—The Secretary shall re-
voke a waiver issued under paragraph (1) if the
Secretary determines that the basis of a waiver
is no longer applicable or if the cooperating State shall notify the worker in writing of the revocation.”.

(c) AGREEMENTS UNDER SECTION 239.—

“(A) ISSUANCE BY COOPERATING STATES.—Purs-
uant to an agreement under section 239, the
Secretary may authorize a cooperating State to
issue waivers as described in paragraph (1).

(B) SUBMISSION OF STATEMENTS.—An agree-
ment under section 239 shall include a require-
ment that the cooperating State submit to the
Secretary the written statements provided under para-
graph (1) and a statement of the reasons for the
waiver.”.

SEC. 116. AMENDMENTS TO LIMITATIONS ON
TRADE READJUSTMENT ALLOW-
ANCES.

(a) INCREASE IN MAXIMUM NUMBER OF
WEEKS.—Section 233(a) of the Trade Act of 1974 (19 U.S.C. 2291(a)(3)) is amended

(b) CONFORMING AMENDMENT.—Section
223(a)(5)(C) of such Act (19 U.S.C. 2291(a)(5)(C)) is amended by striking “104-
week period” and inserting after “104-
week period” the following: “(or, in the case of an
adversely affected worker who requires a
program of remedial education (as described in section 223(a)(5)(D)) in train-

SEC. 115. WORK-readjustment REQUIREMENTS.

(a) IN GENERAL.—Section 223(c) of the Trade
Act of 1974 (19 U.S.C. 2291(c)) is amended to read as follows:

(c) ISSUANCE OF WAIVERS.—The Secretary
may issue a written statement to an adversely
affected worker waiving the requirement to be
enrolled in training described in subsection
(a)(5)(A) if the Secretary determines that it is
not feasible or appropriate for the worker, be-
cause of any of the following circumstances for the delay in enrollment, as
determined pursuant to guidelines issued by the Secretary, as described in
section 3 of the Carl D. Perkins Vocational and
Technical Education Act of 1998 (20 U.S.C. 2992), and employers), no training that is suit-
able for the worker is available at a reasonable
cost, or no training funds are available.

“(2) DURATION OF WAIVER.—A waiver is
valid for the period described in paragraph (1).

“(3) AGREEMENTS UNDER SECTION 239.—

“(A) ISSUANCE BY COOPERATING STATES.—Purs-
uant to an agreement under section 239, the
Secretary may authorize a cooperating State to
issue waivers as described in paragraph (1).

“(B) SUBMISSION OF STATEMENTS.—An agree-
ment under section 239 shall include a require-
ment that the cooperating State submit to the
Secretary the written statements provided under para-
graph (1) and a statement of the reasons for the
waiver.”.
(2) in paragraph (3), by striking "26" each place it appears and inserting "52".

(b) SPECIAL RULE RELATING TO BREAK IN TRAINING.—Section 233(f) of the Trade Act of 1974 (19 U.S.C. 2296(f)) is amended in the last paragraph of the preceding paragraph (1) by striking "14 days" and inserting "30 days".

(c) MISDEMEANORS FOR INDIVIDUALS IN NEED OF REMEDIAL EDUCATION.—Section 233 of the Trade Act of 1974 (19 U.S.C. 2296) is amended by adding at the end the following:

"(2) Notwithstanding any other provision of this section, in order to assist an adversely affected worker to complete training approved for the worker under section 236 which includes a program of remedial education (as described in section 236(a)(5)(D)), and in accordance with regulations prescribed by the Secretary, payments may be made as trade readjustment allowances for up to 26 additional weeks in the 26-week period that follows the last week of entitlement to trade readjustment allowances otherwise payable under this chapter."

SEC. 117. ANNUAL LIMITATION ON AMOUNT OF PAYMENTS FOR TRAINING.

Section 236(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended by striking "$70,000,000" and inserting "$200,000,000".

SEC. 118. PROVISION OF EMPLOYER-BASED TRAINING.

(a) IN GENERAL.—Section 236(a)(5)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(5)(A)) is amended to read as follows:

"(a) employer-based training, including—

"(i) employer-based training action,

"(ii) customized training,",

"(b) reimbursement.—Section 236(c)(6) of such Act (19 U.S.C. 2296(c)(6)) is amended to read as follows:

"(b) the employer is provided reimbursement of not more than 50 percent of the wage rate of the person doing the training and additional supervision related to the training;",

"(c) DEFINITION.—Section 236 of such Act (19 U.S.C. 2296) is amended by adding at the end the following new subsection:

"(f) For purposes of this section, the term "customized training" means training that is—

"(1) designed to meet the special requirements of an employer or group of employers;

"(2) conducted with a commitment by the employer and/or group of employers to employ an individual upon successful completion of the training; and

"(3) for which the employer pays for a significant portion of the cost in the case of less than 50 percent of the cost of such training, as determined by the Secretary."


Section 235 of the Trade Act of 1974 (19 U.S.C. 2295) is amended by inserting before the period at the end of the first sentence the following: "including the services provided through one-stop delivery systems described in section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c))."

SEC. 120. EXPENDITURE PERIOD.

Section 245 of the Trade Act of 1974 (19 U.S.C. 2317), as amended by section 111(a) of this Act, is further amended by adding subsection (b) to read as follows:

"(b) PERIOD OF EXPENDITURE.—Funds obligated for any fiscal year to carry out activities under this section 225 through 228 may be expended by each State receiving such funds during that fiscal year and the succeeding two fiscal years."

SEC. 121. JOB SEARCH ALLOWANCES.

Section 237 of the Trade Act of 1974 (19 U.S.C. 2297) is amended to read as follows:

"SEC. 237. JOB SEARCH ALLOWANCES.

"(a) JOB SEARCH AUTHORIZED.—

"(1) in general.—An adversely affected worker covered by a certification issued under subchapter A of this chapter may file an application with the Secretary for payment of a job search allowance.

"(2) APPROVAL OF APPLICATION.—The Secretary determines to grant an application filed under paragraph (1) when all of the following apply:

"(A) ASSIST ADVERSELY AFFECTED WORKER.—The allowance is granted to an adversely affected worker who has been totally separated in securing a job within the United States.

"(B) LOCAL EMPLOYMENT NOT AVAILABLE.—The Secretary determines that the worker cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.

"(C) APPLICATION.—The worker has filed an application for the allowance with the Secretary before—

"(I) the 365th day after the date of the certification under which the worker is certified as eligible; or

"(II) the 365th day after the date of the worker's last total separation; or

"(iii) the date that is the 182nd day after the date on which the worker concluded training, unless the worker received a waiver under section 231(c).

"(b) AMOUNT OF ALLOWANCE.—

"(1) in general.—Reimbursement under subsection (a) shall provide reimbursement for up to 26 additional weeks in the 26-week period that follows the last week of entitlement to trade readjustment allowances otherwise payable under this chapter.

"(2) maximum allowance.—Reimbursement under this subsection may not exceed $1,250 for any worker.

"(3) allowance for subsistence and transportation.—Reimbursement under this subsection may not be made for subsistence and transportation expenses at levels not exceeding those allowable under section 236(b)(1) and (2).

"(c) EXCEPTION.—Notwithstanding subsection (b), the Secretary shall reimburse any adversely affected worker for necessary expenses incurred by the worker in participating in a job search program approved by the Secretary."

SEC. 121A. RELOCATION ALLOWANCES.

Section 238 of the Trade Act of 1974 (19 U.S.C. 2298) is amended to read as follows:

"SEC. 238A. RELOCATION ALLOWANCES.

"(a) RELLOCATION AUTHORIZED.—

"(1) in general.—Any adversely affected worker covered by certification issued under subchapter A of this chapter may file an application for a relocation allowance.

"(2) CONDITIONS FOR GRANTING ALLOWANCE.—A relocation allowance may be granted if all of the following terms and conditions are met:

"(A) ASSIST ADVERSELY AFFECTED WORKER.—The relocation allowance will assist an adversely affected worker in relocating within the United States.

"(B) LOCAL EMPLOYMENT NOT AVAILABLE.—The Secretary determines that the worker cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.

"(C) TOTAL SEPARATION.—The worker is totally separated from employment at the time relocation commences.

"(D) SUITABLE EMPLOYMENT OBTAINED.—The worker—

"(I) has obtained suitable employment affording a reasonable expectation of long-term duration in the area in which the worker wishes to relocate; or

"(II) has obtained a bona fide offer of such employment.

"(E) APPLICATION.—The worker filed an application with the Secretary before—

"(1) the last total separation;

"(2) the 365th day after the date of the certification under subsection A of this chapter; or

"(3) the date that is the 182nd day after the date on which the worker concluded training, unless the worker received a waiver under section 231(c).

"(f) AMOUNT OF ALLOWANCE.—The relocation allowance granted to a worker under subsection (a) shall not exceed the following:

"(1) MAXIMUM ALLOWANCE.—The relocation allowance granted to a worker under subsection (a) shall be equal to the lesser of—

"(A) the amount necessary to enable the worker to relocate to a new location, or

"(B) the amount necessary to enable the worker to relocate to a new location and to secure suitable employment there; or

"(2) minimum allowance.—The relocation allowance granted to a worker under subsection (a) shall be equal to the lesser of—

"(A) the amount necessary to enable the worker to relocate to a new location, or

"(B) the amount necessary to enable the worker to relocate to a new location and to secure suitable employment there; or

"(C) allowance for subsistence and transportation.—The Secretary determines that the worker cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.

"(3) allowance for subsistence and transportation.—Reimbursement under this subsection may not be made for subsistence and transportation expenses at levels not exceeding those allowable under section 236(b)(1) and (2).

"(4) EXCEPTION.—Notwithstanding subsection (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), or (z) of section 236(b)(1) and (2) of the Trade Act of 1974 (19 U.S.C. 2296(b)(1) and (2)) is amended by striking "or "subchapter D" each place it appears in such section.

"(2) Section 249A of such Act (19 U.S.C. 2322) is repealed.

"(3) The table of contents of such Act is amended by striking "(A) by striking the item relating to section 249A; and

"(B) by striking the items relating to subsection D of chapter 2 of title II of such Act.

"(4) Section 284(a) of such Act is amended by striking "or section 250(G)".

"(5) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to petitions filed under section 2 of title II of the Trade Act of 1974, on or after the date that is 90 days after the date of enactment of this Act.

SEC. 236A. DEMONSTRATION PROJECT FOR ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE FOR OLDER WORKERS.

(a) DEMONSTRATION PROGRAM.—Chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) is amended by striking section 246 and inserting the following new section:

"SEC. 246. DEMONSTRATION PROJECT FOR ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE FOR OLDER WORKERS.

"(a) in general.—Not later than 1 year after the date of enactment of the Trade Adjustment Assistance Reform Act of 2002, the Secretary shall establish an alternative trade adjustment assistance program for older workers that provides the benefits described in paragraphs (2).

"(b) benefits.—A State shall use the funds provided to the State under section 241 to pay, for a period not to exceed 2 years, to a worker..."
described in paragraph (3)(B), 50 percent of the difference between:

‘‘(i) the wages received by the worker from re-
employment; and

(ii) the wages received by the worker at the
time of separation.’’

(B) HEALTH INSURANCE.—A worker described in paragraph (3)(B) participating in the pro-
gram established under paragraph (1) is eligible to receive, for a period not to exceed 2 years, a credit for health insurance costs under section 35 of title 18, Public Health Service Act, as added by section 201 of the Trade Act of 2002.

‘‘(3) ELIGIBILITY.—

(A) FIRM ELIGIBILITY.—

(i) General. The Secretary shall provide the
opportunity for a group of workers on whose behalf a petition is filed under section 221 to re-
quest that the group be certified for the alternative trade adjustment assistance pro-
gram under this section at the time the petition is filed.

(ii) Criteria. In determining whether to certify a group of workers as eligible for the al-
ternative trade adjustment assistance program, the Secretary shall consider the following cri-
teria:

‘‘(I) Whether a significant number of workers in the workers’ firm are 50 years of age or older.

‘‘(II) Whether the workers in the workers’ firm possess skills that are not easily transfer-
able.

‘‘(III) The competitive conditions within the workers’ industry.

‘‘(IV) Deadline.—The Secretary shall deter-
mine whether the workers in the group are eligi-
ble for the alternative trade adjustment assistance
program by the date specified in subsection (a)(3).

‘‘(B) INDIVIDUAL ELIGIBILITY.—A worker in
the group that the Secretary has certified as elig-
ible for the alternative trade adjustment assistance
program may receive benefits under the alterna-
tive trade adjustment assistance program if

‘‘(i) is certified by a certification under sub-
chapter A of this chapter;

‘‘(ii) obtains reemployment not more than 26
weeks after the date of separation from the ad-
versely affected employment;

‘‘(iii) is at least 50 years of age; and

‘‘(iv) earns not more than $50,000 a year in wages from
reemployment;

‘‘(v) is employed on a full-time basis as de-
fined by State law in the State in which the worker
is employed;

‘‘(vi) does not return to the employment from
which the worker was separated.

‘‘(4) TOTAL AMOUNT OF PAYMENTS.—The pay-
ments made under this section shall be limited to
an amount not to exceed $10,000 per worker dur-
ing the 2-year eligibility period.

‘‘(5) LIMITATION ON OTHER BENEFITS.—Except as provided in section 238(a)(2)(B), if a worker is receiving payments pursuant to the program established under paragraph (1), the worker shall not be eligible to receive any other benefits under this title.

‘‘(b) TERMINATION.—

(A) IN GENERAL.—Except as provided in para-
graph (b)(1), a worker receiving payments under the pro-
gram established under subsection (a)(1) on the termi-
nation date described in subsection (a)(3)(B), the worker shall continue to receive such payments pro-
vided that the worker meets the criteria de-
scribed in subsection (a)(3)(B).

(B) END-OF-TERM DETERMINATION.—The Trade Act of 1974 (19 U.S.C. cts seq.) is amended in the table of contents by inserting after the item relating to section 245 the following new item:

‘‘Sec. 236. Trade Adjustment Assistance for alter-
native trade adjustment assistance for older workers.”

SEC. 125. DECLARATION OF POLICY; SENSE OF CONGRESS.

(a) DECLARATION OF POLICY.—Congress reiter-
ates that, under the trade adjustment assistance pro-
gram of the Trade Act of 1974, workers are eligible for transporta-
tion, childcare, and healthcare assistance, as well as other related assistance under programs adminis-
tered by the Department of Labor.

(b) SENSE OF CONGRESS.—It is the sense of
Congress that the Secretary of Labor, working inde-
pendently and in conjunction with the States, should, in accordance with section 225 of the
Trade Act of 1974, provide more specific in-
formation about benefit allowances, training, and
other related assistance under programs adminis-
tered by the Department of Labor.

SEC. 126. SECESSION OF POLICY; SENSE OF CONGRESS.

(a) IN GENERAL.—The Secretary shall take
steps as may be necessary to ensure that all
affected workers are informed of benefits under the
adjustment assistance program established under this chapter.

(b) REQUIREMENTS.—The Secretary shall
notify each worker entitled to, and any other affected
person, of:

‘‘(1) the wages received by the worker from re-
employment;

‘‘(2) the requirements of subsection (c)(2) are
met; and

‘‘(3) the determination by the Secretary of Labor.

(c) IN REASONABLE TIME FROM THE DATE ON WHICH
the petition and initiated an investigation.

SEC. 127. DECLARATION OF POLICY; SENSE OF CONGRESS.

(a) IN GENERAL.—The Secretary shall provide
public notices about benefit allowances, training, and
other related assistance under programs adminis-
tered by the Department of Labor.

(b) REQUIREMENTS.—The Secretary shall
notify each worker entitled to, and any other affected
person, of:

‘‘(1) the wages received by the worker from re-
employment;

‘‘(2) the requirements of subsection (c)(2) are
met; and

‘‘(3) the determination by the Secretary of Labor.

(c) IN REASONABLE TIME FROM THE DATE ON WHICH
the petition and initiated an investigation.

SEC. 128. DECLARATION OF POLICY; SENSE OF CONGRESS.

(a) IN GENERAL.—The Secretary shall provide
 här health insurance costs under section 35 of title 18, Public Health Service Act, as added by section 201 of the Trade Act of 2002.

(b) REQUIREMENTS.—The Secretary shall
provide information about the availability of health in-

SEC. 129. DECLARATION OF POLICY; SENSE OF CONGRESS.

(a) IN GENERAL.—The Secretary shall provide
information about the availability of health in-

SEC. 130. REALIZATION OF PROGRAM. (Section 256(b) of chapter 3 of title II of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended to read as follows:

‘‘(b) There are authorized to be appropriated to the Secretary of Labor for each of the fiscal years 2003 through 2007, to carry out the Secretary’s functions under this chapter in connection with furnishing adjustment assistance to firms. Amounts appropriated under this sub-
section shall remain available until expended.’’

SEC. 131. TRADE ADJUSTMENT ASSISTANCE FOR FIRMS.

(a) IN GENERAL.—Title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.) is amended by adding at the end the following new chapter:

‘‘CHAPTER 6—ADJUSTMENT ASSISTANCE FOR FARMERS

SEC. 291. DEFINITIONS.

‘‘In this chapter:

‘‘(1) AGRICULTURAL COMMODITY.—The term ‘‘agricultural commodity’’ means any agricul-
tural commodity (including livestock) in its raw or natural state.

‘‘(2) AGRICULTURAL COMMODITY PRODUCER.—
The term ‘‘agricultural commodity producer’’ has the same meaning as the term as defined by regulations promulgated under section 1901(5) of the Food Security Act of 1985 (7 U.S.C. 1308(e)).

‘‘(3) CONTRIBUTED IMPORTANTLY.—

‘‘(A) IN GENERAL.—The term ‘‘contributed im-
portantly’’ means a cause which is important but

SEC. 292. PETITIONS; GROUP ELIGIBILITY.

(a) IN GENERAL.—A petition for a certifi-
cation of eligibility to apply for adjustment as-

assistances under this chapter may be filed with the Secretary by a group of agricultural commodity producers or by their duly authorized representative. Upon receipt of the petition, the Secretary shall promptly public-
ize a summary of the petition in the Federal Register that the Secretary has received the petition and initiated an investigation.

SEC. 293. DETERMINATIONS BY SECRETARY OF AGRICULTURAL COMMODITY.

(a) IN GENERAL.—As soon as practicable after the date on which a petition is filed under section 292, but in any event not later than 40 days after that date, the Secretary shall determin-

(b) NOTICE.—Upon making a determination on a petition, the Secretary shall promptly pub-
licize a summary of the determination in the Federal Register, together with the Secretary’s rea-
sions for making the determination.
"(c) TERMINATION OF CERTIFICATION.—When ever the Secretary determines, with respect to any certification of eligibility under this chapter, that the decline in price for the agricultural commodity described in such certification is no longer attributable to the conditions described in section 292, the Secretary shall terminate such certification and cause a notice of such termination to be published in the Federal Register, together with the Secretary's reasons for making such determination.

SEC. 294. AGGREGATE SECRETARY OF AGRICULTURE WHEN INTERNATIONAL TRADE COMMISSION BEGINS INVESTIGATION.

(a) IN GENERAL.—Whenever the International Trade Commission (in this chapter referred to as the 'Commission') begins an investigation under section 202 of this chapter with respect to an agricultural commodity, the Commission shall immediately notify the Secretary of the investigation. Upon receipt of the notification, the Secretary shall immediately conduct a study of—

(i) the number of agricultural commodity producers producing a like or directly competitive agricultural commodity who have been or are likely to be certified as eligible for adjustment assistance under this chapter, and

(ii) the extent to which the adjustment of such report competitiveness could be facilitated through the use of existing programs.

(b) REPORT.—Not later than 15 days after the day on which the Commission makes its report under section 205, the Secretary shall submit a report to the President setting forth the findings of the study described in subsection (a). Upon making the report to the President, the Secretary shall also promptly make the report public (with the exception of information which the Secretary determines to be confidential) and shall have a summary of the report published in the Federal Register.

SEC. 295. BENEFIT INFORMATION TO AGRICULTURAL COMMODITY PRODUCERS.

(a) IN GENERAL.—The Secretary shall provide full information to agricultural commodity producers about the benefit allowances, training, and other employment services available under this title and about the petition and application procedures, and the appropriate filing dates, for such allowances, training, and services. The Secretary shall provide whatever assistance is necessary to enable groups to prepare petitions and applications for program benefits under this title.

(b) NOTICE OF BENEFITS.—The Secretary shall mail written notice of the benefits available under this chapter to each agricultural commodity producer that are covered by each certification made under this chapter in newspapers of general circulation in the areas in which such producers reside.

(c) OTHER FEDERAL ASSISTANCE.—The Secretary shall also provide information concerning procedures for obtaining employment services and other Federal assistance and services available to workers facing economic distress.

SEC. 296. QUALIFYING REQUIREMENTS FOR AGRICULTURAL COMMODITY PRODUCERS.

(a) IN GENERAL.—

(1) PAYMENT OF A TRADE ADJUSTMENT ALLOWANCE.—Payment of a trade adjustment allowance shall be made to an adversely affected agricultural commodity producer covered by a certification under this chapter if the producer does not receive any other adjustment assistance under any provision of this title other than this chapter.

(2) The producer certifies that the producer has not received any other adjustment assistance under any provision of this title other than this chapter.

(c) M A X I M U M A M O U N T O F C A S H A S S I S T E N C E.—The maximum amount of cash assistance that an agricultural commodity producer may receive in any 12-month period shall not exceed $10,000.

(d) LIMITATIONS ON OTHER ASSISTANCE.—An agricultural commodity producer entitled to receive benefits for a qualified year shall be determined in the same manner as cash benefits are determined under paragraph (1) except that the average national price for the agricultural commodity covered in such a period shall be determined under paragraph (1)(B)(i) by using the 5-marketing-year period used to determine the amount of cash benefits for the first certification.

(e) MAXIMUM AMOUNT OF CASH ASSISTANCE.—The maximum amount of cash benefits an agricultural commodity producer may receive in any 12-month period shall not exceed $10,000.

(f) LIMITATIONS.—(A) ADJUSTED GROSS INCOME.—(i) In general.—(I) The Secretary may determine, in accordance with guidelines prescribed by the Secretary, that a certification under this chapter to which the person was not entitled, such person shall be liable to repay such amount of cash assistance to the Secretary.

(ii) The Secretary may determine, in accordance with guidelines prescribed by the Secretary, that a certification under this chapter to which the person was not entitled, such person shall be liable to repay such amount of cash assistance to the Secretary.

(iii) The Secretary may determine, in accordance with guidelines prescribed by the Secretary, that a certification under this chapter to which the person was not entitled, such person shall be liable to repay such amount of cash assistance to the Secretary.

(ii) INFORMATION.—(I) The Secretary shall provide whatever assistance is necessary to enable groups to prepare petitions and applications for program benefits under this chapter.

(ii) TERMINATION OF CERTIFICATION.—(I) The Secretary shall immediately conduct a study of the commission producer described in subsection (a) who files an application for such allowance during any 5-marketing-year period used to determine the amount of cash benefits for the first certification.

(i) TERMINATION OF CERTIFICATION.—(I) The Secretary shall immediately conduct a study of the commission producer described in subsection (a) who files an application for such allowance during any 5-marketing-year period used to determine the amount of cash benefits for the first certification.

(ii) TERMINATION OF CERTIFICATION.—(I) The Secretary shall immediately conduct a study of the commission producer described in subsection (a) who files an application for such allowance during any 5-marketing-year period used to determine the amount of cash benefits for the first certification.

(i) TERMINATION OF CERTIFICATION.—(I) The Secretary shall immediately conduct a study of the commission producer described in subsection (a) who files an application for such allowance during any 5-marketing-year period used to determine the amount of cash benefits for the first certification.
SEC. 288. AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.—There are authorized to be appropriated and there are appropriated to the Department of Agriculture not to exceed $90,000,000 for each of the fiscal years 2003 through 2007 to carry out the purposes of this chapter.

“(b) PROPORTIONATE REDUCTION.—If in any year the amount appropriated under this chapter is insufficient to meet the requirements for adjustment assistance payable under this chapter, the amount of assistance payable under this chapter shall be proportionately reduced.

“(c) EFFECTIVE DATE.—The amendments made by this title shall take effect on the date that is 180 days after the date of enactment of this Act.

SEC. 142. CONFORMING AMENDMENTS.

(a) JUDICIAL REVIEW.—

(1) Section 284(a) of the Trade Act of 1974 (19 U.S.C. 284) is amended—

(A) by inserting “an agricultural commodity producer (as defined in section 291(2)) aggrieved by a determination of the Secretary of Agriculture under section 291, after ‘section 251 of this title,’; and

(b) in the second sentence of subsection (a) and in subsections (b) and (c), by striking “or the Secretary of Commerce” each place it appears and inserting “, the Secretary of Commerce, or the Secretary of Agriculture”.

(b) STUDY ON TAA FOR FISHERMEN.

Not later than 1 year after the date of enactment of this Act, the Secretary of Commerce and the Secretary of Agriculture when International Trade Commission begins investigation.

SEC. 291. Benefit information to agricultural commodity producers.

SEC. 292. Fraud and recovery of overpayments.

SEC. 293. Authorization of appropriations.

SEC. 143. STUDY ON TAA FOR FISHERMEN.

Not later than 1 year after the date of enactment of this Act, the Secretary of Commerce shall issue a report to Congress regarding whether a trade adjustment assistance program is appropriate and feasible for fishermen. The preceding sentence of the term “fishermen” means any person who is engaged in commercial fishing or is a United States fish processor.

Subtitle D—Effective Date

SEC. 151. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in sections 123(c) and 141(b), and subsections (b), (c), and (d) of this section, the amendments made by this division shall apply to petitions for certification filed under chapter 2 or 3 of title II of the Trade Act of 1974 on or after the date that is 90 days after the date of enactment of this title.

(b) WORKERS CERTIFIED AS ELIGIBLE BEFORE EFFECTIVE DATE.—Notwithstanding subsection (a), a worker shall continue to receive (or be eligible to receive) such benefits under chapter 2 or 3 of title II of the Trade Act of 1974, as in effect on September 30, 2001, for any week for which the worker meets the eligibility requirements of such chapter 2 or 3 as in effect on such date.

(1) WORKERS WHO BECAME ELIGIBLE DURING QUALIFIED PERIOD.—

(1) IN GENERAL.—Notwithstanding subsection (a) or any other provision of law, including section 285 of the Trade Act of 1974, any worker who would have been eligible to receive trade adjustment assistance benefits under chapter 2 of title II of the Trade Act of 1974 during the qualified period if such chapter 2 had been in effect during such period, shall be eligible to receive such assistance and other benefits under chapter 2 of title II of the Trade Act of 1974, as in effect on September 30, 2001, for any week during the qualified period for which the worker meets the eligibility requirements of such chapter 2 as in effect on September 30, 2001.

(2) QUALIFIED PERIOD.—For purposes of this subsection, the term “qualified period” means the period beginning on January 1, 2002, and ending on the date that is 90 days after the date of enactment of this Act.

(3) ADJUSTMENT ASSISTANCE FOR FIRMS.—

(1) IN GENERAL.—Notwithstanding subsection (a) or any other provision of law, including section 285 of the Trade Act of 1974, and except as provided in paragraph (2), any firm that would have been eligible to receive adjustment assistance under chapter 3 of title II of the Trade Act of 1974 during the qualified period if such chapter 3 had been in effect during such period, shall be eligible to receive adjustment assistance under chapter 3 of title II of the Trade Act of 1974, as in effect on September 30, 2001, for any week during the qualified period for which the firm meets the eligibility requirements of such chapter 3 as in effect on September 30, 2001.

(2) QUALIFIED PERIOD.—For purposes of this subsection, the term “qualified period” means the period beginning on October 1, 2001, and ending on the date that is 90 days after the date of enactment of this Act.

TITLE II—CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS

SEC. 201. CREDIT FOR HEALTH INSURANCE COSTS OF INDIVIDUALS RECEIVING A TRADE READJUSTMENT ALLOWANCE OR A BENEFIT FROM THE PEN- SON BENEFIT GUARANTY CORPORATION.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 33 as section 33A and inserting after section 33 the following new section:

“SEC. 33. ELIGIBLE INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.

“(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by subtitle A an amount equal to 65 percent of the amount paid by the taxpayer for coverage of the taxpayer and qualifying family members under qualified health insurance for eligible coverage months beginning in the taxable year.

“(b) ELIGIBLE COVERAGE MONTH.—For purposes of this section—

“(1) IN GENERAL.—The term ‘eligible coverage month’ means any month if—

“(A) as of the first day of such month, the taxpayer—

(i) is an eligible individual,

(ii) is covered by qualified health insurance, the premium for which is paid by the taxpayer,

(iii) does not have other specified coverage, and

(iv) is not imprisoned under Federal, State, or local authority, and

(B) such month begins more than 90 days after the date of the enactment of the Trade Act of 2002.

“(2) JOINT RETURNS.—In the case of a joint return, the requirements of paragraph (1)(A) shall be treated as met with respect to any month if at least 1 spouse satisfies such requirements.

“(c) ELIGIBLE INDIVIDUAL.—For purposes of this section—

“(1) IN GENERAL.—The term ‘eligible individual’ means—

“(A) an eligible TAA recipient,

(B) an eligible alternative TAA recipient, and

(C) an eligible PBGC pension recipient.

“SECTION 36. ELIGIBLE TAA RECIPIENT.—The term ‘eligible TAA recipient’ means, with respect to any month, any individual who is receiving for any day of such month a trade readjustment allowance, or other benefits under chapter 2 of title II of the Trade Act of 1974 or who would be eligible to receive such allowance if section 321 of such Act were applied without regard to subsection (a)(3)(B) of such section.

“(b) ELIGIBLE ALTERNATIVE TAA RECIPIENT.—The term ‘eligible alternative TAA recipient’ means, with respect to any month, any individual who—

“(A) is a worker described in section 284(a)(1)(B) of the Trade Act of 1974 who is participating in the program established under section 284(a)(1) of such Act, and

“(B) is receiving a benefit for such month under section 284(a)(2) of such Act.

“SECTION 37. ELIGIBLE PENSION RECIPIENT.—

For purposes of this section—

“(1) IN GENERAL.—The term ‘eligible PBGC pension recipient’ means, with respect to any month, any individual who—

“(A) has attained age 55 as of the first day of such month, and

“(B) is receiving a benefit for such month any portion of which is paid by the Pension Benefit Guaranty Corporation or the Employee Retirement Income Security Act of 1974.

“(c) QUALIFYING FAMILY MEMBER.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualifying family member’ means—

“(A) the taxpayer’s spouse, and

“(B) any dependent of the taxpayer with respect to whom the taxpayer is entitled to a deduction under section 151(c).

“SECTION 38. SPECIAL DEPENDENCY TEST IN CASE OF DIVORCED PARENTS, ETC.—If paragraph (2) or (4) of section 152(e) applies to any child with respect to any calendar year, in the case of any taxable year beginning in such calendar year, such child shall be treated as described in paragraph (1)(B) with respect to the custodial parent (within the meaning of section 152(e)(1)) and not with respect to the noncustodial parent.

“(c) QUALIFIED HEALTH INSURANCE.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified health insurance’ means—

“(A) Coverage under a COBRA continuation provision (as defined in section 9832(d)(1)).

“(B) State-based continuation coverage provided by the State under a State law that requires such coverage.

“(C) Coverage offered through a qualified State high risk pool (as defined in section 2744(c)(2) of the Public Health Service Act).

“(D) Coverage under a health insurance program offered for State employees.

“(E) Coverage under a State-based health insurance program that is comparable to the health insurance program offered for State employees.

“(F) Coverage through an arrangement entered into by a State and another State or States.

“(G) a group health plan (including such a plan which is a multiemployer plan as defined in section 3(1) of the Employee Retirement Income Security Act of 1974).

“(H) an issuer of health insurance coverage,

“(ii) an administrator, or
“(iv) an employer.

“(G) Coverage offered through a State arrangement with a private sector health care coverage purchasing pool.

“(H) The term ‘arrangement’ under a State-operated health plan that does not receive any Federal financial participation.

“(1) Coverage under a group health plan that is available for the employment of the eligible individual’s spouse.

“(J) In the case of any eligible individual and such individual’s qualifying family members, coverage under individual health insurance if the eligible individual was covered under individual health insurance during the entire 30-day period that ends on the date that such individual is first covered under such employment which qualified such individual for—

“(i) in the case of an eligible TAA recipient, the allowance described in subsection (c)(2),

“(ii) in the case of an eligible alternative TAA recipient, the benefit described in subsection (c)(3)(B), or

“(iii) in the case of any eligible PBGC pension recipient, the benefit described in subsection (c)(4)(B).

“For purposes of this subparagraph, the term ‘individual health insurance’ means any insurance which constitutes medical care offered to individuals in connection with a group health plan and does not include Federal- or State-based health insurance coverage.

“(2) REQUIREMENTS FOR STATE-BASED COVERAGE.

“(A) IN GENERAL.—The term ‘qualified health insurance’ does not include any coverage described in subparagraphs (B) through (H) of paragraph (1) unless the State involved has elected to have such coverage treated as qualified health insurance under this section and such coverage meets the following requirements:

“(i) GUARANTEED ISSUE.—Each qualifying individual is guaranteed enrollment if the individual pays the premium for enrollment or provides proof of creditable coverage under a second health insurance eligibility certificate described in section 7527 and pays the remainder of such premium.

“(ii) NO IMPOSITION OF PREEXISTING CONDITION EXCLUSION.—No pre-existing condition limitations are imposed with respect to any qualifying individual.

“(iii) NONDISCRIMINATORY PREMIUM.—The premium described in subparagraphs (B) through (H) of paragraph (1) is nondiscriminatory with respect to all rates with respect to any qualifying individual.

“(iv) SAME BENEFITS.—Benefits under the coverage are the same as (or substantially similar to) the benefits provided to similarly situated individuals who are qualified individuals.

“(B) QUALIFYING INDIVIDUAL.—For purposes of this paragraph, the term ‘qualifying individual’ means—

“(i) an eligible individual for whom, as of the date on which the individual seeks to enroll in the coverage described in subparagraphs (B) through (H) of paragraph (1), the aggregate of the premiums described in section 9801(c) is 3 months or longer and who, with respect to any month, meets the requirements of clauses (iii) and (iv) of subsection (b)(1)(A) and

“(ii) the qualifying family members of such eligible individual.

“(3) EXCEPTION.—The term ‘qualified health insurance’ does not include—

“(A) a flexible spending or similar arrangement, and

“(B) any insurance if substantially all of its coverage is of excepted benefits described in section 9832(c).

“(f) OTHER SPECIFIED COVERAGE.—For purposes of this section, an individual has other specified coverage for any month if, as of the first day of such month—

“(J) SUBSIDIZED COVERAGE.

“(A) IN GENERAL.—Such individual is covered under any insurance which constitutes medical care (except insurance substantially all of which is excepted benefits described in section 9832(c)) to which the individual is entitled if the employment which maintained any such coverage for any month is paid or incurred by the employer.

“(B) ELIGIBLE ALTERNATIVE TAA RECIPIENTS.—In the case of an eligible alternative TAA recipient, such coverage is either—

“(i) eligible for coverage under any qualified health insurance (other than insurance described in subparagraph (A), (B), or (F) of subsection (a)) under which the cost of coverage (determined under section 4980B(f)(4)) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer’s spouse, or

“(ii) covered under any qualified health insurance under which any portion of the cost of coverage (as so determined) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer’s spouse.

“(C) TREATMENT OF CAFETERIA PLANS.—For purposes of this section, an individual is treated as paying the total premium for a cafeteria plan if the tax imposed on such premium is imposed with respect to any month, meets the requirements of clauses (i) through (H) of paragraph (1), the aggregate of the coverage described in subparagraphs (B) through (F) of subsection (c)(1) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer’s spouse, or

“(D) COVERAGE UNDER MEDICARE, MEDICAID, OR SCHIP.—Such individual is covered under—

“(1) in the case of an eligible individual, an alternative TAA recipient under part A of title XVIII of the Social Security Act or is enrolled under part B of such title, or

“(2) is enrolled in the program under title XIX or XXI of such Act (other than under section 1929 of such Act).

“(E) CERTAIN OTHER COVERAGE.—Such individual is covered—

“(1) in a health benefits plan under chapter 89 of title 5, United States Code, or

“(2) is entitled to receive benefits under chapter 55 of title 10, United States Code.

“(F) SPECIAL RULES.—

“(1) COORDINATION WITH ADVANCE PAYMENTS OF CREDIT.—With respect to any taxable year, the amount which would (but for this subsection) be allowed as a credit to the taxpayer under subsection (a) shall be reduced (but not below zero) by the amount paid on or before the first day of such taxable year under section 4980B(f)(4)(A) of the cost of coverage under section 4980B(f)(4)(A).

“(2) Coordination with other deductions under section (a) shall not be taken into account in determining any deduction allowed under section 162 or 213.

“(3) MSA DISTRIBUTIONS.—Amounts distributed from a Archer MSA (as defined in section 220(d)) shall not be taken into account under subsection (a).

“(4) DEDUCTION OF CREDIT TO DEPENDENTS.—No credit shall be allowed under this section to any individual with respect to whom a deduction for the amount of such credit is allowed under section 213(d)(2) for the same taxable year.

“(5) DEDUCTION OF CREDIT TO DEPENDENTS.—No credit shall be allowed under this section to any individual with respect to whom a deduction for the amount of such credit is allowed under section 213(d)(2) for the same taxable year.

“(6) COVERAGE EXCEPTED FROM DETERMINATION.—With respect to any contract for qualified health insurance costs the cost of which is paid or incurred by the taxpayer, the amount of such cost shall be treated as if it were paid by the taxpayer for such contract for qualified health insurance costs which are payable for coverage of an individual other than the taxpayer and qualifying family members.

“(8) TREATMENT OF PAYMENTS.—For purposes of this section—

“(A) PAYMENTS BY SECRETARY.—Payments made by the Secretary on behalf of any individual under section 7527 (relating to advance payment of credit for health insurance costs of eligible individuals) shall be treated as having been made by the taxpayer on the first day of the month for which such payment was made.

“(B) PAYMENTS BY TAXPAYER.—Payments made by the taxpayer for eligible coverage months shall be treated as having been made by the taxpayer on the first day of the month for which such payment was made.

“(9) REGULATIONS.—The Secretary may prescribe such regulations and other guidance as may be necessary or appropriate to carry out this section, section 6052T, and section 7527.

“(b) PROMOTION OF STATE HIGH RISK POOLS.—Title XXVII of the Public Health Service Act is amended by inserting after section 2744 the following new section:

“SEC. 2745. PROMOTION OF QUALIFIED HIGH RISK POOLS.

“(1) SEEK GRANTS UNDER STATES.—The Secretary shall provide from the funds appropriated under subsection (c)(1) a grant of up to $1,000,000 to each State that has created a qualified high risk pool or as the department deems necessary of the amount of the State’s costs of creation and initial operation of such a pool.

“(2) MATCHING FUNDS FOR OPERATION OF POOLS.

“(1) IN GENERAL.—In the case of a State that has created a qualified high risk pool that—

“(A) includes provisions to restrict premiums under the pool to no more than 150 percent of the premium for applicable standard risk rates; or

“(B) offers a choice of two or more coverage options through the pool; and

“(C) has in effect a mechanism reasonably designed to ensure continued funding of losses incurred by the State after the end of fiscal year 2004 in connection with operation of the pool, the Secretary shall provide from the funds appropriated under section (c)(2) and allotted to the State under paragraph (2) of the amount necessary to ensure that the State is in compliance with the operation of the pool.

“(2) ALLOTMENT.—The amounts appropriated under subsection (c)(2) for a fiscal year shall be allotted to the State under the formula which amounts are payable for a State with a formula that is based upon the number of uninsured individuals in the States.

“(3) FUNDS.—Out of any money in the Treasury of the United States not otherwise appropriated, there are authorized and appropriated—

“(A) $20,000,000 for fiscal year 2003 to carry out subsection (a); and

“(B) $40,000,000 for each of fiscal years 2003 and 2004 to carry out subsection (b).

“Funds appropriated under this section for a fiscal year shall be used only for operations for obligation through the end of that fiscal year. Nothing in this section shall be construed as providing a State with an entitlement to under this section.

“(D) QUALIFIED HIGH RISK POOL AND STATE DEFINED.—For purposes of this section, the term ‘qualified high risk pool’ means the meaning given to such term in section 2744(c)(2) and the term ‘State’ means any of the 50 States and the District of Columbia.

“(1) CONFORMING AMENDMENTS.

“(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period ‘,’, or from section 35 of such Code.

“(2) The table of sections for subpart C of part IV of chapter 1 of the Internal Revenue Code of
1986 is amended by striking the last item and inserting the following new item:

“(3) Health insurance costs of eligible individuals.—

SEC. 202. ADJUSTMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following new section: 

“SEC. 7527. ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.

(a) GENERAL RULE.—Not later than August 1, 2003, the Secretary shall establish a program for making payments on behalf of certified individuals to providers of qualified health insurance (as defined in section 35(c)) for such individuals.

(b) LIMITATION ON ADVANCE PAYMENTS DURING ANY TAXABLE YEAR.—The Secretary may make payments under subsection (a) only to the extent that the total amount of such payments made on behalf of any individual during the taxable year does not exceed 65 percent of the amount paid by the taxpayer for coverage of the taxpayers and qualifying family members under qualified health insurance for eligible coverage months beginning in the taxable year.

(c) CERTIFIED INDIVIDUAL.—For purposes of this section, the term ‘certified individual’ means any individual for whom a qualified health insurance costs credit eligibility certificate is issued.

(d) QUALIFIED HEALTH INSURANCE COSTS CREDIT ELIGIBILITY CERTIFICATE.—For purposes of this section, the term ‘qualified health insurance costs credit eligibility certificate’ means any written statement that an individual is an eligible individual (as defined in section 35(c)) if such statement provides such information as the Secretary may require for purposes of this section.

(i) in the case of an eligible TAA recipient (as defined in section 35(c)(2)) or an eligible TAA retiree (as defined in section 35(c)(3)), is certified by the Secretary of Labor (or by any other person or entity designated by the Secretary),

(ii) in the case of an eligible PBGC pension recipient (as defined in section 35(c)(4)), is certified by the Pension Benefit Guaranty Corporation (or by any other person or entity designated by the Secretary),

(iii) the written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

(ii) the written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

(iii) the written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

(b) DISCLOSURE OF RETURN INFORMATION FOR PURPOSES OF CARRYING OUT A PROGRAM FOR ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.—

(1) IN GENERAL.—Subsection (I) of section 6013 of such Code (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

“(II) DISCLOSURE OF RETURN INFORMATION FOR PURPOSES OF CARRYING OUT A PROGRAM FOR ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.—The Secretary may disclose to providers of health insurance for any certified individual (as defined in section 7527(c)) return information with respect to such certified individual only to the extent made out the program established by section 7527 (relating to advance payment of credit for health insurance costs of eligible individuals).”.

(c) RECORDKEEPING RELATED TO DISCLOSURES.—Subsection (p) of such section is amended—

(A) in paragraph (3)(A) by striking “(or “17”)” and inserting “(or “16”); and

(B) in paragraph (4) by inserting “or” after “any person described in subsection (g)(16)” each place it appears.

(d) UNAUTHORIZED INSPECTION OF RETURNS OR RETURN INFORMATION.—Section 7213A(a)(1)(B) of such Code is amended by striking “section 6019(n)” and inserting “subsection (l)(18) or (n) of section 6013”.

(e) INFORMATION REPORTING.—In general.—Subpart B of part III of subchapter A of chapter 61 of such Code (relating to information concerning transactions with other persons) is amended by inserting after the last item of section 6050S the following new item:

“SEC. 6050T. RETURNS RELATING TO CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.

(a) REQUIREMENT OF REPORTING.—Every person who is entitled to receive payments for any month of any calendar year under section 7527 (relating to advance payment of credit for health insurance costs of eligible individuals) with respect to any certified individual (as defined in section 7527(c)) shall, at such time as the Secretary may prescribe, make the return described in subsection (b) with respect to each such individual.

(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

(1) is in such form as the Secretary may prescribe, and

(2) contains—

(A) the name, address, and TIN of each individual referred to in subsection (a),

(B) the number of months for which amounts were entitled to be received with respect to such qualified individual, and

(C) the amount entitled to be received for each such month.

(d) such other information as the Secretary may prescribe.

(c) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

(1) the name and address of the person required to make such return and the phone number of the information contact for such person, and

(2) the information required to be shown on the return with respect to such individual.

(f) HEALTH INSURANCE COVERAGE ASSISTANCE.—The written statement required under the preceding sentence shall be furnished on or before January 31 of the following calendar year for which the return under subsection (a) is required to be made.

(ii) the notification of eligible individuals of available qualified health insurance options;

(3) from funds appropriated under section 173(c)(1)(B) to carry out subsection (f), including providing assistance to eligible individuals;

(4) to a State or entity (as defined in section 173(c)(1)(B)) to carry out subsection (f), including providing assistance to eligible individuals;

(b) USE OF FUNDS FOR HEALTH INSURANCE COVERAGE.—Section 173 of the Workforce Investment Act of 1998 (29 U.S.C. 2818) is amended by adding at the end the following:

“(1) HEALTH INSURANCE COVERAGE.—To assist an eligible individual and such individual’s qualifying family members in enrolling in qualified health insurance, including—

(A) eligible insurance verification activities;

(B) the notification of eligible individuals of available qualified health insurance options;

(C) processing qualified health insurance costs credit eligibility certificates provided for under section 7527 of the Internal Revenue Code of 1986;

(D) providing assistance to eligible individuals in enrolling in qualified health insurance;

(E) the development or installation of necessary data management systems;

(F) any other expenses determined appropriate by the Secretary, including start-up costs and ongoing administrative expenses to carry out such expenses;

(2) QUALIFIED HEALTH INSURANCE.—For purposes of this subsection and subsection (a) —

(A) IN GENERAL.—The term ‘qualified health insurance’ means any of the following:

(i) Coverage under a COBRA continuation provision (as defined in section 7902(b)(1) of the Employee Retirement Income Security Act of 1974).

(2) State-based continuation coverage provided for under a State law that requires such coverage.

(3) Coverage offered through a qualified State high risk pool (as defined in section 2102(c)(2) of the Patient Protection and Affordable Care Act).

(4) Coverage under a health insurance program offered for State employees.
(v) Coverage under a State-based health insurance program that is comparable to the health insurance program offered for State employees.

(vi) Coverage through an arrangement entered into by a State and—

(1) a group health plan (including such a plan which is a multiemployer plan as defined in section 414(f) of the Employee Retirement Income Security Act of 1974),

(2) an issuer of health insurance coverage, or

(3) an employer.

(vii) Coverage offered through a State arrangment with a private sector health care coverage purchasing pool.

(viii) Coverage under a State-operated health plan that does not receive any Federal financial participation.

(ix) Coverage under a group health plan that is available through the employment of the eligible individual’s spouse.

(x) In the case of any eligible individual and such individual’s qualifying family members, coverage under individual health insurance if the eligible individual was covered under individual health insurance during the entire 30-day period that ends on the date that such individual is provided from the employment which qualified such individual for—

(1) in the case of an eligible TAA recipient, the allowance described in section 35(c)(2) of the Internal Revenue Code of 1986,

(2) in the case of an eligible alternative TAA recipient, the benefit described in section 35(c)(3)(B) of such Code.

(xi) In the case of any eligible PBGC pension recipient, the benefit described in section 35(c)(4)(B) of such Code.

For purposes of this clause, the term ‘individual health insurance’ means any insurance which constitutes medical care offered to individuals other than in connection with a group health plan and does not include Federal- or State-based health insurance coverage.

(ii) REQUIREMENTS FOR STATE-BASED COVERAGE.—

(A) IN GENERAL.—The term ‘qualified health insurance’ does not include any coverage described in clauses (ii) through (viii) of subparagraph (A) unless the State involved has elected to have such coverage treated as qualified health insurance under this paragraph and such coverage meets the following requirements:

(i) GUARANTEED ISSUE.—Each qualifying individual is guaranteed enrollment if the individual is eligible for enrollment in a qualified health insurance program.

(ii) NONDISCRIMINATORY PREMIUM.—The premium (as determined without regard to any subsidies) with respect to a qualifying individual under this paragraph shall not be less than the total premium (as so determined) for a similarly situated individual who is not a qualifying individual.

(iii) SAME BENEFITS.—Benefits under the coverage are the same as (or substantially similar to) the benefits provided to similarly situated individuals who are not qualifying individuals.

(iv) QUALIFYING INDIVIDUAL.—For purposes of this subparagraph, the term ‘qualifying individual’ means—

(1) an eligible individual for whom, as of the date on which the individual seeks to enroll in such coverage, the aggregate of the periods of creditable coverage (as defined in section 9801(c) of the Internal Revenue Code of 1986) is 3 months or longer and such individual is a dependant of an employee with respect to any month, meets the requirements of clauses (iii) and (iv) of section 35(b)(1)(A) of such Code; and

(2) the qualifying family members of such eligible individual.

(3) EXCEPTION.—The term ‘qualified health insurance’ shall not include—

(i) life insurance providing a death benefit only;

(ii) group term life insurance provided under section 79 of the Internal Revenue Code of 1986;

(iii) dental coverage or other coverage which is excepted benefits described in section 35(b)(2) of the Internal Revenue Code of 1986.

(3) AVAILABILITY OF FUNDS.—

(A) EXPEDITED PROCEDURES.—With respect to applications submitted by States or entities for grants under this subsection, the Secretary shall—

(1) not later than 15 days after the date on which the Secretary receives a completed application from a State or entity, notify the State or entity of the determination of the Secretary with respect to the approval or disapproval of such application;

(ii) in the case of an application of a State or other entity that is a recipient under part A of title XVIII of the Social Security Act or is enrolled under part B of such title or is enrolled in a program under title XIX or XXI of such Act (other than under section 1829 of such Act).

(B) CERTAIN OTHER COVERAGE.—Such individual—

(i) is entitled to benefits under part A of title XIX of the Social Security Act or is enrolled under part B of such title or is enrolled in a program under title XIX or XXI of such Act (other than under section 1829 of such Act).

(C) TREATMENT OF CAFETERIA PLANS.—For purposes of clauses (i) and (ii), the cost of coverage shall be treated as paid or incurred by an employer to the extent the coverage is in lieu of a right to receive cash or other qualified benefits under a cafeteria plan (as defined in section 125(d) of the Internal Revenue Code of 1986).

(D) COVERAGE UNDER MEDI-CARE, MEDICAID, OR OTHER SIMILAR COVERAGE.—Such individual—

(i) is entitled to benefits under part A of title XVIII of the Social Security Act or is enrolled under part B of such title or is enrolled in a program under title XIX or XXI of such Act (other than under section 1829 of such Act).

(ii) with respect to any income assistance provided to an eligible individual with such funds, such income assistance shall not be included in determining the amount of any in-kind contributions required under any program.

(4) AVAILABILITY OF FUNDS.—

(A) EXPEDITED PROCEDURES.—With respect to applications submitted by States or entities for grants under this subsection, the Secretary shall—

(i) not later than 15 days after the date on which the Secretary receives a completed application from a State or entity, notify the State or entity of the determination of the Secretary with
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respective to the approval or disapproval of such application;
“(ii) in the case of an application of a State or entity that is disapproved by the Secretary, provisions of the act under the direct responsibility of the Secretary that protect the State or entity to include an approved application;
and
“(iii) develop procedures to expedite the provision of funds to States and entities with approved applications.”

(2) AVAILABILITY AND DISTRIBUTION OF FUNDS—Funds appropriated under section 174(c)(1)(B) to carry out subsection (a)(4)(B) shall be available to States and entities, notwithstanding the period described in section 174(c)(2)(B).

(5) INCLUSION OF CERTAIN INDIVIDUALS AS ELIGIBLE INDIVIDUALS.—For purposes of this subsection, the term ‘eligible individual’ includes an individual who is a member of a group of workers certified after April 1, 2002, under chapter 2 of title II of the Trade Act of 1974 (as in effect on the day before the effective date of the Trade Act of 2002) and is participating in the trade readjustment assistance program under such chapter (as so in effect) or who would be determined to be participating in such program under such chapter (as so in effect) if such chapter were applied without regard to section 231(a)(3)(B) of the Trade Act of 1974 (as so in effect).

(6) AUTHORIZATION OF APPROPRIATIONS.—Section 174 of the Workforce Investment Act of 1998 (29 U.S.C. 2919) is amended by adding at the end the following:

“(c) ASSISTANCE FOR ELIGIBLE WORKERS.—

(1) AUTHORIZATION AND APPROPRIATION FOR FISCAL YEAR 2002.—There are authorized to be appropriated—

(A) to carry out subsection (a)(4)(A) of section 173, $10,000,000 for fiscal year 2002; and

(B) to carry out subsection (a)(4)(B) of section 173, $50,000,000 for fiscal year 2002.

(2) AUTHORIZATION OF APPROPRIATIONS FOR SUBSEQUENT FISCAL YEARS.—There are authorized to be appropriated—

(A) to carry out subsection (a)(4)(A) of section 173, $60,000,000 for each of fiscal years 2003 through 2007; and

(B) to carry out subsection (a)(4)(B) of section 173—

(i) $100,000,000 for fiscal year 2003; and

(ii) $50,000,000 for fiscal year 2004.

(3) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to—

(A) paragraphs (1)(A) and (2)(A) for each fiscal year shall, notwithstanding section 190(q), remain available during the period that begins on the date of enactment of the Trade Act of 2002 and ends on September 30, 2004.

(d) CONFORMING AMENDMENT.—Section 132(a)(2)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2862(a)(2)(A)) is amended by inserting “, at the end subsection (a)(4), (f), and (h) after ‘grants’”.

(e) TEMPORARY EXTENSION OF COBRA ELECTION PERIOD FOR CERTAIN INDIVIDUALS.—

(1) ERISA AMENDMENTS.—Section 605 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1165) is amended—

(A) by inserting “, in general,”—before “For purposes of this part”; and

(B) by adding at the end the following:

“(b) TEMPORARY EXTENSION OF COBRA ELECTION PERIOD FOR CERTAIN INDIVIDUALS.—

(1) In general.—In the case of a nonelecting TAA-eligible individual and notwithstanding subsection (a), such individual may elect continuation coverage under this part during the 60-day period that begins on the day of the month in which the individual becomes a TAA-eligible individual, but only if such election is made not later than 6 months after the date of the TAA-related loss of coverage.

(2) COMMENCEMENT OF COVERAGE; NO REACH-BACK.—Any continuation coverage elected by a TAA-eligible individual under paragraph (1) shall commence at the beginning of the 60-day election period described in such paragraph and shall not include any period prior to such 60-day election period.

(3) PREEXISTING CONDITIONS.—With respect to an individual who elects continuation coverage pursuant to paragraph (1), the period—

(A) beginning on the date of the TAA-related loss of coverage; and

(B) ending on the first day of the 60-day election period described in paragraph (1), shall be disregarded for purposes of determining any outstanding claim under the Trade Act of 1974 (as in effect), the Internal Revenue Code of 1986, and the Employee Retirement Income Security Act of 1974.

(4) Definitions.—For purposes of this subsection:

“(A) NONELECTING TAA-ELIGIBLE INDIVIDUAL.—The term ‘nonelecting TAA-eligible individual’ means a TAA-eligible individual who—

(i) has a TAA-related loss of coverage; and

(ii) did not elect continuation coverage under this part during the TAA-related election period.

(B) TAA-ELIGIBLE INDIVIDUAL.—The term ‘TAA-eligible individual’ means—

(i) an eligible TAA recipient (as defined in paragraph (2) of section 701(c)(2) of the Internal Revenue Code of 1986), and

(ii) an eligible alternative TAA recipient (as defined in paragraph (3) of such section).

(2) TEMPORARY EXTENSION PERIOD.—The term ‘TAA-related election period’ means, with respect to a TAA-related loss of coverage, the 63-day period beginning on the first day of the month in which the individual becomes a TAA-eligible individual, but only if such election is made not later than 6 months after the date of the TAA-related loss of coverage.

(iii) COMMENCEMENT OF COVERAGE; NO REACH-BACK.—Any continuation coverage elected by a TAA-eligible individual under clause (i) shall commence at the beginning of the 60-day election period described in such paragraph and shall not include any period prior to such 60-day election period.

(iv) PREEXISTING CONDITIONS.—With respect to an individual who elects continuation coverage pursuant to clause (i), the period—

(A) beginning on the date of the TAA-related loss of coverage, and

(B) ending on the first day of the 60-day election period described in clause (i), shall be disregarded for purposes of determining any outstanding claim under the Trade Act of 1974 (as in effect), the Internal Revenue Code of 1986, and the Employee Retirement Income Security Act of 1974.

(C) TEMPORARY EXTENSION OF COBRA ELECTION PERIOD FOR CERTAIN INDIVIDUALS.—

(1) In general.—In the case of a nonelecting TAA-eligible individual and notwithstanding subparagraph (A), such individual may elect continuation coverage under this subsection during the 60-day period that begins on the first day of the month in which the individual becomes a TAA-eligible individual, but only if such election is made not later than 6 months after the date of the TAA-related loss of coverage.

(ii) COMMENCEMENT OF COVERAGE; NO REACH-BACK.—Any continuation coverage elected by a TAA-eligible individual under paragraph (1) shall commence at the beginning of the 60-day election period described in such paragraph and shall not include any period prior to such 60-day election period.

(iii) PREEXISTING CONDITIONS.—With respect to an individual who elects continuation coverage pursuant to paragraph (1), the period—

(A) beginning on the date of the TAA-related loss of coverage; and

(B) ending on the first day of the 60-day election period described in paragraph (1), shall be disregarded for purposes of determining any outstanding claim under the Trade Act of 1974 (as in effect), the Internal Revenue Code of 1986, and the Employee Retirement Income Security Act of 1974.

(iv) Definitions.—For purposes of this subsection:

“(A) NONELECTING TAA-ELIGIBLE INDIVIDUAL.—The term ‘nonelecting TAA-eligible individual’ means a TAA-eligible individual who—

(i) has a TAA-related loss of coverage; and

(ii) did not elect continuation coverage under this part during the TAA-related election period.

(B) TAA-ELIGIBLE INDIVIDUAL.—The term ‘TAA-eligible individual’ means—

(i) an eligible TAA recipient (as defined in paragraph (2) of section 701(c)(2) of the Internal Revenue Code of 1986), and

(ii) an eligible alternative TAA recipient (as defined in paragraph (3) of such section).

(2) TEMPORARY EXTENSION PERIOD.—The term ‘TAA-related election period’ means, with respect to a TAA-related loss of coverage, the 63-day period described in such paragraph which is a direct consequence of such loss.

(D) TAA-RELATED LOSS OF COVERAGE.—The term ‘TAA-related loss of coverage’ means, with respect to an individual whose separation from employment gives rise to being a TAA-eligible individual, the loss of health benefits coverage associated with such separation.”

(3) ADDITIONAL AMENDMENTS.—Paragraph (5) of section 4980B(f) of the Internal Revenue Code of 1986 (relating to election) is amended by adding at the end the following:

“(D) TAA-RELATED LOSS OF COVERAGE.—The term ‘TAA-related loss of coverage’ means, with respect to an individual whose separation from employment gives rise to being a TAA-eligible individual, the loss of health benefits coverage associated with such separation.”

(4) Rule of Construction.—Nothing in this title, the amendments made by this title, or any other provisions relating to COBRA continuation coverage and reporting requirements,
shall be construed as creating any new mandate on any party regarding health insurance coverage.

TITLE III—CUSTOMS REAUTHORIZATION

SEC. 301. SHORT TITLE.
This Act may be cited as the “Customs Border Security Act of 2002”.

Subtitle A—United States Customs Service CHAPTER 1—DRUG ENFORCEMENT AND OTHER NONCOMMERCIAL AND COMMERCIAL OPERATIONS

SEC. 311. AUTHORIZATION OF APPROPRIATIONS FOR NONCOMMERCIAL OPERATIONS, COMMERCIAL OPERATIONS, AND AIR AND MARINE INTERDICTION.

(a) NONCOMMERCIAL OPERATIONS.—Section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)) is amended—

(1) by striking subparagraph (A), and inserting the following:

“(A) $1,365,456,000 for fiscal year 2003.;”;

(2) by striking subparagraph (B), and inserting the following:

“(B) $1,399,592,400 for fiscal year 2004.”;

(b) COMMERCIAL OPERATIONS.—

(1) IN GENERAL.—Section 301(b)(2)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(2)(A)) is amended—

(A) by striking clause (i), and inserting the following:

“(i) $1,642,602,000 for fiscal year 2003.;”;

(B) by striking clause (ii), and inserting the following:

“(ii) $1,683,667,050 for fiscal year 2004.”;

(2) AUTOMATED COMMERCIAL ENVIRONMENT COMPUTER SYSTEM.—Of the amount made available for each of fiscal years 2003 and 2004 under section 301(b)(2)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(2)(A)), as amended by paragraph (1), $308,000,000 shall be available until expended for each such fiscal year for the development, establishment, and implementation of the Automated Commercial Environment computer system.

(c) REPORTS.—Not later than 90 days after the date of the enactment of this Act, and not later than the end of each subsequent 90-day period, the Commissioner of Customs shall prepare and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the subsequent fiscal year that will be necessary for the operations of the Customs Service as provided for in subsection (b).

SEC. 312. ANTITERRORIST AND ILLICIT NARCOTICS DETECTION EQUIPMENT FOR THE UNITED STATES-MEXICO BORDER, UNITED STATES-CANADA BORDER, AND FLORIDA AND THE GULF COAST SEAPORTS.

(a) FISCAL YEAR 2003—Amounts made available for fiscal year 2003 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)) of this Act, $90,244,000 shall be available until expended for acquisition and other expenses associated with implementation and deployment of antiterrorist and illicit narcotics detection equipment along the United States-Mexico border, the United States-Canada border, and Florida and the Gulf Coast seaports, as follows:

(1) UNITED STATES-MEXICO BORDER.—For the United States-Mexico border, the following:

(A) $6,000,000 for 8 Vehicle and Container Inspection Systems (VACIS).

(B) $11,800,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) $1,750,000 for 10 mobile truck x-rays.

(D) $250,000 for 5 portable contraband detection kits to be distributed among ports where the current allocations are inadequate.

(2) UNITED STATES-CANADA BORDER.—For the United States-Canada border, the following:

(A) $5,000,000 for 10 mobile truck x-rays with transmission and backscatter imaging.

(B) $7,200,000 for 8 1-MeV palled x-rays.

(C) $1,000,000 for 20 portable contraband detection kits (busters) to be distributed among ports where the current allocations are inadequate.

(D) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volumes.

(b) FISCAL YEAR 2004.—Of the amounts made available for fiscal year 2004 under section 301(b)(1)(B) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(B)), as amended by section 311(a) of this Act, $9,000,000 shall be available until expended for the maintenance and support of the equipment and training to maintain and support the equipment described in subsection (a).

SEC. 313. ACQUISITION OF TECHNOLOGICALLY SUPERIOR EQUIPMENT; TRANSFER OF FUNDS.—

(a) IN GENERAL.—The Commissioner of Customs may use amounts made available for fiscal year 2003 under section 301(b)(1)(B) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(B)), as amended by section 311(a) of this Act, for the acquisition of equipment other than the equipment described in subsection (a) if such other equipment—

(1) is technologically superior to the equipment described in subsection (a); and

(2) will achieve at least the same results at a cost that is the same or less than the equipment described in subsection (a); or

(b) TRANSFER OF FUNDS.—Notwithstanding any other provision of this section, the Commissioner may reallocate an amount not to exceed 10 percent of—

(1) the amount specified in any of subparagraphs (A) through (R) of subsection (a)(1) for equipment specified in any of such subparagraphs (A) through (R); and

(2) the amount specified in any of subparagraphs (A) through (G) of subsection (a)(2) for equipment specified in any of such subparagraphs (A) through (G); and

(c) OTHER AUTHORIZATIONS.—The Commissioner may use amounts made available for fiscal year 2004 under section 301(b)(1)(B) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(B)), as amended by section 311(a) of this Act, for the acquisition of equipment other than the equipment described in subsection (a) if such other equipment—

(1) is technologically superior to the equipment described in subsection (a); and

(2) will achieve at least the same results at a cost that is the same or less than the equipment described in subsection (a); or

SEC. 314. COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS.

As part of the annual performance plan for each of the fiscal years 2003 and 2004 covering each program activity set forth in the budget of the United States Customs Service, as required under section 1115 of the United States Code, the Commissioner of Customs shall establish performance goals and performance indicators, and shall comply with all other requirements contained in paragraphs (1) through (6) of section (a) of such section with respect to each of the activities to be carried out pursuant to section 312.

CHAPTER 2—CHILD CYBER-SMUGGLING CENTER OF THE CUSTOMS SERVICE

SEC. 321. AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM TO PREVENT CHILD PORNOGRAPHY/CHILD SEXUAL EXPLOITATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Customs Service $10,000,000 of the amounts made available for fiscal year 2003 to carry out the program to prevent child pornography/child sexual exploitation established
by the Child Cyber-Snaring Center of the Customs Service.

(b) Use of amounts for child pornography cyber tipline.—Of the amount appropriated under subsection (a), the Customs Service shall provide 3.75 percent of such amount to the National Center for Missing and Exploited Children for the operation of the child pornography cyber tipline and to carry out an outreach program to raise awareness of the problem of child exploitation and to increase public awareness of the tipline.

CHAPTER 3—MISCELLANEOUS PROVISIONS

SEC. 331. ADDITIONAL CUSTOMS SERVICE OFFICE FOR UNITED STATES-CANADA BORDER.

Of the amount made available for fiscal year 2003 under paragraphs (1) and (2)(A) of section 301(b) of the Trade Act of 1974 (19 U.S.C. 2441(b)), as amended by section 104 of the Trade Act of 1988 (19 U.S.C. 2453), there are authorized to be appropriated to the Customs Service to hire approximately 285 additional Customs Service officers to address the needs of the offices and ports along the United States-Canada border.

SEC. 332. STUDY AND REPORT RELATING TO PERSONNEL PRACTICES OF THE CUSTOMS SERVICE.

(a) STUDY.—The Commissioner of Customs shall conduct a study of current personnel practices of the Customs Service, including an overview of performance standards and the impact and effects of these standards on the interaction of the Customs Service and other Federal agencies and the operations of the Customs Service, and shall provide for an identification of expenses based on the type of operation, the port at which the operation took place, the amount of time spent on the operation by personnel of the Customs Service, and any other appropriate classification necessary to provide for an accurate and complete accounting of the expenses.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commissioner of Customs shall submit to Congress a report containing the results of the study conducted under subsection (a).

SEC. 333. STUDY AND REPORT RELATING TO ACCOUNTING AND AUDITING PROCEDURES OF THE CUSTOMS SERVICE.

(a) STUDY.—(1) The Commissioner of Customs shall conduct a study of actions by the Customs Service to ensure that appropriate training is being provided to Customs Service personnel who are responsible for financial auditing of importers.

(2) In conducting the study, the Commissioner—

(A) shall specifically identify those actions taken by the Customs Service to protect the privacy and trade secrets of importers, such as section 552(b) of title 5, United States Code, and section 1905 of title 18, United States Code;

(B) shall provide for public notice and comment relating to verification of the actions described in subparagraph (A);

(C) shall provide, not later than 6 months after the date of enactment of this Act, a report containing the results of the study conducted under subsection (a); and

(b) REPORT.—The Comptroller General shall conduct a study on the extent to which the Office of Regulations and Rulings of the Customs Service has made improvements to decrease the amount of time to issue prospective rulings from the date on which a request for the ruling is received by the Customs Service.

SEC. 334. STUDY AND REPORT RELATING TO TIMELINESS OF PROSPECTIVE RULINGS.

(a) STUDY.—The Comptroller General shall conduct a study on the extent to which the Office of Regulations and Rulings of the Customs Service has made improvements to decrease the amount of time to issue prospective rulings from the date on which a request for the ruling is received by the Customs Service.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Senate a report containing the results of the study conducted under subsection (a).

SEC. 335. STUDY AND REPORT RELATING TO CUSTOMS USER FEES.

(a) STUDY.—The Comptroller General shall conduct a study on the extent to which the amount of each customs user fee imposed under section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)) is commensurate with the level of services provided by the Customs Service relating to the fee so imposed.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Senate a report containing the results of the study conducted under subsection (a).

SEC. 336. FEES FOR CUSTOMS INSPECTIONS AT EXPRESS Courier FACILITIES.

(a) In General.—Section 13031(g) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)) is amended as follows:

(1) In subparagraph (A)—

(A) in the matter preceding clause (ii), by striking “the processing of letters, documents, records, shipments, merchandise, or any other item that is valued at an amount that is less than $2,000 (or such higher amount as the Secretary of the Treasury may set by regulation pursuant to section 498 of the Tariff Act of 1930)’’ and inserting “the processing of letters, documents, records, shipments, merchandise, or any other item that is valued at an amount that is less than $2,000 (or such higher amount as the Secretary of the Treasury may set by regulation pursuant to section 498 of the Tariff Act of 1930) except such items entered for transportation or immediate exportation or immediate re-exportation’’;

(B) by striking clause (ii), and inserting the following:

‘‘(ii) Subject to the provisions of subparagraph (B), in the case of an express consignment carrier facility or centralized hub facility, $0.66 per individual airway bill or bill of lading.’’;

(2) the provisions of section 13031(g)(2) as described in subparagraph (C) and inserting after subparagraph (A) the following:

‘‘(B)(i) Beginning in fiscal year 2004, the Secretary of the Treasury may adjust (not more than once per fiscal year) the amount described in subparagraph (A)(ii) to an amount that is not less than $1.35 and not more than the average of an individual airway bill or bill of lading. The Secretary shall provide notice in the Federal Register of a proposed adjustment under the preceding sentence and the reasons therefor and shall allow for public comment on the proposed adjustment.

‘‘(ii) Notwithstanding section 451 of the Tariff Act of 1930, the payment required by subparagraph (A)(ii) shall be the only payment required for reimbursement of the Customs Service in connection with the processing of an individual airway bill or bill of lading in accordance with subparagraph (A)(i) and with section 524 of the Tariff Act of 1930, be deposited in the Customs User Fee Account and shall be used to directly reimburse each express consignment carrier for the amount paid out of that appropriation for the costs incurred in providing services to express consignment carrier facilities or centralized hub facilities, except that the Customs Service may require such facilities to cover expenses of the Customs Service for adequate office space, equipment, furnishings, supplies, and security.

‘‘(iii)(I) The payment required by subparagraph (A)(ii) and clause (ii) of this subparagraph shall be paid on a quarterly basis by the carrier using the facility to the Customs Service in accordance with regulations prescribed by the Secretary of the Treasury.

‘‘(II) Notwithstanding section 524 of the Tariff Act of 1930, the remaining 50 percent of the amount of payments received under subparagraph (A)(ii) and clause (ii) of this subparagraph shall be paid to the Secretary of the Treasury, which is in lieu of the payment of fees under subsection (a)(10) of this section.’’; and

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on October 1, 2002.

SEC. 338. NATIONAL CUSTOMS AUTOMATION PROGRAM.

Section 411(b) of the Tariff Act of 1930 (19 U.S.C. 1411(b)) is amended by striking the second sentence and inserting the following:

‘‘The Secretary may, by regulation, require the electronic submission of information described in subsection (a) or any other information required to be submitted to the Customs Service separately pursuant to this subpart.”

SEC. 339. AUTHORIZATION OF APPROPRIATIONS FOR CUSTOMS STAFFING.

There are authorized to be appropriated to the Department of Treasury such sums as may be necessary for an increase in the annual rate of basic pay—

(1) for all journeyman Customs inspectors and Canine Enforcement Officers who have completed at least one year’s service and are receiving an annual rate of basic pay, not more than the rate of basic pay payable for positions at GS-9 of the General Schedule under such section 3322 of title 5, United States Code, from the annual rate of basic pay payable for positions at GS-9 of the General Schedule under such section 3322, to an annual rate of basic pay payable for positions at GS-11 of the General Schedule under such section 3322; and

(2) for the support staff associated with the programs described in paragraph (1) and receiving an annual rate of basic pay not more than the rate of basic pay payable for positions at GS-9 of the General Schedule under such section 3322.
SEC. 341. IMMUNITY FOR UNITED STATES OFFICIALS THAT ACT IN GOOD FAITH.

(a) IMMUNITY.—Section 301(a) of the Revised Statutes (19 U.S.C. 482) is amended—

(1) by striking “Any of the officers” and inserting “Any of the officers”; and

(2) by adding the following:

“(b) Any officer or employee of the United States conducting a search of a person pursuant to subsection (a) may rely in good faith on any civil damages as a result of such search if the officer or employee performed the search in good faith and used reasonable means while effectuating the search.

(b) REQUIREMENT TO POST POLICY AND PROCEDURES FOR SEARCHES OF PASSENGERS.—Not later than 30 days after the date of the enactment of this Act, the Commissioner of Customs shall ensure that at each Customs border facility appropriate notice is posted that provides a summary of the policy and procedures of the Customs Service for searching passengers, including a statement of the policy relating to the prohibition on the conduct of profiling of passengers based on gender, race, color, religion, or ethnic background.

SEC. 342. EMERGENCY ADJUSTMENTS TO OFFICES, PORTS OF ENTRY, OR STAFF-ING OF THE CUSTOMS SERVICE.

Section 318 of the Tariff Act of 1930 (19 U.S.C. 1318) is amended—

(1) by striking “Whenever the President” and inserting “Whenever the President”; and

(b) Modify hours of service, alter services rendered at any location, or reduce the number of employees at any location.

(c) Take any other action that may be necessary to respond directly to the national emergency or specific threat.

(2) Notwithstanding any other provision of law, the Secretary of the Treasury, when necessary to respond to a national emergency declared under the National Emergencies Act (50 U.S.C. 1601 et seq.) or to a specific threat to human life or national interests, is authorized to take the following actions on a temporary basis:

(A) Eliminate, consolidate, or relocate any office or port of entry of the Customs Service.

(B) Modify hours of service, alter services rendered at any location, or reduce the number of employees at any location.

(C) Take any other action that may be necessary to respond directly to the national emergency or specific threat.

The Secretary of the Treasury or the Commissioner, as the case may be, shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 72 hours after taking any action under paragraph (1) or (2)."

SEC. 343. MANDATORY ADVANCED ELECTRONIC DATA INTERCHANGE REQUIREMENTS, CUSTOMS SERVICE DOCUMENTATION REGULATIONS, AND OTHER IMPORTED CUSTOMS REPORTING PROCEDURES.

(a) CARGO INFORMATION.—In developing regulations pursuant to paragraph (1), the Secretary shall adhere to the following parameters:

(A) The Secretary shall solicit comments from the Commissioner of Customs as to what information is necessary to be affected by the regulations, including importers, exporters, carriers, customs brokers, and freight forwarders, among other interested parties.

(B) In general, the requirement to provide particular information shall be imposed on the party most likely to have direct knowledge of that information, unless that information is not reasonably verifiable by the party on which a requirement is imposed, and whether and how such party is able to verify the information. Where information is not reasonably verifiable by the party on which a requirement is imposed, the regulations shall permit that party to transmit information on the basis of what it reasonably believes to be true.

(C) The Secretary shall take into account the existence of competitive relationships among the parties on which requirements to provide particular information are imposed.

(D) Where the regulations impose requirements on carriers of cargo, they shall take into account differences among different modes of transportation, including, but not limited to, ordinary commercial practices, operational characteristics, and technological capacity to collect and transmit information electronically.

(E) The Secretary shall take into account the extent to which the technology necessary for parties to transmit and the Customs Service to receive and analyze data in a timely fashion is available. Where available, the Secretary determines that the necessary technology will not be widely available to particular modes of transportation, the Secretary may by regulation prescribe such interim requirements appropriate for the technology that is available at the time of promulgation.

(F) The information collected pursuant to the regulations shall be used exclusively for ensuring aviation, maritime, and surface transportation safety and security, and shall not be used for determining entry or for any other commercial enforcement purposes.

(G) The regulations shall protect the privacy of business records and other confidential information provided to the Customs Service. However, this parameter does not repeal, amend, or otherwise modify other provisions of law that relate to the recording of information transmitted to the Customs Service.

(H) In determining the timing for transmittal of any information, the Secretary shall balance likely impact on flow of commerce with impact on aviation, maritime, and surface transportation safety and security. With respect to requirements that may be imposed on carriers of cargo, the timing for transmittal of information shall take into account differences among different modes of transportation, as described in subparagraph (J).

(I) Where practicable, the regulations shall avoid imposing requirements that are redundant with one another or that are redundant with requirements in other provisions of law.

(J) The Secretary shall determine whether it is appropriate to provide transition periods between promulgation of the regulations and the effective date of the regulations and shall prescribe such transition periods in the regulations, as appropriate. The Secretary may determine that different transition periods are appropriate for different types of information.

(K) With respect to requirements imposed on carriers, the Secretary, in consultation with the Postmaster General, shall determine whether it is appropriate to impose similar requirements on shipments by the United States Postal Service. If the Secretary determines that such requirements are appropriate, then they shall be set forth in the regulations.

(L) Not later than 15 days prior to promulgation of the regulations, the Secretary shall consult with the Commissioner of Customs Service, Science, and Transportation of the Senate and the Committees on Ways and Means and Transportation and Infrastructure of the House of Representatives and shall set forth—

(i) the proposed regulations;

(ii) an explanation of how particular requirements in the proposed regulations meet the needs of aviation, maritime, and surface transportation safety and security;

(iii) an explanation of how the Secretary expects the proposed regulations to affect ordinary commercial practices of affected parties; and

(iv) an explanation of how the proposed regulations address particular comments received from interested parties.

(b) DOCUMENTATION OF WATERBORNE CARGO.—Part II of title IV of the Tariff Act of 1930 is amended by inserting after section 431 the following new section:

SEC. 431A. DOCUMENTATION OF WATERBORNE CARGO.

(1) APPLICABILITY.—This section shall apply to all cargo to be transported by a vessel carrier from a port in the United States.

(2) DOCUMENTATION REQUIRED.—(I) No shipper of cargo subject to this section (including an ocean vessel operating as a non-vessel-operating common carrier (as defined in section 3(17)(B) of the Shipping Act of 1984 (46 U.S.C. App. 1702(17)(B))) may tender or cause to be tendered cargo subject to this section for loading on a vessel in a United States port, unless such cargo is properly documented pursuant to this subsection.

(J) For the purposes of this subsection, cargo shall be considered properly documented if the shipper submits to the vessel carrier or its agent a statement of the kind of cargo, as well as the nature of the cargo, and such other documents or information as the Secretary may by regulation prescribe.

(4) The Secretary shall by regulation prescribe the time, manner, and form by which shippers shall transmit documents or information required under this subsection to the Customs Service.

(c) LOADING UNDOCUMENTED CARGO PROHIBITED.—

(I) No marine terminal operator (as defined in section 3(14) of the Shipping Act of 1984 (46 U.S.C. App. 1702(14))) may load, or cause to be loaded, any cargo subject to this section on a vessel unless instructed by the vessel carrier operating the vessel that such cargo has been properly documented in accordance with this section.

(II) When cargo is booked by 1 vessel carrier to be transported on the vessel of another vessel carrier, the booking carrier shall notify the operator of the vessel that the cargo has been properly documented in accordance with this section not later than 24 hours before the vessel is ready to leave port. No operator of a vessel shall release the cargo to an ocean vessel unless the operator of the vessel receives such notification in releasing the cargo for loading aboard the vessel.

(III) REPORTING OF UNDOCUMENTED CARGO.—A vessel carrier shall notify the Commissioner of Customs of any cargo tendered to such carrier that is not properly documented pursuant to this section.
and that has remained in the marine terminal for more than 48 hours after being delivered to the marine terminal, and the location of the cargo in the marine terminal. For vessel carriers that do not deliver the cargo to a marine terminal, and for vessel carriers that do not deliver the cargo to a marine terminal and the cargo isotherwise moved on another vessel (or any other arrangement whereby a carrier moves cargo on another carrier’s vessel), the vessel carrier accepting the booking shall be responsible without regard to whether it operates the vessel on which the transportation is to be made.

(c) Recognition of Certified Systems.—

(1) Secretary of the Treasury.—The Secretary of the Treasury shall recognize certified systems of intermodal transport in the requirement of identifying vessels entering United States seaports, and in the provisions requiring planning to reopen United States ports for commerce.

(2) Commissioner of Customs.—The Commissioner of Customs shall recognize certified systems of intermodal transport in the evaluation of cargo risk for purposes of United States imports and exports.

(d) Report.—Within 1 year after the program described in subsection (a) is implemented, the Secretary of the Treasury shall transmit a report to the Committees on Transportation and Infrastructure and Ways and Means of the House of Representatives that—

(1) evaluates the program and its requirements;

(2) states the Secretary’s views as to whether any procedure, system, or technology evaluated as part of the program offers a higher level of security than under existing procedures;

(3) states the Secretary’s views as to the integrity of the procedures, technology, or systems evaluated as part of the program; and

(4) makes a recommendation with respect to whether the program, or any procedure, system, or technology evaluated as part of the program, should be incorporated in a nationwide system for certified systems of intermodal transport.

SEC. 343A. SECURE SYSTEMS OF TRANSPORTATION.

(a) Joint Task Force.—The Secretary of the Treasury shall establish a joint task force to evaluate, prototype, and certify secure systems of transportation task force for the comprised of officials from the Department of Transportation and the Customs Service, and any other officials that the Secretary deems appropriate. The task force shall establish a program to evaluate and certify secure systems of international intermodal transport no later than 1 year after the date of enactment of this Act. The task force shall consider input from a broad range of interested parties.

(b) Program Requirements.—At a minimum the program referred to in subsection (a) shall require the following:

(1) establish standards and a process for screening and evaluating cargo prior to import into or export from the United States;

(2) establish standards and a process for a system of securing cargo and monitoring it while in transit;

(3) establish standards and a process for allowing the United States Government to ensure the security and integrity of the international intermodal transport movements;

(4) include any other elements that the task force deems necessary to ensure the security and integrity of the international intermodal transport movements.

(c) Recognition of Certified Systems.—

(1) Secretary of the Treasury.—The Secretary of the Treasury shall recognize certified systems of intermodal transport in the requirement of planning to reopen United States ports for commerce.

(2) Commissioner of Customs.—The Commissioner of Customs shall recognize certified systems of intermodal transport in the evaluation of cargo risk for purposes of United States imports and exports.

(d) Report.—Within 1 year after the program described in subsection (a) is implemented, the Secretary of the Treasury shall transmit a report to the Committees on Transportation and Infrastructure and Ways and Means of the House of Representatives that—

(1) evaluates the program and its requirements;

(2) states the Secretary’s views as to whether any procedure, system, or technology evaluated as part of the program offers a higher level of security than under existing procedures;

(3) states the Secretary’s views as to the integrity of the procedures, technology, or systems evaluated as part of the program; and

(4) makes a recommendation with respect to whether the program, or any procedure, system, or technology evaluated as part of the program, should be incorporated in a nationwide system for certified systems of intermodal transport.

SEC. 344. BORDER SEARCH AUTHORITY FOR CERTAIN CONTRABAND IN OUTBOUND MAIL.

(a) In General.—The Tariff Act of 1930 is amended by inserting after section 582 the following:

“SEC. 583. EXAMINATION OF OUTBOUND MAIL.

(1) In General.—For purposes of ensuring compliance with the customs laws of the United States and other laws enforced by the Customs Service, including the provisions of law described in paragraphs (2), (3), (4), and (5), a Customs officer may, subject to the provisions of this section, stop and search at the border, without a search warrant, mail of domestic origin transmitted for export by the United States Postal Service and foreign mail transmitted that is being imported or exported by the United States Postal Service.

(2) Provisions of Law Described.—The provisions of law described in this paragraph are the following:

(A) Section 5316 of title 31, United States Code (relating to reports on exporting and importing monetary instruments);

(B) Sections 1461, 1463, 1465, and 1466, and chapter 110 of title 18, United States Code (relating to obscenity and child pornography);

(C) Section 1903 of the Controlled Substances Import and Export Act (relating to exportation of controlled substances) (21 U.S.C. 953).

(D) The Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.).

(E) Section 38 of the Arms Export Control Act (22 U.S.C. 2778).


(G) Merchandise mailed in violation of the Arms Export Control Act (22 U.S.C. 2778).

(H) Merchandise mailed in violation of section 1712 of title 18, United States Code.


(J) Merchandise mailed in violation of the Trading with the Enemy Act (50 U.S.C. App. 1 et seq.).

(K) Merchandise subject to any other law enforced by the Customs Service.

(2) Limitation.—No person acting under the authority of paragraph (1) shall read, or authorize any other person to read, any correspondence contained in mail sealed against inspection unless prior to so reading—

(A) a search warrant has been issued pursuant to rule 41 of the Federal Rules of Criminal Procedure; or

(B) the sender or addressee has given written authorization for such reading.

(3) Search of Mail Sealed Against Inspection Weighing 16 Ounces or Less.—Notwithstanding any other provision of this section or section 583 of this Act, the Secretary of the Treasury shall recognize certified systems of intermodal transport in the evaluation of cargo risk for purposes of United States imports and exports.

(4) Search of Mail Sealed Against Inspection Weighing in Excess of 16 Ounces.

(B) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall take effect on the date of enactment of this Act.

(2) Certification with Respect to Foreign Mail.—The provisions of section 583 of the Tariff Act of 1930 relating to foreign mail transiting the United States is that is imported or exported by the United States Postal Service is being handled in a manner consistent with international law and any international obligation of the United States. Section 583 of such Act shall not apply to such foreign mail unless the Secretary certifies to Congress that the application of such section is consistent with international law and any international obligation of the United States.

SEC. 345. AUTHORIZATION OF APPROPRIATIONS FOR BORDER SEARCH AUTHORITY.

(a) Authorization of Appropriations.—

(1) IN GENERAL.—There is authorized to be appropriated for the reestablishment of operations
of the Customs Service in New York, New York, such sums as may be necessary for fiscal year 2003.

(2) OPERATIONS DESCRIBED.—The operations referred to in paragraph (1), include, but are not limited to, the following:

(A) Operations relating to the Port Director of New York City, the New York Customs Management Center, the FTA Field Operations, and the Special Agent-In-Charge for New York.

(B) Commercial operations, including textile enforcement operations and salaries and expenses of—

(i) trade specialists who determine the origin and value of merchandise;

(ii) analysts who conduct the entry data into the United States of textiles and textile products; and

(iii) Customs officials who work with foreign governments to examine textile makers and verify entry information.

(b) AVAILABLE.—Amounts appropriated pursuant to this section are authorized to remain available until expended.

CHAPTER 5—TEXTILE TRANSSHIPMENT PROVISIONS

SEC. 351. GAU AUDIT OF TEXTILE TRANSSHIPMENT MONITORING BY CUSTOMS SERVICE.

(a) GAU AUDIT.—The Comptroller General of the United States shall conduct an audit of the system established and carried out by the Customs Service to monitor transshipment.

(b) REPORT.—Not later than 9 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that contains the results of the study conducted under subsection (a), including recommendations for improvements to the transshipment monitoring system if applicable.

Textile transshipment within the meaning of this section has occurred when preferential treatment under any provision of law in question.

(c) DESCRIPTION.—Textile transshipment within the meaning of this section has occurred when preferential treatment under any provision of law has been claimed for a textile or apparel article on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. For purposes of the preceding sentence, false information is material if disclosure of the true information would mean or would have meant that the article is or would have been ineligible for preferential treatment under the provision in question.

SEC. 352. AUTHORIZATION OF APPROPRIATIONS FOR TEXTILE TRANSSHIPMENT ENFORCEMENT OPERATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated for textile transshipment enforcement operations—

(A) $75,000 for training of Customs personnel;

(B) $200,000 for training for foreign counterparts in risk management analytical techniques and harmonization initiatives, model law development, and enforcement techniques.

(2) OUTREACH.—$60,000 for outreach efforts to the United Nations.

(3) IMPLEMENTATION OF THE AFRICAN GROWTH AND OPPORTUNITY ACT.—Of the amount made available for fiscal year 2003 under section 310(b)(2)(A) of the Customs Procedures and Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(2)(A)), as amended by section 311(b)(1) of this Act, $1,217,000 shall be available until expended for the Customs Service to provide technical assistance to help sub-Saharan African countries develop and implement effective visa and anti-transshipment systems as required under the African Growth and Opportunity Act (title I of Public Law 106–200), as follows:

(1) TRAVEL FUNDS.—$400,000 for import specialists, and other qualified Customs personnel to travel to sub-Saharan African countries to provide technical assistance in developing and implementing effective visa and anti-transshipment systems.

(2) IMPORT SPECIALISTS.—$265,000 for import specialists to be assigned to Customs headquarters to be dedicated to providing technical assistance to sub-Saharan African countries for developing and implementing effective visa and anti-transshipment systems.

(3) II.TERIAL RECONCILIATION ANALYSTS.—$151,000 for 2 data reconciliation analysts to review apparel shipments.

(4) SPECIAL AGENTS.—$300,000 for 2 special agents to be assigned to Customs headquarters to be available to provide technical assistance to sub-Saharan African countries in the performance of audits and other enforcement initiatives.

Subtitle B.—Office of the United States Trade Representative

SEC. 351. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 112(q)(1) of the Trade Act of 1974 (19 U.S.C. 2171(q)(1)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking “not to exceed”;

(B) by striking clause (i), and inserting the following:

(i) $22,300,000 for fiscal year 2003;

(ii) $33,108,000 for fiscal year 2004;

(2) in subparagraph (B) by striking “and” and inserting “or”;

(C) by redesignating clause (ii) as clause (i).

(b) USE OF FUNDS.—Amounts appropriated under paragraph (1) are authorized to remain available until expended.

Subtitle C.—United States International Trade Commission

SEC. 371. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 330(e)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)(A)) is amended—

(1) by striking clause (i), and inserting the following:

(i) $54,000,000 for fiscal year 2003;

(2) by striking clause (ii), and inserting the following:

(ii) $52,240,000 for fiscal year 2004.

(b) SUBMISSION OF OUT-OF-YEAR BUDGET PROJECTIONS.—Section 330(e) of the Tariff Act of 1930 (19 U.S.C. 1330(e))(2) is amended by adding at the end the following:

(4) By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the United States Trade Representative shall submit to the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the Office to carry out its functions.

(c) ADDITIONAL STAFF FOR OFFICE OF ASSISTANT U.S. TRADE REPRESENTATIVE FOR CONGRESSIONAL AFFAIRS.—

(1) IN GENERAL.—There is authorized to be appropriated such sums as may be necessary for fiscal year 2003 for the additional staff for the two additional legislative specialist employee positions within the Office of the Assistant United States Trade Representative for Congressional Affairs.

(2) AVAILABLE.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

Subtitle D.—Office of the United States Trade Representative
SEC. 383. PAYMENT OF DUTIES AND FEES. 
Section 505(a) of the Tariff Act of 1930 (19 U.S.C. 1505(a)) is amended to read as follows:

(a) DEPOSIT OF ESTIMATED DUTIES AND FEES.—Unless the entry is subject to a periodic payment or the merchandise is entered for warehousage or transportation, or under bond, the importer of record, or the importer filing on behalf thereof, shall deposit with the Customs Service at the time of entry, or at such later time as the Secretary may prescribe by regulation (but not later than 10 working days after entry or release) the amount of duties and fees estimated to be payable on such merchandise. As soon as a periodic payment module of the Automated Commercial Environment is developed, but not later than September 1, 2004, a participating importer of record, or the importer’s file, may deposit estimated duties and fees for entries of merchandise no later than the 15th day of the month following the month in which the merchandise is entered or released, whichever comes first.

DIVISION B—BIPARTISAN TRADE AUTHORITY

TITLE XXI—TRADE PROMOTION AUTHORITY

SEC. 2101. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This title may be cited as the “Bipartisan Trade Promotion Authority Act of 2002.”

(b) FINDINGS.—The Congress makes the following findings:

(1) The expansion of international trade is vital to the security and prosperity of the United States. Trade is critical to the economic growth and strength of the United States and to its leadership in the world. Stable trading relationships promote security and prosperity. Trade agreements today serve the same purposes that security pacts played during the Cold War, binding nations together through a series of mutual rights and obligations. Leadership by the United States in international trade fosters open markets, democracy, and peace throughout the world.

(2) The national security of the United States depends on its economic security, which in turn is founded upon a vibrant and growing industrial base. Trade expansion has been the engine of economic growth and trade agreements maximize opportunities for the critical sectors and building blocks of the economy of the United States, such as information technology, telecommunications and other leading technologies, basic industries, capital equipment, medical equipment, services, agriculture, environmental technology, and advanced fields of industry and service sector. Trade will create new opportunities for the United States and preserve the unparalleled strength of the United States in economic, political, and military affairs. The United States, with the ascendance of the trade and economic opportunities, will meet the challenges of the twenty-first century.

(3) Support for continued trade expansion requires that dispute and other procedures under international trade agreements not add to or diminish the rights and obligations provided in such agreements. Therefore:

(A) the Congress is concerned that dispute settlement panels of the WTO and the Appellate Body to impose obligations and restrictions on the use of antidumping, countervailing, and safeguard measures by WTO members under the Antidumping Agreement, the Agreement on Subsidies and Countervailing Measures, and the Agreement on Safeguards has raised concerns; and

(B) the Congress is concerned that dispute settlement panels of the WTO and the Appellate Body appropriately apply the standard of review to the Panel and the Appellate Body findings. To the extent consistent with the need to protect intellectual property and enhance the real economy, and to deter the filing of frivolous claims;

(4) providing meaningful procedures for resolving investment disputes, including the establishment of mechanisms used to resolve disputes between an investor and a government through—

(i) ensuring the fullest measure of transparency in the dispute settlement mechanism, to the extent possible, through the establishment of a legal and transparent mechanism; and

(ii) providing for an appellate body or similar mechanism to provide coherence to the interpretation of investment provisions in trade agreements; and

(H) ensuring the fullest measure of transparency in the dispute settlement mechanism, to the extent consistent with the need to protect intellectual property and enhance the real economy, and to deter the filing of frivolous claims; and

(5) to require that trade and environmental policies are mutually supportive and to seek to protect and promote investment and enhance the international means of doing so, while optimizing the use of the world’s resources;

(6) to promote respect for worker rights and the rights of children consistent with core labor standards of the ILO (as defined in section 2113(6)) and an understanding of the relationship between intellectual property rights and trade agreements under which parties to those agreements strive to ensure that they do not weaken or reduce the protections of the Agreement on Trade-Related Aspects of Intellectual Property Rights; and

(7) to ensure that trade agreements do not adversely alter or detract from the rights of workers, consumers, and the environment, and that the provisions of trade agreements do not adversely alter or detract from the rights of workers, consumers, and the environment;

(b) PRINCIPAL TRADE NEGOTIATING OBJECTIVES.—

(1) TRADE BARRIERS AND DISTORTIONS.—The United States and other principal trading partners of the United States regarding trade barriers and other trade distortions are—

(A) to improve market access through reducing or eliminating market access or unreasonable barriers to the establishment or operation of services suppliers.

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(I)(i) ensuring accelerated and full implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreement, and (II) facilitating the full implementation of all other aspects of intellectual property rights that are entered into by the United States reflect a standard of protection similar to that found in United States law;

(ii) providing strong protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property rights;

(iii) preventing or eliminating discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights;

(iv) ensuring that standards of protection and enforcement keep pace with technological developments, and in particular ensuring that rightholders have the legal and technological means to control the use of their works through the Internet and other global communication media, and to prevent the unauthorized use of their works;

(v) providing strong enforcement of intellectual property rights, including through accessible, effective civil, administrative, and criminal enforcement mechanisms;

(vi) to secure fair, equitable, and nondiscriminatory market access opportunities for United States persons that rely upon intellectual property protection; and

(C) to respect the Declaration on the TRIPS Agreement and Public Health, adopted by the World Trade Organization at the Fourth Ministerial Conference at Doha, Qatar on November 14, 2001.

(S) TRANSPARENCY.—The principal negotiating objective of the United States with respect to transparency is to obtain wider and broader application of the principle of transparency through—

(A) increased and more timely public access to information regarding trade issues and the activities of international trade institutions;

(B) increased openness at the WTO and other international trade fora by increasing public access to appropriate meetings, proceedings, and submissions, including with regard to dispute settlement and trade negotiations; and

(C) increased and more timely public access to all notifications and supporting documentation submitted by parties to the WTO.

(S) IMPROVEMENT OF THE WTO AND MULTILATERAL TRADE AGREEMENTS.—The principal negotiating objectives of the United States regarding the improvement of the World Trade Organization, the Uruguay Round Agreements, and other multilateral and bilateral trade agreements are—

(A) to achieve full implementation and extend the coverage of the World Trade Organization and such agreements to products, sectors, and conditions of trade not adequately covered; and

(B) to provide strong incentives to enhance the Information Technology Agreement and other trade agreements.

(8) REGULATORY PRACTICES.—The principal negotiating objectives of the United States regarding the use of government regulation or other practices by foreign governments to provide unfair advantage to their domestic producers, service providers, or investors and thereby reduce market access for United States goods, services, and investments are—

(A) to achieve increased transparency and opportunity for the participation of affected parties in the development of regulations;

(B) to require that proposed regulations be based on sound science, cost-benefit analysis, risk assessment, or other objective evidence;

(C) to establish consultative mechanisms among parties to trade agreements to promote the development of guidelines, rules, regulations, and laws for government procurement and other regulatory regimes; and

(D) to achieve the elimination of government measures such as price controls and reference pricing which deny full market access for United States products.

(9) ELECTRONIC COMMERCE.—The principal negotiating objective of the United States with respect to electronic commerce are—

(A) to enhance obligations, rules, disciplines, and commitments under the World Trade Organization apply to electronic commerce; and

(B) to ensure that—

(i) electronically delivered goods and services receive no less favorable treatment under trade rules and commitments than like products delivered in physical form;

(ii) the classification of such goods and services ensures the most liberal trade treatment possible;

(iii) that governments refrain from implementing trade-related measures that impede electronic commerce;

(iv) the objectives of trade agreements that affect electronic commerce to obtain commitments that any such regulations are the least restrictive on trade, nondiscriminatory, and transparent, and promote an open market environment; and

(E) to extend the moratorium of the World Trade Organization on duties on electronic transmissions.

(10) RECIPROCAL TRADE IN AGRICULTURE.—(A) The principal negotiating objective of the United States with respect to agriculture is to—

(I) giving priority to those products that are subject to significantly higher tariffs or subsidy regimes of major producing countries;

(II) ensuring that the provisions of any multilateral trade agreements, including the Uruguay Round Agreements, and other relevant area.

(iv) allowing the preservation of programs that support family farms and rural communities but do not distort trade;

(v) developing disciplines for domestic support programs, so that production that is in excess of domestic food security needs is sold at world prices; and

(vi) eliminating government policies that create price-depressing surpluses;

(vii) eliminating state trading enterprises whenever possible;

(viii) developing, strengthening, and clarifying rules and effective dispute settlement mechanisms to eliminate practices that unfairly decrease United States market access opportunities or distort agricultural markets to the detriment of the United States; and

(ix) increasing transparency in the operation of state trading enterprises and such other mechanisms in order to end cross subsidization, price discrimination, and price undercutting;

(x) unjustified trade restrictions or commercial requirements, such as labeling, that affect new and emerging technologies, including biotechnology;

(xi) unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements;

(xii) other unjustified technical barriers to trade and—

(xiii) restrictive rules in the administration of tariff in agriculture;

(xiv) allowing the preservation of programs that support family farms and rural communities but do not distort trade; and

(xv) striving to complete a general multilateral round in the World Trade Organization by January 1, 2005, and seeking the broadest market access possible in multilateral, regional, and bilateral negotiations, recognizing the effect that simultaneous sets of negotiations may have on United States import-sensitive commodities (including those subject to tariff-rate quotas).

(B)(i) Before commencing negotiations with respect to agriculture, the United States Trade Representative, in consultation with the Congress, shall seek to develop a position on the treatment of seasonal and perishable agriculture products and preserving United States market access from import restrictions and export credit programs; and

(ii) During any negotiations on agricultural subsidies, the United States Trade Representa-
(iii) The negotiating objective provided in subparagraph (A) applies with respect to agricultural matters to be addressed in any trade agreement entered into under section 2103(a) or (b), in the application of commitments under section 2103(a) or (b) that provides for accession to a trade agreement to which the United States is already a party, such as the North American Free Trade Agreement and the United States-Canada Free Trade Agreement.

(II) LABOR AND THE ENVIRONMENT.—The principal negotiating objectives of the United States with respect to labor and the environment are—

(A) to ensure that a party to a trade agreement with the United States does not fail to effectively enforce its environmental laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the United States and that party after entry into force of a trade agreement between those countries;

(B) to recognize that parties to a trade agreement retain the right to exercise discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and to make decisions regarding the allocation of resources to enforcement with respect to other labor or environmental laws, except that the party to the agreement that has been found under a bona fide dispute settlement proceeding to fail to effectively enforce its laws if a course of action or inaction reflects a reasonable exercise of such discretion for the proportional benefit of labor or environmental laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the United States and that party after entry into force of a trade agreement between those countries; and

(C) to strengthen the capacity of United States trading partners to promote respect for core labor standards (as defined in section 2113(6));

(D) to strengthen the capacity of United States trading partners to protect the environment through the promotion of sustainable development;

(E) to reduce or eliminate government practices or policies that unduly threaten sustainable development;

(F) to seek market access, through the elimination of tariffs and nontariff barriers, for United States environmental technologies, goods, and services; and

(G) to ensure that labor, environmental, health, or safety policies and practices of the parties to trade agreements with the United States do not arbitrarily or unjustifiably discriminate against United States exports or serve as disguised barriers to trade.

(12) DISPUTE SETTLEMENT AND ENFORCEMENT.—The principal negotiating objectives of the United States with respect to dispute settlement and enforcement of trade agreements are—

(A) to seek provisions in trade agreements providing for resolution of disputes between governments under those trade agreements in an effective, timely, transparent, equitable, and reasoned manner, requiring determinations based on facts and the principles of the agreements, with the goal of increasing compliance with the agreements;

(B) to seek to strengthen the capacity of the Trade Policy Review Mechanism of the World Trade Organization to review compliance with commitments and agreements;

(C) to seek adherence by panels convened under the Dispute Settlement Understanding and by the Appellate Body to the standard of review applicable under the Uruguay Round Agreement involved in the dispute, including greater deference, where appropriate, to the fact-finding and technical expertise of national investigative authorities;

(D) to seek provisions encouraging the early identification and settlement of disputes through consultation;

(E) to seek provisions to encourage the provision of trade-expanding compensation if a party to a dispute under the agreement does not come into compliance with its obligations under the agreement;

(F) to seek provisions to impose a penalty upon a party to a dispute under the agreement that—

(i) encourages compliance with the obligations of the agreement;

(ii) is appropriate to the parties, nature, subject matter, and scope of the violation; and

(iii) has the aim of not adversely affecting parties or interests not party to the dispute while maintaining effectiveness of the enforcement mechanism; and

(G) to seek provisions that treat United States principal negotiating objectives equally with respect to—

(i) the ability to resort to dispute settlement under the applicable agreement;

(ii) the availability of equivalent dispute settlement procedures; and

(iii) the availability of equivalent remedies.

(13) WTO EXTENDED NEGOTIATIONS.—The principal negotiating objectives of the United States regarding trade in civil aircraft are those set forth in section 125(c) of the Uruguay Round Agreements Act (19 U.S.C. 3355(c)) and regarding rules of origin are the conclusion of an agreement described in section 132 of that Act (19 U.S.C. 3552).

(14) TRADE REMEDY LAWS.—The principal negotiating objectives of the United States with respect to trade remedy laws are—

(A) to preserve the ability of the United States to enforce rigorously its trade laws, including laws against the anticipation and safeguard laws, and avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies, or that lessen the effectiveness of domestic and international safeguards provisions, in order to ensure that United States workers, agricultural producers, and firms can continue to compete fairly and enjoy the benefits of reciprocal trade concessions; and

(B) to address and remedy market distortions that lead to dumping and subsidization, including overcapacity, cartelization, and market-access barriers.

(15) BORDER TAXES.—The principal negotiating objective of the United States regarding border taxes is to obtain a revision of the WTO rules with respect to the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct versus indirect taxes.

(16) TEXTILE NEGOTIATIONS.—The principal negotiating objectives of the United States with respect to trade in textiles and apparel articles include—

(A) to use the Uruguay Round Agreement to the fullest extent feasible to liberalize United States imports of textiles and apparel in foreign markets substantially equivalent to the competitive opportunities afforded foreign exporters in United States markets and to achieve fairer and more open conditions of trade in textiles and apparel.

(B) WORST FORMS OF CHILD LABOR.—The principal negotiating objective of the United States with respect to the trade-related aspects of the worst forms of child labor are to seek commitments by the WTO to vigorously enforce their own laws prohibiting the worst forms of child labor.

(C) PROMOTION OF CERTAIN PRIORITIES.—In order to address and maintain United States competitiveness in the global economy, the President shall—

(1) seek greater cooperation between the WTO and the United States to address trade measures with existing environmental exceptions under Article XX of the GATT 1994;

(11) report to the Committee on Ways and Means and the House of Representatives and the Committee on Finance of the Senate, not later than 12 months after the imposition of a penalty or remedy by the United States permitted by a trade agreement to which this title applies, on the effectiveness of the penalty or remedy applied under United States law in enforcing United States rights under the trade agreement; and

(12) seek to establish consultative mechanisms among parties to trade agreements to examine the trade consequences of significant and unanticipated currency movements and to scrutinize whether a foreign government engaged in a pattern of manipulating its currency to promote a competitive advantage in international trade.

(C) TO PROMOTE FREE TRADE AGREEMENTS WITH FREE TRADE AGREEMENTS.—(I) CONSULTATIONS WITH CONGRESSIONAL ADVISORS.—(A) TRADE ADJUSTMENT ASSISTANCE.—The President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the content and operation of such mechanisms;

(1) seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of United States trading partners to develop and implement standards for the protection of the environment and human health based on sound science, and report to the Committee on Ways and Means and the House of Representatives and the Committee on Finance of the Senate on the content and operation of such mechanisms;

(2) conduct environmental reviews of future trade and investment agreements, consistent with Executive Order 13141 of November 16, 1999, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such reviews;

(3) review the impact of future trade agreements on United States employment, including labor markets, modeled after Executive Order 13141 to the extent appropriate in establishing procedures and criteria, report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such review, and make that report available to the public;

(4) take into account other legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or essential governmental interests and the law and regulations related thereto;

(5) review the impact of future trade agreements on United States employment, including labor markets, modeled after Executive Order 13141 to the extent appropriate in establishing procedures and criteria, report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such review, and make that report available to the public.

(D) CONSULTATIONS.—(I) CONSULTATIONS WITH CONGRESSIONAL ADVISORS.—(A) TRADE ADJUSTMENT ASSISTANCE.—The President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the content and operation of such mechanisms;
basis with, and keep fully apprised of the negotiations, the Congressional Oversight Group convened under section 2107 and all committees of the House of Representatives and the Senate with jurisdiction over trade, as the President determines to be required or appropriate to carry out any such trade agreements resulting from the negotiations.

(2) Consultation before agreement initiation.—(A) The President shall consult closely and on a timely basis (including immediately before initiating an agreement) with, and keep fully apprised of the negotiations, the congressional advisers for trade policy and negotiations appointed under section 2101 of the Trade Act of 1974 (19 U.S.C. 2101), the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Congressional Oversight Group convened under section 2107; and

(B) with regard to any negotiations and agreement relating to agricultural trade, also consult closely and on a timely basis (including immediately before initiating an agreement) with, and keep fully apprised of the negotiations, the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(e) Adherence to Obligations Under Uruguay Round Agreements.—In determining whether to enter into negotiations with a particular country, the President shall take into account the extent to which that country has implemented, or has accelerated the implementation of, its obligations under the Uruguay Round Agreements.

SEC. 2103. TRADE AGREEMENTS AUTHORITY.

(a) Agreements regarding tariff barriers.—

(1) in general.—Whenever the President determines that one or more existing duties or other import restrictions of any foreign country or the obligation to provide minimum access to the United States or any other barrier to, or other distortion of, international trade unduly burdens and restricting the foreign trade of the United States and that the purposes, policies, priorities, and objectives of this title will be promoted thereby, the President—

(a) may enter into trade agreements with foreign countries before—

(i) June 1, 2005; or

(ii) June 1, 2007, if trade authorities procedures are extended under subsection (c); and

(b) may, subject to paragraphs (2) and (3), proclaim—

(i) such modification or continuum of any existing duty,

(ii) such continuation of existing duty-free or tariff-free treatment, or

(iii) such additional duties, or

as the President determines to be required or appropriate to carry out any such trade agreements.

The President shall notify the Congress of the President’s intention to enter into an agreement under this subsection.

(2) limitations.—No proclamation may be made that—

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on the date of the enactment of this Act) to a rate of duty which is less than 50 percent of the rate of such duty that applies on such date of enactment; or

(B) reduces the rate of duty below that applicable under the Uruguay Round Agreements, on any import sensitive agricultural product; or

(C) increases any rate of duty above the rate that applies on the date of the enactment of this Act.

(3) Aggregate reduction: exemption from staging.—

(A) Aggregate reduction.—Except as provided in subparagraph (B), the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement entered into under paragraph (1) shall not exceed the aggregate reduction which would have been in effect on such day if—

(i) a reduction of 3 percent ad valorem or a reduction to the extent of the total reduction, whichever is greater, had taken effect on the effective date of the first reduction proclaimed under paragraph (1) to carry out such agreement, or

(ii) a reduction equal to the amount applicable under clause (i) had taken effect at 1-year intervals after the effective date of such first reduction.

(B) Exemption from staging.—No staging is required under subparagraph (A) with respect to a duty reduction that is proclaimed under paragraph (1) for an article of a kind that is not produced in the United States. The United States International Trade Commission shall advise the President of the articles that may be exempted from staging under this subparagraph.

(4) Rounding.—If the President determines that such action will simplify the computation of reductions under paragraph (3), the President may round an annual reduction by an amount equal to the lesser of—

(A) the difference between the reduction with- out regard to rounding and the next lower whole number; or

(B) one-half of 1 percent ad valorem.

(5) Other limitations.—A rate of duty reduction that may not be proclaimed by reason of paragraph (2) may take effect only if a proviso authorizing such reduction is included within an implementing bill provided for under section 2105 after June 1, 2005.

(6) Other tariff modifications.—(A) Notwithstanding paragraphs (1)(B), (2)(A), (2)(C), and (3) through (5), and subject to the consultation and layover requirements of section 1105 of the Uruguay Round Agreements Act, the President may proclaim the modification of any duty or staged rate reduction of any duty set forth in the schedule XXA, as defined in section 2(2) of that Act, if the United States agrees to such modification or staged rate reduction in a negotiation for the reciprocal elimination or harmonization of duties under the auspices of the World Trade Organization.

(B) The provisions referred to in subparagraph (A) to the extent that provisions described in subparagraph (B) to the same extent as such section 1105 applies to implementing bills under that section. A bill to which this paragraph applies shall hereafter in this title be referred to as an “implementing bill”.

(7) Authority under Uruguay round agreements act not affected.—Nothing in this subsection shall limit the authority provided to the President under section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(b) Agreement regarding tariff and non-tariff barriers.—

(1) in general.—(A) Whenever the President determines that—

(i) one or more existing duties or any other import restriction of any foreign country or the obligation to provide minimum access to the United States or any other barrier to, or other distortion of, international trade unduly burdens and restricts the foreign trade of the United States or adversely affects the United States economy, or

(ii) the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect, and that the purposes, policies, priorities, and objectives of this title will be promoted thereby, the President shall submit to the Congress a report that contains a request for such extension under paragraph (2); and

(B) The President shall submit to the Congress an extension disapproval resolution under paragraph (5) before June 1, 2005.

(2) Report to Congress by the President.—If the President is of the opinion that the trade authorities procedures should be extended to implement bills submitted with respect to trade agreements entered into under subsection (b) before July 1, 2005; and

(B) The trade authorities procedures shall be extended to implementing bills submitted with respect to trade agreements entered into under subsection (b) after June 30, 2005, and before July 1, 2007, if (and only if)—

(i) the President requests such extension under paragraph (2); and

(ii) neither House of the Congress adopts an extension disapproval resolution under paragraph (5) before June 1, 2005.

(3) Other reports to Congress.—

(A) Report by the advisory committee.—The President shall promptly inform the Advisory Committee for Policy and Negotiations established under section 115 of the Trade Act of 1974 (19 U.S.C. 2155) of the President’s decision to submit a report to the Congress under paragraph (2). The Advisory Committee shall submit to the Congress as soon as practicable, but not later than May 1, 2005, a written report that contains—

(i) its views regarding the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives of this title; and

(ii) an assessment of the views, and the reasons therefor, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

(B) Report by the international trade commission.—The President shall promptly inform the International Trade Commission of the President’s decision to submit a
report to the Congress under paragraph (2). The International Trade Commission shall submit to the Congress as soon as practicable, but not later than May 1, 2005, a written report that contains an analysis of the economic impact on the United States of all trade agreements implemented between the date of enactment of this Act and the date on which the President decides whether to seek an extension requested under paragraph (2).

(4) STATUS OF REPORTS.—The reports submitted to the Congress under paragraphs (2) and (3), or any additional reports required to be submitted to the Congress, shall be classified to the extent the President determines appropriate.

(5) EXTENSION DISAPPROVAL RESOLUTIONS.—(A) For purposes of paragraph (1), the term "extension disapproval resolution" means a resolution of either House of the Congress, the sole matter of which is the disapproval of the extension of this Act and the date on which the President entered into a trade agreement under section 2103(b), and includes a disapproval resolution not reported by the Committee on Ways and Means or the Committee on Finance.

(B) Extension disapproval resolutions—(i) may be introduced in either House of the Congress by any member of such House; and

(ii) shall be referred, in the House of Representatives, to the Committee on Ways and Means and, in addition, to the Committee on Rules.

(C) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 1522(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to extension disapproval resolutions.

(D) Not on or after—(i) the Senate to consider any extension disapproval resolution not reported by the Committee on Finance;

(ii) the House of Representatives to consider any extension disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules; or

(iii) either House of the Congress to consider an extension disapproval resolution after June 30, 2005.

(6) COMMENCEMENT OF NEGOTIATIONS.—In order to contribute to the continued economic expansion of the United States, the President shall commence negotiations covering tariff and nontariff matters relating to any industry product, or service sector, and expand existing sectoral agreements to countries that are not parties to those agreements, in cases where the President determines that such negotiations are feasible and timely and would benefit the United States. Such sectors include agriculture, commercial services, intellectual property rights, industries, and capital goods, government procurement, information technology products, environmental technology and services, medical equipment and services, civil aircraft, and infrastructures.

The consultations described in subparagraph (A)(i) shall include the assessment of the economic impact on the United States industry producing the product concerned, including the role of the agreement on existing laws, and the nature of the agreement and the potential benefits to the United States industry producing the product concerned, including the role of the agreement on existing laws.

SEC. 2104. CONSULTATIONS AND ASSESSMENT.

(a) NOTICE AND CONSULTATION BEFORE NEGOTIATION.—The President, with respect to any agreement that is subject to the provisions of section 2103(b), shall—

(1) provide, not less than 30 calendar days before initiating negotiations, written notice to the Congress of the President’s intention to enter into the negotiations and set forth therein the date on which the President intends to initiate negotiations, the specific United States objectives for the negotiations, and whether the President intends to seek an agreement, or changes to an existing agreement;

(2) before and after submission of the notice, consult regarding the negotiations with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, such other committees of the House and Senate as the President deems appropriate, and the International Trade Commission convened under section 2107; and

(3) upon the request of a majority of the members of the Congressional Oversight Group convened under the auspices of the Congressional Oversight Group before initiating the negotiations, and at any other time concerning the negotiations.

(b) NEGOTIATIONS REGARDING AGRICULTURE.—(1) In general.—Before initiating or continuing negotiations the subject matter of which is directed toward an agricultural product under section 2102(b)(1)(A)(i) with any country, the President shall assess whether United States tariffs on agricultural products that were bound under the agreement entered into before January 1, 1995, are lower than the tariffs bound by that country. In addition, the President shall consider whether the tariff levels bound and applied throughout the world, with respect to imports from the United States are higher than United States tariffs and whether the negotiation provides an opportunity to address any such disparity.

(2) Special Consultations on Import Sensitivity Products.—(A) Before initiating negotiations with respect to the Free Trade Area for the Americas and negotiations with regard to agriculture under the auspices of the World Trade Organization, and after the enactment of this Act, the United States Trade Representative shall—

(i) identify those agricultural products subject to tariff-rate quotas on the date of enactment of this Act, and agricultural products subject to tariff reductions by the United States as a result of the Uruguay Round Agreement, for which the rate of duty was reduced on January 1, 1995, to a rate which was not less than 97.5 percent of the rate of duty that applied to such article on December 31, 1986;

(ii) consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance, Nutrition, and Forestry of the Senate concerning the results of the assessment, whether it is appropriate for the United States to agree to further tariff reductions based on the conclusions reached, and make available all applicable negotiating objectives will be met.

(B) how and to what extent the agreement described in subparagraph (A)(i) is the subject of negotiations, and whether the President in-

(c) NEGOTIATIONS REGARDING TEXTILES.—Before initiating or continuing negotiations the subject matter of which is directly related to textiles and apparel products with any country, the President shall assess whether United States tariffs on textile and apparel products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country and whether the negotiation provides an opportunity to address any such disparity. The President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning the results of the assessment, whether it is appropriate for the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

(d) CONSULTATION WITH CONGRESS BEFORE AGREEMENTS ENTERED INTO.—(1) Consultation.—Before entering into any trade agreement under section 2103(b), the President shall consult with—

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate;

(B) each other committee of the House and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation in-

(C) the Congressional Oversight Group convened under section 2107.

The consultation described in paragraph (1) shall include consultation with respect to—

(A) the nature of the agreement; and

(B) whether the agreement will achieve the applicable purposes, policies, priorities, and objectives of this title; and

(C) the implementation of the agreement under section 2105, including the general effect of the agreement on existing laws.

(2) Report on United States Trade Remedy Laws.—(A) Definitions.—"Changes in Certain Trade Laws."—The President, at least 180 calendar days before the date on which the President enters into a trade agreement under section 2103(b), shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(i) the range of proposals included in the nego-
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of 1930 or to chapter 1 of title II of the Trade Act of 1974; and
(ii) these proposals relate to the objectives described in section 2103(b)(14).

(iv) the Vice President of the United States shall present to the Congress, the
President, the Congress, and the United States Trade Representative a report not
termination, and in addition, to the Committee on Ways and Means, and, in addition, to the Committee on
Rules.

(v) In any dispute settlement body.

(vi) the President shall provide the International Trade Commission with the
information, the initial report, and the final report prepared by the
Commission.

(b) ADVISORY COMMITTEE REPORTS—The report required under section 135(e)(1) of the
Trade Act of 1974 regarding any trade agreement entered into under section 2130(b) or under
section 2103(b), shall provide the International Trade Commission (referred to in this subsection as
"the Commission") with the details of the
agreement as it exists at that time and request that the Commission
prepare an assessment of the agreement as described in paragraph
(2).

(c) RESOLUTIONS—(i) At any time after the
transmission of the report under subparagraph (A), if a resolution is introduced with respect to
that report in either House of Congress, the
procedures set forth in clauses (iii) through (vi) shall apply to that resolution if—

(ii) no other resolution with respect to that
report has previously been reported in that House of Congress by the Committee on
Ways and Means or the Committee on Finance, as the case may be, pursuant to those procedures; and

(iii) no procedural disapproval resolution
under section 2103(b) introduced with respect to
a trade agreement entered into pursuant to the
negotiations to which the report under subparagraph (A) relates has previously been reported in
that House of Congress by the Committee on
Ways and Means or the Committee on Finance, as the case may be.

(ii) For purposes of this subparagraph, the
term “resolution” means only a resolution of ei-
ther House of Congress, the matter of which
is the resolving clause, which is described as
follows: “That the
finds that the proposed changes to United
States trade remedy laws contained in the
report of the President submitted to the Congress
under section 2104(d)(3) of the Bipartisan
Trade Promotion Authority Act of 2002 with respect to
which the President has not met with the Congress a report assessing the
proposals, policies, and objectives referred to in a
resolution of the Congress regarding the agreement,
and promptly thereafter publishes notice of such intention in the Federal Register.

(i) the President enters into that agreement.

(iii) this Act shall be provided to the President, the
Congress, and the United States Trade Representative not later than 30 days after
the date on which the President notifies the Congress under subsection 2130(a)(1) or 2130(c)(1A) of the
President’s intention to enter into the agreement.

(f) ITC ASSESSMENT—

(i) The President, at least 90 calendar
days before the day on which the
President enters into a trade agreement under
section 2130(b), shall provide the International
Trade Commission (referred to in this subsection as
"the Commission") with the details of the
agreement as it exists at that time and request that the Commission
prepare an assessment of the agreement as described in paragraph
(2). Between the time the President makes
the request under this paragraph and the time the Committee on Finance, the
President shall keep the Commission current
with respect to the details of the agreement.

(ii) ITC ASSESSMENT—Not later than 90 cal-
erdays before the day on which the
President enters into the agreement, the
Commission shall submit to the
President and the Congress a report assessing the
likely impact of the agreement on the United
States economy, on specific industry sectors, including the impact the
agreement will have on the gross domestic product, exports and imports, aggregate employment and
income, and competitiveness of American industry sectors, including the impact the agreement
likely to be significantly affected by the agreement,
and the interests of United States consumers.

(iii) REVIEW OF EMPIRICAL LITERATURE—In
preparing the assessment, the Commission shall
review available economic assessments regarding
the agreement, including literature regarding
any substantially equivalent proposed agreement,
and shall provide in its assessment a
description of those analyses and conclusions
drawn in such literature, and a discussion of
areas of consensus and divergence between the
various analyses and conclusions, including
those of the Commission regarding the agreement.

SEC. 2105. IMPLEMENTATION OF TRADE AGREEMENTS.

(a) IN GENERAL—

(i) NOTIFICATION AND SUBMISSION—Any
agreement entered into under section 2103(b)
shall enter into force with respect to the United States if (and only if)—

(A) the President, at least 90 calendar
days before the day on which the President enters into the agreement, notifies the House of
Representatives and the Senate of the President’s intention to enter into the agreement,
and promptly thereafter publishes notice of such intention in the Federal Register.

(B) within 60 days after entering into the agreement, the President submits to the
Congress a description of those changes to existing United States laws that the President considers to be
required in order to bring the United States into
compliance with the agreement;

(C) after entering into the agreement, the
President submits to the Congress, on a day on which both Houses of Congress are in session, a
copy of the final legal text of the agreement,
together with a draft of an implementing bill described in section 2103(b)(3);

(D) the implementing bill is enacted into law;

(E) the implementing bill is enacted into law;

(F) the implementing bill is enacted into law;

(G) the implementing bill is enacted into law;

(H) the implementing bill is enacted into law.

(2) DISCLOSURE OF COMMITMENTS—

(i) For purposes of this paragraph, the term
“procedural disapproval resolution” means a
resolution of either House of Congress, the sole
role of which is to disapprove the agreement, as
follows: “That the President has failed or re-
 fused to notify or consult in accordance with the
Bipartisan Trade Promotion Authority Act of 2002 on negotiations with respect to
and, therefore, the trade authori-
ties procedures under that Act shall not apply to
any implementing bill submitted with respect to
a trade agreement or agreements
entered into in accordance with subparagraph
(a)(3). This resolution shall apply to any implementing bill submitted with respect to the Congress
a procedural disapproval resolution for
lack of notice or consultations with respect to
such trade agreements or agreements,
the other House
separately agrees to a procedural disapproval resolution with respect to such trade agreements or agreements.

(ii) PROCEDURAL DISAPPROVAL RESOLUTION—

(i) For purposes of this paragraph, the term
“procedural disapproval resolution” means a
resolution of either House of Congress, the sole
role of which is to disapprove the agreement, as
follows: “That the President has failed or re-
 fused to notify or consult in accordance with the
Bipartisan Trade Promotion Authority Act of 2002 on negotiations with respect to
and, therefore, the trade authori-
ties procedures under that Act shall not apply to
any implementing bill submitted with respect to
a trade agreement or agreements
entered into in accordance with subparagraph
(a)(3). This resolution shall apply to any implementing bill submitted with respect to the Congress
a procedural disapproval resolution for
lack of notice or consultations with respect to
such trade agreements or agreements,
the other House
separately agrees to a procedural disapproval resolution with respect to such trade agreements or agreements.

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“procedural disapproval resolution” means a
resolution of either House of Congress, the sole
role of which is to disapprove the agreement, as
follows: “That the President has failed or re-
 fused to notify or consult in accordance with the
Bipartisan Trade Promotion Authority Act of 2002 on negotiations with respect to
and, therefore, the trade authori-
ties procedures under that Act shall not apply to
any implementing bill submitted with respect to
a trade agreement or agreements
entered into in accordance with subparagraph
(a)(3). This resolution shall apply to any implementing bill submitted with respect to the Congress
a procedural disapproval resolution for
lack of notice or consultations with respect to
such trade agreements or agreements,
the other House
separately agrees to a procedural disapproval resolution with respect to such trade agreements or agreements.

(iii) how the agreement serves the interests of
United States consumers;

(iv) how the implementing bill meets the
standards set forth in section 2103(b)(3); and

(v) how trade agreements may implement
the Bipartisan Trade Promotion Authority Act of 2002 on negotiations with respect to
and, therefore, the trade authori-
ties procedures under that Act shall not apply to
any implementing bill submitted with respect to
a trade agreement or agreements
entered into in accordance with subparagraph
(a)(3) if during the 60-day period beginning on
the date that one House of Congress agrees to
a procedural disapproval resolution for lack of notice or consultations with respect to
such trade agreements or agreements,
the other House
separately agrees to a procedural disapproval resolution with respect to such trade agreements or agreements.

(iii) how the agreement serves the interests of
United States consumers;
(IV) the agreement or agreements fail to make progress in achieving the purposes, policies, priorities, and objectives of this title.

(2) PROCEDURES FOR CONSIDERING RESOLUTIONS—

(A) Procedural disapproval resolutions—

(i) in the House of Representatives—

(I) shall be referred by any Member of the House;

(II) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Finance, and

(III) may not be amended by either Committee; and

(ii) in the Senate—

(I) may be introduced by any Member of the Senate;

(II) shall be referred to the Committee on Finance; and

(iii) may not be amended.

(B) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2152(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to a procedural disapproval resolution introduced with respect to a trade agreement if no other procedural disapproval resolution with respect to that trade agreement has previously been reported in that House of Congress by the Committee on Ways and Means or the Committee on Finance, as the case may be, and if no resolution described in section 2104(a)(3) with respect to that trade agreement has been reported in that House of Congress by the Committee on Ways and Means or the Committee on Finance, as the case may be, pursuant to the procedures set forth in clauses (iii) through (vi) of such section 2104(d)(3)(C).

(C) It is not in order for the House of Representatives to consider any procedural disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules.

(D) It is not in order for the Senate to consider any procedural disapproval resolution not reported by the Committee on Finance.

(3) FOR FAILURE TO MEET OTHER REQUIREMENTS—Not later than December 31, 2002, the Secretary of Commerce, in consultation with the Secretary of the Treasury, the Attorney General, and the United States Trade Representative, shall transmit to Congress a report setting forth the status of the executive branch to address concerns of the Congress regarding whether dispute settlement panels and the Appellate Body of the WTO have met their obligations, or the United States, as described in section 2101(b)(3), Trade authorities procedures shall not apply to any implementing bill with respect to agreements negotiated under the auspices of the WTO unless the Secretary of Commerce has issued such report in a timely manner.

(c) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—Subsection (b) of this section, section 2103(c), and section 2104(d)(3)(C) are enacted by the following:

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent, as it may deem proper.

SEC. 2106. TREATING OF CERTAIN TRADE AGREEMENTS FOR WHICH NOTIFICATION HAS ALREADY BEEN GIVEN

(a) CERTAIN AGREEMENTS.—Notwithstanding the prenegotiation notification and consultation requirement described in section 2104(a), if an agreement that was negotiated (19) is entered into under the auspices of the World Trade Organization,

(2) is entered into with Chile,

(3) is entered into with Singapore, or

(4) establishes a Free Trade Area for the Americas,

and results from negotiations that were commenced before the date of the enactment of this Act, subsection (b) shall apply.

(b) TREATMENT OF AGREEMENTS.—In the case of any agreement to which subsection (a) applies—

(1) the applicability of the trade authorities procedures to implementing bills shall be determined without reference to the requirements of section 2104(a) (relating only to 90 days notice prior to initiating negotiations), and any procedural disapproval resolution under section 2104(d)(3)(C) shall be referred on the basis of a failure or refusal to comply with the provisions of section 2104(a); and

(2) the President shall, as soon as feasible after the enactment of this Act—

(A) notify the Congress of the negotiations described in subsection (a), the specific United States objectives in the negotiations, and whether the President is seeking a new agreement or changes to an existing agreement; and

(B) before and after submission of the notice, consult with the Congress regarding the negotiations with the Committee on Ways and Means and the Committee on Finance, and the Congressional Oversight Group convened under section 2107.

SEC. 2107. CONGRESSIONAL OVERSIGHT GROUP

A description of the additional equipment, personnel required by the Office of the United States Trade Representative on behalf of the United States Trade Representative, the Department of Commerce, the Department of Agriculture (including additional personnel required to implement sanitary and phytosanitary measures in order to maintain tariff-differential treatments of United States exports), the Department of the Treasury, and such other agencies as may be necessary.

(5) CUSTOMS INFRASTRUCTURE REQUIREMENTS.—To continue the development of port, trade facilitation equip- ment and facilities needed by the United States Customs Service.
(4) IMPACT ON STATE AND LOCAL GOVERNMENTS.—A description of the impact the trade agreement will have on State and local governments as a result of increases in trade.

(5) COST-BENEFIT ANALYSIS.—An analysis of the costs associated with each of the items listed in paragraphs (1) through (4).

(b) RUDIERSHIP.—The President shall include a request for the resources necessary to support the plan described in subsection (a) in the first budget that the President submits to the Congress for the fiscal year following the enactment of the plan.

SEC. 2109. COMMITTEE STAFF.

The grant of trade promotion authority under this title is likely to increase the activities of the primary committees of jurisdiction in the area of international trade. In addition, the creation of the Congressional Oversight Group under section 2107 will increase the participation of a broader number of Members of Congress in the formulation of United States trade policy and oversight of the international trade agenda for the United States. The primary committees of jurisdiction should have adequate staff to accommodate these increases in activities.

SEC. 2110. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Title I of the Trade Act of 1974 (19 U.S.C. 2111 et seq.) is amended as follows:

(1) IMPLEMENTING BILL.—


(B) Section 131(c)(1) (19 U.S.C. 2191(c)(1)) is amended by striking “or section 2102 of the Uruguay Round Agreements Act,” and inserting “section 2102 of the Bipartisan Trade Promotion Authority Act of 2002”;

(C) Section 131(c)(2) (19 U.S.C. 2191(c)(2)) is amended by striking “or section 1102 of the Omnibus Trade and Competitiveness Act of 1988,” and inserting “or under section 1102 of the Bipartisan Trade Promotion Authority Act of 2002”;

(D) Section 131(e) (19 U.S.C. 2191(e)) is amended by striking “in section 1102 of the Omnibus Trade and Competitiveness Act of 1988,” and inserting “in section 1102 of the Bipartisan Trade Promotion Authority Act of 2002”;

(2) any proclamation or Executive order issued pursuant to a trade agreement entered into under section 2102 shall be treated as a proclamation or Executive order issued pursuant to a trade agreement entered into under section 1102 of the Omnibus Trade and Competitiveness Act of 1988, or section 2102 of the Bipartisan Trade Promotion Authority Act of 2002”;

(3) The North American Free Trade Agreement;

(4) the Agreement on Agriculture, as defined in section 2102(a)(8). It is the sense of the Congress that the small business functions described in section 2102(a)(8) are an appropriate, of the Trade Act of 1974 (19 U.S.C. 2111 et seq.), and shall be responsible for ensuring that the interests of small business are considered in all trade negotiations in accordance with the objective described in section 2102(a)(8). It is the sense of the Congress that the small business functions should be reflected in the title of the Assistant United States Trade Representative assigned the responsibility for small business.

SEC. 2111. REPORT ON IMPACT OF TRADE PROMOTION AUTHORITY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the International Trade Commission shall report to the Committee on Ways and Means of the House of Representatives regarding the economic impact of the United States trade agreements described in subsection (b).

(b) AGREEMENTS.—The trade agreements described in this subsection are the following:

(1) The United States-Israel Free Trade Agreement.

(2) The United States-Canada Free Trade Agreement.

(3) The North American Free Trade Agreement.

(4) The Uruguay Round Agreements.

(5) The Tokyo Round of Multilateral Trade Negotiations.

SEC. 2112. INTERESTS OF SMALL BUSINESS.

The Assistant United States Trade Representative for Industry and Telecommunications shall be responsible for ensuring that the interests of small businesses are considered in all trade negotiations in accordance with the objective described in section 2102(a)(8). It is the sense of the Congress that the small business functions should be reflected in the title of the Assistant United States Trade Representative assigned the responsibility for small business.

SEC. 2113. DEFINITIONS.

In this title:

(1) AGREEMENT ON AGRICULTURE.—The term “Agreement on Agriculture” means the agreement referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

(2) AGREEMENT ON SAFEGUARDS.—The term “Agreement on Safeguards” means the agreement referred to in section 101(d)(12) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(12)).

(3) AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES.—The term “Agreement on Subsidies and Countervailing Measures” means the agreement referred to in section 101(d)(13) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(13)).

(4) ANTI-DUMPING.—The term “Anti-dumping Agreement” means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(7) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(7)).

(5) APPETTE BODIES.—The term “Appellate Body” means the Appellate Body established under Article 17.1 of the Dispute Settlement Understanding.

(6) C OMPETITIVE TRADE POLICIES.—The term “competitive trade policies” means policies that are designed to promote U.S. exports, consistent with United States obligations under the World Trade Organization.

(7) DISPUTE SETTLEMENT UNDERSTANDING.—

The term “Dispute Settlement Understanding” means the Understanding on Rules and Procedures Governing the Settlement of Disputes referred to in section 101(d)(16) of the Uruguay Round Agreements Act.

(8) GATT 1944.—The term “GATT 1944” has the meaning given that term in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

(9) ILO.—The term “ILO” means the International Labor Organization.

(10) IMPORT SENSITIVE AGRICULTURAL PRODUCT.—

The term “import sensitive agricultural product” means an agricultural product with respect to which, as a result of the Uruguay Round Agreements the rate of duty was the subject of tariff reductions by the United States and, pursuant to such Agreements, was reduced on January 1, 1996, to a rate that was not less than 97.5 percent of the rate of duty that applied to such article on December 31, 1986 or

(11) UNITED STATES PERSON.—The term “United States person” means:

(A) a United States citizen;

(B) a partnership, corporation, or other legal entity organized under the laws of the United States; and

(C) a partnership, corporation, or other legal entity that is organized under the laws of a foreign country and is controlled by entities described in subparagraph (B) or United States citizens, or both.

(12) URUGUAY ROUND AGREEMENTS.—

The term “Uruguay Round Agreements” has the meaning given that term in section 2(7) of the Uruguay Round Agreements Act (19 U.S.C. 3501(7)).

(13) WORLD TRADE ORGANIZATION; WTO.—

The term “World Trade Organization” and “WTO” means the organization established pursuant to the WTO Agreement.

(14) W TO AGREEMENT.—The term “WTO Agreement” means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

(15) W TO MEMBER.—The term “WTO member” has the meaning given that term in section 2(9) of the Uruguay Round Agreements Act (19 U.S.C. 3501(9)).

DIVISION C—ANDEAN TRADE PREFERENCE ACT

TITLE XXI—ANDEAN TRADE PREFERENCE

SEC. 3101. SHORT TITLE.

This title may be cited as the “Andean Trade Preference and Drug Eradication Act”.

SEC. 3102. FINDINGS.

Congress makes the following findings:

(1) Since the Andean Trade Preference Act was enacted in 1991, it has had a positive impact on United States trade with Bolivia, Colombia, and Peru. Trade has doubled, with the United States serving as the leading source of imports and leading export market

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for each of the Andean beneficiary countries. This has resulted in increased jobs and expanded export opportunities in both the United States and the Andean region.

(2) Trade Preference Act—The Trade Preference Act has been a key element in the United States counter-narcotics strategy in the Andean region, promoting export diversification and broad-based economic growth. It provides for the introduction of economic alternatives to drug-crop production, strengthening the legitimate economies of Andean countries and creating viable alternatives to illicit trade in coca.

(3) Notwithstanding the success of the Andean Trade Preference Act, the Andean region remains a region of political and economic instability and fragility, vulnerable to the consequences of the drug war and fierce global competition for its legitimate trade.

(4) In the event of increased insecurity in the Andean region poses a threat to the security interests of the United States and the world. This problem has been partially addressed through foreign aid, such as Plan Colombia, enacted by Congress in 2000. However, foreign aid alone is not sufficient. Enhancement of legitimate trade with the United States provides an alternative means for reviving and stabilizing the economies in the Andean region.

(5) The Andean Trade Preference Act constitutes a tangible commitment by the United States to regional prosperity, growth, stability, and democracy in the beneficiary countries.

(6) Renewal and enhancement of the Andean Trade Preference Act will bolster the confidence of domestic and foreign investors in the economic prospects of the region, ensuring that legitimate private enterprise can be the engine of economic development and political stability in the region.

(7) Each of the Andean beneficiary countries is committed to conclude negotiation of a Free Trade Area of the Americas by the year 2005, as a means of enhancing the economic security of the region.

(8) Temporarily enhancing trade benefits for Andean beneficiary countries will promote the growth of free enterprise and economic opportunity in these countries and serve the security interests of the United States, the region, and the world.

SEC. 3103. ARTICLES ELIGIBLE FOR PREFERENTIAL TREATMENT.

(a) ELIGIBILITY OF CERTAIN ARTICLES.—Section 126 of the Andean Trade Preference Act (19 U.S.C. 3203) is amended—

(1) by striking subsection (c) and redesignating subsections (d) through (g) as subsections (c) through (f), respectively; and

(2) by amending subsection (b) to read as follows:

"(A) Footwear not designated at the time of entry for consumption as apparel, including cases, bracelets, and straps, of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply."

(3) Handbags, luggage, flat goods, work gloves, and leather wearing apparel that were not designated on August 5, 1983, as eligible articles for purposes of the generalized system of preferences under title V of the Trade Act of 1974.

(4) Textiles and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on that date.

(5) Rym and pata classified in subheading 2208.40 of the HTS.

(b) EXCEPTIONS AND SPECIAL RULES.

"(1) EXCLUSIONS.—Subject to paragraph (3), duty-free treatment under this title may not be extended to—


"(B) Apparel articles described in subparagraph (A) are formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS.

"(C) Apparel articles described in clauses (i), (ii), or (iii), or (iv), if the article is both cut and sewn or otherwise assembled in the United States, from yarns wholly formed in the United States, or 1 or more ATPDEA beneficiary countries, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in the United States.

"(III) The President has consulted with such committees regarding the proposed action during the period referred to in subparagraph (B).

"(2) APPAREL ARTICLES ASSEMBLED IN 1 OR MORE ATPDEA BENEFICIARY COUNTRIES OR REGIONAL COMPONENTS.—(I) Subject to the limitation set forth in subparagraph (B), apparel articles sewn or otherwise assembled in the United States from fabrics or from fabric components formed or from components knits-to-shape, in 1 or more ATPDEA beneficiary countries, whether or not the apparel articles are made from any of the fabrics, fabric components formed, or components knits-to-shape described in clause (I).

"(III) The President has consulted with such committees regarding the proposed action during the period referred to in subparagraph (II).

"(3) APPAREL ARTICLES ASSEMBLED FROM PRODUCTS OF THE UNITED STATES OR ATPDEA BENEFICIARY COUNTRIES OR PRODUCTS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—(A) Articles assembled in the United States, from yarns wholly formed in the United States, or 1 or more ATPDEA beneficiary countries (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in the United States).

"(B) Apparel articles assembled in the United States, from yarns wholly formed in the United States, or 1 or more ATPDEA beneficiary countries (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in the United States).

"(III) For purposes of clause (I), the term ‘applicable percentage’ means 2 percent for the 1-year period beginning October 1, 2002, increased in each of the 4 succeeding 1-year periods by equal increments, so that for the period beginning October 1, 2006, the applicable percentage does not exceed 5 percent.

"(4) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.—A handloomed, handmade, or folklore article of an ATPDEA beneficiary country is eligible for treatment under this title if it is certified as such by the competent authority of such beneficiary country.

"(5) CERTAIN OTHER APPAREL ARTICLES.—(A) GENERAL RULE.—Fabrics or articles described in subheading 6121.10 of the HTS, are formed or components knit-to-shape, in 1 or more ATPDEA beneficiary countries, if such fabrics are classifiable under heading 5602 or 5603 of the HTS.

"(B) APPAREL ARTICLES ASSEMBLED FROM PRODUCTS OF THE UNITED STATES OR ATPDEA BENEFICIARY COUNTRIES OR PRODUCTS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—(A) Articles assembled in the United States, from yarns wholly formed in the United States, or 1 or more ATPDEA beneficiary countries, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in the United States.

"(B) Apparel articles assembled in the United States, from yarns wholly formed in the United States, or 1 or more ATPDEA beneficiary countries, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in the United States.

"(III) The President has consulted with such committees regarding the proposed action during the period referred to in subparagraph (I).

"(C) DEVELOPMENT OF PROCEDURE TO ENSURE COMPLIANCE.—The United States Customs Service shall develop and implement methods to ensure ongoing compliance with the requirements set forth in subparagraph (I).
an entity controlling production has not satisfied such requirement in a 1-year period, then apparel articles described in subparagraph (I) of that producer or entity shall be ineligible for preferential treatment under this paragraph; and (ii) the aggregate of all such yarns during any succeeding 1-year period until the aggregate cost of fabrics (exclusive of all findings and trimmings) formed in the United States that are produced by such an ATPDEA beneficiary country from yarns wholly formed in the United States, from yarns wholly formed in the United States under the WTO, or from yarns wholly formed in the United States, from yarns wholly formed in the United States under the WTO, does not exceed 25 percent of the cost of the components of the assembled product. Examples of findings and trimmings are sewing thread, hooks and eyes, any findings or trimmings that are manufactured in the United States, and any findings or trimmings that are manufactured in the United States, from yarns wholly formed in the United States, from yarns wholly formed in the United States under the WTO.

(iii) TRANSSHIPMENT DESCIBED.—Transshipment within the meaning of this subparagraph has occurred when preferential treatment under subparagraph (A) has been claimed for an article on the basis of material false information concerning the country of origin, manufacture, or production of the article or any of its components. For purposes of this paragraph, false information is material if disclosure of the true information would cause the article to be ineligible for preferential treatment under subparagraph (A).

(ii) BILATERAL EMERGENCY ACTIONS.—(i) In general.—The President may take bilateral emergency tariff actions of a kind described in section 4 of the Annex with respect to any apparel article imported from an ATPDEA beneficiary country if the application of tariff preference to such apparel article under subparagraph (A) has occurred when preferential treatment under subparagraph (A) to such article results in conditions that would cause for the taking of such actions under such section 4 with respect to a like article described in the same 8-digit subheading of the HTS that is imported from Mexico.

(ii) CERTAIN INTERLININGS.—(a) An article to which paragraph (1) does not apply shall not be ineligible for such treatment because the article contains interlinings of foreign origin, if the value of such interlinings does not exceed 25 percent of the cost of the components of the assembled article. (b) An article to which paragraph (1) does not apply shall not be ineligible for such treatment because the article contains findings or trimmings of foreign origin, if such findings and trimmings do not exceed 25 percent of the cost of the components of the assembled product. Examples of findings and trimmings are sewing thread, hooks and eyes, any findings or trimmings that are manufactured in the United States, and any findings or trimmings that are manufactured in the United States, from yarns wholly formed in the United States, from yarns wholly formed in the United States under the WTO.

(iii) REQUIREMENTS.—For purposes of applying bilateral emergency action under this subparagraph:

(A) The requirements of paragraph (3) of section 4 of the Annex (relating to providing compensation) shall not apply;

(B) The term ‘‘transshipment period’’ in section 4 of the Annex shall mean the period ending December 31, 2006; and

(C) The requirements to consult specified in section 4 of the Annex shall be treated as satisfied if the President requests consultations with the ATPDEA beneficiary country in question and the country does not agree to consult within the time period specified under section 4 of the Annex.

(iv) TUNA.—(A) GENERAL RULE.—Tuna that is harvested by United States vessels or ATPDEA beneficiary country vessels, that is prepared or preserved in any manner, in an ATPDEA beneficiary country, in foil or other flexible airtight containers weighing with their contents not more than 6.8 kilograms each, and that is imported directly into the United States from an ATPDEA beneficiary country, shall enter the United States free of duty and free of any quantitative restrictions.

(B) DEFINITIONS.—In this paragraph:

(1) ‘‘United States vessel’’ means a vessel being owned by a United States company or its agent or any other vessel under United States flag, that is engaged in the fishing of tuna and that is qualified as a United States vessel pursuant to section 2.11 of the Annex.

(ii) CERTAIN INTERLININGS.—(a) An article to which paragraph (1) does not apply shall not be ineligible for such treatment because the article contains interlinings of foreign origin, if the value of such interlinings does not exceed 25 percent of the cost of the components of the assembled article. (b) An article to which paragraph (1) does not apply shall not be ineligible for such treatment because the article contains findings or trimmings of foreign origin, if such findings and trimmings do not exceed 25 percent of the cost of the components of the assembled product. Examples of findings and trimmings are sewing thread, hooks and eyes, any findings or trimmings that are manufactured in the United States, and any findings or trimmings that are manufactured in the United States, from yarns wholly formed in the United States, from yarns wholly formed in the United States under the WTO.

(ii) BILATERAL EMERGENCY ACTIONS.—(i) In general.—The President may take bilateral emergency tariff actions of a kind described in section 4 of the Annex with respect to any apparel article imported from an ATPDEA beneficiary country if the application of tariff preference to such apparel article under subparagraph (A) has occurred when preferential treatment under subparagraph (A) to such article results in conditions that would cause for the taking of such actions under such section 4 with respect to a like article described in the same 8-digit subheading of the HTS that is imported from Mexico.

(B) CERTIFICATE OF ORIGIN.—The Certificate of Origin that otherwise would be required pursuant to the provisions of subparagraph (A) shall not be required in the case of an article imported under paragraph (1), (3), or (4) if such Certificate of Origin would not be required under Article 903 of the NAFTA (as implemented pursuant to United States law), if the article were imported from Mexico.

(C) REPORT ON COOPERATION OF ATPDEA COUNTRIES CONCERNING CIRCUMVENTION.—The United States Commission of Customs shall conduct a study analyzing the extent to which each ATPDEA beneficiary country—

(i) has cooperated fully with the United States consistent with its domestic laws and procedures, in instances of circumvention or alleged circumvention of existing quotas on imports of textile and apparel goods, to establish factors relevant to import, export, and, where applicable, transshipment, including investigation of circumvention practices, exchanges of documents, correspondence, reports, and other relevant information, to the extent such information is available;

(ii) has taken appropriate measures, consistent with its domestic laws and procedures, against exporters and importers involved in instances of false declaration concerning quantities, description, classification, or origin of textile and apparel goods;

(iii) has penalized the individuals and entities involved in any such circumvention, consistent with its domestic laws and procedures, and has worked closely with the cooperation of any third country to prevent such circumvention from taking place in that third country.
The Commissioner of Customs shall submit to the Congress, not later than October 1, 2003, a report on the study conducted under this subparagraph.

(c) Definitions.—In this subsection—

(1) ANNEX.—The term ‘the Annex’ means Annex 30-B of the NAFTA.

(2) NAFTA BENEFICIARY COUNTRY.—The term ‘ATPDEA beneficiary country’ means any ‘beneficiary country’, as defined in section 203(a)(1) of this title, which the President designates for treatment as an ATPDEA beneficiary country, taking into account the criteria contained in subsections (c) and (d) of section 202 and other appropriate criteria, including the following:

(i) The extent to which the country provides protection of intellectual property rights consistent with or greater than the protection afforded under the Agreement on Trade-Related Aspects of Intellectual Property Rights described in section 101(d)(15) of the Uruguay Round Agreements Act.

(ii) The extent to which the country provides internationally recognized worker rights, including—

(I) the right to an expedition by association;

(II) the right to organize and bargain collectively;

(III) a prohibition on the use of any form of forced or compulsory labor;

(IV) a minimum age for the employment of children; and

(V) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

(iii) Whether the country has implemented its commitments contained in the Agreement on Government Procurement described in section 101(d)(17) of the Uruguay Round Agreements Act.

(iv) The extent to which the country has met the counternarcotics certification criteria set forth in section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291) for eligibility for United States assistance.

(v) The extent to which the country has taken steps to become a party to and implements the International Convention Against Corruption.

(vi) The extent to which the country applied transparent, nondiscriminatory, and competitive procedures in government procurement as required by the agreements contained in the Agreement on Government Procurement described in section 101(d)(17) of the Uruguay Round Agreements Act.

(vii) The extent to which the country has taken steps to combat terrorism.

(C) WTO.—The term ‘WTO’ means any agreement or understanding entered into between the United States, Mexico, and Canada on December 17, 1992.

(D) WTO.—The term ‘WTO’ means any agreement or understanding entered into between the United States, Mexico, and Canada on December 17, 1992.

(E) ATPDEA.—The term ‘ATPDEA’ means the Andean Trade Preference and Drug Enforcement Act.

(F) FTA.—The term ‘FTA’ means the Free Trade Agreement for the Americas.

(b) Determination Regarding Retention of Designation.—Section 203(c)(1) of the Andean Trade Preference Act (19 U.S.C. 3202(e)(1)) is amended by—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by inserting ‘(A)’ after ‘(1)’; and

(3) by adding at the end following:—

(B) The President may, after the requirements of paragraph (2) have been met—

(i) withdraw, suspend, or limit the application of preferential treatment under section 204(b)(1), (3), or (4) to any article of any country, if, after such designation, the President determines that, as a result of changed circumstances, the performance of such country is not satisfactory under the criteria set forth in section 204(b)(1).

(c) Conforming Amendments.—Section 202 of the Andean Trade Preference Act (19 U.S.C. 3201) is amended by inserting “(or preferential treatment)” after “treatment”;

(2) Section 204(a) of the Andean Trade Preference Act (19 U.S.C. 3202(a)) is amended—

(A) in paragraph (1)—

(i) by striking “(or otherwise provided for)” after “eligibility”; and

(ii) by inserting “(or preferential treatment)” after “duty-free treatment”; and

(B) in paragraph (2), by striking “subsection (a)” and inserting “paragraph (1)”.

(d) Petitions for Review.—

(1) In General.—Not later than 180 days after the date of the enactment of this Act, the President shall promulgate regulations regarding the review of eligibility of articles and countries under the Andean Trade Preference Act, consistent with section 203(e) of such Act, as amended by this title.

(2) Content of Regulations.—The regulations shall be similar to the regulations regarding eligibility under the generalized system of preferences under title V of the Trade Act of 1974 with respect to the/for revenue and control, and shall include procedures for requesting withdrawal, suspension, or limitations of preferential duty treatment under the Andean Trade Preference Act, conducting reviews of such requests, and implementing the results of the reviews.

(e) Reporting Requirements.—Section 203(f) of the Andean Trade Preference Act (19 U.S.C. 3202(f)) is amended to read as follows:

(1) Reporting Requirements.—

(I) In General.—Not later than April 30, 2003, and every 6 months during the period this title is in effect, the United States Trade Representative shall submit to the Congress a report regarding the operation of this title, including:

(A) with respect to subsections (c) and (d), the results of a general review of beneficiary countries based on the considerations described in such subsections;

(B) the performance of each beneficiary country or ATPDEA beneficiary country, as the case may be, under the criteria set forth in section 204(b)(1);

(II) a report in the congressional record requesting public comments on whether beneficiary countries are entitled to continue to receive preferential treatment under the Andean Trade Preference Act, particularly the terms with respect to market access commitments.

(f) Contents of Report.—The report under subsection (a) shall include the following:

(1) A review of the terms of the United States-Israel Free Trade Agreement, particularly the terms with respect to market access commitments.

(2) A review of subsequent agreements which may have been reached between the parties to the Agreement and of unilateral concessions of additional benefits received by each party from the other.

(3) A review of any current negotiations between the parties to the Agreement with respect to implementation of the Agreement and other pertinent matters.

(4) An assessment of the degree of fulfillment of the obligations under the Agreement by the United States and Israel.

(5) An assessment of improvements in structuring future trade agreements that should be considered based on the experience of the United States under the Agreement.

(g) Timing of Report.—The United States Trade Representative shall submit the report required by paragraph (a) no later than 6 months after the date of the enactment of this Act.

(h) Definition.—In this section, the terms “United States-Israel Free Trade Agreement” and “Agreement” means the Agreement on the Establishment of a Free Trade Area between the Government of the United States of America and the Government of Israel entered into on April 30, 2003.

SEC. 3106. MODIFICATION OF DUTY TREATMENT FOR TUNA.

Subheading 1604.14.20 of the Harmonized Tariff Schedule of the United States is amended—

(1) in the article description, by striking “20 percent of the United States pack of canned tuna” and inserting “4.8 percent of apparent United States consumption of tuna in airtight containers”; and

(2) by redesignating such subheading as subheading 1604.14.22.

SEC. 3107. TRADE BENEFITS UNDER THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT.

(a) In General.—Section 23(b)(2)(A) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)(2)(A)) is amended as follows:

(1) Clause (i) is amended—
States.

(b) by adding at the end the following:

"Apparel articles entered on or after September 1, 2002, shall qualify under the preceding sentence only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are woven fabrics, is carried out in the United States;"

(2) Clause (ii) is amended to read as follows:

"(ii) OTHER APPAREL ARTICLES ASSEMBLED IN ONE OR MORE CBTPA BENEFICIARY COUNTRIES.—Apparel articles sewn or otherwise assembled in one or more CBTPA beneficiary countries with thread formed in the United States that are used in the production of apparel articles wholly formed in the United States and cut in one or more CBTPA beneficiary countries from fabrics wholly formed in the United States, or from components knit-to-shape, in one or more CBTPA beneficiary countries, or both.

(b) E FFECTIVE DATE OF CERTAIN PROVISIONS.—The amendment made by subsection (a)(3) shall take effect on October 1, 2002.

SUBTITLE B—TRADE BENEFITS UNDER THE AFRICAN FREE TRADE AREA ACT

(a) IN GENERAL.—Section 112(b) of the African Growth and Opportunity Act (19 U.S.C. 3721(b)) is amended as follows:

(1) Paragraph (1) is amended by adding the matter preceding subparagraph (A) to read as follows:

"(A) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States from yarns wholly formed in the United States, or from components knit-to-shape in the United States from yarns wholly formed in the United States, or from yarns originating in one or more beneficiary sub-Saharan African countries, or other components, are eligible for preferential treatment under subparagraph (B) if they meet the requirements of paragraph (1)(A) and each succeeding 1-year period through September 30, 2004.

(b) EFFECTIVE DATE OF CERTAIN PROVISIONS.—The amendment made by subsection (a)(3) shall take effect on October 1, 2002.

SEC. 1106. TRADE BENEFITS UNDER THE AFRICAN FREE TRADE AREA ACT

(a) IN GENERAL.—Section 112(b) of the African Growth and Opportunity Act (19 U.S.C. 3721(b)) is amended as follows:

(1) Paragraph (1) is amended by adding the matter preceding subparagraph (A) to read as follows:

"(A) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States from yarns wholly formed in the United States, or from components knit-to-shape in the United States from yarns wholly formed in the United States, or from yarns originating in one or more beneficiary sub-Saharan African countries, or other components, are eligible for preferential treatment under subparagraph (B) if they meet the requirements of paragraph (1)(A) and each succeeding 1-year period through September 30, 2004.

(b) EFFECTIVE DATE OF CERTAIN PROVISIONS.—The amendment made by subsection (a)(3) shall take effect on October 1, 2002.
United States from yarns wholly formed in the United States, or from components knit-to-shape in the United States and one or more beneficiary sub-Saharan African countries from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States). (B) INCREASE IN LIMITATION ON CERTAIN BENEFITS.—The applicable percentage under clause (ii) of section 112(b)(3)(A) of the African Growth and Opportunity Act (19 U.S.C. 2702(b)(3)(A)) shall be increased—

(1) by 2.17 percent for the 1-year period beginning on October 1, 2001, and

(2) by equal increments in each succeeding 1-year period of such clause, but for the 1-year period beginning October 1, 2007, the applicable percentage is increased by 3.5 percent, except that such increase shall not apply with respect to articles eligible under subparagraph (B) of section 112(b)(3) of that Act.

DIVISION E—MICHELLOUS PROVISIONS

TITLE I—MICHELLOUS TRADE BENEFITS

Subtitle A—Wool Provisions

SEC. 5101. WOOL PROVISIONS. (A) SHORT TITLE.—This section may be cited as the “Wool Manufacturer Payment Clarification and Technical Corrections Act”. (B) CLARIFICATION OF TEMPORARY DUTY SUSPENSION.—Heading 9902.51.13 of the Harmonized Tariff Schedule of the United States is amended by inserting “average” before “diameters”; (C) PAYMENTS TO MANUFACTURERS OF CERTAIN WOOL PRODUCTS.—(1) PAYMENTS.—Section 505 of the Trade and Development Act of 2000 (Public Law 106–200; 114 Stat. 303) is amended as follows:—

(A) Subsection (a) is amended by—

(i)inserting “For each of the calendar years 2001, 2002, any other manufacturer of wool yarn or wool fabric of imported wool fiber of the kind described in heading 5107.10 or 9902.51.13 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(2)”;

and—

(ii) by striking “in each of the calendar years” and inserting “For each of the calendar years”; and

and—

(iii) by striking “for a refund of duties” and all that follows through the end of the subsection and inserting “for a payment equal to an amount determined pursuant to subsection (d)(1)”;

(B) Subsection (b) is amended to read as follows:

(1) WOOL YARN.—

(1) IMPORTING MANUFACTURERS.—For each of the calendar years 2000, 2001, and 2002, a manufacturer of worsted wool fabrics who imports wool yarn or wool fabric described in heading 5107.10 or 9902.51.13 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(2).—

(2) NONIMPORTING MANUFACTURERS.—For each of the calendar years 2001 and 2002, any other manufacturer of worsted wool fabrics of imported wool fiber described in heading 5107.10 or 9902.51.13 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(2).

(2) MANUFACTURERS OF WOOL FABRIC.—(1) IMPORTING MANUFACTURERS.—For each of the calendar years 2000, 2001, and 2002, a manufacturer of worsted wool fabrics who imports wool yarn or wool fabric of imported wool fiber or wool top of the kind described in heading 5107.10, 9902.51.13, 5109.00, or 5109.21, 5109.23, 5105.21, or 5105.23 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(3).—

(2) NONIMPORTING MANUFACTURERS.—For each of the calendar years 2001 and 2002, any other manufacturer of wool yarn or wool fabric of imported wool fiber or wool top of the kind described in heading 5107.11, 9902.51.13, 5109.00, or 5109.21, 5105.21, 5105.23, or 9902.51.14 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(3).—

(3) MANUFACTURERS OF WAS TED WOOL FABRICS.—(1) IMPORTING MANUFACTURERS.—For each of the calendar years 2000, 2001, and 2002, any other manufacturer of worsted wool fabrics of imported wool fiber described in heading 5107.10, 9902.51.13, 5109.00, or 5109.21, 5105.21, 5105.23, or 9902.51.14 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(3).—

(2) NONIMPORTING MANUFACTURERS.—For each of the calendar years 2001 and 2002, any other manufacturer of worsted wool fabrics of imported wool fiber described in heading 5107.10, 9902.51.13, 5109.00, or 5109.21, 5105.21, 5105.23, or 9902.51.14 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(3).

SEC. 5102. ELIGIBILITY.—(1) For purposes of this section, the term ‘eligible wool’ means wool products imported in calendar year 1999 by the manufacturer making the claim, and

(ii) the denominator of which is the total amount attributable to the purchases of imported eligible wool products in calendar year 1999 by the manufacturer making the claim.

(ii) the numerator of which is the total amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by all the manufacturers described in subsection (a) who, according to the records of the Customs Service as of September 11, 2001, are eligible to receive more than $3,500,000 under this section as it was in effect on that date.

(B) ELIGIBLE WOOL PRODUCTS.—For purposes of subparagraph (A), the term ‘eligible wool products’ refers to imported worsted wool fabrics described in subsection (a).

(C) OTHER MANUFACTURERS—(1) For purposes of subsection (a), other than the manufacturers to which subparagraph (A) applies, each shall receive an annual payment in an amount equal to—

(i) one-third of the amount determined by multiplying $1,665,000 by the number of all such other manufacturers.

(D) MANUFACTURERS OF WORSTED WOOL FABRICS OF IMPORTED WOOL YARN.—

(A) IMPORTING MANUFACTURERS.—Each annual payment to an importing manufacturer described in subsection (b)(1) shall be in an amount equal to one-third of the amount determined by multiplying $2,202,600 by a fraction—

(ii) the numerator of which is the amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by the importing manufacturer making the claim, and

(iii) the denominator of which is the total amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by all the importing manufacturers described in subsection (b)(1).

(B) ELIGIBLE WOOL PRODUCTS.—For purposes of paragraph (A), the term ‘eligible wool products’ refers to imported wool yarn described in subsection (b)(1).

(C) NONIMPORTING MANUFACTURERS.—Each annual payment to a nonimporting manufacturer described in subsection (b)(2) shall be in an amount equal to one-half of the amount determined by multiplying $141,000 by a fraction—

(i) the numerator of which is the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by the nonimporting manufacturer making the claim, and

(ii) the denominator of which is the total amount attributable to the purchases of imported eligible wool products in calendar year 1999 by all the nonimporting manufacturers described in subsection (b)(2).

(D) MANUFACTURERS OF WOOL YARN OR WOOL FABRIC OF IMPORTED WOOL FIBER OR WOOL TOP.—

(A) IMPORTING MANUFACTURERS.—Each annual payment to an importing manufacturer described in subsection (c)(1) shall be in an amount equal to one-third of the amount determined by multiplying $1,522,000 by a fraction—

(i) the numerator of which is the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by the importing manufacturer making the claim, and

(ii) the denominator of which is the total amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by all the importing manufacturers described in subsection (c)(1).

(B) ELIGIBLE WOOL PRODUCTS.—For purposes of subparagraph (A), the term ‘eligible wool products’ refers to imported wool fiber or wool top described in subsection (c)(1).

(C) NONIMPORTING MANUFACTURERS.—Each annual payment to a nonimporting manufacturer described in subsection (c)(2) shall be in an amount equal to one-half of the amount determined by multiplying $141,000 by a fraction—

(i) the numerator of which is the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by the nonimporting manufacturer making the claim, and

(ii) the denominator of which is the total amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by all the nonimporting manufacturers described in subsection (c)(2).
woll products in calendar year 1999 by all the nonimporting manufacturers described in subsection (c)(2). (4) LETTERS OF INTENT.—Except for the nonimporting manufacturers described in subsections (b)(2) and (c)(2) who may make claims under this section by virtue of the enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, only manufacturers who, according to the records of the Customs Service, filed with the Customs Service before September 11, 2001, letters of intent to establish eligibility to be claimants are eligible to make a claim for a payment under this section. (5) AMOUNT ATTRIBUTABLE TO PURCHASES BY NONIMPORTING MANUFACTURERS.—(A) AMOUNT ATTRIBUTABLE.—For purposes of paragraphs (2)(C) and (3)(C), the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by a nonimporting manufacturer shall be the amount the nonimporting manufacturer paid for eligible wool products in calendar year 1999, as evidenced by invoices. The nonimporting manufacturer shall make such calculation and submit the resulting amount to the Customs Service, within 45 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, in a signed affidavit that attests that the information contained therein is true and accurate to the best of the affiant's knowledge, and the nonimporting manufacturer shall retain the records upon which the calculation is based for a period of five years beginning on the date the affidavit is submitted to the Customs Service. (B) ELIGIBLE WOOL PRODUCT.—For purposes of subparagraph (A)—(i) the eligible wool product for nonimporting manufacturers of worsted wool yarn or wool fabric is wool fiber or wool top of the kind described in heading 5101.11, 5101.12, 5101.21, 5101.22, 5101.29, 5101.30, 5103.10, 5103.20, 5105.21, 5105.29, or 9902.51.14 of such Schedule purchased in calendar year 1999; and (ii) the eligible wool products for nonimporting manufacturers of wool yarn or wool fabric are wool fiber or wool top of the kind described in heading 5101.11, 5101.19, 5101.21, 5101.29, 5101.30, 5103.10, 5103.20, 5105.21, 5105.29, or 9902.51.14 of such Schedule purchased in calendar year 1999. (6) AMOUNT ATTRIBUTABLE TO DUTIES PAID.—For purposes of paragraphs (1), (2)(A), and (3)(A), the amount attributable to the duties paid on eligible wool products shall be the amount shown on the records of the Customs Service as of September 11, 2001, under this section as then in effect. (7) SCHEDULE OF PAYMENTS; REALLOCATION.—(A) SCHEDULE.—Of the payments described in paragraphs (1), (2)(A), and (3)(A), the Customs Service shall make the first and second installments on or before the date that is 45 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, and the third installment on or before April 15, 2003. Of the payments described in paragraphs (2)(C) and (3)(C), the Customs Service shall make the first installment on or before the date that is 120 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, and the second installment on or before April 15, 2003. (B) REALLOCATION.—In the event that a manufacturer that would have received payment under subparagraph (A) or (C) of paragraph (1), (2), or (3) ceases to be qualified for such payment as such a manufacturer, the amounts otherwise payable to the remaining manufacturers under such subparagraph shall be increased on a pro rata basis by the amount of the payment such manufacturer would have received. (8) REFERENCE.—For purposes of paragraphs (1)(A) and (6), the ‘‘records of the Customs Service as of September 11, 2001’’ are the records of the Wool Duty Unit of the Customs Service on September 11, 2001, as adjusted by the Customs Service to the extent necessary to carry out this section. The amounts so adjusted are not subject to administrative or judicial review. (9) AFFIDAVIT BY MANUFACTURERS.—(1) AFFIDAVIT REQUIRED.—A manufacturer may not receive a payment under this section for calendar year 2001, 2002, or 2003, as the case may be, unless that manufacturer has submitted to the Customs Service for that calendar year a signed affidavit that attests that, during that calendar year, the manufac- turers in the United States described in subsection (a), (b), or (c). (2) TIMING.—An affidavit under paragraph (1) shall be valid—(A) in the case of a manufacturer described in paragraph (1), (2)(A), or (3)(A) of subsection (d) filing a claim for a payment for calendar year 2000 or 2001, or both, only if the affidavit is postmarked no later than 15 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act; and (B) in the case of a claim for a payment for calendar year 2002, only if the affidavit is postmarked no later than March 1, 2003. (3) OFFSETTING.—For any other provision of this section, any amount otherwise payable under subsection (d) to a manufacturer in calendar year 2001 and, where applicable, in calendar years 2000, 2002, and 2003 shall be reduced by the amount of any payment received by that manufacturer under this section before the enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act art. 9. (4) DEFINITION.—For purposes of this section, the manufacturer is the party owns—(i) imported worsted wool fabric, of the kind described in heading 5101.11 or 9902.51.12 of the Harmonized Tariff Schedule of the United States, at the time the fabric is cut and sewn in the United States into men’s or boys’ suits, suit-type jackets, or trousers; or (ii) imported wool yarn, of the kind described in heading 5107.01 or 9902.51.13 of such Schedule, at the time the yarn is processed in the United States into worsted wool fabric; or (iii) imported wool fiber or wool top, of the kind described in heading 5101.11, 5101.19, 5101.21, 5101.29, 5101.30, 5103.10, 5103.20, 5105.21, 5105.29, or 9902.51.14 of such Schedule purchased in calendar year 1999. (5) PAYMENT.—(A) In general.—The United States Customs Service shall pay each manufacturer that receives a payment under section 505 of the Trade and Development Act of 2000 (Public Law 106–200) for calendar year 2002, and that provides an affidavit that it remains a manufacturer in the United States as of January 1 of the year of the payment, 2 additional payments, each payable under subsection (d) to a manufacturer for calendar year 2000 or 2001, or both, only if the affidavit is postmarked no later than March 1, 2003. (B) PAYMENT.—For any other provision of this section, any amount otherwise payable under subsection (d) to a manufacturer in calendar year 2001 and, where applicable, in calendar years 2000, 2002, and 2003 shall be reduced by the amount of any payment received by that manufacturer under this section before the enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act. (6) REVIEW.—In the event of disputes pursuant to proceedings under the Harmonized Tariff Schedule of the United States, the settlement is in the best interests of the United States; and (C) AMOUNT.—For purposes of this section, the amount of the total or partial settlement of any dispute pursuant to proceedings under the auspices of the World Trade Organization, if—(1) the case of a total or partial settlement in an amount of not more than $10,000,000, the Trade Representative certifies to the Secretary of the Treasury that the settlement is in the best interests of the United States; and (2) the case of a total or partial settlement in an amount of more than $10,000,000, the Trade Representative certifies to the Secretary of the Treasury that the settlement is in the best interests of the United States. (D) APPROPRIATIONS.—There are authorized to be appropriated to the fund established under subsection (a) each year the following: (1) $50,000,000; and (2) amounts equivalent to amounts recovered by the United States pursuant to the settlement of disputes pursuant to proceedings under the auspices of the World Trade Organization. Amounts appropriated to the fund are authorized to remain available until expended. (E) MANAGEMENT OF FUND.—Sections 9601 and 9602(b) of the Internal Revenue Code of 1986 shall apply to the fund established under subsection (a) and to the same purposes as apply to trust funds established under subchapter C of chapter 98 of such Code.
SEC. 5202. CERTAIN STEAM OR OTHER VAPOR GENERATING BOILERS USED IN NUCLEAR FACILITIES.

(a) In General.—The amendment made by section 103 of the Harmonized Tariff Schedule of the United States is amended—

(1) by striking "4.5%" and inserting "Free"; and

(2) by striking "12/31/2003" and inserting "12/31/2006".

(b) Effective Date.—

(1) in general.—The amendments made by subsection (a) shall apply to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2002.

(2) retroactive application.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to paragraph (1), the amendment made by subsection (a) shall apply to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2002.

(c) Joint Explanatory Statement of the Committee of Conference

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. 3009), to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, 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 amendment agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conference, and minor drafting and clerical changes.

DIVISION A—TRADE ADJUSTMENT ASSISTANCE

SEC. 103—SHORT TITLE

Present law

No provision.

House amendment

Section 101 of H.R. 3009 provides that Division A of the Act may be cited as the "Trade Adjustment Assistance Reform Act of 2002." Senate amendment

Section 101 of H.R. 3009 provides that Division A of the Act may be cited as the "Trade Adjustment Assistance Reform Act of 2002."
and for other rapid response assistance to workers.

Senate amendment
Section 111 of the Senate bill creates a new section 231 of the Trade Act of 1974, which consolidates and expands NAFTA-TAA programs by establishing a single program with a single set of eligibility criteria and a single set of parameters and standards for filing and reviewing petitions, certifying eligibility, and terminating certifications of eligibility.

Section 231 expands the list of entities that may file a petition for group certification of eligibility to include employers, one-stop operators or one-stop partners, State employment and training agencies, or any entity to which notice of a plant closing or mass layoff must be given under section 3 of the Worker Adjustment and Retraining Notification Act.

Section 231 also provides that the President, or the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives (by resolution), may direct the Secretary of Labor to initiate a certification process under this chapter to determine the eligibility for Trade Adjustment Assistance of a group of workers.

Section 231 creates a single process for filing and reviewing petitions for Trade Adjustment Assistance for workers, under which all petitions are filed with both the Secretary of Labor and the Governor of the State. Upon filing of the petition, the Governor is required to certify, to the Secretary of Labor and the Secretary of Commerce, that he or she determines that a significant number or proportion of the workers in such workers' firm have become or are threatened to become totally or partially separated; that sales or production of such firm have decreased absolutely; and that imports of articles like or directly competitive with articles produced by such workers' firm contributed importantly to the total or partial separation or threat thereof, and to the decline in sales or production. Under NAFTA-TAA, the group eligibility criteria are revised. First, workers are eligible for TAA if the value or volume of imports of articles like or directly competitive with articles produced by that firm have increased and the value or volume of imports contributed importantly to the workers' separation or threat of separation. Second, eligibility is extended to workers who have worked at the firm for 30 weeks preceding the separation at wages of $50 or more a week. Third, eligibility may be based on the same criteria set forth in section 251, but section 250 also provides for requirements and deadlines for petitions entered into with the Department of Labor under section 222, to provide certain rapid response services, and to notify workers on whose behalf petitions have been filed of their potential eligibility for certain existing federal health care, child care, transportation, and other assistance programs. Upon certification of eligibility, the Secretary of Labor must make his certification determination within 90 days and provide the notice required.

Conference agreement
The Senate recedes to the House with a change providing for simultaneous filing of petitions with the Secretary of Labor and State Governor.

SEC. 113—GROUP ELIGIBILITY REQUIREMENTS

Present law
Current law sections 222 and 250 of Title II of the Trade Act of 1974 set forth group eligibility criteria for TAA, under which workers under such petitions are not to be considered eligible for TAA if they are employed in or have been employed in a firm that supply directly to another firm competing with articles produced by that firm.

Senate amendment
Section 111 of the Senate Amendment adds a new section 250 which provides for requirements and deadlines for filing a petition for Trade Adjustment Assistance and extends the total period for filing and reviewing petitions, certifying eligibility, and terminating certifications of eligibility.

Conference agreement
The Senate recedes to the House with a change to adopt a training enrollment deadline of 16 weeks after separation.

SEC. 115—WAIVERS OF TRAINING REQUIREMENTS

Present law
Section 256(d) of the Trade Act of 1974, as amended, provides for training waivers for training programs under the TAA for workers program.

House amendment
The Senate Amendment provides that all workers who are eligible to apply for Trade Adjustment Assistance may be considered for training waivers and codifies several bases on which the Secretary may grant a waiver.

Senate Amendment
Section 111 of the Senate Amendment adds a new section 250 which provides for requirements and deadlines for filing and reviewing petitions, certifying eligibility, and terminating certifications of eligibility.

Conference agreement
The House recedes to the Senate with a change to delete the Senate provision giving the Secretary discretion to grant waivers for "other" reasons.

SEC. 116—LIMITATIONS ON TRADE ADJUSTMENT ALLOWANCES

Present law
Current section 233 provides that each certified worker may receive trade adjustment allowances for a maximum of 52 weeks.

Senate amendment
Section 111 of the Senate Amendment adds a new section 235 which limits the total amount of allowances for those workers who were in training and required the extension of benefits for the purpose of completing training.

Conference agreement
The Senate recedes to the House.

SEC. 117—ANNUAL TOTAL AMOUNT OF PAYMENTS FOR TRAINING

Present law
Current section 238 establishes the terms and conditions under which training is available to eligible workers; permits the Secretary of Labor to approve certain specified types of training programs and to pay the costs of approved training and certain supplemental costs, including subsistence and transportation costs, for eligible workers; and caps total annual funding for training under the TAA for workers program at $90 million.

House amendment
The Senate Amendment provides $30 million additional funds for the Trade Adjustment Assistance program. Combined with NAFTA-TAA Assistance, the total funding available for training expenditures under the unified TAA for workers program is $101 million annually.

Senate amendment
Section 111 of the Senate Amendment adds a new section 238 which sets the total funds available for training expenditures under the NAFTA-TAA program at $30 million annually.
Conference agreement

Conferences agreed to a combined training cap of $220 million for Trade Adjustment Assistance training.

SEC. 119—PROVISION OF EMPLOYER-BASED TRAINING

Present law

No applicable section.

House amendment

The House Amendment included provisions related to employer based training including on-the-job training and customized training with partial reimbursements provided to the employer.

Senate amendment

Section 111 of the Senate Amendment adds a new section 240 which revises the list of training programs which the Secretary may approve to include customized training. It also adds a new section 257, which clarifies that the prohibition on payment of trade adjustment allowances to a worker receiving on-the-job training does not apply to a worker enrolled in a non-paid customized training program.

Conference agreement

The Senate recedes to the House.

SEC. 119—COORDINATION WITH TITLE I OF THE WORKFORCE INVESTMENT ACT OF 1998

Present law

No provision.

House amendment

The House Amendment provided multiple provisions related to coordinating efforts under the Trade Adjustment Assistance program and providing information and benefits to workers under the Workforce Investment Act.

Senate amendment

No provision.

Conference agreement

Conferences agreed to drop House language with the exception of a provision related to coordinating the delivery of Trade Adjustment Assistance benefits and information at one-stop delivery systems under the Workforce Investment Act.

SEC. 120—EXPENDITURE PERIOD

Present law

No provision.

House amendment

The House amendment provided that certain funds obligated for any fiscal year to carry out activities may be expended by each State in the succeeding two fiscal years.

Senate amendment

No provision.

Conference agreement

The Senate recedes to the House.

SEC. 121—JOB SEARCH ALLOWANCES

Present law

Under current section 237, when the Secretary of Labor determines that local employment is not available, an adversely affected worker certified eligible for TAA benefits may receive reimbursement of 80 percent of the cost of necessary job search expenses up to $800.

House amendment

No provision.

Senate amendment

Section 111 of the Senate Amendment adds a new section 231 which raises the maximum reimbursement for job search expenses to $1,250 per worker.

Conference agreement

The House recedes to the Senate.

SEC. 121—RELOCATION ALLOWANCES

Present law

Under current section 238, when the Secretary of Labor determines that local employment is not available, an adversely affected worker certified eligible for TAA benefits may receive a relocation allowance consisting of (1) 90 percent of the reasonable and necessary expenses incurred in transporting a worker and his family, if any, and household effects, and (2) a lump sum equivalent to three times the worker’s average weekly wage, up to a maximum payment of $800.

House amendment

No provision.

Senate amendment

Section 111 of the Senate Amendment adds a new section 242 which raises the maximum lump sum portion of the relocation allowance to $1,250.

Conference agreement

The House recedes to the Senate.

SEC. 122—REPEAL OF NAFTA TRANSITIONAL ADJUSTMENT ASSISTANCE PROGRAM

Present law

Current law authorizes a Trade Adjustment Assistance Program for workers affected by NAFTA trade.

House amendment

No provision.

Senate amendment

Section 111 of the Senate Amendment adds a new section 251 which combines the TAA and NAFTA-TAA programs, establishing a single program with a single set of eligibility criteria and a single set of procedures and standards for filing and reviewing petitions, certifying eligibility, and terminating certification of eligibility.

Conference agreement

The House recedes to the Senate to the extent of repealing the NAFTA Trade Adjustment Assistance program and creating a single, unified TAA program for workers.

SEC. 122—DEMONSTRATION PROJECT FOR ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE FOR OLDER WORKERS

Present law

No provision.

House amendment

No provision.

Senate amendment

Section 111 of the Senate Amendment adds a new section 243 which directs the Secretary of Labor, within one year of enactment, to establish a wage insurance pilot program under which a State uses the funds provided to the State for Trade Adjustment Allowances to pay to an adversely affected worker the wages the worker would have earned during the period not to exceed two years, a wage subsidy for the wages the worker certified under section 231, for a period not to exceed two years, a wage subsidy if the worker obtains reemployment within 26 weeks after the date of separation, and a wage subsidy if the worker participates in a reemployment program.

Conference agreement

The Conference agrees to a new alternative Trade Adjustment Assistance program for older workers.

SEC. 123—DECLARATIONS OF POLICY; SENSE OF CONGRESS

Present law

No provision.

House amendment

The House passed amendment included a declaration of policy and Sense of the Congress related to the responsibility of the Secretary of Labor to provide information to workers related to benefits available to them under the TAA and other federal programs.

Senate amendment

Although certain supportive services are available to dislocated workers under WIA, current law makes no express linkage between these services and Trade Adjustment Assistance and TAA certified workers may not be able to access them. Section 111 of the Senate Amendment adds a new section 243 which provides that States may apply for and the Secretary of Labor may make available to adversely affected workers certified under the Trade Adjustment Assistance program supportive services available under WIA, including transportation, child care, and dependent care, that are necessary to enable a worker to participate in or complete training. Section 243 specifies a role for the Comptroller General to conduct a study of all assistance provided by the Federal Government for workers facing job loss and economic distress; to submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the study within one year of enactment of this Act; and to distribute the report to all WIA one-stop partners. Section 243 further provides that each State may conduct a demonstration of assistance programs for workers facing job loss and economic distress. Each State is eligible for a grant from the Secretary of Labor, not to exceed $50,000, to conduct the study. In the event that a grant is awarded, the State shall, within one year of receiving the grant, provide its report to the Committee on Finance and the Committee on Ways and Means and distribute its report to one-stop partners in the State.

Conference agreement

The Senate recedes to the House.

Subtitle B—Trade Adjustment Assistance for Firms

SEC. 131—REAUTHORIZATION OF TRADE ADJUSTMENT FOR FIRMS PROGRAM

Present law

The Trade Adjustment Assistance for Firms program provides technical assistance to qualifying firms. Current Title II, Chapter 2, section 231 of the Trade Act of 1974 provides that a Firm is eligible to receive Trade Adjustment Assistance under this program if (1) a significant number or proportion of its workers have become or are threatened to become totally or partially separated; (2) sales or production, or both, have decreased absolutely; and (3) increases of imports of articles like or directly competitive with articles imported by such firms contributed importantly to the total or partial separations or threat thereof.
The authorization for the Trade Adjustment Assistance for Firms program expired on September 30, 2001. The TAA for Firms program is currently subject to annual appropriation in Title II, is funded as part of the budget of the Economic Development Administration in the Department of Commerce.

**House amendment**
The House passed amendment included a 2 year reauthorization for Trade Adjustment Assistance for Firms.

**Senate amendment**
Section 201 of the Senate Amendment reauthorizes the Trade Adjustment Assistance for Firms program for fiscal years 2002 through 2007; expands the definition of qualifying firms to cover shifts in production; and authorizes appropriations to the Department of Commerce in the amount of $16 million annually for fiscal years 2002 through 2007 to carry out the purposes of the Trade Adjustment Assistance for Firms program.

**Conference agreement**
The House recedes to the Senate on the issue of providing a $16 million authorization for Trade Adjustment Assistance for Firms and reauthorizing the program through September 30, 2007.

**Subtitle C—Trade Adjustment Assistance for Farmers and Ranchers**

**Present law**
No provision.

**House amendment**
No provision.

**Senate amendment**
Section 401 of the Senate Amendment adds new sections 292-298 of the Trade Act of 1974 which create a Trade Adjustment Assistance program for farmers and ranchers in the Department of Agriculture. Under this section, a group of agricultural commodity producers may petition the Secretary of Agriculture for Trade Adjustment Assistance. The Secretary must certify the group as eligible for Trade Adjustment Assistance. The Secretary must determine that the national average price in the most recent marketing year for the commodity produced by the group is less than 80 percent of the national average price in the preceding five marketing years and that increases in imports of that fish contributed importantly to the decline in price.

**Conference agreement**
The House recedes to the Senate.

**Title II—Credit for Health Insurance Costs of Eligible Individuals**

**Present law**
No applicable section.

**House amendment**
No provision.

**Senate amendment**
Section 801 of the Senate Amendment provides that except as otherwise specified, the amendments to the TAA program shall be effective 90 days after enactment of the bill and Act of 2002. The Senate Amendment includes transitional provisions governing the period between expiration of the prior authorizations of TAA and the effective date of the amendments.

**Conference agreement**
The House recedes to the Senate.

**Subtitle D—Effective Date**

**Present law**
No applicable provision.

**House amendment**
No provision.

**Senate amendment**
Section 201 of the Senate Amendment provides that except as otherwise specified, the amendments to the TAA program shall be effective 90 days after enactment of the bill and Act of 2002. The Senate Amendment includes transitional provisions governing the period between expiration of the prior authorizations of TAA and the effective date of the amendments.

**Conference agreement**
The House recedes to the Senate.

**Title II—Credit for Health Insurance Costs of Eligible Individuals**

**Present law**
No applicable section.

**House amendment**
No provision.

**Senate amendment**
The Senate Amendment makes conforming amendments to the Trade Act of 1974 concerning the TAA for Farmers program.

**Conference agreement**
The House recedes to the Senate with changes. The Conference agree to include limitations on eligibility based upon adjusted gross income and counter-cyclical payment limitations set forth in the Food Security Act of 1985.

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day of the month, the taxpayer (1) is an eligible
individual, (2) is covered by qualified health
insurance, (3) does not have other
specified coverage, and (4) is not imprisoned under
Federal or State authority. In the case of a joint return, the eligibility re-
quirements are met if at least one spouse satisfies the requirements. An eligible
month must begin more than 90 days after the date of enactment.

An eligible individual is (1) an eligible TAA recipient, (2) an eligible alternative TAA re-
ipient, and (3) an eligible PBGC pension recip-
ient.

An individual is an eligible alternative TAA recipient during any month the individual is
receiving a benefit for such month under sec-
tion 246(a)(2) of such Act. An individual is
treated as an eligible alternative TAA recip-
ient during the first month that such indi-
vidual would otherwise cease to be an el-
igible TAA recipient.

An individual is a PBGC pension recipient for any month if he or she (1) is age 55 or
over or (2) if the individual is receiving a benefit
and is receiving a benefit any day of such month a trade adjustment allowance 2 or who
would be eligible to receive such an allowance but for the requirement that the individual exhaust
unemployment benefits before being eligible to
receive an allowance and (2) with respect to such allowance, is covered under a certifi-
cation issued under subchapter A or D of chapter
2 of title II of the Trade Act of 1974.

An individual is treated as an eligible TAA recipient during the first month that such
individual would otherwise cease to be an elig-
ible TAA recipient.

An individual is an eligible alternative TAA recipient during any month if the indi-
vidual meets the description in section 246(a)(3)(B) of the Trade Act of 1974 who is
taking part in the program established under section 246(a)(1) of such Act, and (2) is
receiving a benefit any day of such month as a result of participation in the program estab-
lished by the State for participating in the program established
under individual health insurance if the eli-
gible individual was covered under individual health insurance during the entire 30-day pe-
riod that ends on the date the individual be-
comes eligible to receive a benefit under the State's program.

Part A. enveloped in Medicare Part B, or enrolled in Medicare or SCHIP, (2) enrolled in a health benefits plan under the Federal Employees Health Benef
it Plan, or (3) entitled to receive benefits under chapter
55 of title 10 of the United States Code relating to military retired pay, or (4) is entitled to be enrolled in Medicaid solely by reason of receiving
immunizations.

An amount would be considered paid by the em-
ployer if it is excludable from income. Thus, for
example, amounts paid for health coverage on a salary reduction plan under which the
employer applies in determining whether the employer pays at least 50 percent of the cost
of coverage. A person is not an eligible indi-
vidual if he or she may be claimed as a de-
pendent on another person's tax return. The special rule applies with respect to alter-
tative TAA recipients.

Qualified health insurance

Qualified health insurance eligible for the credit in any month is (1) State based continuation coverage; (2) State-based continuation coverage pro-
vided by the State under a State law that re-
quires such coverage; (3) coverage offered through a qualified state risk pool; (4) coverage under a health insurance program offered to State employees or a comparable class of individuals through an arrange-
ment entered into by the State and a group
health plan, an issuer of health insurance coverage, an administrator, or an employer; (5) coverage offered through a State arrange-
ment with a private sector health care cover-

gence purchasing pool; (7) coverage under a State-operated health plan that does not re-

ceive any Federal financial participation; (8) coverage under a group health plan that is
available through the employment of the eligi-
ble individual’s spouse; and (9) coverage under a health plan for the credit if, as of the first day of the month, the individual has
not waived or lost eligibility for qualified health
insurance.

Qualified health insurance costs credit eligibility certificate would have to be in effect for the taxpayer. A qualified health
insurance coverage cannot require a qualifying
individual to pay a premium or contribution
that is greater than the premium or con-
tribution required of an individual who is not a qualified individual. Finally, benefits
under the State-based coverage must be the same as (or substantially similar to)
benefits provided to similarly situated individuals who are not a qualified individ-
uals. A qualifying *individual is an eligible
individual who seeks to enroll in the State-
based coverage and who has aggregate peri-
des of creditable coverage 9 of three months
or longer, does not have other specified cov-

erage, and who is not imprisoned. A qual-
ifying individual is a qualified fam-
ly member of such an eligible individual.

Qualified health insurance does not include coverage under a flexi-
ble spending or similar arrangement or any insurance which constitutes medical care
allowance 2 or who would be eli-

gible TAA recipient.

An individual is a PBGC pension recipient for any month if he or she (1) is age 55 or
over or (2) if the individual is receiving a benefit
and is receiving a benefit any day of such month as a result of participation in the program estab-
lished by the State for participating in the program established
under individual health insurance if the eli-
gible individual was covered under individual health insurance during the entire 30-day pe-
riod that ends on the date the individual be-
comes eligible to receive a benefit under the State's program.

Qualified health insurance does not include

any State-based coverage (i.e., coverage de-
scribed in (2)–(8) in the preceding paragraph), unless the State has elected to have such
coverage treated as qualified health insurance
and such coverage meets certain re-
quirements. Qualified health insurance must pro-

vided that each qualifying individual is guar-
anteed enrollment if the individual pays the
premium for enrollment or provides a qual-
ified health insurance costs eligibility certifi-
cate and pays the remainder of the premium.

In addition, the State-based coverage cannot impose any pre-existing condition limitation
with respect to qualifying individuals. State-
based coverage cannot require a qualifying
individual to pay a premium or contribution
that is greater than the premium or con-
tribution required of an individual who is not a qualified individual. Finally, benefits
under the State-based coverage must be the same as (or substantially similar to)
benefits provided to similarly situated individuals who are not a qualified individ-
uals. A qualifying *individual is an eligible
individual who seeks to enroll in the State-
based coverage and who has aggregate peri-
des of creditable coverage 9 of three months
or longer, does not have other specified cov-

erage, and who is not imprisoned. A qual-
ifying individual is a qualified fam-
ly member of such an eligible individual.

Qualified health insurance does not include coverage under a flexible spending or similar arrangement or any insurance which constitutes medical care
allowance 2 or who would be eli-

gible TAA recipient.
H.R. 3009 as amended and passed by the House would authorize $10 million for Customs to carry out its program to combat online child sex predators. Of that amount, $575,000 would be dedicated to the National Center for Missing Children for the operation of its child pornography cyber tip line.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

CHAPTER 2—MISCELLANEOUS PROVISIONS

SEC. 331—ADDITIONAL CUSTOMS SERVICE OFFICERS FOR U.S.-CANADA BORDER

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House earmarks $23 million and 265 new staff hires for Customs to use at the U.S.-Canada border.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 332—STUDY AND REPORT RELATING TO PERSONNEL PRACTICES OF THE CUSTOMS SERVICE

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House requires Customs to conduct a study of current personnel practices including: performance standards; the effect and impact of the collective bargaining process on Customs drug interdiction efforts; and a comparison of duty rotations policies of Customs and other federal agencies employing similarly situated personnel.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 333—STUDY AND REPORT RELATING TO ACCOUNTING AND AUDITING PROCEDURES OF THE CUSTOMS SERVICE

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require Customs to measure specifically the effectiveness of the resources dedicated in sections 312 as part of its annual performance plan.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

Subtitle B—Child Cyber-Smuggling Center of the Customs Service

SEC. 321—AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM TO PREVENT CHILD PORNOGRAPHY/CHILD SEXUAL EXPLOITATION

Present law

Customs enforcement responsibilities include enforcement of U.S. laws to prevent border trafficking related to child pornography, intellectual property rights violations, narcotics smuggling, and child sex predators. Funding for these activities has been included in the Customs general account.

House amendment

H.R. 3009 as amended and passed by the House provides that the Act may be cited as, “the Customs Border Security Act of 2002.”

Senate amendment

The Senate amendment is identical.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 311—AUTHORIZATION OF APPROPRIATIONS FOR NON-COMMERCIAL OPERATIONS, COMMERCIAL OPERATIONS, AND AIR AND MARINE INTERDICTI

Present law

The statutory basis for authorization of appropriations for Customs is section 201(b)(1) of the Customs Procedures and Simplification Act of 1978 (19 U.S.C. 2057(b)). That law, as amended by section 612 of the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-509), first outlined separate amounts for non-commercial and commercial operations for the salaries and expenses portion of the budget — both fiscal years. Under 19 U.S.C. 2075, Congress has adopted a two-year authorization process to provide Customs with guidance as it plans its budget, as well as guidance from the Committee for the appropriation process.

The most recent authorization of appropriations for Customs (under section 101 of the Continuing Resolution on Appropriations for 1996 (P.L. 104-33)) provided $515,238,000 for salaries and expenses and $143,047,000 for air and marine interdiction program for FY 1996, and $1,247,884,000 for salaries and expenses and $143,047,000 for air and marine interdiction program in FY 1997.

House amendment

This provision authorizes $1,365,456,000 for FY 2003 and $1,247,884,000 for FY 2004 for non-commercial operations of the Customs Service. It also authorizes $1,642,602,000 for FY 2003 and $1,247,884,000 for FY 2004 for commercial operations of the Customs Service. Of the amounts authorized for commercial operations, $308,000,000 is authorized for the automated commercial environment computer system for each fiscal year. The provision requires that the Customs Service provide the Committee on Ways and Means and the Committee on Finance of the Senate with a report demonstrating that the computer system is being built in a cost-effective manner. In addition, the provisions authorize $896,513,000 for FY 2003 and $909,451,000 for FY 2004 for non-commercial operations of the Customs Service. In addition, the provision authorizes $1,642,602,000 for FY 2003 and $1,247,884,000 for FY 2004 for air and marine interdiction operations of the Customs Service. The provision requires submission of out-of-year budget projections to the Ways and Means and Finance Committees.

Senate amendment

This provision authorizes $896,513,000 for FY 2003 and $909,471,000 for FY 2004 for non-commercial operations of the Customs Service. FY 2003 authorizes $1,642,602,000 for FY 2003 and $1,247,884,000 for FY 2004 for air and marine interdiction operations of the Customs Service. Of the amounts authorized for commercial operations, $308,000,000 is authorized for the automated commercial environment computer system for each fiscal year. The provisions require that the Customs Service provide the Committee on Ways and Means and the Committee on Finance of the Senate with a report demonstrating that the computer system is being built in a cost-effective manner. In addition, the provision authorizes $1,642,602,000 for FY 2003 and $1,247,884,000 for FY 2004 for non-commercial operations of the Customs Service. In addition, the provision authorizes $1,642,602,000 for FY 2003 and $1,247,884,000 for FY 2004 for air and marine interdiction operations of the Customs Service. Of the amounts authorized for commercial operations, $308,000,000 is authorized for the automated commercial environment computer system for each fiscal year. The provisions require that the Customs Service provide the Committee on Ways and Means and the Committee on Finance of the Senate with a report demonstrating that the computer system is being built in a cost-effective manner.

Conference agreement

The Senate recedes to House.

SEC. 312—ANTITERRORIST AND ILLICIT NARCOTICS DETECTION EQUIPMENT FOR THE UNITED STATES-MEXICO BORDER, UNITED STATES-Canada BORDER, AND FLORIDA AND THE GULF COAST SEAPORTS

Present law

No applicable section.

House amendment

This provision authorizes $90,244,000 for FY 2004 for the Customs Service to continue its efforts to purchase transportation equipment. The provision requires that the Customs Service report to Congress on the purchase of antiterrorist and illicit narcotics detection equipment along the United States-Mexico border, the United States-Canada border, and Florida and the Gulf seaports. The equipment would include vehicle and inspection systems.

Senate amendment

The Senate amendment is identical.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 313—COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require Customs to measure specifically the effectiveness of the resources dedicated in sections 312 as part of its annual performance plan.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 321—AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM TO PREVENT CHILD PORNOGRAPHY/CHILD SEXUAL EXPLOITATION

Present law

Customs enforcement responsibilities include enforcement of U.S. laws to prevent border trafficking related to child pornography, intellectual property rights violations, narcotics smuggling, and child sex predators. Funding for these activities has been included in the Customs general account.

House amendment

H.R. 3009 as amended and passed by the House provides that the Act may be cited as, “the Customs Border Security Act of 2002.”

Senate amendment

The Senate amendment is identical.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 322—STUDY AND REPORT RELATING TO PERSONNEL PRACTICES OF THE CUSTOMS SERVICE

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House requires Customs to conduct a study of current personnel practices including: performance standards; the effect and impact of the collective bargaining process on Customs drug interdiction efforts; and a comparison of duty rotations policies of Customs and other federal agencies employing similarly situated personnel.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 331—ADDITIONAL CUSTOMS SERVICE OFFICERS FOR U.S.-CANADA BORDER

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House earmarks $23 million and 265 new staff hires for Customs to use at the U.S.-Canada border.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 332—STUDY AND REPORT RELATING TO ACCOUNTING AND AUDITING PROCEDURES OF THE CUSTOMS SERVICE

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require Customs to measure specifically the effectiveness of the resources dedicated in sections 312 as part of its annual performance plan.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 333—STUDY AND REPORT RELATING TO ACCOUNTING AND AUDITING PROCEDURES OF THE CUSTOMS SERVICE

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require Customs to conduct a study to ensure that appropriate training is being provided to personnel who are responsible for financial auditing of importers. Customs would specifically report on how its audit personnel protect the privacy and trade secrets of importers.
House amendment

H.R. 3009 as amended and passed by the House would mandate the imposition of a cost accounting system in order for Customs to effectively explain its expenditures. Such a system would provide compliance with the core financial system requirements of the Joint Financial Management Improvement Program. H.R. 3009 as amended and passed by the House would empower the Secretary to require the electronic submission of any information required to be submitted to the Customs Service. The Senate amendment provides that the House recedes to the Senate.

Conference agreement

The Senate amendment is the same as the House amendment.

SEC. 337—STUDY AND REPORT RELATING TO EXPRESS COURIER FACILITIES

Present law

No applicable section.

SEC. 338—NATIONAL CUSTOMS AUTOMATION PROGRAM

Present law

No applicable section.

SEC. 339—AUTHORIZATION OF APPROPRIATIONS FOR CUSTOMS STAFFING

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require every air, land, or water-based commercial carrier to file an electronic manifest describing all passengers or cargo with Customs before entering or leaving the country. There is a similar requirement for cargo entering the country. Specific information required in the advanced manifest system would be developed by Treasury in regulations.

Senate amendment

The Senate Amendment is similar to the House Amendment. However, with respect to cargo, the Senate Amendment applies to outbound as well as in-bound shipments.

Conference agreement

The conference agrees to direct the Secretary of the Treasury to promulgate regulations pertaining to the electronic transmission to the Customs Service of information relevant to aviation, maritime, and surface transportation. They also require that, in general, the Customs Service seek information from parties most likely to have direct knowledge of the information at issue. The conference also agrees to amendment of the Tariff Act of 1930 to establish requirements concerning proper documentation of ocean-bound cargo prior to a vessel’s departure. Finally, the conference agrees to direct the Secretary of the Treasury to establish a task force to evaluate, prototype and certify secure systems of transportation.

SEC. 340—Mandatory advanced electronic information for cargo and passengers; secure systems of transportation.

Present law

Currently, commercial carriers bringing passengers or cargo into or out of the country have no obligation to provide Customs with such information in advance.

House amendment

H.R. 3009 as amended and passed by the House would require that all persons searched upon arrival in the United States, qualified immunity protects officers from liability if they can establish that their actions did not violate any clearly established constitutional or statutory rights.

House amendment

H.R. 3009 as amended and passed by the House would require the Comptroller General to prepare a confidential report to determine whether Customs has improved its timeliness in providing prospective rulings. The Senate amendment provides that the House recedes to the Senate.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 351—IMMUNITY FOR CUSTOMS OFFICERS THAT ACT IN GOOD FAITH

Present law

Currently, Customs officers are entitled to qualified immunity in civil suits brought by persons, who were searched upon arrival in the United States. Qualified immunity protects officers from liability if they can establish that their actions did not violate any clearly established constitutional or statutory rights.

House amendment

H.R. 3009 as amended and passed by the House would require the Comptroller General to prepare a confidential report to determine whether Customs has improved its timeliness in providing prospective rulings. The Senate amendment provides that the House recedes to the Senate.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 356—STUDY AND REPORT RELATING TO CUSTOMS USER FEES

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require the Comptroller General to prepare a confidential report to determine whether Customs has improved its timeliness in providing prospective rulings. The Senate amendment provides that the House recedes to the Senate.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 371—FEES FOR CUSTOMS INSPECTIONS AT EXPRESS COURIER FACILITIES

Present law

Current law provides for direct reimbursement by courier facilities of expenses incurred by Customs conducting inspections at those facilities.

House amendment

H.R. 3009 as amended and passed by the House would establish a per item fee of $1.00 by the Secretary of the Treasury after making any adjustments to ports and staff. 19 U.S.C. 1318 requires a Presidential proclamation of an emergency and authorization to the Secretary of the Treasury only to extend the time for performance of legally required acts during an emergency. No other emergency powers statute for Customs exists.
House amendment

H.R. 3009 as amended and passed by the House would enable Customs officers to search outbound U.S. mail for unreported monetary instruments, weapons of mass destruction, firearms, and other contraband used by terrorists. However, reading of mail would not be authorized absent Customs officers obtaining a search warrant or consent.

Senate amendment

The Senate Amendment is the same as the House Amendment with respect to mail weighing in excess of 16 ounces. However, under the Senate Amendment, the Customs Service would be required to obtain a warrant in order to search mail weighing 16 ounces or less. The Senate Amendment also requires the Secretary of State to determine whether it is consistent with international law and U.S. treaty obligations for the Customs Service to search mail transiting the United States between two foreign countries.

The Customs Service would be authorized to search such mail only after the Secretary of State determined that such measures are consistent with international law and U.S. treaty obligations.

Conference agreement

The House recedes to the Senate. The Senate amendment is the same as the House amendment.

SEC. 351. IMPLEMENTATION OF THE AFRICAN GROWTH AND OPPORTUNITY ACT

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House authorizes funds to reestablish those operations.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

CHAPTER 5—TEXTILE TRANSSHIPMENT PROVISIONS

SEC. 351. GAO AUDIT OF TEXTILE TRANSSHIPMENT MONITORING BY CUSTOMS SERVICE

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would direct the Comptroller General to conduct an audit of the systems at the Customs Service to monitor and enforce textile transshipment. The Comptroller General would report on recommendations for improvements.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 352. AUTHORIZATION OF APPROPRIATIONS FOR TEXTILE TRANSSHIPMENT ENFORCEMENT OPERATIONS

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would authorize $9,500,000 for FY 2003 to the Customs Service for the purpose of enhancing its textile transshipment enforcement operations. This amount would be in addition to Customs Service’s base authorization and the authorization to reestablish the destroyed textile monitoring and enforcement operations at the World Trade Center.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The Senate recedes to the House, but the text is clarified to provide that personnel will also conduct education and outreach in addition to enforcement.

SEC. 353. IMPLEMENTATION OF THE AFRICAN GROWTH AND OPPORTUNITY ACT

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would earmark approximately $1.3 million within Customs’ budget for selected activities related to providing technical assistance to help sub-Saharan African countries develop and implement effective visa and anti-transshipment systems as required by the African Growth and Opportunity Act (title I of Public Law 106–200).

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

Subtitle B—Office of the United States Trade Representative

SEC. 354. AUTHORIZATION OF APPROPRIATIONS

Present law

The statutory authority for budget authorization for the Office of the United States Trade Representative is section 141(g)(1) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)). The most recent authorization of appropriations for USTR was under section 101 of the Customs and Trade Act of 1990 (P.L. 101–382). Under 19 U.S.C. 2171, Congress has adopted a two-year authorization process to provide USTR with guidance as it plans its budget as well as guidance from the Committee for the appropriation process.

House amendment

H.R. 3009 as amended and passed by the House would require that when conducting an audit, Customs must recognize and offset overpayments and overdeclarations of duties, quantities and values against underpayments and underdeclarations. As an example, if during an audit Customs finds that an importer has underpaid duties associated with one entry of merchandise by $100 but has also overpaid duties from another entry of merchandise by $25, then any assessment by Customs must be the difference of $75.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 355. REGULATORY AUDIT PROCEDURES

Present law

Section 509 of the Tariff Act of 1930 (19 U.S.C. 1509) provides the authority for Customs to audit persons making entry of merchandise into the United States. In the course of such audit, Customs auditors may identify discrepancies, including underpayments of duties. However, if there also are overpayments, there is no requirement that such overpayments be offset against the underpayments if the underlying entry has been liquidated.

House amendment

H.R. 3009 as amended and passed by the House would require that when conducting an audit, Customs must recognize and offset overpayments and underdeclarations of duties, quantities and values against underpayments and underdeclarations. As an example, if during an audit Customs finds that an importer has underpaid duties associated with one entry of merchandise by $100 but has also overpaid duties from another entry of merchandise by $25, then any assessment by Customs must be the difference of $75.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 356. PAYMENT OF DUTIES AND FEES

Present law

Current law at 19 U.S.C. 1505 provides for the collection of duties by the Secretary through regulatory process.

House amendment

H.R. 3009 as amended and passed by the House would require duties to be paid within 10 working days without extension. The bill also provides for the Customs Service to create a monthly billing system upon the building of the Automated Commercial Environment.

Senate amendment

No provision.
Conference agreement

Senate recedes to the House.

DIVISION B—BIPARTISAN TRADE PROMOTION AUTHORITY

TITLE XXI—TRADE PROMOTION AUTHORITY

SEC. 201.—SHORT TITLE AND FINDINGS

Present law

No provision.

House amendment

The short title of the bill is the “Bipartis

ian Trade Promotion Authority Act of 2001.” Section 201 of the House amendment to H.R. 3009 states that Congress finds that the expansion of international trade is vital to U.S. national security and economic growth, as well as U.S. leadership. Section 201 also states that the recent pattern of decision making by WTO members has raised concerns, and Congress is concerned that such bodies appropriately apply the standard of review contained in Article 17.6 of the Antidumping Agreement, to provide deference to a permissible interpretation by a WTO member and to the evaluation by a member of the facts where that evaluation is unbiased and objective and the establishment of the facts is proper.

Senate amendment

The short title of the bill is the “Bipartis

ian Trade Promotion Authority Act of 2002.” Section 201 of the Senate amendment to H.R. 3009 states that Congress finds the expansion of international trade is vital to U.S. national security and economic growth, as well as U.S. leadership. Section 201 also states that support for continued trade expansion requires that dispute settlement procedures under international trade agreements not add to or diminish the rights and obligations provided in such agreements. It goes on to note a troubling pattern of cases before WTO dispute settlement panels and the WTO Appellate Body that do precisely that.

Conference agreement

The Senate recedes to the House with modified language with respect to the Gallager conferrees believe that, as stated in section 201(b) of the Conference agreement, support for continued trade expansion requires that dispute settlement procedures under international trade agreements not add to or diminish the rights and obligations provided in such agreements. Therefore, the recent pattern of decisions by dispute settle

ment panels and the WTO Appellate Body to impose obligations and restrictions on the use of antidumping, countervailing and safe

guard measures by WTO members has raised concerns, and Congress is concerned that such bodies appropriately apply the standard of review contained in Article 17.6 of the Antidumping Agreement, to provide deference to a permissible interpretation by a WTO member and to the evaluation by a member of the facts where that evaluation is unbiased and objective and the establish

ment of the facts is proper.

SEC. 202.—TRADE NEGOTIATING OBJECTIVES

Present expired law

Section 1101(a) of the Omnibus Trade and Competitiveness Act of 1988 (the 1988 Act) set forth overall negotiating objectives for in

cluding trade agreements. These objectives were to obtain more open, equitable, and reciprocil market access, the reduction or elimination of barriers and other trade-distorting policies and practices, and a more ef

fective system of international trading dis

iplines and procedures. Section 1102(b) set forth the following principal trade negoti

ating objectives: dispute settlement, trans

parency, developing countries, current ac

count surpluses, trade and monetary coordi

nation, agriculture, unfair trade practices, trade in services, intellectual property, for

eign direct investment, safeguards, specific barriers, world trade in services, access to high tech

ology, and border taxes.

House amendment

Section 2102 of the House amendment to H.R. 3009 would establish the following over

all negotiating objectives for conclusion

of trade agreements, as follows:

‘‘Trade barriers and distortions: expanding competitive market opportunities for U.S. exports and imports, ensuring fair conditions of trade by reducing or elimin

ating tariff and nontariff barriers and poli

cies and practices of foreign governments di

rectly related to trade that decrease market

opportunities for U.S. exports and distort U.S. trade; and obtaining reciprocal tariff and nontariff barrier elimination agreements, with particular attention to products covered in section 111(b) of the Uruguay Round Agreements Act.’’

‘‘Services: to reduce or eliminate barriers to international trade in services, including regulatory and other barriers, that deny na
tional treatment or unreasonably restrict the establishment or operations of services sup

pliers.’’

‘‘Foreign investment: to reduce or eliminate artificial or trade-distorting barriers to trade-related investment and, recog

nizing that U.S. law on the whole provides a high level of protection for investment, con

sistent with or greater than the level re

quired by international law, to secure for in

vestors important rights comparable to those that would be available under U.S. legal prin

ciples and practice, by: reducing and eliminating exceptions to the principle of national treatment; freeing the transfer of funds relating to in

vestments; reducing or eliminating performance require

ments, forced technology transfers, and other unreasonable barriers to the establish

ment and operation of investments; seeking to establish standards for expro

iation and compensation for expropriation, consistent with United States legal prin

ciples and practice; and providing meaningful procedures for re

solving investment disputes including be

tween an investor and a government; seek

ing to improve mechanisms used to re

solve investment disputes involving a gov

government through mechanisms to elimi

nate frivolous claims and procedures to en

sure the efficient selection of arbitrators and the expeditious disposition of claims; provide an appellate or similar review mechanism to correct manifestly erroneous interpretations of law; and ensuring the fullest measure of trans

parency in investment disputes by ensuring that all requests for dispute settlement and all procedures, findings, and decisions are promptly made public; all hearings are open to the public; and establishing a mechanism for acceptance of amicus curiae submissions.’’

‘‘Intellectual property: including: pro

mot ing adequate and effective protection of intellectual property rights through ensu

ring that obligations and commitments under the Agreement on Trade-Related Aspects of Intellectual Property Rights, including state.png
commerce; where legitimate policy objectives require domestic regulations that affect electronic commerce, to obtain commitments that any such regulations are the least trade, non-disruptive, and transparent, and promote an open market environment; and to extend the moratorium of the WTO on duties on electronic commerce.

Agriculture: to ensure that the U.S. trade negotiators duly recognize the importance of agricultural issues; to obtain competitive markets for U.S. exports in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in U.S. markets and to achieve fairer and more open conditions of tradable goods; to avoid or eliminate trade distorting subsidies; to impose disciplines on the operations of state trading enterprises or similar administrative mechanisms; to eliminate unjustified restrictions on products derived from biotechnology; to eliminate sanitary or phytosanitary restrictions that contravene the Uruguay Round Agreement as they are not based on scientific principles and to improve import relief mechanisms to accommodate the unique aspects of perishable and cyclical agriculture.

Labor and the environment: to ensure that a party does not fail to effectively enforce its environmental or labor laws, through a sustainable, non-disruptive course of action; in a manner affecting trade between the United States and that party; to recognize that a party to a trade agreement is effective in enforcing its laws if a course of inaction or inaction reflects a reasonable exercise of discretion or results from a bona fide decision regarding allocation of resources and that modifications may be authorized based on the exercise of these rights or the right to establish domestic labor standards and levels of environmental protection; to strengthen the existing provision to promote respect for core labor standards and to protect the environment through the promotion of sustainable development; to reduce or eliminate government practices or policies that unduly threaten sustainable development; to seek market access for U.S. environmental technologies, goods, and services; that labor, environmental, health, or safety policies and practices of parties to trade agreements do not arbitrarily or unjustifiably discriminate against imports or serve as disguised barriers to trade.

Dispute settlement and enforcement: to seek provisions in trade agreements providing for the settlement of disputes by governments in an effective, timely, transparent, equitable, and reasoned manner requiring determinations based on facts and principles of the agreement, with the goal of increasing compliance; to seek to strengthen the capacity of the WTO Trade Policy Review Mechanism to review compliance.

Border Taxes: The Senate Amendment contains an objective absent from the House Amendment on border taxes. The objective seeks "to obtain a revision of the WTO rules and procedures to ensure that tax reductions for internal taxes to redress the disadvantage to countries relying primarily on direct taxes for revenue rather than indirect taxes". The objective is to extend the decision to a revision of the WTO rules by the WTO Dispute Settlement Body holding the foreign sales corporation provisions of the Internal Revenue Code to be inconsistent with WTO rules.

Textiles: The Senate Amendment contains an extensive objective on opening foreign markets to U.S. textile exports. There is no similar provision in the House Amendment.

Worst Forms of Child Labor: The Senate Amendment contains a negotiating objective to prevent distortions in the conduct of international trade caused by the worst forms of child labor and to redress unfair and illegitimate competition based upon the use of the worst forms of child labor.

CONGRESSIONAL RECORD — HOUSE

July 26, 2002 CONGRESSIONAL RECORD — HOUSE

Senate amendment

The Senate Amendment is substantially similar to the House Amendment, with the exception of several key provisions:

Small Business: The Senate Amendment contains an overall objective "to ensure that trade agreements afford small businesses equal access to international markets, equitable trade benefits, expanded export market potential and provide for the reduction or elimination of trade barriers that disproportionately impact small businesses."

Trade in Motor Vehicles and Parts: The Senate Amendment contains a principal negotiating objective on expanding competitive opportunities for exports of U.S. motor vehicles and parts.

Foreign Investment: The Senate Amendment states as an objective of the United States in the context of investor-state dispute settlement "encouraging foreign investors in the United States are not accorded greater rights than United States investors in the United States." The Senate Amendment's objective with respect to investor-state dispute settlement also differs from the House Amendment in the following respects:

- It sets as an objective "seeking to establish standards for fair and equitable treatment consistent with United States legal principles, including the principle of due process.
- It sets deference of the filing of frivolous claims as an objective, in addition to the prompt elimination of frivolous claims.

The Senate Amendment seeks to establish "procedures to enhance opportunities for public input into the formulation of government policy decisions.

The Senate Amendment seeks to establish a single appellate body to review decisions by arbitration panels in investor-state dispute settlement cases. Unlike the House Amendment, the Senate Amendment does not prescribe a standard of review for an eventual appellate body.


"Trade in Agriculture: The Senate Amendment contains a negotiating objective that differs from the House Amendment, stating that an objective of the United States is "seeking to eliminate all export subsidies while maintaining bona fide food aid and preserving U.S. agriculture development and export credit programs that allow the U.S. to compete with foreign promotion efforts."

The Senate Amendment also provides that it is a negotiating objective of the United States to continue to implement the United States Consumer Product Safety Commission's January 2001 voluntary export restraint program and seek the broadest market access possible in multilateral, regional, and bilateral negotiations, recognizing the effect that trade-distorting subsidies may have on U.S. import-sensitive commodities (including those subject to tariff-rate quotas).

Human Rights and Democracy: The Senate Amendment contains a negotiating objective to "obtain provisions in trade agreements that require parties to agree to the application of internationally recognized civil, political, and human rights."

Dispute Settlement: The Senate Amendment contains an objective absent from the House Amendment "to seek improved adherence by panels convened under the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes and by the WTO Appellate Body to the standard of review applicable under the WTO Agreement that trade disputes be resolved in a prompt and efficient manner, and to obtain a revision of the WTO rules and procedures to ensure that tax reductions for internal taxes to redress the disadvantage to countries relying primarily on direct taxes for revenue rather than indirect taxes."

The Senate Amendment states with respect to the objective to redress the disadvantage to countries relying primarily on direct taxes for revenue rather than indirect taxes, that tax reductions for internal taxes to redress the disadvantage to countries relying primarily on direct taxes for revenue rather than indirect taxes should be consistent with WTO rules.
This language applies to substantive protections only and is not applicable to procedural issues, such as access to investor-state dispute settlement. The Conference recognizes that, with respect to the resolution of disputes between a foreign investor and a government, a party may differ from the procedures for resolving disputes between a domestic investor and a government. As a result, it is not clear whether the same factors be available at different times during the dispute. Thus, the “no greater rights” direction does not, for example, apply to such issues as the dismissal of claims, the exhaustion of remedies, access to appellate procedures, or other similar issues.

The Conference also agrees that negotiators should be permitted for an appendix or similar mechanism to provide coherence to the interpretations of investment provisions in trade agreements.

With respect to the principal negotiating objective on agriculture, the Conference agrees to section 2102(b)(10)(A)(iii) and (xv) of the House amendment, in lieu of section 2102(b)(10)(A)(iiii) of the Senate amendment. The Conference also accepts section 2102(b)(10)(A)(xvi) of the Senate amendment on the timing and sequencing of WTO agriculture negotiations relative to other negotiations.

The Conference agrees to section 2102(b)(13)(C) of the Senate amendment, relating to enforceable implementing commitments for labor subsidies, and safeguard cases, as modified, to seek adherence by WTO panels to the applicable standard of review.

The Conference recognizes the importance of preserving the ability of the United States to enforce vigorously its trade remedy laws, including the antidumping, countervailing duty and safeguard laws. Because this issue is significant to many Members of Congress in both the House and Senate, the Conference has made this priority a principal negotiating objective. The Conference agrees that such agreements as those that lose the effectiveness of domestic and international disciplines on unfair trade, as well as domestic and international safeguard provisions. In addition, section 2102(b)(14)(B) directs the President to address and remedy market distortions that lead to dumping and subsidization, including overcapacity, cartels, and market-access barriers.

The Conference agrees to section 2102(b)(14) of the Senate amendment stating that the United States should seek a revision of WTO rules on the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct taxes rather than indirect taxes. The Conference agrees that such a revision of WTO rules is one among other options for the United States, including domestic legislation, to redress such a disadvantage.

The Conference agrees to include as a principal negotiating objective concerning the worst forms of child labor, to seek commitments by trade agreement parties to vigorously enforce their laws prohibiting the worst forms of child labor.

SEC. 2102(c)—PROMOTION OF CERTAIN PRIORITIES

Present/expired law

No provision.

House amendment

Section 2102(c) of the House amendment to H.R. 3009 sets forth certain priorities for the President that the Conference agreed to include seeking greater cooperation between WTO and the ILO; seeking to establish consen
sultative mechanisms among parties to trade agreements to strengthen the capacity of U.S. trading partners to promote respect for core labor standards, seeking to encourage strong provisions in trade agreements to combat the worst forms of child labor; preserving the ability of the United States to enforce vigorously its trade remedy laws, including antidumping and countervailing duty laws, and avoiding agreements which lessen their effectiveness; ensuring that U.S. exports are not subject to the abusive use of trade laws, including antidumping and countervailing duty laws, by other countries; promoting consideration of Multilateral Environmental Agreements (MEAs) and consulting with parties to such agreements regarding the conservation of biodiversity; including trade measures with existing environmental exceptions under Article XX of the GATT.

In addition, section 2102(c)(2) of the Senate amendment states that the United States should seek a revision of WTO rules on the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct taxes rather than indirect taxes. The Conference agrees that such a revision of WTO rules is one among other options for the United States, including domestic legislation, to redress such a disadvantage.

The Conference agrees to include as a principal negotiating objective concerning the worst forms of child labor, to seek commitments by trade agreement parties to vigorously enforce their laws prohibiting the worst forms of child labor.

Senate amendment

With several notable exceptions, the priorities set forth in section 2102(c) of the Senate Amendment are identical to the priorities set forth in the House Amendment. The exceptions are:

With respect to the study that the President must perform on the impact of future trade agreements on employment, the Senate Amendment requires the President to exercise all appropriate authorities to determine the impact of such trade agreements on employment, the labor market, and the national economy. The Conference agrees to section 2102(c)(2) of the Senate amendment stating that the United States should seek a revision of WTO rules on the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct taxes rather than indirect taxes. The Conference agrees that such a revision of WTO rules is one among other options for the United States, including domestic legislation, to redress such a disadvantage.

The Conference agrees to include as a principal negotiating objective concerning the worst forms of child labor, to seek commitments by trade agreement parties to vigorously enforce their laws prohibiting the worst forms of child labor.

SEC. 2102(c)—PROMOTION OF CERTAIN PRIORITIES

Present/expired law

No provision.

House amendment

Section 2102(d) of the House amendment to H.R. 3009 requires that USTR consult closely and on a timely basis with the Congressional Oversight Group appointed under section 2107. In addition, USTR would be required to consult closely (including immediately before the initialing of an agreement) with the congressional advisers on trade policy and negotiations appointed under section 161 of the Trade Act of 1974, as well as with the House Committee on Ways and Means, the Senate Committee on Finance, and the Congressional Oversight Group. With regard to negotiations concerning agriculture trade, USTR would also be required to consult with the House and Senate Committees on Agriculture.

Senate amendment

In determining whether to enter into negotiations with a particular country, section 2102(e) of the Senate amendment is identical to the House provision in the Senate amendment to H.R. 3009.

Conference agreement

The Conference agrees to follow the House amendment and the Senate amendment.

SEC. 2102—TRADE AGREEMENTS AUTHORITY

Present/expired law

Tariff proclamation authority. Section 1102(a) of the 1988 Act provided authority to the President to proclaim modifications in the application of the Act without the submission of any formal approval, subject to certain limitations. Specifically, for rates that exceed 5 percent ad
valorem, the President could not reduce any rate of duty to a rate less than 50 percent of the rate of duty applying on the date of enactment. Rates at or below 5 percent could be reduced by duty reductions that exceeded 50 percent of an existing duty higher than 5 percent or any tariff increase had to be approved by Congress.

Proclamation authority. Section 2103(a) would provide the President the authority to proclaim, without Congressional approval, certain duty modifications in a manner very similar to the requirements of the Uruguay Round. Provisi-
cally, for rates that exceed 5 percent ad valorem, the President would not be authorized to reduce any rate of duty to a rate less than 50 percent of the rate of duty applying on the date of enactment. Rates at or below 5 percent ad valorem could be reduced to zero. Any duty reduction that exceeded 50 percent of an existing duty would require a tariff increase in an amount that is at least as much as the tariff reduction. Any tariff increase would have to be approved by Congress.

In addition, section 2103(a) would not allow the use of tariff proclamation authority on import sensitive agriculture.

Staging authority. The Senate amendment would require that duty reductions not exceed 3 percent per year, or one-tenth of the total reduction, whichever is greater, except that staging would not be required if the President determines that there is no U.S. production of that article. These limitations would not apply to reciprocal agreements to eliminate or harmonize import duties or to eliminate provisions of the World Trade Organization, such as so-called “zero-for-zero” negotiations.

Agreements on tariff and non-tariff barriers. Section 2103(b) would authorize the President to enter into a trade agreement with a foreign country whenever he determined that any duty or other import restriction or any other barrier to or distortion of international trade unburdens or restricts the foreign trade of the United States or adversely affects the U.S. economy, or the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect. The agreement must provide for the reduction or elimination of such barrier or distortion, and the President could not reduce any rate of duty to a rate less than 50 percent of the rate of duty applying on the date of enactment. Rates at or below 5 percent ad valorem could be reduced to zero. Any duty reduction that exceeded 50 percent of an existing duty would require a tariff increase in an amount that is at least as much as the tariff reduction. Any tariff increase would have to be approved by Congress.

Conference agreement

The Senate recedes to the House amendment with several modifications. The Conference agrees to the new definition of import sensitive agriculture in section 2103(a)(2)(B), 2113(5) of the Senate amendment, and the Senate amendment to encompass products subject to tariff rate quotas, as well as products subject to the lowest tariff reduction in the Uruguay Round.

The Conference agrees to section 2104(c)(3)(B) of the Senate amendment, which requires the President to provide Congress with a report by May 1, 2005 (if the President seeks extension of TPA until June 2, 2007) analyzing the economic impact on the United States of all trade agreements implemented between enactment and the expiration of TPA.
President would be required to consult with the Committees on Ways and Means and Agriculture of the House and the Committees on Finance and Agriculture, Nutrition, and Forestry of the Senate concerning the results of this assessment and whether it is appropriate for the United States to agree to further tariff reductions under such circumstances. All applicable negotiating objectives would be met.

Section 2104(b)(2) provides special consultation on sensitive agricultural products. Specifically, before initiating negotiations on agriculture and as soon as practicable with respect to the Free Trade Area of the Americas and WTO negotiations, USTR is to identify import sensitive agriculture products and consult with the Committees on Ways and Means and Agriculture of the House and the Commerce, Justice, Science, and Transportation Committees of the Senate concerning the results of this assessment and whether any further tariff reduction should be appropriate, and whether the identified products face unjustified sanitary or phytosanitary barriers. USTR is also to request that the International Trade Commission prepare an assessment of the economic impact of any such tariff reduction on the U.S. industry producing the product and on the U.S. economy as a whole. USTR is to then notify the Committee on Agriculture with respect to which it intends to seek tariff liberalization as well as the reasons. If USTR commences negotiations and then identifies additional import sensitive agricultural products, or a path to the negotiations requests tariff reductions on such a product, then USTR shall notify the Committees as soon as practicable of those products and the reasons for seeking tariff reductions.

Section 2104(c) would establish a special consultation process for textile and apparel products. Specifically, before initiating negotiations concerning tariff reductions in textiles and apparel, the President is to assess whether U.S. tariffs on textile and apparel products that were bound under the Uruguay Round Agreement on Textiles and Clothing and the Agreement on Textiles and Clothing—1985 are lower than the tariffs bound by the United States under the Uruguay Round Agreement on Textiles and Clothing and the Agreement on Textiles and Clothing—1985. If the President determines that the United States is not currently in a position to negotiate on this issue, the President would be required to consult with the Committee on Ways and Means and the Committee on Finance of the Senate concerning the results of this assessment and whether it is appropriate for the United States to agree to further tariff reductions under such circumstances and how all applicable negotiating objectives would be met.

In addition, section 2104(d) would require the President, before entering into any agreement, to consult with the Finance Committee of the Senate concerning the nature of the agreement, how and to what extent the agreement would apply to the applicable industries, applicable products, policies, and objectives set forth in the House amendment to H.R. 3009 and all matters relating to implementation under section 2104(c) with respect to the general effect of the agreement on U.S. laws.

Section 2104(e) would require that the report of the Advisory Committee for Trade Policy and Negotiations under section 133(e)(1) of the Trade Act of 1974 be provided not later than 30 days after the date on which the President notifies Congress of his intent to enter into an agreement under section 2104(a)(1)(A).

Finally, section 2104(f) would require the President to enter into a trade agreement, to ask the International Trade Commission to assess the trade negotiations and may be in the final agreement that could require amendments to title VII of the Tariff Act of 1930 or to chapter 1 of title II of the Trade Act of 1974, and how the new agreement would be consistent with the objectives described in section 2102(b)(14).

The Conference agreement also provides a mechanism for any Majority or Minority of the Senate to introduce at any time after the President’s report is issued a nonbinding resolution which states that the Senate finds that the proposed amendments do not provide for any U.S. trade remedy laws contained in the report of the President transmitted to the Congress on or before the date on which the President transmits notification of the proposed amendments to Congress. Such a resolution allows only one resolution (either a nonbinding resolution or a disapproval resolution) per agreement to be eligible for the Senate floor under section 2104(d)(3) of the Bipartisan Trade Promotion Authority Act of 2002, and to be filed with the appropriate date of the report, and the second blank space being filled in with either the “House of Representatives” or the “Senate”, as the case may be, the second blank space filled in with the appropriate date of the report, and the third blank space being filled in with the name of the country or countries involved.

The resolution is referred to the Ways and Means and Rules Committees in the House and the Finance Committee in the Senate, and is privileged on the floor if it is reported by the appropriate committees. The Senate agreement allows only one resolution (either a nonbinding resolution or a disapproval resolution) per agreement to be eligible for the Senate floor under section 2104(d)(3). The Senate resolution is contained in sections 152 (d) and (e) of the Trade Act of 1974. The one resolution quota is satisfied for the House only after the Ways and Means Committee reports a resolution, and for the Senate only after the Finance Committee reports a resolution.

The Conference agreement states that with respect to agreements entered into with Chile and Singapore, the report referenced in section 2104(d)(3)(A) shall be submitted by the President at least 60 calendar days after the day on which the President enters into a trade agreement with either country.

SECTION 2105—IMPLEMENTATION OF TRADE AGREEMENTS

Present/expressed law

Before entering into the draft agreement, the President was required to give Congress 90 days advance notice (120 days for the Uruguay Round Agreement) to provide for revision before signature. After entering into the agreement, the President was required to submit formally the implementing legislation, and a statement of administrative action. Once the bill was formally introduced, there was no opportunity to hold any public hearing or debate on the floor or in committee. Consequently, before the formal introduction took place, the committees of jurisdiction would hold hearings, “unofficial” or “informal” mark-up sessions and a “mock conference” with the Senate committees of jurisdiction in order to develop a draft implementing bill together with the Administration and to make their concerns known to the Administration before it introduced the legislation formally. The Senate report provides for Senate committee consideration of an implementing bill, the House committees of jurisdiction had 45 legislative days to report the bill, and the Senate was required to vote on the bill within 15 legislative days after the measure was reported or discharged from the committees. Fifteen additional days were provided for Senate committee consideration (assuming the implementing bill was a revenue bill), and the Senate floor action was required within 15 additional days. Accord-
Finally, section 1109(d) of the 1988 Act specified that the fast track rules were enacted as an exercise of the rulemaking power of the House and the Senate, with the recognition of the trade remedy authority of either House to change the rules at any time.

House amendment

Under Section 2105 of the House amendment to H.R. 3009, the President would be required to enter into an agreement, to notify Congress of his intent to enter into the agreement. Section 2105(a) prohibits the President from entering into an agreement, to notify Congress of his intent to enter into the agreement. Section 2105(a) prohibits the President from entering into an agreement, to notify Congress of his intent to enter into the agreement.

Disclosure Requirements. Section 2105(a)(4) of the Senate bill specifies that any trade agreement or understanding with a foreign government, oral or written not disclosed to Congress will not be considered part of trade agreement approved by Congress and shall have no effect under U.S. law or in any dispute settlement body.

Senate Procedures. Section 2105(b)(1)(C)(vi) provides that any Member of the Senate may introduce a procedural disapproval resolution, and that resolution will be referred to the Senate Finance Committee. Section 2105(b)(1)(C)(vi) provides that the Senate may not consider a disapproval resolution that has not been reported by the Senate Finance Committee.

Conference agreement

The Senate recedes to the House amendment with several modifications. The Conference agrees to section 2105(a)(4) of the Senate amendment, which specifies that any trade agreement or understanding with a foreign government (oral or written) not disclosed to Congress will not be considered part of trade agreement approved by Congress and shall have no effect under U.S. law or in any dispute settlement body. The Conference also agrees to sections 2105(b)(1)(C)(vi) and (b)(1)(C)(vi) of the Senate amendment, which applies the same procedures for consideration of bills in the Senate as for the House.

Finally, the Conference agrees to section 2105(b)(2) of the Senate amendment with modifications, which requires the Secretary of Commerce, in consultation with the Secretaries of State and Treasury, the Attorney General, and the United States Trade Representative, to transmit to Congress a report setting forth the strategy of the executive branch to address concerns of Congress regarding whether dispute settlement panels and the Appellate Body of the WTO have added to obligations or diminished rights of the United States, as described in section 2101(b)(3). Trade authorities procedures shall not apply to any implementing bill with respect to an agreement negotiated under the auspices of WTO unless the Secretary of Commerce has issued such report prior to December 31, 2002.

SEC. 2106—TREATMENT OF CERTAIN TRADE AGREEMENTS

Present/expired law

No provision.

House amendment

Section 2106 of the House amendment to H.R. 3009 would require the President to submit the report required by section 2105(a)(4) of the Senate amendment to the Congress, including at negotiation sites. The President would be required to consult with the Members of Congress regarding the negotiation of the report. The President would also be required to consult with the Members of Congress regarding the negotiation of the report.

Conference agreement

The Conference agreement follows the House amendment and the Senate amendment.

SEC. 2107—ADDITIONAL IMPLEMENTATION AND ENFORCEMENT REQUIREMENTS

Present/expired law

No provision.

House amendment

Section 2108 of the House amendment to H.R. 3009 would require the President to submit to Congress a plan for implementing and enforcing any trade agreement resulting from this Act. The report is to be submitted simultaneously with the text of the agreement. The report is to be submitted by the President to the Committee on Ways and Means of the House and the Senate, and the Chairman of the Committee. The Chairman of the Committee on Ways and Means and the Chairman of the Senate Finance Committee shall have, under the Rules of the House, jurisdiction over provisions of law affected by a trade negotiation.

Disclosure Requirements. Section 2105(a)(4) of the Senate bill specifies that any trade agreement or understanding with a foreign government, oral or written not disclosed to Congress will not be considered part of trade agreement approved by Congress and shall have no effect under U.S. law or in any dispute settlement body.

Senate Procedures. Section 2105(b)(1)(C)(vi) provides that any Member of the Senate may introduce a procedural disapproval resolution, and that resolution will be referred to the Senate Finance Committee. Section 2105(b)(1)(C)(vi) provides that the Senate may not consider a disapproval resolution that has not been reported by the Senate Finance Committee.

Conference agreement

The Senate recedes to the House amendment with several modifications. The Conference agrees to section 2105(a)(4) of the Senate amendment, which specifies that any trade agreement or understanding with a foreign government (oral or written) not disclosed to Congress will not be considered part of trade agreement approved by Congress and shall have no effect under U.S. law or in any dispute settlement body. The Conference also agrees to sections 2105(b)(1)(C)(vi) and (b)(1)(C)(vi) of the Senate amendment, which applies the same procedures for consideration of bills in the Senate as for the House.

Finally, the Conference agrees to section 2105(b)(2) of the Senate amendment with modifications, which requires the Secretary of Commerce, in consultation with the Secretaries of State and Treasury, the Attorney General, and the United States Trade Representative, to transmit to Congress a report setting forth the strategy of the executive branch to address concerns of Congress regarding whether dispute settlement panels and the Appellate Body of the WTO have added to obligations or diminished rights of the United States, as described in section 2101(b)(3). Trade authorities procedures shall not apply to any implementing bill with respect to an agreement negotiated under the auspices of WTO unless the Secretary of Commerce has issued such report prior to December 31, 2002.

SEC. 2106—TREATMENT OF CERTAIN TRADE AGREEMENTS

Present/expired law

No provision.

House amendment

Section 2106 of the House amendment to H.R. 3009 would require the President to submit to Congress a report setting forth the strategy of the executive branch to address concerns of Congress regarding whether dispute settlement panels and the Appellate Body of the WTO have added to obligations or diminished rights of the United States, as described in section 2101(b)(3). Trade authorities procedures shall not apply to any implementing bill with respect to an agreement negotiated under the auspices of WTO unless the Secretary of Commerce has issued such report prior to December 31, 2002.

Conference agreement

The Conference agreement follows the House amendment and the Senate amendment.

SEC. 2107—ADDITIONAL IMPLEMENTATION AND ENFORCEMENT REQUIREMENTS

Present/expired law

No provision.
activities of the primary committees of jurisdic-
tion and the creation of the Congress-
ional Oversight Group under section 2107
will increase the participation of a broader
Members of Congress in the formulation of
U.S. trade policy and oversight of the U.S.
trade agenda. The provision specifies that
the primary committees of jurisdiction
should have adequate staff to accommodate
these increases in activities.

Senate amendment
Section 2109 of the Senate amendment is
to the House amendment to H.R. 3009.

Conference agreement
The Conference agreement follows the
House amendment and the Senate amend-
ment.

SEC. 2111—REPORT ON THE IMPACT OF TRADE
PROMOTION AUTHORITY

Present/expired law
No provision.

House amendment
No provision.

Senate amendment
Section 2111 requires the International
Trade Commission, within one year fol-
er enactment of this Act, to issue a re-
port regarding the economic impact of the
following trade agreements: (1) The U.S.-
Israel Free Trade Agreement; (2) the U.S.-
Canada Free Trade Agreement; (3) the North
American Free Trade Agreement (NAFTA);
(4) The Uruguay Round Agreements, which
established the World Trade Organization;
and (5) The Tokyo Round of Multilateral
Trade Negotiations.

Conference agreement
The Senate recedes to the Senate amend-
ment.

SEC. 2112—SMAII BUSINESS

Present/expired law
No provision.

House amendment
No provision.

Senate amendment
WTO small business advocate. Section 2112(a)
provides that the U.S. Trade Representative
shall pursue identification of a small busi-
ness advocate at the World Trade Organiza-
tion Secretariat to examine the impact of
WTO agreements on the interests of small
businesses, address the concerns of small
businesses, and recommend ways to address
those interests in trade negotiations involv-
ing the WTO.

Assistant USTR responsible for small busi-
nesses. Section 2112(b) provides that the As-
sistant United States Trade Representative
for Industry and Telecommunications shall
be responsible for ensuring that the interests
of small businesses are considered in trade
negotiations.

Conference agreement
The Senate recedes to the House amend-
ment with a modification. The Conference
agree to section 2112(b) of the Senate amend-
ment, which provides to the Assistant
USTR for Industry and Telecommunications
will be responsible for ensuring that the in-
terests of small business are considered in
trade negotiations.

DIVISION C—ANDEAN TRADE
PREFERENCE ACT

TITLE XXXI—ANDEAN TRADE
PREFERENCE

SEC. 3100—SHORT TITLE

Present law
No provision.

House amendment
Section 3101 of H.R. 3009, as amended, pro-
vides that the Act may be cited as the “An-
dean Trade Promotion and Drug Eradication
Act.”

Senate amendment
Section 3101 provides that the Act may be
cited as the “Andean Trade Preference Ex-
pansion Act.”

Conference agreement
The Senate recedes.

SEC. 3102—FINDINGS

Present law
No provision.

House amendment
Section 3102 contains findings of Congress
that:
(1) Since the Andean Trade Preference Act
was enacted in 1991, it has had a positive im-
 pact on United States trade with Bolivia, Co-
lombia, Ecuador, and Peru. Two-way trade
doubled, with the United States serving as
the leading source of imports and leading
export market for each of the Andean bene-
ficiary countries. This has resulted in in-
creased jobs and expanded export opportuni-
ties in both the United States and the Ande-
an region.
(2) The Andean Trade Preference Act has
been a key element of the United States
counter narcotics strategy in the Andean re-
gion, promoting export diversification and
and-based economic development that pro-
solve sustainable economic alternatives to
drug-crop production, strengthening the le-
gitimate economy and combating narco-
trafficking.
(3) Notwithstanding the success of the An-
dean Trade Preference Act, the Andean re-
gion remains threatened by political and
economic instability and fragility, vulner-
able to the consequences of the drug war and
wage global competition for its legitimate
trade.
(4) The continuing instability in the Ande-
an region poses a threat to the security in-
terests of the United States and the world.
This problem has been partially addressed
through foreign aid, such as Plan Colombia,
 enacted by Congress in 2000. However, for-
eign aid alone is not sufficient. Enhance-
ment of legitimate trade with the United
States provides an alternative means for re-
turning and stabilizing the economies in the
Andean region.
(5) The Andean Trade Preference Act con-
stitutes a tangible commitment by the
United States to the promotion of pros-
perity, stability and democracy in the bene-
ficiary countries.
(6) Renewal and enhancement of the Ande-
an Trade Preference Act will bolster the con-
domestic private enterprise and foreign
investors in the economic prospects of the
region, ensuring that legitimate pri-
ivate enterprise can be the engine of eco-
omic development and political stability in
the region.
(7) Each of the Andean beneficiary coun-
tries is committed to conclude negotiation
of a Free Trade Area of the Americas by the
year 2005 as a means of enhancing the eco-
 nomic security of the region.
(8) Temporarily enhancing trade benefits
for Andean beneficiary countries will pro-
mote the growth of foreign enterprise.
omic opportunity in these countries and
serve the security interests of the United
States, the region, and the world.

Senate amendment
Section 3101 is identical.

Conference agreement
The conference agreement follows the
House amendment and the Senate amend-
ment.
Paragraph (5) of section 204(b) of the ATPA as amended by the present bill defines ATPEA beneficiary countries as those countries previously designated by the President as “beneficiary countries” (i.e., Bolivia, Colombia, Ecuador, and Peru) which subsequently are designated by the President as “ATPEA beneficiary countries,” based on the President’s consideration of additional eligibility criteria.

In the event that the President did not designate a current “beneficiary country” as an “ATPEA beneficiary country,” that country would remain eligible for ATPA benefits under the law as expired on December 4, 2001, but would not be eligible for the enhanced benefits under the present bill.

Footwear not eligible for duty-free treatment under GSP receives the same tariff treatment as like products from Mexico, except that duties on articles in particular tariff subheadings are to be reduced by 1/15 per year.

The Senate Amendment provides special treatment for rum and tobacco, allowing them to receive the same tariff treatment as like products from Mexico. The bill also allows certain handbags, luggage, flat goods, work gloves, and wearing apparel to receive the same tariff treatment as like products from Mexico.

Under the ATPA, the President is authorized to proclaim duty-free treatment for tuna that is harvested by United States or ATPEA vessels, subject to a quantitative yearly cap of 208,800 metric tons of domestic United States tuna pack in the preceding year.

Conference agreement

Senate recedes on the authority of President to proclaim duty-free treatment for particular articles which were previously excluded from duty-free treatment under the ATPA, if the President determines that the article is not import-sensitive in the context of international trade. Textiles subject to textile agreements; sugar, syrups and molasses subject to over-quota tariffs; and rum and tobacco classified in subheading 2208.90.00 of the HTS would continue to be ineligible for duty-free treatment, as would apparel products other than those specifically described below.

House recedes on the treatment of tuna with an amendment to: (1) retain U.S. or Andean flagged vessel rule of origin requirement in Senate amendment; and (2) authorize the President to proclaim duty-free treatment for Andean exports of tuna packed in flexible (e.g., foil), airtight containers weighing with their contents not more than 6.8 kg each; and (3) provide for a minimum of current tariff-rate quota to be an amount based on 4.8 percent of apparent domestic consumption of tuna in airtight containers rather than domestic production.

Eligible Apparel Articles

Present law

Under the ATPA, apparel articles are on the list of products excluded from eligibility for duty-free treatment.

House amendment

Under Section 3103, the President may proclaim duty-free and quota-free treatment for apparel articles sewn or otherwise assembled in one or more beneficiary countries exclusively from any one or any combination of the following:

(1) Fabrics or fabric components formed, or components knit-to-shape, from yarns formed in the United States, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are wholly formed in the United States or in one or more beneficiary countries, or in such countries and to one or more ATPEA beneficiary countries, if the constituent fibers are primarily llama or alpaca hair; and
(2) Apparel, if yarns, regardless of origin, if such fabrics or yarns have been deemed, under the North American Free Trade Agreement, not to be available in commercial quantities in the United States; a separate rate of duty provision of section 204(b) of the ATPA as amended by the present bill sets forth a process for interested parties to petition the President for inclusion of additional yarns and fabrics in the “short supply” list. This process includes obtaining advice from the United States International Trade Commission and industry advisory groups, and consultation with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

A second category of apparel articles eligible for duty-free treatment is apparel articles knit-to-shape (except socks) in one or more ATPEA beneficiary countries from yarns wholly formed in the United States. To qualify under this category, the entire article must be knit-to-shape—as opposed to cut and sewn. The conferees would slightly modify a provision of the Senate bill relating to fabrics or fabric components from yarns wholly formed in the United States. The quantity of apparel eligible for this benefit is subject to an annual cap. The cap is set at 70 million square meter equivalents (SME) in the year beginning March 1, 2002. The cap will increase by 16 percent, compounded annually, in each succeeding one-year period, through February 28, 2006. Thus, the cap applied to this category in each year following enactment will be as follows:

- 70 million SME in the year beginning March 1, 2002;
- 81.2 million SME in the year beginning March 1, 2003;
- 94.19 million SME in the year beginning March 1, 2004; and

A separate provision makes clear that goods otherwise qualifying under the latter category will not be disqualified if they happen to contain United States fabric made from United States yarn.

A fourth category of apparel eligible for duty-free treatment under the Senate bill is branneries that are cut or sewn, or otherwise assembled, in one or more ATPEA beneficiary countries, or in such countries and the United States. This separate category requires that, in order to receive the benefits of the Senate bill, apparel must be knit-to-shape. A separate category of apparel articles eligible for duty-free treatment is apparel articles sewn or otherwise assembled in one or more ATPEA beneficiary countries from yarns wholly formed in the United States. The quantity of apparel eligible for this benefit is subject to an annual cap. The cap is set at 70 million square meter equivalents (SME) in the year beginning March 1, 2002. The cap will increase by 16 percent, compounded annually, in each succeeding one-year period, through February 28, 2006. Thus, the cap applied to this category in each year following enactment will be as follows:

- 70 million SME in the year beginning March 1, 2002;
- 81.2 million SME in the year beginning March 1, 2003;
- 94.19 million SME in the year beginning March 1, 2004; and

A separate provision makes clear that goods otherwise qualifying under the latter category will not be disqualified if they happen to contain United States fabric made from United States yarn.

A fifth category of textile and apparel eligible for duty-free treatment is handloomed, handmade, and folklore articles. A final category of textile and apparel goods eligible for duty-free treatment is textile luggage assembled in an ATPEA beneficiary country from fabric and yarns formed in the United States.

In addition to the foregoing categories, the bill sets forth special rules for determining whether particular textile and apparel articles qualify for duty-free treatment.

Conference agreement

In general the conferees agreed to follow the House amendment on apparel provisions with the exception that the House receded to the Senate position on regional yarns. With respect to category 2 in the House bill relating to fabrics or fabric components formed, or components knit-to-shape, from yarns formed in one or more beneficiary countries, from yarns wholly formed in the United States.
made from regional fabric and regional yarn (category 4 in the House bill) at 2% of U.S. imports growing to 5% of U.S. imports in 2006, measured in square meter equivalents.

It is the intention of the conferees that in cases where fabrics or yarns determined by the President to be in short supply impart the essential character to an article, the remaining materials may be composed of fabrics or yarns regardless of origin, as in Annex 401 of the NAFTA. In cases where the fabrics or yarns determined by the President to be in short supply do not impart the essential character of the article, the article shall not be ineligible for preferential treatment under this Act because the article contains the non-originating fabric or yarn.

Special Origin Rule for Nylon Filament Yarn

House amendment

No provision.

Senate amendment

Articles otherwise eligible for duty-free treatment and quota free treatment under the bill are not ineligible because they contain certain nylon filament yarn (other than elastomeric yarn) from a country that had an FTA with the U.S. in force prior to January 1, 1993.

Conference agreement

House recedes. Dying, Finishing and Printing Requirement

House amendment

New requirement that apparel made of U.S. knit or woven fabric assembled in CBTPA countries qualifies for benefits only if the U.S. knit or woven fabric is dyed and finished in the United States. Apparel made of U.S. knit or woven fabric assembled in an Andean beneficiary country qualifies for benefits only if the U.S. knit or woven fabric is dyed and finished in the United States.

Senate Provision

No provision.

Conference agreement

House recedes.

Penalties for Transshipment

Present law

The Tariff Act of 1930, as amended, provides for civil monetary penalties for unlawful transshipment. These include penalties under 19 U.S.C. 1592 for up to three years.

In amending section 204(b) of the ATPA, section 3103 of the present bill provides special penalties for transshipment of textile and apparel articles from an ATPA beneficiary country. Transshipment is defined as claiming duty-free treatment for textile and apparel imports on the basis of materially false information. An exporter found to have engaged in such transshipment (or a successor of such exporter) shall be denied all benefits under the ATPA for a period of two years.

The bill further provides penalties for an ATPA beneficiary country that fails to cooperate with the United States in efforts to prevent transshipment. Where textile and apparel articles from a country are subject to quotas on importation into the United States consistent with WTO rules, the President must reduce the quantity of such articles that may be imported into the United States by three times the quantity of transshipped articles, to the extent consistent with WTO rules.

Conference agreement

Conference agreement follows House and Senate bill.

Import Relief Actions

Present law

The import relief procedures and authorities under sections 201-204 of the Trade Act of 1974 apply to imports from ATPA beneficiary countries, as they do to imports from other countries. If ATPA imports cause serious injury, or threat of such injury, to the domestic industry producing a like or directly competitive article, section 204(d) of the ATPA authorizes the President to suspend ATPA duty-free treatment and proclaim a rate of duty or other relief measures. Under NAFTA, United States may invoke a special safeguard provision at any time during the tariff phase-out period if a NAFTA-origin textile or apparel good is not being imported in quantities and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing a like or directly competitive good. The President is authorized to either suspend further duty reductions or increase the rate of duty to the NTR rate for up to three years.

House amendment

Under Section 3103 normal safeguard authorities under ATPA would apply to imports of all products except textiles and apparel. A NAFTA equivalent safeguard authorities would apply to imports of apparel products from ATPA countries, except that, United States, if it applied a safeguard action, would not be obligated to provide equivalent generalization compensation to the exporting country.

Senate amendment

The bill establishes similar textile and apparel safeguard provisions based on the NAFTA textile and apparel safeguard provision.

Conference agreement

Conference agreement follows House and Senate bill.
(12) the extent to which the country is prepared to cooperate with the United States in the administration of the Act.

Under the ATPA the President is prohibited from designating a country as beneficiary if the country fails to provide intellectual property protection consistent with or greater than that afforded under the Agreement on Trade-Related Aspects of Intellectual Property Rights. The extent to which the country provides intellectual property protection consistent with or greater than that afforded under the Agreement on Trade-Related Aspects of Intellectual Property Rights is directly related to the effects of the legislation.

House amendment

The House amendment provides that the President, in designating a country as eligible for the enhanced ATPA benefits, shall take into account the following factors for each country: (1) the country’s provisions of intellectual property rights comparable to the U.S. law; (2) the extent to which the country is complying with its WTO obligations and participates in negotiations toward the completion of the FTAA or comparable trade agreement; (3) the extent to which the country has adopted and implemented regulatory policies in the area of textile and apparel trade; (4) the extent to which the country is following established WTO rules, including: whether a country has demonstrated a commitment to undertake its WTO obligations and participate in negotiations toward the completion of the FTAA or comparable trade agreement; (5) the extent to which the country provides intellectual property protection consistent with or greater than that afforded under the Agreement on Trade-Related Aspects of Intellectual Property Rights; (6) the extent to which the country provides internationally recognized worker rights; and (7) the extent to which the country has implemented its commitments to eliminate the worst forms of child labor; the extent to which the country has improved its performance under eligibility criteria; and (8) the extent to which the country has taken steps to become a party to and implement the Inter-American Convention Against Corruption; and the extent to which the country complies with any other obligations.

Senate amendment

Section 3102(5) contains identical provisions.

Conference agreement

Conferees agree that the legislation does not specifically list this variation in processing (the so-called “hybrid cutting problem”).

Senate amendment

Section 3102(e) of the bill directs the President to promulgate regulations regarding the review of eligibility of articles and countries under the ATPA. Such regulations are to be similar to the regulations governing the Generalized System of Preferences petition process.

Conference agreement

House recedes.

SECTION 301 — TERMINATION OF DUTY-FREE TREATMENT

Present law

Duty-free treatment under the ATPA expires on December 4, 2001.

House amendment

Duty-free treatment terminates under the Act on December 31, 2006.

Senate amendment

Section 3103 of the bill amends section 208(b) of the ATPA to provide for a termination date of February 28, 2006. Basic ATPA benefits apply retroactively to December 4, 2001.

Conference agreement

House recedes on retroactivity for basic ATPA benefits; Senate recedes on termination.

SECTION 3106 — TRADE BENEFITS UNDER THE CARIBBEAN BASIN TRADE PARTNERSHIP ACT (CBTPA) AND THE AFRICA GROWTH AND OPPORTUNITY ACT (AGOA)

Knit-to-shape Apparel

Present law

Draft regulations issued by Customs to implement P.L. 106-200 stipulate that knit-to-shape garments, because technically they do not go through the fabric stage, are not eligible for trade benefits under the Act.

House amendment

Sec. 3106 and 3107 of the House bill amends AGOA and CBTPA to clarify that preferential treatment is provided to knit-to-shape apparel articles assembled in beneficiary countries.

Senate amendment

No provision.

Conference agreement

Senate recedes.

Present law

Draft regulations issued by Customs to implement P.L. 106-200 deny preferential treatment to apparel articles that are cut both in the United States and beneficiary countries, on the rationale that the legislation does not specifically list this variation in processing (the so-called “hybrid cutting problem”).

House amendment

Sec. 3107 of H.R. 3009 amends new rules in CBTPA and AGOA to provide preferential treatment for apparel articles that are cut both in the United States and beneficiary countries.

Senate amendment

No provision.

Conference agreement

Senate recedes.

CBI Knit Cap

Present law

P.L. 106-200 extended duty-free benefits to knit apparel made in CBI countries from regional fabric made with U.S. yarn and to knit-to-shape apparel (except socks), up to a cap of 250,000,000 square meter equivalents (SMEs), with a growth rate of 16% per year for the first 3 years.

House amendment

Sec. 3106 of H.R. 2009 would raise this cap to the following amounts: 250,000,000 SMEs.
for the 1-year period beginning October 1, 2001; 500,000,000 SMEs for the 1-year period beginning on October 1, 2002; 850,000,000 SMEs for the 1-year period beginning on October 1, 2003; 970,000,000 SMEs in each succeeding 1-year period through September 30, 2009.

**Senate amendment**

No provision.

**Conference agreement**

Senate recedes.

**CBT T-shirt cap**

Present law

P.L. 106–200 extends benefits for an additional category of CBT regional knit apparel products (T-shirts) up to a cap of 4.2 million dozen, growing 16 percent for the first 3 years.

**House amendment**

Section 3106 of H.R. 3006 would raise this cap to the following amounts: 4,200,000 dozen during the 1-year period beginning October 1, 2001; 13,000,000 dozen for the 1-year period beginning on October 1, 2002; 10,000,000 dozen for the 1-year period beginning on October 1, 2003; 12,000,000 dozen in each succeeding 1-year period through September 30, 2009.

**Senate amendment**

No provision.

**Conference agreement**

Senate recedes.

**Present law**

Section 112(b)(3) of the AGOA provides preferential treatment for apparel made in beneficiary sub-Saharan African countries from “regional” fabric (i.e., fabric formed in one or more beneficiary countries) from yarn originating either in the United States or one of the beneficiary countries. Section 112(b)(3)(B) establishes a special rule for lesser developed beneficiary sub-Saharan African countries, which provides preferential treatment, through September 30, 2004, for apparel wholly assembled in one or more such countries regardless of the origin of the fabric used to make the articles. Section 112(b)(3)(A) establishes a special rule for “cap” on the amount of apparel that may be imported under section 112(b)(3) or section 112(b)(3)(B). This “cap” is 1.5 percent of the aggregate square meter equivalents of all apparel articles imported into the United States for the year that began October 1, 2000, and increases in equal increments to 3.5 percent for the year beginning October 1, 2007.

**House amendment**

Section 3107 would clarify that apparel wholly assembled in one or more beneficiary sub-Saharan African countries from components knit-to-shape in one or more such countries from U.S. or regional yarn is eligible for preferential treatment under section 112(b)(3) of AGOA. Similarly, Section 3 would clarify that apparel knit-to-shape and wholly assembled in one or more lesser developed beneficiary sub-Saharan African countries is eligible for preferential treatment, regardless of the origin of the yarn used to make such articles. The House amendment also would increase the “cap” by changing the applicable percentages from 1.5 percent to 3 percent in the year that began October 1, 2000, and from 3.5 percent to 7 percent in the year beginning October 1, 2007.

**Senate amendment**

No provision.

**Conference agreement**

Conference agreement follows House Amendment accept the increase in the cap is limited to apparel products made with regionally made yarn and fabric. No increases in amounts of apparel made of third-country fabric on current law.

**Present law**

AGOA was supposed to provide duty-free, quota-free treatment to sweaters knit in African beneficiary countries from fine merino wool yarn, regardless of where the yarn was formed. AGOA provision to provide duty-free, quota-free treatment to sweaters knit in African beneficiary countries from fine merino wool yarn, regardless of where the yarn was formed. However, due to a drafting problem, the wrong diameter was included, making it impossible to use the provision.

**House amendment**

Section 3107 corrects the yarn diameter in the AGOA legislation so that sweaters knit to shape from merino wool of a specific diameter are eligible.

**Senate amendment**

No provision.

**Conference agreement**

Senate recedes.

**AFRICA: NAMIBIA AND BOTSWANA**

**Present law**

The GDBs of Botswana and Namibia exceed the LLDC limit of $1500 and therefore these countries are not eligible to use third country fabric for the transition period under the AGOA regional fabric country cap.

**House amendment**

Section 5 allows Namibia and Botswana to use third country fabric for the transition period under the AGOA regional fabric country cap.

**Senate amendment**

No provision.

**Conference agreement**

Senate recedes.

**TITLE L—EXTENSION OF GENERALIZED SYSTEM OF PREFERENCES**

**SEC. 401.—EXTENSION OF GENERALIZED SYSTEM OF PREFERENCES**

**(a)** The Senate amendment to H.R. 3009 would amend section 505 of the Trade Act of 1974, as amended, provides that no duty-free treatment under Title V (the Generalized System of Preferences) shall remain in effect after September 30, 2001.

**House bill**

The House amendment to H.R. 3009 would amend section 505 of the Trade Act of 1974 to authorize an extension through December 31, 2002. It would also provide retroactive relief in that, notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, the entry of goods with duty-free treatment under Title V of the Trade Act of 1974 would have applied if the entry had been made on September 30, 2001, and was made after September 30, 2001, and before the enactment of this Act, shall be liquidated or reliquidated as free of duty and the Secretary of Treasury shall refund any duties paid, upon proper request filed with the appropriate customs officer, within 180 days after the date of enactment.

**Senate amendment**

The Senate amendment authorizes an extension ofTitle V through December 31, 2006. The extension is retroactive to September 30, 2001, permitting importers to liquidate or reliquidate entries made since that date and to seek a refund of duties paid, upon proper request filed with the appropriate customs officer, within 180 days after the date of enactment.

**Conference agreement**

The Senate amendment authorizes the definition of “international recognized worker rights” set forth in the GSP statute (section 507(a) of the Trade Act of 1974). Specifically, it adds to that definition “a prohibition on the worst forms of child labor” and “a prohibition on the worst forms of child labor.” These two prohibitions come from the International Labor Organization’s 1998 Declaration on Fundamental Principles and Rights at Work, which defines certain worker rights and is “fundamental.”

The GSP statute identifies certain criteria that the President must take into account in determining whether to designate a country as eligible for GSP benefits. Conversely, a country’s lapse in compliance with one or more of these criteria may be grounds for withdrawal, suspension, or limitation of benefits. Whether a country is taking steps to afford its workers internationally recognized worker rights is one of those criteria. The Senate Amendment seeks to make the concept of “international recognized worker rights” as defined for GSP consistent with the concept as defined by the ILO.

Finally, the Senate Amendment establishes a new eligibility criterion for GSP: “A country is ineligible for GSP if it has not taken steps to support the efforts of the United States to combat terrorism.”

**Conference agreement**

The Conference agreement authorizes an extension of GSP through December 31, 2006. Conferences approved the Senate provision to include a prohibition on the worst forms of child labor in the definition of internationally recognized worker rights in Section 507(a) of the Trade Act of 1974. Conferences declined to include the Senate provision on discrimination with respect to employment in the definition of “international recognized worker rights under Sec. 507 (a) of the Trade Act of 1974. Agreement follows the House and the Senate bill with respect to providing retroactive relief.

**DIVISION E—MISCELLANEOUS PROVISIONS**

**TITLE L—MISCELLANEOUS TRADE BENEFITS**

**Subtitle A—Wool Provisions**

**SEC. 510.—WOOL MANUFACTURER PAYMENT CLARIFICATION AND TECHNICAL CORRECTIONS ACT**

**Present law**

Title V of the Trade and Development Act of 2000 (Pub. L. No. 106–200) included certain tariff relief for the domestic tailored clothing and textile industries. The relief was later extended at the request of affected industries to cover all textiles and apparel and all wool products.

**Senate amendment**


**House amendment**

No provision.

**Senate amendment**

The provision also streamlines the paperwork process, in light of the destruction of previously filed claims and supporting information in the September 11, 2001 attacks on the World Trade Center in New York City.

The provision identifies all persons eligible for the refunds.

Conference agreement
The House recedes to the Senate.

Senate bill
The Senate bill extends the temporary duty reductions for certain worsted wool fabrics through 2003.

Section 501(a) limits the aggregate quantity of worsted wool fabrics entered under heading 9902.51.11 from January 1 to December 31 of each year, inclusive, to 2,500,000 square meter equivalents, or such other quantity proclaimed by the President pursuant to section 504(b)(3) of the Trade and Development Act. Further, the section limits the aggregate quantity of worsted wool fabrics entered under heading 9902.51.12 from January 1 to December 31 of each year, inclusive, to 1,500,000 square meter equivalents, or such other quantity proclaimed by the President pursuant to section 504(b)(3) of the Trade and Development Act.

House amendment
No provision.

Senate bill
The Senate bill extends the temporary duty reductions for certain worsted wool fabrics through 2003. The provision increases the limitation on the quantity of imports of worsted wool fabrics entered under heading 9902.51.11 from 3,500,000 square meter equivalents in calendar year 2002, and 4,500,000 square meter equivalents in calendar year 2003, to 5,000,000 square meter equivalents in calendar year 2002, and 6,000,000 square meter equivalents in calendar year 2003.

The bill extends the payments made to manufacturers under section 505 of the Trade and Development Act of 2000 and requires an affidavit that the manufacturer will remain a manufacturer in the United States as of January 1 of the year of payment. The two additional payments will occur as follows: the first payment is due on or before January 1, 2004, but on or before April 15, 2004, and the second after January 1, 2005, but on or before April 15, 2005.

Finally, the bill extends the “Wool Research Trust Fund” for two years through 2006.

Conference agreement
The House recedes to the Senate.

Subtitle B—Other Provisions
SEC. 5201—CIRCUMVENTION
Present law
No applicable section.

House amendment
No provision.

Senate bill
The Senate bill extends the temporary duty reductions for certain worsted wool fabrics entered under heading 9902.51.11 from January 1 to December 31 of each year, inclusive, to 2,500,000 square meter equivalents, or such other quantity proclaimed by the President pursuant to section 504(b)(3) of the Trade and Development Act. Further, the section limits the aggregate quantity of worsted wool fabrics entered under heading 9902.51.12 from January 1 to December 31 of each year, inclusive, to 1,500,000 square meter equivalents, or such other quantity proclaimed by the President pursuant to section 504(b)(3) of the Trade and Development Act.

House amendment
No provision.

Senate amendment
Section 203 of the Senate amendment changes the duty rate on certain steam or other vapor generating boilers used in nuclear facilities to zero for such goods entered on or before April 15, 2004, and the second to be made after January 1, 2004, but additional payments will occur as follows: the first to be made after January 1, 2004, but on or before December 31, 2006. The provision was intended to lower the cost of inputs into the operation of nuclear facilities and thereby lower the cost of energy to consumers.

Conference agreement
The House recedes to the Senate.

SEC. 5202—SUGAR TARIFF RATE QUOTA CIRCUMVENTION
Present law
No applicable section.

House amendment
No provision.

Senate amendment
The Senate bill establishes a sugar anti-circumvention program which requires the Secretary of Agriculture to identify imports of articles that are circumventing tariff rate quotas, made on sugars, syrups, or sugar-containing products imposed under chapters 17, 18, 19, and 20 of the Harmonized Tariff Schedule. The Secretary shall then report to the President’s articles found to be circumventing such tariff-rate quotas. Upon receiving the Secretary’s report, the President shall, by proclamation, include any identified article in the appropriate tariff-rate quota provision of the Harmonized Tariff Schedule.

Conference agreement
Conferees agree to a provision directing the Secretary of Agriculture and the Commissioner of Customs shall monitor sugar circumvention and shall report and make recommendations to Congress and the President.

This provision amends the Harmonized Tariff Schedule of the United States (“HTSUS”) to make clear in the statute an important element of the ruling of the Court of Appeals for the Federal Circuit in Heartland By-Products, Inc. v. United States, 264 F. 3d 1126 (Fed. Cir. 2001), i.e., that molasses is one of the foreign substances that must be excluded when calculating the percentage of soluble non-sugar solids under subheading 1702.90.40.

The provision requires the Secretary of Agriculture and the Commissioner of Customs shall establish a monitoring program to identify and report on the existence and likelihood of circumvention of the tariff-rate quotas in Chapters 17, 18, 19 and 21 of the HTSUS. The Secretary and the Commissioner shall report the results of their monitoring to Congress and the President every six months, together with data and a description of developments and trends in the composition of trade provided for in such chapters. This report will be made public. The report will discuss any indications that imports of articles not subject to the tariff-rate quotas are being used for commercial extraction of sugar in the United States.
SEC. 112—FILING OF PETITIONS AND PROVISION OF RAPID RESPONSE ASSISTANCE; EXPEDITED REVIEW OF PETITIONS BY SECRETARY OF LABOR

Present law
Current law sections 221 and 250 set forth requirements concerning who may file a petition for certification of eligibility to apply for TAA and NAFTA-TAA assistance, respectively. Currently, petitions may only be filed by a group of workers or by their certified or recognized union or other duly authorized representative. TAA petitions are filed with the Secretary of Labor. NAFTA-TAA petitions are filed with the Governor of the relevant State and forwarded by him to the Secretary. Under section 221, the Secretary of Labor must rule on petition eligibility within 60 days after a TAA petition is filed. Under section 250, the Governor must make a preliminary eligibility determination within 10 days after a NAFTA-TAA petition is filed, and the Secretary of Labor must make a final eligibility determination within the next 30 days. Section 221 also sets forth notice and hearing obligations of the Secretary of Labor upon receipt of a TAA petition. Section 250 provides that, in the event of preliminary certification of eligibility to apply for NAFTA-TAA benefits, the Governor immediately provide the affected workers with certain rapid response services.

House amendment
The House Amendment provided for a shortened period for the Secretary of Labor to consider petitions from 60 days to 40 days and for other rapid response assistance to workers.

Senate amendment
Section 111 of the Senate bill creates a new section 231 of the Trade Act of 1974, which consolidates the TAA and NAFTA-TAA programs by establishing a single program with a single set of group eligibility criteria and a single set of procedures and standards for filing and reviewing petitions, certifying eligibility, and terminating certifications of eligibility.

SEC. 113—GROUP ELIGIBILITY REQUIREMENTS

Present law
Current law sections 222 and 250 of Title 11 of the Trade Act of 1974 set forth group eligibility criteria. Under TAA, the Secretary must certify that it is in the national interest to grant eligibility to apply for Trade Adjustment Assistance if he determines that a significant number or proportion of the workers in such workers’ firms have become, or are threatened to become, totally or partially separated; (2) sales or production of such firm have decreased absolutely; and (3) imports of articles like or directly competitive with articles produced by such workers’ firm contributed importantly to the total or partial separation or threat thereof, and to the decline in sales or production. Under NAFTA, group eligibility may be based on the same criteria set forth in section 222, but section 250 also provides for NAFTA-TAA eligibility where there has been a shift in production by workers’ firm to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm. Section 222 also includes special eligibility provisions with respect to oil and natural gas producers.

House amendment
The House Amendment at Section 113 extended the NAFTA eligibility programs to secondary workers that are suppliers to firms that were certified and which satisfied certain conditions.

Senate amendment
Section 113 of the Senate Amendment creates a new section 231 under which the eligibility criteria are revised. First, workers are eligible for NAFTA if the firm or its imports of articles like or directly competitive with articles produced by that firm have increased and the increase in the value of imports contributed importantly to the workers’ separation. Second, eligibility is extended to workers who are not working due to shifts in production to any country, rather than only when the shift in production is to Mexico or Canada. Third, eligibility is extended to adversely affected secondary workers. Eligible secondary workers include workers in supplier firms and, with respect to trade with NAFTA countries, downstream firms. Fourth, a new special eligibility provision is added with respect to taconite pellets.

Conference agreement
The Conferences agree to extend coverage of Trade Adjustment Assistance to new categories of workers: 1) secondary workers that supply directly to another firm component parts for articles that were the basis for a certification of eligibility, 2) downstream workers that were affected by trade with Mexico or Canada, and 3) certain workers that have been laid off because their firm has shifted its production to another country that has a free trade agreement with the United States, that has a unilaterally preferential arrangement with the United States, or when there has been or is likely to be an increase in imports of the relevant articles.

SEC. 114—QUALIFYING REQUIREMENTS FOR TRADE readjustment allowances

Present law
Current section 231 establishes qualifying requirements that must be met in order for an individual worker within a certified group to receive Trade Adjustment Assistance. In order to receive trade readjustment allowances, a certified worker must have been separated on or after the eligibility date established by the Secretary of Labor. The receipt of trade readjustment allowances is limited to 126 weeks, of the date of the certification determination, and has been employed for at least 26 of the 52 weeks preceding the separation at wages of $30 or more a week; be eligible for and have exhausted unemployment insurance benefits; not be disqualified for extended compensable unemployment under the Extended Unemployment Compensation Act of 1970 by reason of the work acceptance and job search requirements in section 202(a)(3) of the Act, and have enrolled in a training program approved by the Secretary of Labor or have received a training waiver.

House amendment
The House Amendment at Section 114 provides for requirements and deadlines for workers to enroll in training.

Senate amendment
Section 111 of the Senate Amendment adds a new section 235 which maintains the individual eligibility requirements in current law, with the exception of revisions to provisions governing bases for granting training waivers.

Conference agreement
The Senate recedes to the House, with a change to adopt a training enrollment deadline of 16 weeks after separation.

SEC. 115—WAIVERS OF TRAINING REQUIREMENTS

Present law
Section 231 sets forth permissible bases for granting a training waiver. Pursuant to section 231, training waivers are not available in the NAFTA-TAA program.

House amendment
The House Amendment provides that all workers who are eligible to apply for Trade Adjustment Assistance may be considered for training waivers and codifies several bases on which the Secretary may grant a waiver.

Senate amendment
Section 111 of the Senate Amendment adds a new section 235 which sets forth that all workers who are eligible to apply for Trade Adjustment Assistance may be considered for training waivers and codifies several bases on which the Secretary may grant a waiver.

Conference agreement
The House recedes to the Senate with a change to delete the Senate provision giving the Secretary discretion to grant waivers for “other” reasons.

SEC. 116—LIMITATIONS ON TRADE readjustment allowances

Present law
Current section 233 provides that each certified worker may receive trade readjustment allowances for a maximum of 52 weeks. Current law also provides that, in most circumstances, a worker is treated as participating in training during any week which is part of a break in training that does not exceed 14 days.

House amendment
Section 116 of the House Amendment would add $36 weeks of trade adjustment allowances for workers who are in training and required the extension of benefits for the purpose of completing training.

Senate amendment
Section 111 of the Senate Amendment adds a new section 237 which increases the maximum time period during which a worker may receive trade adjustment allowances to 78 weeks, extends the permissible duration of a break in training to 30 days, and provides for an additional 26 weeks of income support for workers requiring remedial education. Section 237 also clarifies that the requirements for worker exhaustion of unemployment insurance benefits prior to receiving trade adjustment allowances does not apply to any workers who are not unemployed.
extension of unemployment insurance by a State using its own funds that extends beyond either the 26 week period mandated by Federal law or any additional period provided for under the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

Conference agreement
The Senate recedes to the House.

SEC. 117.—ANNUAL TOTAL AMOUNT OF PAYMENTS FOR TRAINING

Present law
Current section 236 establishes the terms and conditions under which training is available to eligible workers; permits the Secretary of Labor to approve certain specified types of training programs and to pay the costs of approved training and certain supplemental costs, including subsistence and transportation costs, for eligible workers; and caps total annual funding for training under the TAA for workers program at $80 million. Section 258 separately caps training expenditures under the NAFTA-TAA program at $30 million annually.

House amendment
The House provided $30 million additional funds for the Trade Adjustment Assistance program. Combined with NAFTA-TAA Trade Adjustment Assistance, the total training funding available were $140 million.

Senate amendment
Section 111 of the Senate Amendment adds a new section 240 which sets the total funds available were $140 million.

Conference agreement
The Conferees agreed to combined training cap of $180 million for Trade Adjustment Assistance training.

SEC. 118.—PROVISION OF EMPLOYER-BASED TRAINING

Present law
No applicable section.

House amendment
The House Amendment included provisions related to employer based training including on-the-job training and customized training with partial reimbursements provided to the employer.

Senate amendment
Section 111 of the Senate Amendment adds a new section 240 which revises the list of training programs which the Secretary may approve to include customized training. It also adds a new section 237, which clarifies that the prohibition on payment of trade adjustment allowances to a worker receiving on-the-job training does not apply to a worker receiving on-the-job training does not apply to worker enrolled in a non-paid customized training program.

Conference agreement
The Conferees agree to a combined training cap of $180 million for Trade Adjustment Assistance training.

SEC. 119.—COORDINATION WITH TITLE 1 OF THE WORKFORCE INVESTMENT ACT OF 1998

Present law
No provision.

House amendment
The House Amendment provided multiple provisions related to coordinating efforts under the Trade Adjustment Assistance programs to provide information and benefits to workers under the Workforce Investment Act.

Senate amendment
No provision.

Conference agreement
The House agreed to drop House language with the exception of a provision related to coordinating the delivery of Trade Adjustment Assistance benefits and information at one-stop delivery systems under the Workforce Investment Act.

SEC. 120.—EXPENDITURE PERIOD

Present law
No provision.

House amendment
The House Amendment provided that certain funds obligated for any fiscal year to carry out activities may be expended by each State in the succeeding two fiscal years.

Senate amendment
No provision.

Conference agreement
The Senate recedes to the House.

SEC. 121.—JOB SEARCH ALLOWANCES

Present law
Under current section 237, when the Secretary of Labor determines that local employment is not available, an adversely affected worker certified eligible for TAA benefits may receive reimbursement of 90 percent of the cost of necessary job search expenses up to $800.

House amendment
No provision.

Senate amendment
Section 111 of the Senate Amendment adds a new section 241 which raises the maximum reimbursement for job search expenses to $1250 per worker.

Conference agreement
The House recedes to the Senate.

SEC. 122.—RELOCATION ALLOWANCES

Present law
Under current section 238, when the Secretary of Labor determines that local employment is not available, an adversely affected worker certified eligible for TAA benefits may receive a relocation allowance consisting of (1) 90 percent of the reasonable and necessary expenses incurred in transporting a worker and his family, if any, and housekeeping expenses and dependent care, that are necessary to enable a worker to participate in or complete

SEC. 123.—DEMONSTRATION PROJECT FOR ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE FOR OLDER WORKERS

Present law
No provision.

House amendment
Section 111 of the Senate Amendment adds a new section 243 which directs the Secretary of Labor, within one year of enactment, to establish a two-year wage insurance pilot program under which a State uses the funds provided for under the Trade Adjustment Assistance program to pay to an adversely affected worker certified under section 231, for a period not to exceed two years, a wage subsidy of up to 50 percent of the difference between the wages received by the adversely affected worker from reemployment and the wages received by the adversely affected worker at the time of separation. An adversely affected worker may be eligible to receive a wage subsidy if the worker obtains reemployment not more than 26 weeks after the date of separation from the adversely affected employer, is at least 50 years of age, earns not more than $50,000 a year in wages from reemployment, is employed at least 30 hours a week in the reemployment, and does not return to the employment from which the worker was separated. The wage subsidy available to workers in the wage insurance program is 50 percent of the difference between the amount of the wages received by the worker from reemployment and the amount of the wages received by the worker at the time of separation, if the wages the worker receives from reemployment are less than $40,000 a year but not more than $50,000 a year.

Senate amendment
Section 111 of the Senate Amendment adds a new section 243 which raises the maximum lump sum portion of the relocation allowance to $1,250.

Conference agreement
The Conferees agree to create a new alternative Trade Adjustment Assistance program for older workers.

SEC. 124.—DECLARATIONS OF POLICY; SENSE OF CONGRESS

Present law
No provision.

House amendment
The House passed amendment included a declaration of policy and Sense of the Congress related to the responsibilities of the Secretary of Labor to provide information to workers related to benefits available to them under the TAA and other federal programs.

Senate amendment
Although certain supportive services are available to dislocated workers under WIA, current law makes no express linkage between these services and Trade Adjustment Assistance and TAA, nor may not be able to access them. Section 111 of the Senate Amendment adds a new section 243 which provides that States may apply for and the Secretary of Labor may make available to adversely affected workers certified under the Trade Adjustment Assistance program supportive services available under WIA, including transportation, child care, and dependent care, that are necessary to enable a worker to participate in or complete
training. Section 243 requires the Comptroller General to conduct a study of all assistance provided by the Federal Government for workers facing job loss and economic distress, and to submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the study within one year of enactment of this Act; and to distribute the report to all WIA one-stop partners. Section 243 further provides that each State may conduct a study of its assistance programs for workers facing job loss and economic distress. Each State is eligible for a grant, provide its report to the Committee on Finance of the Senate and the Committee on Ways and Means and distribute its report to one-stop partners in the State.

Conference agreement

The Senate recedes to the House.

SUBTITLE B—Trade Adjustment Assistance for Firms

SEC. 3—REAUTHORIZATION OF TRADE ADJUSTMENT ASSISTANCE FOR FIRMS PROGRAM

Present law

The Trade Adjustment Assistance for Firms program provides technical assistance to qualifying firms. Current Title 11, Chapter 11, Section 251 of the Trade Act of 1974 provides that a firm is eligible to receive Trade Adjustment Assistance under this program if (1) a significant number or proportion of its workers have become or are threatened to become totally or partially separated; (2) sales or production, or both, have decreased absolutely; and (3) increases of imports of articles like or directly competitive with articles which are produced by such firms contributed importantly to the total or partial separations or threat thereof.

The authorization for the Trade Adjustment Assistance for Firms program expired in the preceding five marketing years and that in succeeding five marketing years and that in succeeding five marketing years and that in succeeding five marketing years and that in succeeding five marketing years and that in succeeding five marketing years.

Conference agreement

The House recedes to the Senate on the issue of providing a $16 million authorization for Trade Adjustment Assistance for Firms and reauthorizing the program through September 30, 2007.

SUBTITLE C—Trade Adjustment Assistance for Farmers and Ranchers

SEC. 14—TRADE ADJUSTMENT ASSISTANCE FOR FARMERS

Present law

No provision.

House amendment

No provision.

Senate amendment

Section 201 of the Senate Amendment reauthorizes the Trade Adjustment Assistance for Farmers program for fiscal years 2002 through 2007. The TAA for Farmers program is currently subject to annual appropriations and is funded as part of the budget of the Economic Development Administration in the Department of Commerce.

House amendment

The House passed amendment included a 2 year reauthorization for Trade Adjustment Assistance for Farmers.

Conference agreement

The House recedes to the Senate on the issue of providing a $16 million authorization for Trade Adjustment Assistance for Firms and reauthorizing the program through September 30, 2007.

SUBTITLE D—Effective Date

SEC. 151—EFFECTIVE DATE

Present law

No applicable section.

House amendment

No provision.

Senate amendment

Section 502 of the Senate Amendment adds new sections 299–299(G) which create a Trade Adjustment Assistance program for fishermen in the Department of Commerce. Under this program, a group of fishermen may petition the Secretary of Commerce for Trade Adjustment Assistance. The Secretary must certify the group as eligible for Trade Adjustment Assistance for fisherman if it is determined that the national average price in the most recent marketing year for the fish produced by the group is less than 75 percent of the national average price in the preceding five marketing years and that increases in imports of that fish contributed importantly to the decline in price.

Conference agreement

Conference agreement

The House recedes to the Senate on the issue of providing a $16 million authorization for Trade Adjustment Assistance for Farmers and reauthorizing the program through September 30, 2007.

SEC. 142—CONFIRMING AMENDMENTS

Present law

No applicable section.

House amendment

No provision.

Senate amendment

The Senate Amendment makes conforming amendments to the Trade Act of 1974 concerning the TAA for Farmers program.

Conference agreement

Conferences agree to make conforming amendments to the Trade Act of 1974.

SEC. 143—TRADE ADJUSTMENT ASSISTANCE FOR FISHERMEN

Present law

No provision.

House amendment

No provision.

Senate amendment

Section 502 of the Senate Amendment adds new sections 299–299(G) which create a Trade Adjustment Assistance program for fisherman in the Department of Commerce. Under this program, a group of fishermen may petition the Secretary of Commerce for Trade Adjustment Assistance. The Secretary must certify the group as eligible for Trade Adjustment Assistance for fisherman if it is determined that the national average price in the most recent marketing year for the fish produced by the group is less than 75 percent of the national average price in the preceding five marketing years and that increases in imports of that fish contributed importantly to the decline in price.

Conference agreement

Conferences agree to make conforming amendments to the Trade Act of 1974.

SEC. 143—TRADE ADJUSTMENT ASSISTANCE FOR FISHERMEN

Present law

No provision.

House amendment

No provision.

Senate amendment

Section 502 of the Senate Amendment adds new sections 299–299(G) which create a Trade Adjustment Assistance program for fisherman in the Department of Commerce. Under this program, a group of fishermen may petition the Secretary of Commerce for Trade Adjustment Assistance. The Secretary must certify the group as eligible for Trade Adjustment Assistance for fisherman if it is determined that the national average price in the most recent marketing year for the fish produced by the group is less than 75 percent of the national average price in the preceding five marketing years and that increases in imports of that fish contributed importantly to the decline in price.

Conference agreement

Conference agreement

The House recedes to the Senate.
Senate Amendment

The Senate amendment provides a refundable credit for 70 percent of qualified health insurance expenses. The credit is available with respect to certain TAA eligible workers. The credit is available on an advance basis pursuant to a program to be established by the Secretary of the Treasury. In addition, the credit includes certain COBRA coverage, certain self-insurance, and certain health insurance options if certain requirements are satisfied.

Conference Agreement

Refundable health insurance credit: in general

In the case of taxpayers who are eligible individuals, the conference agreement provides a refundable tax credit for 65 percent of the taxpayer’s expenses for qualified health insurance of the taxpayer and qualifying family members for each eligible coverage month beginning in the taxable year. The credit is available only with respect to amounts paid by the taxpayer.

Qualifying family members are the taxpayer’s spouse and any dependent of the taxpayer with respect to whom the taxpayer is entitled to claim a dependency exemption. Any individual who has other specified coverage is not a qualifying family member.

Persons eligible for the credit

Eligibility for the credit is determined on a monthly basis. An eligible individual may be covered by qualified health insurance, and does not have other specified coverage, and is not imprisoned under Federal, State, or local authority. In the case of a joint return, the eligibility requirement is satisfied if at least one spouse satisfies the requirements. An eligible individual must begin more than 90 days after the date of enactment.

An individual is (1) an eligible TAA recipient, (2) an eligible alternative TAA recipient, and (3) an eligible PBGC pension recipient.

An individual is an eligible TAA recipient during any month if the individual (1) is receiving any such benefit on a day in such month, (2) is treated as an eligible TAA recipient during the first month that such individual has aggregate from all sources of insurance coverage under individual health insurance if the eligible individual would otherwise cease to be an eligible TAA recipient.

An individual is an eligible alternative TAA recipient during any month if the individual (1) is a worker described in section 246(a)(3)(B) of the Trade Act of 1974 who is participating in the program established under section 246(a)(1) of such Act, and (2) is receiving a benefit for such month under section 246(a)(2) of such Act. An individual is treated as an eligible alternative TAA recipient during the first month that such individual would otherwise cease to be an eligible TAA recipient.

An individual is a PBGC pension recipient for any month if he or she (1) is age 55 or over as of the first day of the month, and (2) is receiving a benefit any portion of which is paid by the multiemployer Benefit Guaranty Corporation (“PBGC”).

An otherwise eligible taxpayer is not eligible for the credit for a month if, as of the first day of the month, the individual has aggregate from other coverage which constitutes medical care (expect for COBRA coverage) and which qualifies the individual for the TAA allow- ance if certain requirements are satisfied. Such State coverage must provide that each qualifying individual is guaranteed enrollment if the individual pays the premium. An otherwise eligible individual treated as qualified health insur- ance must satisfy the requirements of section 246(a)(3)(B) of the Trade Act of 1974.

Conference Agreement

Refundable health insurance credit: in general

In the case of taxpayers who are eligible individuals, the conference agreement provides a refundable tax credit for 65 percent of the taxpayer’s expenses for qualified health insurance of the taxpayer and qualifying family members for each eligible coverage month beginning in the taxable year. The credit is available only with respect to amounts paid by the taxpayer.

Qualifying family members are the taxpayer’s spouse and any dependent of the taxpayer with respect to whom the taxpayer is entitled to claim a dependency exemption. Any individual who has other specified coverage is not a qualifying family member.

Persons eligible for the credit

Eligibility for the credit is determined on a monthly basis. An eligible individual may be covered by qualified health insurance, and does not have other specified coverage, and is not imprisoned under Federal, State, or local authority. In the case of a joint return, the eligibility requirement is satisfied if at least one spouse satisfies the requirements. An eligible individual must begin more than 90 days after the date of enactment.

An individual is (1) an eligible TAA recipient, (2) an eligible alternative TAA recipient, and (3) an eligible PBGC pension recipient.

An individual is an eligible TAA recipient during any month if the individual (1) is receiving any such benefit on a day in such month, (2) is treated as an eligible TAA recipient during the first month that such individual has aggregate from all sources of insurance coverage under individual health insurance if the eligible individual would otherwise cease to be an eligible TAA recipient.

An individual is an eligible alternative TAA recipient during any month if the individual (1) is a worker described in section 246(a)(3)(B) of the Trade Act of 1974 who is participating in the program established under section 246(a)(1) of such Act, and (2) is receiving a benefit for such month under section 246(a)(2) of such Act. An individual is treated as an eligible alternative TAA recipient during the first month that such individual would otherwise cease to be an eligible TAA recipient.

An individual is an eligible alternative TAA recipient during any month if the individual (1) is a worker described in section 246(a)(3)(B) of the Trade Act of 1974 who is participating in the program established under section 246(a)(1) of such Act, and (2) is receiving a benefit for such month under section 246(a)(2) of such Act. An individual is treated as an eligible alternative TAA recipient during the first month that such individual would otherwise cease to be an eligible TAA recipient.

An individual is a PBGC pension recipient for any month if he or she (1) is age 55 or over as of the first day of the month, and (2) is receiving a benefit any portion of which is paid by the multiemployer Benefit Guaranty Corporation (“PBGC”).

An otherwise eligible taxpayer is not eligible for the credit for a month if, as of the first day of the month, the individual has aggregate from other coverage which constitutes medical care (expect for Medicare supplemental coverage and certain health insurance options if certain requirements are satisfied. Such State coverage must provide that each qualifying individual is guaranteed enrollment if the individual pays the premium. An otherwise eligible individual treated as qualified health insurance must satisfy the requirements of section 246(a)(3)(B) of the Trade Act of 1974.

Conference Agreement

Refundable health insurance credit: in general

In the case of taxpayers who are eligible individuals, the conference agreement provides a refundable tax credit for 65 percent of the taxpayer’s expenses for qualified health insurance of the taxpayer and qualifying family members for each eligible coverage month beginning in the taxable year. The credit is available only with respect to amounts paid by the taxpayer.

Qualifying family members are the taxpayer’s spouse and any dependent of the taxpayer with respect to whom the taxpayer is entitled to claim a dependency exemption. Any individual who has other specified coverage is not a qualifying family member.

Persons eligible for the credit

Eligibility for the credit is determined on a monthly basis. An eligible individual may be covered by qualified health insurance, and does not have other specified coverage, and is not imprisoned under Federal, State, or local authority. In the case of a joint return, the eligibility requirement is satisfied if at least one spouse satisfies the requirements. An eligible individual must begin more than 90 days after the date of enactment.

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Qualifying family members are the taxpayer’s spouse and any dependent of the taxpayer with respect to whom the taxpayer is entitled to claim a dependency exemption. Any individual who has other specified coverage is not a qualifying family member.

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Eligibility for the credit is determined on a monthly basis. An eligible individual may be covered by qualified health insurance, and does not have other specified coverage, and is not imprisoned under Federal, State, or local authority. In the case of a joint return, the eligibility requirement is satisfied if at least one spouse satisfies the requirements. An eligible individual must begin more than 90 days after the date of enactment.

An individual is (1) an eligible TAA recipient, (2) an eligible alternative TAA recipient, and (3) an eligible PBGC pension recipient.

An individual is an eligible TAA recipient during any month if the individual (1) is receiving any such benefit on a day in such month, (2) is treated as an eligible TAA recipient during the first month that such individual has aggregate from all sources of insurance coverage under individual health insurance if the eligible individual would otherwise cease to be an eligible TAA recipient.

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An individual is a PBGC pension recipient for any month if he or she (1) is age 55 or over as of the first day of the month, and (2) is receiving a benefit any portion of which is paid by the multiemployer Benefit Guaranty Corporation (“PBGC”).

An otherwise eligible taxpayer is not eligible for the credit for a month if, as of the first day of the month, the individual has aggregate from other coverage which constitutes medical care (expect for Medicare supplemental coverage and certain health insurance options if certain requirements are satisfied. Such State coverage must provide that each qualifying individual is guaranteed enrollment if the individual pays the premium. An otherwise eligible individual treated as qualified health insurance must satisfy the requirements of section 246(a)(3)(B) of the Trade Act of 1974.
may require, and is provided by the Sec-
retary of Labor or the PBGC (as appropriate)
or such other person or entity designated by
the Secretary.

The conference report permits the disclo-
sure of return information of certified indi-
viduals to providers of health insurance in-
formation to the extent necessary to carry out
the matching mechanism.

The conference report provides that any
person who receives payments during a cal-
endar year for qualified health insurance and
claims a reimbursement for an advance cred-
it amount is to file an information return
with respect to each individual from whom
such payments were received or for whom
such a reimbursement is claimed. The return
is to be in such form as the Secretary may
prescribe and is to contain the name, ad-
dress, and taxpayer identification number of
the individual and any other individual on
the same health insurance policy, the aggre-
gate of the advance credit amounts provided,
the number of months for which advance
credit amounts are provided, and such other
information as the Secretary may prescribe.

The conference report requires that similar
information be provided to the individual no
later than March 31 of the year following
the year for which the information return
is made.

Effective Date

The provision is generally effective with
respect to taxable years beginning after De-
ember 31, 2001. The provision relating to the
advance payment mechanism to be developed
by the Secretary would be effective on the date
of enactment.

TTITLE III—CUSTOMS REAUTHORIZATION
Subtitle A—United States Customs Service
CHAPTER 1—DRUG ENFORCEMENT AND
OTHER NONCOMMERCIAL AND
COMMERCIAL OPERATIONS

SEC. 301—SHORT TITLE

Present law
No applicable section.

House amendment
H.R. 3009 as amended and passed by
the House provides that the Act may be cited as
the “Customs Border Security Act of 2002.”

Senate amendment
The Senate amendment is identical.

Conference agreement
The conference agreement follows the
House amendment and the Senate amend-
ment.

SEC. 311—AUTHORIZATION OF APPROPRIATIONS
FOR NONCOMMERCIAL OPERATIONS, COMMER-
CIAL OPERATIONS, AND AIR AND MARINE
INTERDICTIO

Present law

The statutory basis for authoriza-
tion of appropriations for Customs is section 301
(19 U.S.C. 2075(b)) of the Omnibus Budget Reconcilia-
tion Act of 1986 (P.L. 99-509), first outlined separate
amounts for non-commercial and commercial op-
erations for the salaries and expenses portion
of the Customs authorization. Under 19
U.S.C. 2075, Congress has adopted a two-year
authorization process to provide Customs
with guidance as it plans its budget, as well
as guidance from the Committee for the ap-
propriation process.

The most recent authorization of appropria-
tions for Customs (under section 101 of the
Customs and Trade Act of 1990 (P.L. 101
382)) provided $118,238,000 for salaries and ex-
penses for non-commercial operations and $150,199,000 for air and marine interdiction

House amendment
This provision authorizes $1,365,456,000 for
FY 2003 and $1,399,592,000 for FY 2004 for non-
commercial operations of the Customs Serv-
ice. It also authorizes $1,642,602,000 for FY 2003
and $1,683,667,050 for FY 2004 for commer-
cial operations of the Customs Service. Of
the amounts authorized for commercial op-
erations, $308,000,000 is authorized for the
automated commercial environment com-
puter system for each fiscal year. The provi-
sions require that the Customs Service pro-
vide the Committee on Ways and Means and the
Committee on Finance of the Senate with a report demonstrating that the com-
puter system is being built in a cost-effec-
tive manner. In addition, the provisions au-
thorize $170,829,000 for FY 2003 and
$175,999,725 for FY 2004 for air and marine
interdiction operations of the Customs Serv-
ice. The provision requires submission of
out-of-year budget projections to the Ways
and Means and Finance Committees.

Senate amendment
This provision authorizes $886,513,000 for
FY 2003 and $909,471,000 for FY 2004 for non-
commercial operations of the Customs Serv-
vice. It also authorizes $1,603,882,000 for FY 2003
and $1,645,009,000 for FY 2004 for commer-
cial operations of the Customs Service. Of
the amounts authorized for commercial op-
erations, $308,000,000 is authorized for the
automated commercial environment com-
puter system for each fiscal year. The provi-
sions require that the Customs Service pro-
vide the Committee on Ways and Means and the
Committee on Finance of the Senate with a report demonstrating that the com-
puter system is being built in a cost-effec-
tive manner. In addition, the provisions au-
thorize $171,860,000 for FY 2003 and
$176,570,000 for FY 2004 for air and marine
interdiction operations of the Customs Serv-
ice. The provision requires submission of
out-of-year budget projections to the Service
and Ways and Means Finance Committees.

Conference agreement
The Senate recedes to House.

SEC. 312—ANTITERRORIST AND ILLICIT NAR-
COTICS DETECTION EQUIPMENT FOR THE
UNITED STATES-MEXICO BORDER, UNITED
STATES-CANADA BORDER, AND FLORIDA
AND THE GULF COAST SHARPS

Present law
No applicable section.

House amendment
H.R. 3009 as amended and passed by
the House would require that Customs to measure
specifically the effectiveness of the resources
dedicated in sections 312 as part of its annual
performance plan.

Senate amendment
The Senate amendment is the same as the
House amendment.

Conference agreement
The conference agreement follows the
House amendment and the Senate amend-
ment.

SEC. 313—COMPLIANCE WITH PERFORMANCE
PLAN REQUIREMENTS

Present law
No applicable section.

House amendment
H.R. 3009 as amended and passed by the
House would require Customs to measure
specifically the effectiveness of the resources
dedicated in sections 312 as part of its annual
performance plan.

Senate amendment
The Senate amendment is the same as the
House amendment.

Conference agreement
The conference agreement follows the
House amendment and the Senate amend-
ment.

SEC. 314—MIKTION OF APPROPRIATIONS
FOR PROGRAM TO PREVENT CHILD PORNO-
GRAPHY/CHILD SEXUAL EXPLOITATION

Present law

House amendment
H.R. 3009 as amended and passed by
the House provides that the Act may be cited as
the “Customs Border Security Act of 2002.”

Senate amendment
The Senate amendment is identical.

Conference agreement
The conference agreement follows the
House amendment and the Senate amend-
ment.

SEC. 315—ADDITIONAL CUSTOMS SERVICE
OFFICERS FOR U.S.-CANADA BORDER

Present law
No applicable section.

House amendment
H.R. 3009 as amended and passed by
the House would require that Customs to measure
specifically the effectiveness of the resources
dedicated in sections 312 as part of its annual
performance plan.

Conference agreement
The conference agreement follows the
House amendment and the Senate amend-
ment.

CHAPRE 2—MISCELLANEOUS

SEC. 331—ADDITIONAL CUSTOMS SERVICE
OPERATIONS FOR U.S.-CANADA BORDER

Present law
No applicable section.

House Amendment
H.R. 3009 as amended and passed by the
House would require that Customs to measure
specifically the effectiveness of the resources
dedicated in sections 312 as part of its annual
performance plan.

Senate amendment
The Senate amendment is the same as the
House amendment.

Conference agreement
The conference agreement follows the
House amendment and the Senate amend-
ment.
SEC. 332—STUDY AND REPORT RELATING TO PERSONNEL PRACTICES OF THE CUSTOMS SERVICE

Present law
No applicable section.

House amendment

H.R. 3009 as amended and passed by the House requires Customs to conduct a study of current personnel practices including: performance standards; the effect and impact of the collective bargaining process on Customs drug interdiction efforts; and a comparison of duty rotations policies of Customs and other federal agencies employing similarly situated personnel.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 333—STUDY AND REPORT RELATING TO ACCOUNTING AND AUDITING PROCEDURES OF THE CUSTOMS SERVICE

Present law
No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require Customs to conduct a study to ensure that appropriate training is being provided to personnel who are responsible for financial auditing of importers. Customs would specifically report on how its audit personnel protect the privacy and trade secrets of importers.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 334—ESTABLISHMENT AND IMPLEMENTATION OF COST ACCOUNTING SYSTEM; REPORTS

Present law
No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would mandate the imposition of a cost accounting system in order for Customs to effectively explain its expenditures. Such a system would provide compliance with the core financial system requirements of the Joint Financial Management Improvement Program (JFMIP), which is a joint and cooperative undertaking of the U.S. Department of the Treasury, the General Accounting Office, the Office of Management and Budget, and the Office of Personnel Management working in cooperation with each other and other agencies to improve financial management practices in government. That Program has statutory authorization in the Budget and Accounting Procedures Act of 1990 (31 U.S.C. 65).

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 335—STUDY AND REPORT RELATING TO TIMELINESS OF PROSPECTIVE RULINGS

Present law
No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require the Comptroller General to prepare a report to determine whether Customs has improved its timeliness in providing prospective rulings.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 336—STUDY AND REPORT RELATING TO CUSTOMS USER FEES

Present law
No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require the Comptroller General to prepare a confidential report to determine whether current user fees are appropriately set at a level commensurate with the service provided for the fee. The Comptroller General is authorized to recommend the appropriate level for customs user fees.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 337—FEES FOR CUSTOMS INSPECTIONS AT EXPRESS COURIER FACILITIES

Present law
Current law provides for direct reimbursement of courier facilities of expenses incurred by Customs conducting inspections at those facilities.

House amendment

H.R. 3009 as amended and passed by the House would establish a per item fee of sixty-six cents to cover Customs expenses. This amount could be lowered to more than thirty-five cents or raised to no more than $1.00 by the Secretary of the Treasury after a rulemaking process to reevaluate the expenses incurred by Customs in providing inspectional services.

Senate amendment

No provision.

Conference agreement

The Senate amendment is the same as the House amendment.

SEC. 338—STUDY AND REPORT RELATING TO NATIONAL CUSTOMS AUTOMATION PROGRAM

Present law
No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would empower the Secretary to require the electronic submission of any information required to be submitted to the Customs Service.

Senate amendment

No provision.

Conference agreement

The Senate amendment is the same as the House amendment.

SEC. 339—AUTHORIZATION OF APPROPRIATIONS FOR CUSTOMS STAFFING

Present law
No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require the Secretary of the Treasury, if the President declares a national emergency or if necessary to address specific threats to human life or national interests, to eliminate, consolidate, or relocate Customs ports and offices and to alter staffing levels, services rendered and hours of operations at those locations. In addition, the amendment would permit the Commissioner of Customs, when necessary to address threats to human life or national interests, to close temporarily any Customs office or port or take any other lesser action necessary to respond to the specific threat. The Secretary or the Commissioner would be required to notify Congress of any action taken under this proposal within 72 hours.

Senate amendment

The Senate amendment is the same as the House Amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.
The conference agreement follows the House amendment and the Senate amendment.

CHAPTER 5—TEXTILE TRANSSHIPMENT PROVISIONS

SEC. 352.—AUTHORIZATION OF APPROPRIATIONS FOR TEXTILE TRANSSHIPMENT ENFORCEMENT OPERATIONS

Present law
No applicable section.

House amendment
H.R. 3009 as amended and passed by the House would direct the Comptroller General to conduct an audit of the systems at the Customs Service to monitor and enforce textile transshipment. The Comptroller General would report on recommendations for improvements.

Senate amendment
The Senate amendment is the same as the House amendment.

Conference agreement
The conference agreement follows the House amendment and the Senate amendment.

SEC. 353.—IMPLEMENTATION OF THE AFRICAN GROWTH AND OPPORTUNITY ACT

Present law
No applicable section.

House amendment
H.R. 3009 as amended and passed by the House would earmark approximately $1.3 million within Customs’ budget for selected activities related to providing technical assistance to help sub-Saharan African countries develop and implement effective visa and anti-transshipment systems as required by the African Growth and Opportunity Act (title I of Public Law 106–200).

Senate amendment
The Senate amendment is the same as the House amendment.

Conference agreement
The conference agreement follows the House amendment and the Senate amendment.

Subtitle B—Office of the United States Trade Representative

SEC. 361.—AUTHORIZATION OF APPROPRIATIONS

The statutory authority for budget authorization for the Office of the United States Trade Representative is section 141(g)(1) of the Trade Act of 1974 (19 U.S.C. 2417(a)(1)). The most recent authorization of appropriations for USTR was under section 101 of the Customs and Trade Act of 1990 (P.L. 101–382). Under 19 U.S.C. 2171, Congress has adopted a two-year authorization process to provide USTR with guidance as it plans its budget as well as guidance from the Committee for the appropriation process.

House amendment
H.R. 3009 as amended and passed by the House authorizes $52,300,000 for FY 2003 and $31,108,000 for FY 2004. The provision requires submission of out-of-year budget projections to the Ways and Means and Finance Committees. In light of the substantial increase in trade negotiation work to be conducted by USTR and the associated need for consultations with Congress, this provision would authorize the addition of two individuals to assist the office of Congressional Affairs.

Senate amendment
The Senate amendment authorizes $30,000,000 for FY 2003 and $31,000,000 for FY 2004.

Conference agreement
The Senate recedes to the House.

Subtitle C—United States International Trade Commission

SEC. 371.—AUTHORIZATION OF APPROPRIATIONS

The statutory authority for budget authorization for the International Trade Commission is section 330(b)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1330, Congress has adopted a two-year authorization process to provide the ITC with guidance as it plans its budget as well as guidance from the Committees for the appropriation process.

House amendment
H.R. 3009 as amended and passed by the House authorizes $54,000,000 for FY 2003 and $57,240,000 for FY 2004. The provision requires submission of out-of-year budget projections to the Ways and Means and Finance Committees.

Senate amendment
The Senate amendment authorizes $51,400,000 for FY 2003 and $53,400,000 for FY 2004.

Conference agreement
The Senate recedes to the House.

Subtitle D—Other Trade Provisions

SEC. 381.—INCREASE IN AGGREGATE VALUE OF ARTICLES EXEMPT FROM DUTY ACQUIRED ABROAD BY UNITED STATES RESIDENTS

Present law
The Harmonized Tariff Schedule at subheading 9604.00.65 currently provides a $400 duty exemption for travelers returning from abroad.

House amendment
H.R. 3009 as amended and passed by the House would increase the current $400 duty exemption to $800.
Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 382.—REGULATORY AUDIT PROCEDURES

Present law

Section 509 of the Tariff Act of 1930 (19 U.S.C. 1509) provides the authority for Customs to audit persons making entry of merchandise into the U.S. In the course of such audit, Customs auditors may identify discrepancies, including underpayments of duties. However, if there also are overpayments, there is no requirement that such overpayments be offset against the underpayments if the underlying entry has been liquidated.

House amendment

H.R. 3009 as amended and passed by the House would require that when conducting an audit, Customs must recognize and offset overpayments and underdeclarations of duties, entitlements and values against underpayments and underdeclarations. As an example, if during an audit Customs finds that an importer has underpaid duties associated with one entry of merchandise by $100 but has also overpaid duties from another entry of merchandise by $25, then any assessment by Customs must be the difference of $75.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 383.—PAYMENT OF DUTIES AND FEES

Present law

Current law at 19 U.S.C. 1695 provides for the collection of duties by the Secretary through regulatory process.

House amendment

H.R. 3009 as amended and passed by the House would require duties to be paid within 10 working days without extension. The bill also provides for the Customs Service to create a monthly billing system upon the building of the Automated Commercial Environment.

Senate amendment

No provision.

Conference agreement

Senate recedes to the House.

DIVISION B—BIPARTISAN TRADE PROMOTION AUTHORITY

TITLE XXI—TRADE PROMOTION AUTHORITY

SEC. 210.—SHORT TITLE AND FINDINGS

Present law

No provision.

House amendment

The short title of the bill is the “Bipartisan Trade Promotion Authority Act of 2002.” Section 2101 of the House amendment to H.R. 3009 states that Congress finds the expansion of international trade is vital to U.S. national security and economic growth, as well as U.S. leadership. Section 2101 also states that the recent pattern of decisions by dispute settlement panels and the Appellate Body to impose obligations and restrictions on the use of antidumping and countervailing measures by WTO members has raised concerns, and Congress is concerned that such bodies appropriately apply the standard of review contained in Article 17.6 of the Anti-dumping Agreement, to provide deference to a permissible interpretation by a WTO member and not to overreach or diminish the rights and obligations provided in such agreements. It goes on to note a troubling pattern of cases before WTO dispute settlement panels and the WTO Appellate Body that do precisely that.

Conference agreement

The Senate recedes to the House with modifications. With respect to the findings, the Conferences believe that, as stated in section 2101(b) of the Conference agreement, support for continued trade expansion requires that dispute settlement procedures under international trade agreements not add to or diminish the rights and obligations provided in such agreements. Therefore, the recent pattern of decisions by dispute settlement panels and the WTO Appellate Body to impose obligations and restrictions on the use of antidumping, countervailing and safeguard measures by WTO members has raised concerns, and Congress is concerned that such bodies appropriately apply the standard of review contained in Article 17.6 of the Anti-dumping Agreement, to provide deference to a permissible interpretation by a WTO member and not to overreach or diminish the rights and obligations provided in such agreements. It goes on to note a troubling pattern of cases before WTO dispute settlement panels and the WTO Appellate Body that do precisely that.

SEC. 2102—TRADE NEGOTIATING OBJECTIVES

Present/expired law

Section 1101(a) of the Omnibus Trade and Competitiveness Act of 1988 (the 1988 Act) set forth overall negotiating objectives for concluding trade agreements. These objectives were to obtain more open, equitable, and reciprocal market access, the reduction or elimination of barriers and other trade-distorting policies and practices, and a more effective and expeditious dispute settlement mechanism to correct manifestly erroneous interpretations of law; and ensuring the fullest measure of transparency in investment disputes by ensuring that all requests for dispute settlement and all proceedings, submissions, findings, and decisions are promptly made public; all hearings are open to the public; and establishing a mechanism for acceptance of amicus curiae submissions.

Intelectual property: including: promoting and enforcing the protection of intellectual property rights through enforcement and strong legal regimes, and the use of intellectual property to encourage innovation and economic growth.

House amendment

Section 2102 of the House amendment to H.R. 3009 would establish the following over-all negotiating objectives: obtaining more open, equitable, and reciprocal market access; obtaining the reduction or elimination of barriers and other trade-distorting policies and practices; further strengthening the system of international trading disciplines and procedures, including dispute settlement, safeguards, safeguard measures, and antidumping; and ensuring that trade and environmental policies are mutually supportive and seeking to enhance the international means of doing so, while optimizing the use of the world's resources; promoting respect for worker rights and the rights of children consistent with International Labor Organization core labor standards, as defined in the bill; and seeking provisions in trade agreements under which parties strive to ensure that they do not weaken or reduce the protections afforded in domestic environmental and labor laws as an encouragement to trade.

In addition, section 2102 would establish the principal trade negotiating objectives for concluding trade agreements, as follows:

Trade barriers and distortions: expanding competitive market opportunities for U.S. exports and distortions or barriers to trade, including conditions of trade by reducing or eliminating tariffs and nontariff barriers and policies and practices of foreign governments directly or indirectly injurious to U.S. exports and distortions or barriers to trade, including opportunities for U.S. exports and distortions or barriers to trade, including opportunities for U.S. exports and distortions or barriers to trade, including opportunities for U.S.

The short title of the bill is the “Bipartisan Trade Promotion Authority Act of 2002.” Section 2101 of the House amendment to H.R. 3009 as amended and passed by the House amendment and the Senate amendment.

Conference agreement

The Conferences believe that, as stated in section 2101(b) of the Conference agreement, support for continued trade expansion requires that dispute settlement procedures under international trade agreements not add to or diminish the rights and obligations provided in such agreements. Therefore, the recent pattern of decisions by dispute settlement panels and the WTO Appellate Body to impose obligations and restrictions on the use of antidumping, countervailing and safeguard measures by WTO members has raised concerns, and Congress is concerned that such bodies appropriately apply the standard of review contained in Article 17.6 of the Anti-dumping Agreement, to provide deference to a permissible interpretation by a WTO member and not to overreach or diminish the rights and obligations provided in such agreements. It goes on to note a troubling pattern of cases before WTO dispute settlement panels and the WTO Appellate Body that do precisely that.

Conference agreement

The Senate recedes to the House with modifications. With respect to the findings, the Conferences believe that, as stated in section 2101(b) of the Conference agreement, support for continued trade expansion requires that dispute settlement procedures under international trade agreements not add to or diminish the rights and obligations provided in such agreements. Therefore, the recent pattern of decisions by dispute settlement panels and the WTO Appellate Body to impose obligations and restrictions on the use of antidumping, countervailing and safeguard measures by WTO members has raised concerns, and Congress is concerned that such bodies appropriately apply the standard of review contained in Article 17.6 of the Anti-dumping Agreement, to provide deference to a permissible interpretation by a WTO member and not to overreach or diminish the rights and obligations provided in such agreements. It goes on to note a troubling pattern of cases before WTO dispute settlement panels and the WTO Appellate Body that do precisely that.

Conference agreement

The Senate recedes to the House with modifications. With respect to the findings, the Conferences believe that, as stated in section 2101(b) of the Conference agreement, support for continued trade expansion requires that dispute settlement procedures under international trade agreements not add to or diminish the rights and obligations provided in such agreements. Therefore, the recent pattern of decisions by dispute settlement panels and the WTO Appellate Body to impose obligations and restrictions on the use of antidumping, countervailing and safeguard measures by WTO members has raised concerns, and Congress is concerned that such bodies appropriately apply the standard of review contained in Article 17.6 of the Anti-dumping Agreement, to provide deference to a permissible interpretation by a WTO member and not to overreach or diminish the rights and obligations provided in such agreements. It goes on to note a troubling pattern of cases before WTO dispute settlement panels and the WTO Appellate Body that do precisely that.

Conference agreement

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Trade in Agriculture: The Senate Amendment’s negotiating objective on export subsidies differs from the House Amendment, stating that an objective of the United States is “to ensure that export subsidies on agricultural commodities while maintaining bona fide food aid and preserving U.S. agriculture development and export opportunities do not enable the United States to compete with foreign export promotion efforts.” The Senate Amendment also provides that it is a negotiating objective of the United States to “strengthen and expand the coverage of the WTO Agreement in the round of negotiations among parties to trade agreements.

Trade in Motor Vehicles and Parts: The Senate Amendment is substantially similar to the House Amendment, containing an objective similar to the House Amendment’s objective on trade in motor vehicles and parts.

Textiles: The Senate Amendment contains an objective on textile negotiations, stating that an objective of the United States is “to negotiate textile measures that improve market access for textile exports and to increase the availability of equivalent procedures and remedies.

Electronic Commerce: The Senate Amendment contains an objective on electronic commerce, stating that an objective of the United States is “to negotiate comprehensive, transparent, and defendable objectives.

Intellectual Property: The Senate Amendment contains an objective on intellectual property, stating that an objective of the United States is “to negotiate wide-ranging, high standard, and reciprocal objectives.

Dispute Settlement and Enforcement: The Senate Amendment contains an objective on dispute settlement and enforcement, stating that an objective of the United States is “to establish effective and efficient dispute settlement procedures.

Human Rights and Democracy: The Senate Amendment contains a negotiating objective, stating that an objective of the United States is “to negotiate objectives related to human rights and democracy.

Border Taxes: The Senate Amendment contains an objective on border taxes, stating that an objective of the United States is “to negotiate wide-ranging, high standard, and reciprocal objectives.

Textiles: The Senate Amendment contains an objective on textile negotiations, stating that an objective of the United States is “to negotiate wide-ranging, high standard, and reciprocal objectives.

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Textiles: The Senate Amendment contains an objective on textile negotiations, stating that an objective of the United States is “to negotiate wide-ranging, high standard, and reciprocal objectives.
Conference agreement

The Senate recedes to the House with several modifications. With respect to the overall negotiating objectives, the Conferees agree to the overall negotiating objective regarding the elimination of all forms of child labor, as set forth in section 2102(b)(2)(A)(iv) of the Senate amendment. Second, the Conferees agree to an overall negotiating objective to provide universal compliance with ILO Convention 182 concerning the worst forms of child labor.

With respect to the principal negotiating objectives, the Conferees agree to expand the negotiating objective on intellectual property to respect the Declaration on the TRIPS Agreement and Public Health, adopted by the WTO at Doha (section 2102(b)(4)(c) of the Senate amendment).

With respect to the principal negotiating objectives regarding foreign investment, the Conferees believe that it is a priority for negotiators to seek agreements protecting the rights of U.S. investors abroad and ensuring the existence of a neutral investor-state dispute settlement mechanism. At the same time, these protections must be balanced so that they do not come at the expense of making Federal, State and local laws and regulations more vulnerable to successful challenge by foreign investors than by similarly situated U.S. investors.

No Greater Rights: The House recedes to the Senate on the proposal to modify the law concerning investment protection and protection of intellectual property to respect the Declaration on the TRIPS Agreement and Public Health, adopted by the WTO at Doha (section 2102(b)(4)(c) of the Senate amendment).

This language applies to substantive provisions in the House and Senate versions of the legislation, and only to provide greater rights to invest outside the United States. This language applies to substantive protection in applicable antidumping, countervailing duty, and other similar issues, as access to investor-state dispute settlement. The Conferees recognize that the procedures for resolving disputes between the United States and a government may differ from the procedures for resolving disputes between a domestic investor and a government and may be available at different times during the dispute. Thus, the “no greater rights” direction does not, for instance, apply to such issues as the dismissal of frivolous claims, the exhaustion of remedies, and appellate procedures, or other similar issues.

The Conferees also agree that negotiators should seek to provide for an appellate body, or similar body, to provide for appeal of certain decisions to the interpretations of investment provisions in trade agreements.

With respect to the principal negotiating objective on the priority of preserving the ability of the United States to enforce rigorously its trade remedy laws, the Conferees agree to modify section 2102(b)(7)(A)(i) and (A)(ii) of the Senate amendment. The Conferees agree to section 2102(b)(7)(A)(ii) of the Senate amendment by ILO Convention 182 concerning the worst forms of child labor.

The Conferees agree to section 2102(b)(13)(C) of the Senate amendment, relating to dispute settlement in dumping, subsidy, and safeguard cases, as modified, to seek adherence by WTO panels to the applicable standard of review.

H5947

Present/Expired Law

No provision.

House amendment

Section 2102(c) of the House amendment to H.R. 3009 sets forth certain priorities for the President to address. These priorities include seeking greater cooperation between WTO and the ILO; seeking to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of U.S. trading partners to promote respect for core labor standards; seeking to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of U.S. trading partners to develop and implement standards for environment and human health based on sound science; conducting environmental reviews of future trade and investment agreements, consistent with Executive Order 13141 and its relevant guidelines; reviewing the impact of future trade agreements; and determining the trade consequences of Multilateral Environmental Agreements (MEAs) that include trade measures with existing environmental exceptions under Article XX of the GATT.

In addition, USTR, twelve months after the submission of a report by the United States permitted by an agreement to which this Act applies, is to report to the Committee on the effectiveness of remedies applied under U.S. laws and the rights under trade agreements. USTR shall address whether the remedy was effective in changing the behavior of the targeted party and whether the remedy had an impact on parties or interests not party to the dispute.

Finally, section 2102(c) would direct the President to seek to establish consultative mechanisms among parties to trade agreements to examine the trade consequences of significant and unanticipated policy movements and to scrutinize whether a foreign government engaged in a pattern of manipulating its currency to promote a competitive advantage in international trade. Senate amendment

With several notable exceptions, the priorities set forth in section 2102(c) of the Senate Amendment are identical to the priorities set forth in the House Amendment. The exceptions are:

With respect to the study that the President shall perform on the impact of future trade agreements on employment, the Senate Amendment requires the President to examine particular criteria, as follows: the impact on job security, the level of compensatory measures for the displacement of employment, and the regional distribution of employment, utilizing experience from previous trade agreements and alternative models of employment analysis. The Senate Amendment also requires that the report be made available to the public.

The Senate Amendment requires that, in connection with new negotiated agreement negotiations, the President shall “submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the annual labor rights report of the country, or countries, with respect to which the President is negotiating.”

The Senate Amendment adds to the House Amendment priority on preserving the ability of the United States to enforce vigorously its trade remedy laws, the so-called “safeguards” law in the list of laws at issue. This is the U.S. tax law authorizing the President to provide relief to parties seriously injured or threatened with serious injury due to surges of imports. The priority in the Senate Amendment also directs the President to remedy certain market distortion measures that increase unfair trade practices.

Conference agreement

The Senate recedes to the House amendment with several modifications. With respect to the worst forms of child labor, the Conferees agree to expand section 2102(c)(2) of the House amendment to include the worst forms of child labor within requirements to seeks to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of U.S. trading partners to promote respect for core labor standards.

The Conferees agree to modify section 2102(c) of the House Amendment to allow the President to report on impact of future trade agreements on US employment, including on labor markets, modeled after E.O. 13141 and ILO Convention 182 and establish and consultative mechanisms to examine the trade consequences of Multilateral Environmental Agreements (MEAs) that include trade measures with existing environmental exceptions under Article XX of the GATT.

The Conferees agree to modify section 2102(b)(i) of the House Amendment to allow the President to report on impact of future trade agreements on US employment, including on labor markets, modeled after E.O. 13141 and ILO Convention 182 and establish and consultative mechanisms to examine the trade consequences of Multilateral Environmental Agreements (MEAs) that include trade measures with existing environmental exceptions under Article XX of the GATT.

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With respect to the labor rights report in section 2102(c)(2) of both bills, the Conferees agree to the Senate provision. Furthermore, the Conferees agree to section 2101(b)(2)(E) of the Senate amendment to require that guideline lines for the Congressional Oversight Group include the time frame for submitting this report.

SEC. 2102—CONSULTATIONS, ADHERENCE TO OBLIGATIONS UNDER URUGUAY ROUND AGREEMENTS

Present/expired law
No provision.

House amendment
Section 2102(d) of the House amendment to H.R. 5948 requires USTR consult closely, and on a timely basis with the Congressional Oversight Group appointed under section 2107. In addition, USTR would be required to consult closely (including immediately before the initialing of an agreement) with the congressional advisers on trade policy and negotiations appointed under section 161 of the Trade Act of 1974, as well as the House Committee on Ways and Means, the Senate Committee on Finance, and the Congressional Oversight Group. With regard to negotiation of any bilateral trade agreement, USTR would also be required to consult with the House and Senate Committees on Agriculture.

In determining whether to enter into negotiations with a particular country, section 2102(e) would require the President to take into account whether that country has implemented its obligations under the Uruguay Round Agreements.

Senate amendment
Section 2102(d) of the Senate amendment is identical to the House provision in the House amendment to H.R. 5948.

Conference agreement
The Conference agreement follows the House amendment and the Senate amendment.

SEC. 2103—TRADE AGREEMENTS AUTHORITY

Present/expired law
Tariff proclamation authority. Section 1102(a) of the 1988 Act provided authority to the President to proclaim modifications in duties without the need for Congressional approval, subject to certain limitations. Specifically, for rates that exceed 5 percent ad valorem, the President could not reduce any rate of duty to a rate less than 50 percent of the rate of duty applying on the date of enactment. Rates at or below 5 percent could be reduced to zero. Any duty reduction that exceeded 50 percent of an existing duty higher than 5 percent or any tariff increase had to be approved by Congress.

Staging, authority required that duty reductions on any article could not exceed 3 percent per year, or one-tenth of the total reduction, whichever is greater, except that staging would not be required if the International Trade Commission determined that the reduction would not result in a serious impairment of sales in the United States or would result in a material injury to domestic industry, as provided in section 1103 of the 1988 Act.

Negotiation of bilateral agreements. Section 1102(c) of the 1988 Act set forth three requirements for the negotiation of a bilateral agreement:

The foreign country must request the negotiation of the bilateral agreement;

The agreement must progress in meeting applicable U.S. trade negotiating objectives; and

The President must provide written notice of the negotiations to the Committee on Ways and Means and the Committee on Finance of the Senate and consult with these committees.

The negotiations could proceed unless either Committee disapproved the negotiations within 60 days prior to the 90 calendar days advance notice required of entry into an agreement (described below).

Negotiation of multilateral non-tariff agreements. With respect to multilateral non-tariff agreements, section 2102 of the GATT of 1994 provided that whenever the President determines that any barrier to, or other distortion of, international trade, notably unfair trade practices, or restricts the foreign trade of the United States or adversely affects the U.S. economy, or the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect, he may enter into a trade agreement with the foreign countries involved. The agreement must provide for the reduction of such barrier or other distortion or prohibit or limit the imposition of such a barrier or distortion.

Provisions qualifying for fast track procedures. Section 1103(b)(1)(A) of the 1988 Act provided that fast track apply to implementing bills submitted with respect to any trade agreements entered into under the statute. Section 151(b)(1) of the Trade Act of 1974 further defined “implementing bill” as a bill containing provisions “necessary or appropriate” to implement the trade agreement, as well as the stipulating the agreement and the statement of administrative action.

Time period. The authority applied with respect to agreements entered into before June 1, 1991, and until June 1, 1993 unless Congress passed an extension disapproved by the President. The extension was then extended to April 15, 1994, to cover the Uruguay Round of multilateral negotiations under the General Agreement on Tariffs and Trade.

House amendment
Section 2103 of the House amendment provides:

Proclamation authority. Section 2103(a) would provide the President the authority to proclaim modifications in duties, subject to the lowest tariff reduction in the Uruguay Round.

Staging authority would require that duty reductions on any article could not exceed 3 percent per year, or one-tenth of the total reduction, whichever is greater, except that staging would not be required if the International Trade Commission determined there was no U.S. production of that article.

The Senate recedes to the House amendment with several modifications. The Conference agrees to the new definition of import sensitive products subject to fast track procedures if the bill modifies, amends, or requires modification or amendment to certain trade remedy laws. A bill that does not modify, amend, or require modification or amendment to those laws is subject to a point of order in the Senate, which may be waived by a majority vote.

SEC. 2104—CONSULTATIONS AND ASSESSMENT

Senate amendment
In most respects, section 2103 of the Senate Amendment is identical to section 2103 of the House Amendment. However, there are several differences.

The Senate Amendment limits the President’s proclamation authority with respect to fast track temporary ‘‘sensitive products,’’ or ‘‘targets,’’ a term defined in section 2133(5) of the Senate Amendment. This limitation differs from the limitation in the House Amendment, in substance, as it includes certain products subject to tariff rate quotas.

The Senate Amendment contains a provision making a trade agreement implementing bill ineligible for ‘‘fast track’’ procedures if the bill modifies, amends, or requires modification or amendment to certain trade remedy laws. A bill that does not modify, amend, or require modification or amendment to those laws is subject to a point of order in the Senate, which may be waived by a majority vote.

The Senate Amendment requires the U.S. International Trade Commission to submit a report to Congress on negotiations during the initial period for which the President is granted trade promotion authority. This report would be made in connection with a request by the President to have such author-
90 calendar days advance notice of his intent. The purpose of this period was to provide the Congressional Committees of jurisdiction an opportunity to review the proposed agreement before it is submitted.

Section 135(e) of the Trade Act of 1974 required that the Advisory Committee for Trade Policy and Negotiations meet at the conclusion of negotiations for each trade agreement and provide a report as to whether and to what extent the agreement promotes the economic interests of the United States and achieves the applicable overall and principal negotiating objectives of section 1101 of the 1988 Act. The report was due not later than the date on which the President notified Congress of his intent to enter into an agreement. With regard to the Uruguay Round, the report was due 30 days after the date of notification.

House amendment

Section 2104 of the House amendment to H.R. 3009 would establish a number of requirements that the President consult with Congress. Specifically, section 2104(a)(1) would require the President to provide written notice and consult with the relevant committees at least 90 calendar days prior to entering into negotiations. Section 2104(a)(c) also provides that the President shall submit to the Congressional Oversight Group established under section 2107 upon a request of a majority of its members, Trade promotion authorities, including copies of the negotiating bill if both Houses separately agree to a procedural disapproval resolution within any 60-day period stating that the Administration has failed to notify or consult with Congress.

Section 2104(b)(1) would establish a special consultation requirement for agriculture. Specifically, initiating negotiations concerning tariff reductions in agriculture, the President is to assess whether U.S. tariffs on agriculture products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by other nations. The President would also be required to consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than U.S. tariffs and whether the negotiation provides an opportunity to address any such disparity. The President would be required to consult with the Committees on Ways and Means and Agriculture of the House and the Committees on Finance and Agriculture, Nutrition and Forestry of the Senate concerning the results of this assessment and whether it is appropriate for the United States to agree to further tariff reductions under such circumstances and how all applicable negotiating objectives would be met.

Section 2104(b)(2) provides special consultation requirements on import sensitive agriculture products. Specifically, before initiating negotiations on agriculture products that were bound under the Uruguay Round Agreements, the President is to assess whether the identified products face unjustified sanitary or phytosanitary barriers. USTR is also to request that the International Trade Commission provide a report assessing the probable economic effects of any such tariff reduction on the U.S. economy producing the product and on the U.S. economy consuming the product. The President is to then notify the Committees as soon as practicable of those products and the reasons for seeking tariff reductions.

Section 2104(b)(3) would establish a special consultation requirement for textiles. Specifically, before initiating negotiations concerning tariff reductions in textiles and apparel products that were bound under the Uruguay Round Agreements, the President would also be required to consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than U.S. tariffs and whether the negotiation provides an opportunity to address any such disparity. The President would be required to consult with the Committees on Ways and Means and the Committee on Finance of the Senate concerning the results of this assessment and whether it is appropriate for the United States to agree to further tariff reductions under such circumstances and how all applicable negotiating objectives would be met.

Finally, section 2104(c) would require the President, at least 90 days before entering into a trade agreement, to ask the International Trade Commission to assess the negotiating objectives described in section 2102(b)(14) of the Trade Act of 1974 and provide a report as to whether the President notified Congress of his intent to enter into the agreement under section 2103(a)(1).

Senate amendment

The Senate Amendment is substantially similar to the House bill, with the following exceptions.

Consultations on export subsidies and distorting policies. Section 2104(b)(2)(A)(i)(III) requires consultations on whether nations maintaining export subsidies or distorting policies that distort trade and impact of policies on U.S. producers. The Senate amendment does not address this section.

Consultations relating to fishing trade. Section 2104(b)(3) requires that for negotiations relating to fishing trade, the Administration will keep fully apprised and on timely basis consult with the House Resources Committee and the Senate Commerce Committee.

Special reporting requirements on U.S. trade remedy laws. The Senate Amendment proposes that the President, at least 90 calendar days before the President enters into a trade agreement, shall notify the House Ways and Means Committee, the Senate Finance Committee and the Senate Commerce Committee in writing any amendments to U.S. antidumping and countervailing duty laws (title VII of the Tariff Act of 1930) or U.S. safeguard provisions (chapter 1 of title II of the Trade Act of 1974) that the President proposes to include in the implementing legislation. The President must also transmit to the Committees a report explaining his reasons for believing that such amendments are consistent in the negotiating objective on this issue. Not later than 60 calendar days after the date on which the President transmits notice to the relevant Committees concerning tariff reductions in agriculture, the President would be required to consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than U.S. tariffs and whether the negotiation provides an opportunity to address any such disparity. The President would be required to consult with the Committees on Ways and Means and the Committee on Finance of the Senate concerning the results of this assessment and whether it is appropriate for the United States to agree to further tariff reductions under such circumstances and how all applicable negotiating objectives would be met.

The Senate Amendment is substantially similar to the House bill, with the following exceptions.

Not later than 60 calendar days after the date on which the President notifies Congress of his intent to enter into a trade agreement, the President is to assess whether U.S. tariffs and whether the negotiation provides an opportunity to address any such disparity. The President would be required to consult with the Senate Committees concerning the nature of the agreement, how and to what extent the agreement will achieve the applicable purposes, policies, and objectives set forth in the House amendment to H.R. 3009 and all matters relating to implementation under section 2105, including the general effect of the agreement on U.S. laws.

The Senate Amendment would require that the report of the Advisory Committee for Trade Policy and Negotiations under section 135(e)(1) of the Trade Act of 1974 be provided not later than 30 days after the date on which the President notifies Congress of his intent to enter into the agreement under section 2103(a)(1).

Finally, section 2104(c) would require the President, at least 90 days before entering into a trade agreement, to ask the International Trade Commission to assess the negotiating objectives described in section 2102(b)(14) of the Trade Act of 1974 and provide a report as to whether the President notified Congress of his intent to enter into the agreement under section 2103(a)(1).

The Senate Amendment substantially similar to the House bill, with the following exceptions.

Consultations on export subsidies and distorting policies. Section 2104(b)(2)(A)(i)(III) requires consultations on whether nations maintaining export subsidies or distorting policies that distort trade and impact of policies on U.S. producers.

Consultations relating to fishing trade. Section 2104(b)(3) requires that for negotiations relating to fishing trade, the Administration will keep fully apprised and on timely basis consult with the House Resources Committee and the Senate Commerce Committee.

Special reporting requirements on U.S. trade remedy laws. The Senate Amendment proposes that the President, at least 90 calendar days before the President enters into a trade agreement, shall notify the Senate Finance Committee in writing any amendments to U.S. antidumping and countervailing duty laws (title VII of the Tariff Act of 1930) or U.S. safeguard provisions (chapter 1 of title II of the Trade Act of 1974) that the President proposes to include in the implementing legislation. The President must also transmit to the Committees a report explaining his reasons for believing that such amendments are consistent in the negotiating objective on this issue. Not later than 60 calendar days after the date on which the President transmits notice to the relevant Committees concerning tariff reductions in agriculture, the President would be required to consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than U.S. tariffs and whether the negotiation provides an opportunity to address any such disparity. The President would be required to consult with the Senate Committees concerning the nature of the agreement, how and to what extent the agreement will achieve the applicable purposes, policies, and objectives set forth in the House amendment to H.R. 3009 and all matters relating to implementation under section 2105, including the general effect of the agreement on the U.S. economy as a whole, specific industry sectors, and U.S. consumers. That report would be due 90 days from the date on which the President enters into the agreement.

The Senate Amendment also provides a mechanism for any Member in the House or Senate to introduce at any time after the President’s report is issued a nonbinding resolution which states that “the proposed changes to U.S. trade remedy laws contained in the report of the President transmitted to the Committee on Ways and Means and the Committee on Finance of the Senate, are inconsistent with the negotiating objectives described in section 2102(b)(14), and by how these proposals relate to the objectives described in section 1101 of the Trade Act of 1974.”

The Conference agreement also provides a mechanism for any Member in the House or Senate to introduce at any time after the President’s report is issued a nonbinding resolution which states that “the proposed changes to U.S. trade remedy laws contained in the report of the President transmitted to the Committee on Ways and Means and the Committee on Finance of the Senate, are inconsistent with the negotiating objectives described in section 2102(b)(14), and by how these proposals relate to the objectives described in section 1101 of the Trade Act of 1974.”

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The Conference agreement also provides a mechanism for any Member in the House or Senate to introduce at any time after the President’s report is issued a nonbinding resolution which states that “the proposed changes to U.S. trade remedy laws contained in the report of the President transmitted to the Committee on Ways and Means and the Committee on Finance of the Senate, are inconsistent with the negotiating objectives described in section 2102(b)(14), and by how these proposals relate to the objectives described in section 1101 of the Trade Act of 1974.”
trade promotion authority procedures contained in sections 152(d) and (e) of the Trade Act of 1974. The one resolution quota is satisfied for the House only after the Ways and Means Committee has considered a resolution on the floor. Senate procedures for the Senate only after the Finance Committee reports a resolution. The Conference agreement states that, with the exception of Chile and Singapore, the report referenced in section 2104(d)(3)(A) shall be submitted by the President at least 90 calendar days before the date of introduction of an implementing bill from either country. The maximum period for Congressional consideration of an implementing bill within 15 additional days. Accord- ingly, the maximum period for Congressional consideration of the implementing bill from the date of introduction would be required within 15 additional days. As with the expired provisions, once the bill has been formally introduced, no amend- ments would be permitted either in Consu- mer or floor action, and a straight “up or down” vote would be required. Of course, before formal introduction, the bill could be developed in a jurisdiction together with the Administration during the informal Committee mark-up process. Finally, as with the expired provision, sec- tion 2106(c) specifies that sections 2106(b) and 3(c) are enacted as an exercise of the rule-making power of the House and the Senate, with the recognition of the right of either House to change the rules at any time.

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The Conference agreement follows the House amendment and the Senate amend- ment.

SEC. 2107—CONGRESSIONAL OVERSIGHT GROUP

Present/Expired Law

The Senate amendment is substantially similar to the House bill, with the following exception: Section 2105(a)(1)(A)(ii) requires the President to transmit to the House Ways and Means Committee and the Senate Finance Committee the notice prescribed in section 2104(d)(3)(A) regarding changes to U.S. trade remedy laws. The Senate amendment

SEC. 2106—TREATMENT OF CERTAIN TRADE AGREEMENTS

Present/Expired Law

The Conference agreement follows the House amendment and the Senate amend- ment.

SEC. 2107—CONGRESSIONAL OVERSIGHT GROUP

Present/Expired Law

The Conference agreement follows the House amendment and the Senate amend- ment.

SEC. 2107—CONGRESSIONAL OVERSIGHT GROUP

Present/Expired Law

The Conference agreement follows the House amendment and the Senate amend- ment.
Senate Amendment
Section 2107 of the Senate amendment is identical to the House amendment to H.R. 3009.

Conference agreement
The Conference agreement follows the House amendment and the Senate amendment.

SEC. 312——SMALL BUSINESS
Present/expired law

No provision.

House amendment
Section 2108 of the House amendment to H.R. 3009 would require the President to submit to the Congress a plan for implementing and enforcing any trade agreement resulting from this Act. The report is to be submitted simultaneously with the text of the agreement and is not an integral part of the Executive Branch personnel needed to enforce the agreement as well as an assessment of any U.S. Customs Service infrastructure improvements required. The range of personnel to be addressed in the report is very comprehensive, including U.S. Customs and Department of Agriculture border inspectors, and monitoring and implementing personnel at USTF, the Departments of Agriculture, Commerce, and the Treasury, and any other agencies as may be required.

Senate amendment
Section 2108 of the Senate amendment is identical to the House amendment to H.R. 3009.

Conference agreement
The Conference agreement follows the House amendment and the Senate amendment.

SEC. 2109——ADDITIONAL IMPLEMENTATION AND ENFORCEMENT REQUIREMENTS
Present/expired law

No provision.

House amendment
Section 2109 of the House amendment to H.R. 3009 states that the grant of trade promotion authority is likely to increase the activities of the primary committees of jurisdiction and the creation of the Congressional Oversight Group under section 2107 will increase the participation of a broader Members of Congress in the formulation of U.S. trade policy and oversight of the U.S. trade agenda. The provision specifies that the primary committees of jurisdiction should have adequate staff to accommodate these increases in activities.

Senate amendment
Section 2109 of the Senate amendment is identical to the House amendment to H.R. 3009.

Conference agreement
The Conference agreement follows the House amendment and the Senate amendment.

SEC. 2110——REPORT ON THE IMPACT OF TRADE PROMOTION AUTHORITY
Present/expired law

No provision.

House Amendment
No provision.

Senate Amendment
Section 2111 requires the International Trade Commission, within one year following enactment of this Act, to issue a report regarding the economic impact of the following trade agreements: (1) The U.S.-Israel Free Trade Agreement; (2) the U.S.-Canada Free Trade Agreement; (3) the North American Free Trade Agreement (NAFTA); (4) the Uruguay Round Agreements, which established the World Trade Organization; and (5) the Tokyo Round of Multilateral Trade Negotiations.

Conference agreement
The House recedes to the Senate amendment.

SEC. 312——SHORT TITLE
Present law

No provision.

House amendment
Section 3101 of H.R. 3009, as amended, provides that the Act may be cited as the “Andean Trade Promotion and Drug Eradication Act.”

Senate amendment
Section 3101 provides that the Act may be cited as the “Andean Trade Promotion and Drug Eradication Act.”

Conference agreement
The Senate recedes.

SEC. 3102——FINDINGS
Present law

No provision.

House amendment
Section 3102 contains findings of Congress that:

(1) Since the Andean Trade Preference Act was enacted in 1991, it has had a positive impact on United States trade with Bolivia, Colombia, Ecuador, and Peru. Two-way trade has doubled, with the United States serving as the leading source of imports and leading export market for each of the Andean beneficiary countries. This has resulted in increased jobs and expanded export opportunities in both the United States and the Andean region.

(2) The Andean Trade Preference Act has been a key element in the United States counter narcotics strategy in the Andean region, promoting export diversification and broad-based economic development that provide sustainable economic alternatives to drug production. The legitimate economies of Andean countries and creating viable alternatives to illicit trade in cocaine.

Finally, section 2101(c) provides that upon the request of a majority of the Congressional Oversight Group, the President shall meet with the Group before initiating negotiations or any other time concerning the negotiations.

Senate amendment
Section 2107 of the Senate amendment is identical to the House amendment to H.R. 3009.

Conference agreement
The Conference agreement follows the House amendment and the Senate amendment.

SEC. 2112——SMALL BUSINESS
Present/expired law

No provision.

House amendment
WTO small business advocate. Section 2112(a) provides that the U.S. Trade Representative shall pursue identification of a small business advocate at the World Trade Organization Secretariat to examine the impact of WTO agreements on the interests of small businesses, address the concerns of small businesses, and recommend ways to address those interests in trade negotiations involving the WTO.

Assistant USTR responsible for small businesses. Section 2112(b) provides that the Assistant United States Trade Representative for Industry and Telecommunications shall be responsible for ensuring that the interests of small businesses are considered in trade negotiations.

Conference agreement
The Senate recedes to the House amendment with a modification. The Conference agree to section 2112(b) of the Senate amendment, which provides that the Assistant USTR for Industry and Telecommunications shall be responsible for ensuring that the interests of small business are considered in trade negotiations.

DIVISION C—ANDEAN TRADE PREFERENCE ACT
TITLE XXXI—ANDEAN TRADE PREFERENCE
SEC. 3103——SHORT TITLE
Present law

No provision.

House amendment
Section 3101 of H.R. 3009, as amended, provides that the Act may be cited as the “Andean Trade Promotion and Drug Eradication Act.”

Senate amendment
Section 3101 provides that the Act may be cited as the “Andean Trade Promotion and Drug Eradication Act.”

Conference agreement
The Senate recedes.

SEC. 3102——FINDINGS
Present law

No provision.

House amendment
Section 3102 contains findings of Congress that:

(1) Since the Andean Trade Preference Act was enacted in 1991, it has had a positive impact on United States trade with Bolivia, Colombia, Ecuador, and Peru. Two-way trade has doubled, with the United States serving as the leading source of imports and leading export market for each of the Andean beneficiary countries. This has resulted in increased jobs and expanded export opportunities in both the United States and the Andean region.

(2) The Andean Trade Preference Act has been a key element in the United States
and sugar, syrups and molasses subject to over-quota rates of duty.

House amendment

Section 3103 (a) amends the Andean Trade Preference Act to authorize the President to proclaim duty-free treatment for any of the following articles which were previously excluded from duty-free treatment under the ATPA, if the President determines that the article is not import-sensitive in the context of imports from beneficiary countries:

1. Footwear not designated at the time of the enactment of the ATPA as eligible for purposes of the Generalized System of Preferences under title V of the Trade Act of 1974.

2. Petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS.

3. Watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply.

4. Handbags, luggage, flat goods, work gloves, and leather wearing apparel that—(i) are the product of any beneficiary country; and (ii) were not designated on August 5, 1983, for purposes of the Generalized System of Preferences under title V of the Trade Act of 1974.

Under the bill, textile articles subject to textile agreements; sugar, syrups and molasses subject to over-quota tariffs; and rum and tafia classified in subheading 2208.40.00 of the HTS would continue to be ineligible for duty-free treatment, as would apparel products other than those specifically described below. Imports of tuna, prepared or preserved in any manner, or airtight containers would receive immediate duty-free treatment.

Senate amendment

Section 3102 of the bill replaces the list of excluded products under section 204(b) of the current ATPA with a new provision that extends duty preferences to most of those products. The new preferences take the form of exceptions to the general rule that the excluded products are not eligible for duty-free treatment.

The enhanced preferences are made available to those products eligible for the enhanced benefits provided under the present bill. The Senate amendment provides special treatment for rum and tafia, allowing them to receive the same tariff treatment as like products.

The Senate Amendment provides special treatment for rum and tafia, allowing them to receive the same tariff treatment as like products.

The President is authorized to proclaim duty-free treatment for tuna that is harvested by United States or ATPEA vessels, subject to a quantitative yearly cap.
The cap applied to this category in each year following enactment will be as follows:

- 70 million square meter equivalents (SME) in the year beginning March 1, 2002,
- 81.2 million SME in the year beginning March 1, 2003,
- 94.19 million SME in the year beginning March 1, 2004,

A separate provision makes clear that goods otherwise qualifying under the category will not be disqualified if they happen to contain United States fabric made from United States yarn.

A fifth category of apparel eligible for duty-free treatment under the Senate bill is the so-called "complementary" categories of yarns, fabrics, and apparel products.

In determining whether to designate any country as an ATPA beneficiary country, the President shall not designate any country as an ATPA beneficiary country if:

1. The country is a Communist country;
2. The country has nationalized, expropriated, or otherwise seized ownership or control of U.S. property (including intellectual property), unless determined to be prompt, adequate, and effective compensation has been or is being made, or good faith negotiations to provide such compensation are in progress, or the country is otherwise taking steps to discharge its international obligations, or a dispute over compensation has been submitted to arbitration;
3. The country fails to act in good faith in recognizing as binding or in enforcing arbitrations in favor of U.S. citizens;
4. The country affords "national treatment" preferences to developed countries and whether such treatment has or is likely to have a significant adverse effect on U.S. commerce.

Dyeing, Finishing and Printing Requirement

New requirement that apparel made of U.S. knit or woven fabric assembled in CBTPA country qualifies for benefits only if the U.S. knit or woven fabric is dyed and finished in the United States. Apparel made of U.S. knit or woven fabric assembled in an Andean beneficiary country qualifies for benefits only if the U.S. knit or woven fabric is dyed and finished in the United States.

Senate provision

No provision.

Conference agreement

Senate recedes.

Penalties for Transshipment

Present law

The Tariff Act of 1930, as amended, provides for civil monetary penalties for unlawful Activities. An exporter found to have claim a rate of duty or other relief measures. Under NAFTA, the United States may import from NAFTA countries, except that, United States, if it applied a safeguard action, would not be obligated to provide equivalent trade liberalizing compensation to the exporting country.

Senate amendment

The bill establishes similar textile and apparel safeguard provisions on the NAFTA textile and apparel safeguard provision.

Conference agreement

Conference agreement follows House and Senate bill.

Import Relief Actions

Present law

The import relief procedures and authorities under sections 201-204 of the Trade Act of 1974 apply to imports from NAFTA beneficia countries, as well as from other countries. If NAFTA imports cause serious injury, or threat of such injury, to the domestic industry producing a like or directly competitive good, the President is authorized to suspend NAFTA duty-free treatment and proclaim a rate of duty or other relief measures. Under NAFTA, the United States may import from NAFTA countries, except that, United States, if it applied a safeguard action, would not be obligated to provide equivalent trade liberalizing compensation to the exporting country.
owners without their express consent or the country fails to work toward the provision of adequate and effective intellectual property rights;

(6) The country is not a signatory to an agreement regarding the extradition of U.S. citizens;

(7) If the country has not or is not taking steps to afford and recognize internationally recognized worker rights to workers in the country;

In determining whether to designate a country as eligible for ATPA benefits, the President shall take into account (discretionary criteria):

(1) An expression by the country of its desire to be designated;

(2) To economic conditions in the country, its living standards, and any other appropriate economic factors;

(3) The extent to which the country has assured the United States it will provide equitable and reasonable access to its markets and basic commodity resources;

(4) The degree to which the country follows appropriate economic factors;

(5) The degree to which the country uses export subsidies or imposes export performance or local content requirements which distort international trade;

(6) The degree to which the trade policies of the country are contributing to the revitalization of the region;

(7) The extent to which the country is undertaking self-help measures to protect its own economy;

(8) Whether or not the country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights;

(9) The extent to which the country provides its nationals from engaging in the broadcast of copyrighted material belonging to U.S. copyright owners without their express consent;

(10) Whether or not the country provides its nationals from engaging in the broadcast of copyrighted material belonging to U.S. copyright owners without their express consent;

(11) The extent to which the country offers its nationals from engaging in the broadcast of copyrighted material belonging to U.S. copyright owners without their express consent;

(12) Whether or not the country has participated in international coalition meetings contributing to the resolution of regional issues.

Under the ATPA the President is prohibited from designating a country as a beneficiary country if any of criteria (1)–(7) apply to that country, subject to waiver if the President determines that country designation will be in the U.S. national economic or security interest. The waiver does not apply to criteria (4) and (6). Under the ATPA criteria (7) is included as both mandatory and discretionary.

The President may withdraw or suspend beneficiary country status or duty-free treatment on any article if he determines the country is not meeting the criteria established under ATPA described above, as well as other appropriate criteria, including: whether a country has demonstrated a commitment to undertake its WTO obligations and participate in negotiations toward the completion of the Doha Development Agenda on trade liberalization; the extent to which the country provides intellectual property protection consistent with or greater than that provided in the Agreement on Trade-Related Aspects of Intellectual Property Rights; the extent to which the country provides internationally recognized worker rights; whether the country has implemented its commitments to eliminate the worst forms of child labor; the extent to which a country has taken steps to become a signatory to the Inter-American Convention Against Corruption; and the extent to which the country applies transparent, nondiscriminatory and competitive procurement processes in government procurement equivalent to those included in the WTO Agreement on Government Procurement and internationally recognized criteria.

Section 3102(5) contains identical provisions.

Conference agreement

Conference Agreement follows the House and Senate amendments. In evaluating a potential beneficiary country designation, the conferees expect the President will take into account the extent to which the country provides its nationals from engaging in the broadcast of copyrighted material belonging to U.S. copyright owners without their express consent; the extent to which the country offers its nationals from engaging in the broadcast of copyrighted material belonging to U.S. copyright owners without their express consent; the extent to which the country exhibits its nationals from engaging in the broadcast of copyrighted material belonging to U.S. copyright owners without their express consent; and the extent to which the country provides its nationals from engaging in the broadcast of copyrighted material belonging to U.S. copyright owners without their express consent.

The President may withdraw or suspend a country’s beneficiary country designation, or with respect to duty-free treatment to particular articles of a beneficiary country, due to changed circumstances.

House amendment

Section 3101(b) amends section 203(e) of the ATPA to provide that President may withdraw or suspend ATPA designation, or withdraw, suspend or limit benefits is a country’s performance under eligibility criteria are no longer satisfactory.

Senate amendment

Identical.

Conference agreement

Conference agreement follows the House amendment and Senate amendment.

Reporting Requirements

Present law provides for: (1) an annual report by the International Trade Commission on the economic impact of the bill and; (2) an annual report by the Secretary of Labor on the impact of the bill with respect to U.S. labor. Also under present law, USTR is required to report triannually on operation of the program.

House amendment

House recedes.

Petitions for Review

Present law

No provision.

House amendment

No provision.

Senate amendment

Section 3102(e) of the bill directs the President to promulgate regulations regarding the review of eligibility of articles and countries under the ATPA. Such regulations are to be similar to regulations governing the Generalized System of Preferences petition process.

Conference agreement

House recedes.

SEC. 3105—TERMINATION OF DUTY-FREE TREATMENT

Present law

Duty-free treatment under the ATPA expires on December 4, 2001.

House amendment

Duty-free treatment terminates under the Act on December 31, 2006.

Senate amendment

Section 3103 of the bill amends section 203(b) of the ATPA to provide for a termination date of February 28, 2006. Basic ATPA benefits apply retroactively to December 4, 2001.

Conference agreement

House recedes on retroactivity for basic ATPA benefits; Senate recedes on termination.
July 26, 2002

SEC. 3106—TRADE BENEFITS UNDER THE CARIBBEAN HAN BASIS TRADE PARTNERSHIP ACT (CBTPA) AND THE AFRICA GROWTH AND OPPORTUNITY ACT (AGOA)

Knit-to-shape Apparel

Present law
Draft regulations issued by Customs to implement P.L. 106-200 stipulate that knit-to-shape garments, because technically they do not go through the fabric stage, are not eligible for trade benefits under the act.

House amendment
Sec. 3106 and 3107 of the House bill amends AGOA and CBTPA to clarify that preferential treatment is provided to knit-to-shape apparel articles assembled in beneficiary countries.

Senate amendment
No provision.

Conference agreement
Senate recedes.

Present law
Draft regulations issued by Customs to implement P.L. 106-200 deny preferential access to garments that are cut both in the United States and beneficiary countries, on the rationale that the legislation does not specifically list this variation in processing (the so-called ‘‘hybrid cutting problem’’).)

House amendment
Sec. 3107 of H.R. 3009 adds new rules in CBTPA and AGOA to provide preferential treatment for apparel articles that are cut both in the United States and beneficiary countries.

Senate amendment
No provision.

Conference agreement
Senate recedes.

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Senate recedes
Title V of the Trade and Development Act of 2000 (Pub. L. No. 106–200) included certain tariff relief for the domestic tailored clothing and textile industries. The relief was largely aimed at reducing the harmful affects of a “tariff inversion”—i.e., a tariff structure that levies higher duties on the raw material (such as wool fabric) than on the finished goods (such as mens’ suits). A component of the relief to the U.S. tailored clothing and textile industry was a refund of duties paid in calendar year 1999, spread over calendar years 2000, 2001 and 2002. Pub. L. No. 106–200, §505.

DUTY SUSPENSION ON WOOL

The Senate bill amends section 505 of the Trade and Development Act of 2000 to simplify the process for refunding to eligible parties duties paid in 1999. Specifically, it creates three special refund pools for each of the affected wool articles (fabric, yarn, and fiber and top). Refunds for importing manufacturers will be distributed in three installments—the first and second on or before the date that is 45 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, and the third on or before April 15, 2003. Refunds for nonimporting manufacturers will be distributed in two installments—the first on or before the date that is 120 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, and the second on or before April 15, 2003.

The provision also streamlines the paperwork process, in light of the destruction of previously filed claims and supporting information in the September 11, 2001 attacks on the World Trade Center in New York, New York. Finally, the provision identifies all persons eligible for the refunds.

CONFERENCE AGREEMENT

The House recedes to the Senate.

CONFERENCE AGREEMENT

The Senate recedes to the House.

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CONFERENCE AGREEMENT

The Senate recedes to the House.
Resolved, That the requirement of clause 6(a) of rule XIII for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported on the legislative day of Friday, July 26, 2002, providing for consideration or disposition of any of the following measures: 

(1) A conference report to accompany the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under the Act, and for other purposes.

(2) A conference report to accompany the bill (H.R. 3295) to establish a program to provide funds to States to replace punch card voting systems, to establish the Election Assistance Commission to assist in the administration of Federal elections and to otherwise provide assistance with the administration of certain Federal election laws and programs, to establish enhanced election administration standards for States and units of local government with responsibility for the administration of Federal elections, and for other purposes.

(3) A conference report to accompany the bill (H.R. 333) to amend title 11, United States Code, and for other purposes.

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

Mr. REYNOLDS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my colleague, the gentleman from Texas (Mr. FROST), the ranking member of the Committee on Rules, perhaps with which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

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

Mr. REYNOLDS. Mr. Speaker, House Resolution 507 waives clause 6(a) of rule XIII requiring a two-thirds vote to consider a rule on the same day it is reported from the Committee on Rules.

The SPEAKER pro tempore. The gentleman from New York (Mr. REYNOLDS) was recognized as Chairman of the Committee on the Judiciary.

Mr. REYNOLDS. Mr. Speaker, House Resolution 507 waives clause 6(a) of rule XIII requiring a two-thirds vote to consider a rule on the same day it is reported from the Committee on Rules.

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The SPEAKER pro tempore. The gentleman from New York (Mr. REYNOLDS) was recognized as Chairman of the Committee on the Judiciary.

Mr. REYNOLDS. Mr. Speaker, House Resolution 507 waives clause 6(a) of rule XIII requiring a two-thirds vote to consider a rule on the same day it is reported from the Committee on Rules.
Mr. FROST. I yield to the gentleman from Florida.

Mr. DREIER. I thank my friend for yielding to me, Mr. Speaker.

Let me say that, in fact, all of the conferees have signed that report, and the reason it is unsigned is because it has yet to be filed; but at 4 o’clock this afternoon a hard copy was delivered to the minority members of the Committee on Rules; and as has been said by the gentleman from New York (Mr. REYNOLDS), it has been made available on the Web site.

That is the report that will in fact be filed. This is the report that was agreed to by both the Members of the House and Senate in the conference.

Mr. FROST. Mr. Speaker, reclaiming my time, I would point out that the gentleman from Florida is a member of the conference committee and has not signed the conference report.

Mr. HASTINGS of Florida. Mr. Speaker, will the gentleman yield?

Mr. FROST. I yield to the gentleman from Florida.

Mr. HASTINGS of Florida. Mr. Speaker, I would say to the chairman that my office was called earlier and I said that I would be happy to consider the concern about a signature from the House who were conferees in fact signed.

Mr. FROST. Reclaiming my time, everyone on that side of the aisle. When the gentleman says everyone, he means everyone on that side of the aisle, correct?

Mr. DREIER. If the gentleman will yield, what I will say is that when the gentleman said there was a particular concern about a signature and was looking to this side of the aisle, I inferred from the way he said it that he was concerned about a signature from this side of the aisle.

The fact of the matter is the majority Members have signed the conference report. Does that answer the question, Mr. Speaker?

Mr. DREIER. If the gentleman will yield, what I will say is that when the gentleman said there was a particular concern about a signature and was looking to this side of the aisle, I inferred from the way he said it that he was concerned about a signature from this side of the aisle.

The votes, as they have been in the past in this instance, have been of those who support free trade, both Republican and Democrat, and those who are opposed to free trade.

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

Mr. DREIER. Mr. Speaker, I thank my friend for yielding time to me.

I would like to take a few minutes to describe how we got to where we are.

We passed the North American Free Trade Agreement 9 years ago and so we are rapidly approaching the tenth anniversary of the passage of the North American Free Trade Agreement. And, in my judgment, clearly, the implementation of NAFTA has been one of the greatest achievements that has happened in the relationship for this hemisphere. We have been able to take tremendous strides in enhancing the economic relationship among Canada, the United States, and Mexico with the North American Free Trade Agreement. We have seen free trade between the United States and Mexico more than double in the period of time that we have put NAFTA into place. And I think one of the most important products has been the successful implementation of full democratization in Mexico. We all knew that 71 years of one-party rule and bringing about the economic liberalization that came under the leadership of President Miguel de la Madrid and Carlos Salinas went a long way towards encouraging democratization. We saw political liberalization follow economic liberalization. And we know that while there are still very serious problems, we have migration problems, we have water problems, other issues that exist between the United States and Mexico, I think that the election in Mexico is something that was heralded in that country and here in the United States and throughout the hemisphere and, for that matter, throughout the world.

The reason I point to that is it is very clear that expanding trade is one of the most important vehicles toward expanding democratization. And that is really what this is all about.

We are here right now having spent nearly a decade because we saw the advantages that was known as Fast Track, what we now describe as Trade Promotion Authority, expire shortly after implementation of the North American Free Trade Agreement. And during that period of time, I am very proud of the fact that through the Clinton presidency, I worked closely with President Clinton, with his U.S. Trade Representative Mickey Kantor and then Charlene Barshefski to try to grant President Clinton the authority to negotiate these agreements so that we could establish what our goal is here, and that is a free trade area of the Americas. And we know that there are very serious problems that exist in South America, in Venezuela, in Argentina and other countries. And virtually everyone agrees that if we were to have the chance to expand this NAFTA concept to a free trade area of the Americas, we would be able to more effectively address the political problems and economic problems that exist in these countries and, similarly, in other parts of the world, we have those challenges and, of course, the national security question for us.

We have just successfully passed a bill establishing a Department of Homeland Security, and that is very important in dealing with our security here. But we know that economic liberalization and democratization are very important to encourage in other parts of the world where, in fact, terrorist threats have begun.

And so I think that the vote that we are going to cast granting this same-
day rule will allow us to bring up and consider the bill that grants President Bush trade promotion authority.

Now, Mr. Speaker, I underscored the fact I, as a Republican, I am a very proud Republican and no one has ever questioned my Republican credentials. Some did when I worked so hard to try to grant President Clinton trade promotion authority, but I believed was the right thing to do. And that is why I like to think that Democrats who join and understand of the very important, and I mean economic liberalization and the expansion of freedom and democracy will join with us in bringing us support in a bipartisan way, which trade has traditionally been. But we are right now at 11:34 in the evening still working at this, trying to address some concerns that are out there because we, as conferees, went through a laborious process trying to address concerns and, of course, we have a Democratic United States Senate and we have to work closely with the senators to come to an agreement. And I believe that the agreement that has been struck is deserving of wide bipartisan support, and so we have taken this step to establish same-day consideration.

We are on what we certainly hope is the last day of this type in the Congress before we go into our summer break, and I hope that Members will join in providing support for this same-day consideration of the rule and support for the very important trade promotion authority bill that we hope to be considering in the not too distant future.

Mr. FROST. Mr. Speaker, I yield 9 minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentleman for yielding me time, albeit reluctantly. I am sure everybody wants to go home. And maybe not the greatest time to rise to speak on the floor of the House because everybody does want to go home.

I should say at the outset that I have not been a supporter of fast track legislation, either giving that authority to a Democratic president or giving it to a Republican president, so for me this is not a partisan issue. But I presume that that part of this will be debated during the debate on the bill itself. I am not here to address the merits or lack thereof the fast track authority. What I am here to address is the material law rule that we are being called upon to vote upon this evening, because I object vigorously to material law. And quite often when we are in the last days of a session and the majority is trying to get material law, I go out of my way to come to the floor to speak on this concept of material law.

Mr. Speaker, I practiced law for 22 years, and there was nothing that I hated more in the practice of law than to start the trial of a case on a Monday or a Tuesday and have that case wind through the course of the week and get to Friday midday or Friday midafternoon and have that case still going on. Because what I realized was that whether it was somebody's property that was involved or whether it was somebody's liberty that was involved, everybody could go to the court and the judge and the lawyers wanted to start taking short-cuts. And when the case went to the jury, the jury was going to want to go home. And despite the importance of the matter before that court, I could not get justice late on a Friday afternoon.

So here we are at 11:30 on a Friday night, and my colleagues come out on the floor and we say we want to declare martial law which is to say we want you to give up the right of heretofore to consider a bill tonight that nobody has had a chance to read.

Now they say they have posted it on a web site sometime this afternoon, but I am sure people who have been following this session on C-SPAN have realized that this Congress has been in session right here on the floor of the House all afternoon debating a very, very important bill. And I would grant you, I would bet you that there is not a person in this body that has looked at this bill that we are getting ready to consider under martial law, same-day consideration. The whole rationale of the rule that says now we'll pass the bill now, the same day that it is filed is to allow democracy to work, to allow the deliberative process work, to allow the very thing that I objected to when I was practicing law, a compromise of justice, a compromise of democracy, to keep that from taking place.

That is why we have the rules of the House. And despite that fact, here we are, my colleagues. They took an hour and a half recess before they even brought the bill here because they did not know what was in the bill themselves.

I know I am getting on everybody's nerves, but this is about democracy and this is about us being able to read and understand what we are being called upon to vote. Just like when I was practicing law for 22 years, it was about somebody's property or somebody's liberty, this is about our democracy. This is about this is about. So I object to that they give me 2 more minutes to tell you what this is about.

This is about the quality of our democracy, and whether my colleagues can go home tomorrow or today, actually, we are not going home regardless of what happens here; maybe it is just later tomorrow, and so it would not make a whole heck of a lot of difference.

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

Mr. WATT of North Carolina. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding, and I appreciate many of the points he has raised. I have prided myself on being strongly committed in minority rights, having served 14 years on the minority.

Mr. WATT of North Carolina. This is not about minority rights. This is about democracy and the rights of every Member of this House.

Mr. DREIER. Absolutely. Do not get me wrong. I am also concerned about majority rights, too, especially when I am a member of the majority. But I am also sensitive to the minority rights. But, again, at 4:00 this afternoon the gentleman's office received by e-mail a copy of this conference report which we are prepared to file now. The gentleman from California (Mr. THOMAS) is here, who is chairman of the conference, and he is prepared to file this report, and I hope that we will be able to move ahead with its consideration. It has been 10 hours.

Mr. WATT of North Carolina. Reclaiming my time, I presume what that means is that what the gentleman is saying is what we are about to vote on. I appreciate him clarifying it. I had thought the gentleman just said that this thing was just up on a web site at 3:00 this afternoon. Now I am being told that he is getting ready to file it so we can read about it while we are debating it on the floor of the House.

This is about the quality of our democracy and whether we have the time to read a bill that we were getting right now. There is important stuff we are doing here. Certainly no less, no less important than the thing that were being deliberated in the courtroom. And all I am asking is for my colleagues to realize that and to take the time and give us the time to read what it is we are being asked to vote on.

And with that, I do not know how I can be more basic than that, but I am sure it will not make any difference to my colleagues.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. THOMAS, the chairman of the Committee on Ways and Means).

Mr. THOMAS. Mr. Speaker, I am pleased to announce that this is an additional step in a commitment this Congress made some time ago to try to move to a paperless Congress. More than 8 hours ago Members received in each of their offices an electronic copy of the document that was just delivered. If Members were concerned about the content of this particular report, they could have been reading it for 8 hours.

And in fact that is one of the things that this Congress can do in the 21st century, and that is instead of dealing with massive amounts of paper, 6 pounds delivered to each office, which is not read anyway, we have provided an electronic forum in which it is easily disseminated among staff and Members and that it is a far better way to deal with these issues. In addition to the 8 hours, we have 8 hours to consult the bill in which we are now bringing up the rule to allow us to consider. That is the way this
Congress should be operating in the 21st century. If someone believes they should be lugging around 6 pounds of paper when it has been in their office for 8 hours, I would urge Members to acquaint themselves with the benefits of computer technology and with the staff if the folks are not computer literate, because for more than 8 hours this identical bill has been in their offices.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. MATSUI), a member of the Committee on Ways and Means.

Mr. MATSUI. Mr. Speaker, I thank the gentleman from Texas (Mr. FROST) for yielding me this time.

I would like to clarify some misunderstanding because I heard at the time as I was sitting in my office that the documents were delivered at three o’clock or it was posted on the Web site at four o’clock and that would have undoubtedly then given about 7 hours and 45 minutes for us to review the documents in the middle of the Homeland Security Department legislation as it was moving through there.

The reality of it is, and I think the gentleman from California (Mr. THOMAS) would have to verify this or at least his staff would have to verify this, or perhaps the gentleman from New York would, were we not notified that the documents, all 360 pages, would be posted on the Web site until almost seven o’clock in the evening. And as all of my colleagues know, we were in the final stages of debate on the Homeland Security Department at that time; so we have actually only had a little over 4 hours and 45 minutes to review this document, and I have to tell my colleagues that one of the things that troubles me about this is that this is a significant major piece of legislation, and I think that Members on both sides of the aisle, particularly Members on my side, at any other time of the day, because we are going to be discussing textile rules, we are going to be discussing textile issues like trade adjustment assistance, which could cost considerable sums of money.

We are going to be discussing health care issues that were going to go to displaced workers, and it would seem like both parties would want an opportunity to review and vet this legislation before we adopt it, presumably this coming week, or at least 3 in the morning. And I will tell my colleagues why this is important is because the other body this week will be taking this legislation up and they will have a chance to review it, and all the flaws of this bill will come out, and some of my colleagues might be embarrassed if they, in fact, vote for this legislation, sight unseen, and it will be sight unseen.

For example, let me just throw out the trade adjustment assistance that many people made a big thing about. The fact of the matter is that if a company closes and leaves the United States and goes, let us say, to China, which many companies are doing at this time, those employees that are displaced from that factory will not be eligible for trade adjustment assistance or the health care benefits. Most of my colleagues on my side of the aisle who have been told this are absolutely astonished because they were told what a plan by the employees are going to be able to receive assistance, and that is just not necessarily true in most cases.

And the gentleman from California (Mr. THOMAS), if all of us recall, just two weeks ago, I do not believe legislation to provide $90 billion at a time when we are all facing a great deal of trouble on Wall Street, $90 billion worth of tax cuts to U.S. companies that would go offshore, and so essentially this bill would encourage companies to go to China offshore, and the tax bill that the gentleman from California (Mr. THOMAS) offered would do the same thing.

I find it kind of incomprehensible that Members who may not quite understand the implication of this, it could hurt their hometown companies, would end up voting for this and then next week maybe find out that this bill does not say what many of the Members supposed it might say, So I think this martial law proposal at this time in this evening for this kind of bill is pretty outrageous, and it should not be really offered tonight.

Mr. REYNOLDS. Mr. Speaker, I yield myself some time to my colleagues.

I am proud to be a member of the Committee on Rules. We are usually the last here. This week we have been the last here and the first here. We can continue and use the entire full hour on this same-day resolution and have all our colleagues debate the same day.

And then we will have a consensus on whether the House approves of the same-day rule or they do not, and then we will move into the opportunity to make our Committee on Rules meet because they were noticed last evening.

At eight this morning, we put out this same-day rule which led the indication that we would be considering the trade bill which many in the House knew was being negotiated actively by the entire Conference Committee. So we will continue and do the full hour here. We will then have a Committee on Rules meeting and we will do a full hour on the rule and then we will take it to debate, if that is what the body chooses to do.

I am prepared to yield back the balance of my time if the ranking member yields his time back and we can move forward, or we will continue to take the hour. So I will ask the ranking member if he has any further speakers or whether he wants to yield his time, in which I will follow.

Mr. FROST. Mr. Speaker, is the gentleman prepared to yield back his time so that the House may proceed to a roll call vote on this particular matter?

Mr. REYNOLDS. Yes.

Mr. FROST. Mr. Speaker, I yield back the balance of my time.
LEGISLATIVE PROGRAM

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

Mr. ARMEY. Mr. Speaker, let me say, of course, we are all concerned about just exactly how we will proceed, and let me give Members the best information I have at this time.

We do not expect a conference report on bankruptcy reform, and we are checking on that. So it is still possible we might try to consider that before we conclude our business. Members should be advised that as we work through the various problems and delays we have, all these things are possible and all these things are problems.

So we have what is known in Texas as a running gun fight, and I will try to report to Members how it is going as we move along. That is the best information I have at this time.

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Leader, I listened to the reading of the major legislative action, and it said that we could consider the bankruptcy bill, the trade bill, and also the electoral reform bill. Is it the gentleman's understanding that the electoral reform bill could go to the Committee on Rules for a rule and come to the floor, and I would say this evening, but it is now this morning?

Mr. ARMEY. Mr. Speaker, I am advised by the chairman of the committee that they have, in fact, just finished the same day rule. The trade promotion bill has been filed so we will now ask the Committee on Rules as soon as it is possible within their protocols and courtesies that they extend to one another to meet and prepare a rule for consideration of the trade promotion bill.

In the meantime on the floor of the House in just a few minutes, we are going to ask the Committee on Financial Services to bring their resolution to go to conference on the terrorism re-insurance bill. We will take care of that business and any other business we will be able to work together on.

We have been working very hard trying to clear some unanimous consent opportunities for several of our Members. We continue to clear as many of those as we can. Insofar as we have completed the intervening work prior to our ability to reconvene the House for the purposes of the rule on trade, we will just have to recess subject to the options with scheduling that. As soon as it is possible within their protocols and courtesies that they extend to one another to meet and prepare a rule for consideration of the trade promotion bill.

Mr. ARMEY. Mr. Speaker, let me say, of course, we are all concerned about just exactly how we will proceed, and let me give Members the best information I have at this time.

We do as much as we can to take care of Members on both sides of the aisle as possible. Some of these are timely matters. We have one with respect to Indiana which simply would be of no consequence or interest to the gentlewoman's district if we put it off until after.

When approached or asked about these, give what consideration Members can to colleagues. This is not a matter that the leadership has any particular interest in other than helping as many Members as possible. If we can get some of those cleared, we will help other Members.

Ms. PELOSI. Mr. Speaker, the gentleman would continue to yield, it is my understanding that the bankruptcy conference report, trade promotion, and terrorism risk insurance are the three bills that may come to the floor tonight?

Mr. ARMEY. Mr. Speaker, the gentleman would continue to yield, it is my understanding that the bankruptcy conference report, trade promotion, and terrorism risk insurance are the three bills that may come to the floor tonight?

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REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3009, TRADE ACT OF 2002.

Mr. REYNOLDS, from the Committee on Rules, submitted a privileged report (Rept. No. 107-625) on the resolution (H. Res. 509) waiving points of order against the conference report to accompany the bill (H.R. 3009) an Act to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

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

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

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

Mr. REYNOLDS. Mr. Speaker, House Resolution 509 is a standard and fair rule providing for the consideration of the conference report to accompany H.R. 3009, the Trade Act of 2002. The rule waives all points of order against the conference report and against its consideration. Additionally, the rule provides that the conference report shall be considered as read.

Mr. Speaker, there was a time when this country could boast that we were the world leader for shaping the rules on international trade, globalization and open markets. Sadly, this is no longer the case.

What we have before us today is a historic opportunity to remedy this obvious shortcoming. I would like to personally commend all those on both sides of the aisle, and in both Chambers, who have worked in a bipartisan manner to make this possible.

Trade is a fundamental element of the U.S. economy, stimulating growth, creating jobs, and expanding consumer choice. Nearly one in every 10 American jobs is directly linked to the export of U.S. goods and services, and these jobs are estimated to pay 13 to 18 percent more than the U.S. national average. From family farms to high-tech startups to established businesses and manufacturers, increasing free and fair trade will keep our economy going and create jobs in our economy.

Consider a study conducted by the University of Michigan. The average American family of four could see an annual income gain of nearly $2,500 from a global reduction in tariffs and trade barriers. That money would be a welcome addition to the family budget.

Trade is also a cornerstone of American relations with other countries. Free-flowing trade helps alleviate poverty, building stronger and more prosperous neighbors. With trade as a conduit, walls can break down and democratic ideals can be shared more openly between countries. Whether bolstering our economic interests or reinforcing the values of democracy worldwide, free trade is an important tool in fostering new opportunities for the United States. Trade promotion authority is vital to making these opportunities possible.

Mr. Speaker, in the spirit of bipartisanship that has helped bring us to this point, I would like to quote President John F. Kennedy. In 1961, he said, “World trade is more than ever essential to world peace. We must therefore resist the temptation to accept remedies that deny American producers and consumers access to world markets and destroy the prosperity of our firms in the non-Communist world.”

At a time when America strives to enhance and strengthen our friendships around the world, it is imperative that we recognize the correlation between peace and free trade.

Mr. Speaker, this agreement has been a long time in coming. Even though every President from Richard Nixon to Bill Clinton has enjoyed the right of trade promotion authority, that authority has been lacking since its expiration in 1994. The underlying legislation will restore that negotiating authority and open the doors of prosperity for this country. Let us not make America, its workers or its products wait any longer.

Mr. Speaker, I urge my colleagues to support this rule and the underlying legislation.

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

PARLIAMENTARY INQUIRY

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman will state it.

Mr. CALLAHAN. Is it permissible during a debate on the rule for Members to revise and extend their remarks?

The SPEAKER pro tempore. It is, by unanimous consent.

Mr. CALLAHAN. At this time of morning I think it would be very wise. Some of my colleagues have heard all of the debate, some of the Members consider the fact at this late hour that a revision and extension of remarks would serve the same purpose.

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentleman from New York for yielding me the time, and I yield myself such time as I may consume.

My good friend from Alabama makes a great suggestion, but an even greater suggestion would be for us not to be in the dead of night undertaking this extraordinary work.

Mr. Speaker, I rise in opposition to this rule and in strong opposition to the underlying conference report. It is the conference report on what is called TPA. Yes, TPA. By my way of thinking, that ought to stand for Thoughtless Political Action, because that is precisely what this House is prepared to do. I hope the American worker is braced for the sucker punch they are about to receive. Some 7 months ago that it is no wonder that the American people have such disdain for politicians. Well, this conference report

APPOINTMENT OF CONFEREES ON H.R. 3210, TERRORISM RISK PROTECTION ACT

Mr. OXLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker’s table the bill (H.R. 3210) to ensure the continued financial capacity of insurance companies to provide coverage for risks from terrorism, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference report asked by the Senate.

The SPEAKER pro tempore. The Speaker pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Ohio (Mr. OXLEY)?

Mr. DEFAZIO. Reserving the right to object, Mr. Speaker, I ask the gentleman to repeat the unanimous consent request.

The SPEAKER pro tempore. Does the gentleman from Oregon yield on his reservation?

Mr. DEFAZIO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio? The Chair hears none and, without objection, appoints the following conference:

From the Committee on Financial Services, for consideration of the House bill and the Senate amendment thereto, and modifications committed to conference:

Mr. Oxley, BAKER of Oregon, NAY, MTS. KELLY, Messrs. SHAYS, FOSSIELLA, Ferguson, LaFalce, KANJORSKI, BENTSEN, MALONEY of Connecticut, and Ms. HOOLEY of Oregon.

From the Committee on the Judiciary, for consideration of section 15 of the House bill and sections 10 and 11 of the Senate amendment thereto, and modifications committed to conference:

Messrs. SENSENBRINNER, Coble and Conyers.

There was no objection.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3009, TRADE ACT OF 2002

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 509 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 509

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 3009) an Act to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.
bears that out in spades. Like the bill last month, this conference report is another perfect example of backroom deals gone bad in the dead of the night, legislating under the cloak of darkness, and accountability at its most pernicious.

On December 6 of last year, with the number of unemployed Americans totaling more than 8.25 million, the majority made a series of back-door deals to secure promotion authority for an administration which in my judgment has yet to prove to Americans that it really cares about their jobs. All of this was done under the pretense of furthering U.S. business interests, and the majority I will attempt to explain that Congress should not entertain. We really ought to be ashamed of ourselves for even considering this kind of measure.

Mr. Speaker, I hope that my colleagues fully understand that since the current administration took office, an average of 157,000 Americans are losing their jobs every month. Tonight, the majority is again poised to eliminate tens of thousands of more jobs under the pretense of United States trade promotion. Knowingly eliminating any job at a time our economy has proven that it is incapable of re-creating that job is not an option that Congress should entertain. We really ought to be ashamed of ourselves for even considering this kind of measure.

You see, Mr. Speaker, this body knows that trade agreements cost American jobs. In fact, 420 of us agreed to this conclusion when the House overwhelmingly extended trade adjustment authority in June 2001. Yet the TAA provisions in the conference report are a reckless disregard of the obvious. The TAA is supposed to help displaced workers, the conference report has reduced the Senate-passed TAA proposal on health care to a tax credit that covers a meager 65 percent of the cost of group health insurance premium. While the Federal Government pays 72 percent of Members’ health care premiums, and it is preposterous for us to expect the unemployed to pay any more than we do on health care.

But all of this does not even matter if the Treasury Department does not establish the guidelines for a complex TAA program, or if States do not release the TAA funds once they have been appropriated. It is funny how language ensuring the distribution of TAA funds is mysteriously missing from this report that was on the Internet at 4, or at 7:15, take your pick. The majority maintains that it is obvious that States will release the funds. I say if it is so obvious, put it in writing.

Realize, providing open-ended authority to the President without requiring that environmental, labor and agricultural standards be included in any trade agreement is nothing short of hammering another nail in the coffin of hundreds of American industries nationwide.

I support free trade. I have in the past and I will again in the future. However, any free trade agreement must also be a fair trade agreement. Through the eyes of a farmer, it is outrageous to expect the American agricultural industry to compete with South American, Central American or Asian agricultural industries who are not required to pay their workers a living wage and are not held to the same environmental standards as farmers are here in the United States.

Mr. Speaker, I urge my colleagues to stay here in the middle of the night and play politics with Americans’ lives under the pretense of U.S. trade promotion, or we can get serious about securing the future of American jobs and industries. This report does not recreate the 364,000 jobs which were lost in the month of June, and it certainly does not recreate the 1.7 million jobs we have lost since September 11. This report does not ensure the future of United States agriculture, and it definitely does not ensure the future of the U.S. steel and textile industries.

It is one thing to talk politics, and it is another thing to talk policy, but when the politics begin to interfere with the policy and that policy interferes with American lives and livelihoods, then we have a problem. Tonight, Mr. Speaker, we have a problem. This report does not contain the hundreds of thousands of U.S. jobs to be shipped off to foreign countries with no guarantee that displaced American workers will be compensated. The environmental and labor provisions that do exist in the report are as disingenuous as the pretenses with which the majority brings this legislation to the floor this morning. This so-called Trade Promotion Act does indeed grant some significant benefits to some workers. Regrettably, not the workers that pay our salaries with their hard-earned tax dollars. There is nothing in this bill that promotes the interest of the American worker. Nothing.

This bill does so little for the American worker, under the guise of doing so much, that I recommend changing the name TPA to the Trade Pretense Act. I urge a “no” vote on the rule and a “no” vote on the conference report.

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

Mr. REYNOLDS. Mr. Speaker, I yield 3 minutes to the gentleman from Georgi (Mr. LINDER).

Mr. LINDER. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise today in strong support of both the rule and the underlying legislation, the conference report on the Trade Act of 2002.

First and foremost, as a member of this conference committee on the 2002 Trade Act, I wish to express my gratitude to the gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means, for his leadership and diligence in bringing this important legislation to the floor today. I commend the chairman for his devotion to promoting the principles of free trade and ensuring the U.S.’s prominence in the international marketplace.

Mr. Speaker, in one of his first requests to the 107th Congress, President Bush requested the authority to negotiate trade agreements with credibly in the international arena. The President understands what so many macro- economic forecasts have predicted: the world is increasingly open and beneficial to all nations and all people. Through trade agreements with other nations, new horizons are opened for U.S. exports, helping to create high-quality new jobs for Americans while American consumers gain access to lower-cost goods. The President knows that free trade benefits the U.S. economy. Given our recent economic uncertainty, it is important that we finally grant his request for the authority to negotiate trade agreements in order to help strengthen our economy.

Finally, without this legislation, the House of Representatives has no voice in the negotiation of trade agreements. The House is elevated by the trade promotion authority provisions included in the 2002 Trade Act, which require the President to consult with both the House and the Senate throughout trade negotiations. Once an agreement has been reached, the House and Senate must each have the opportunity to approve or disapprove the agreement. Mr. Speaker, this conference report gives the House of Representatives a voice in trade negotiations, a voice which would otherwise be silent.

I urge my colleagues to vote in support of the rule and the conference report to ensure that we may participate in future trade negotiations.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 1/2 minutes to the distinguished gentleman from Michigan (Mr. LEVIN), who has extensive knowledge on the subject that we are talking about.

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

Mr. LEVIN. Mr. Speaker, with all due respect, I am amazed that it would be suggested here that we only rise and decide to extend our remarks and not order to help strengthen our economy. But I am talking about a 300-page bill, is it? We are talking about a bill that is going to set the stage for trade negotiations for the
Mr. Speaker, let me just say this: What are we really talking about here? Let us talk about the legislation for a moment. It is a quarter to 1 right now. We just got a 360-page bill about 5 minutes to my time. It is a quarter to 1 right now. We are going to have changes in antitrust laws, corporate accountability procedures and advertising standards, too bad. Too bad, because Congress will not be able to do a thing about it.

Under this conference report, if a trade agreement makes the food our families eat dangerous to their health, too bad. If a trade agreement undermines our environmental protections, too bad. If a trade agreement weakens our ability to enforce our antitrust laws, corporate accountability procedures and advertising standards, still too bad. Too bad, because Congress will not be able to do a thing about it.

This conference report is an outrage. This rule and this martial law process is an insult. It is an insult to the Members of this House, both Democratic Members and Republican Members, and it is an insult to the American people. I urge my colleagues to vote no on the rule and no on the conference report.

Mr. REYNOLDS. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. DIAZ-BALART).

Mr. DIAZ-BALART. Mr. Speaker, I rise today in strong support of the rule, which will allow for consideration of the Trade Act of 2002 conference report. It has been a long and arduous process that has brought us here this evening. The House originally passed the Andean Trade Promotion and Drug Eradication Act on May 25 and then followed with the passage of the Trade Promotion Authority on December 6. It is now more than 8 months
since the passage of the first bill, and I believe that we have a product today that is of extreme importance really in the national security of the United States.

We have a unique opportunity to strengthen our leverage against the threats of terrorism and drug trafficking. One of the surest ways to support democracies under extreme pressure in our hemisphere is by facilitating the emergence of a Common Market of the Americas, the free trade area of the Americas. Free trade among free peoples is good policy and good for the people of the Western hemisphere. To achieve a Free Trade Area of the Americas, Mr. Speaker, it is crucial that we approve this conference report and finally give the President the authority he needs to get this process going and to make it a reality.

I rise in strong support of the rule and the underlying bill due also to another provision that has been very needed for a long time.

This bill includes the extension of the Andean Trade Preference Act. Due to the ATPA, the U.S. and the Andean nations have enjoyed an $18 billion beneficial trade relationship for the last decade. The extension of the ATPA is not merely a matter of economic or trade policy, it is a decision with consequences for U.S. foreign and national security policy in this hemisphere.

Bolivia, Colombia, Peru and Ecuador are nations that we must continue to help. They have indicated over the past decade that they wish to be strong members of a free and democratic hemisphere, a hemisphere that will one day be free of terrorism and free of tyranny. Continuing ATPA will help the Andean nations fight poverty, terrorism and drug protection, as well as protect democracy and promote human rights. ATPA promotes job creation in a region with where the alternative for many workers is easily a life devoted to drug promotion.

Promoting development in this region is crucial to a U.S. foreign policy that seeks to support countries fighting against terrorism and fighting against the drug trade.

I urge our colleagues to consider the benefits of extending ATPA, not only to our South American neighbors, but also because of the effect on the American consumers, who will enjoy a wide variety of product choice with fewer artificial constraints and restrictions. Extending and improving ATPA is a decisive step toward improved relations with this hemisphere. This legislation will foster the expression of a mutually supported and beneficial relation between the U.S. and the democracies of the Western hemisphere.

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One of the surest ways to support democracies under extreme pressure in our hemisphere is by facilitating the emergence of a Common Market of the Americas, the free trade area of the Americas. Free trade among free peoples is good policy and good for the people of the Western hemisphere. To achieve a Free Trade Area of the Americas, Mr. Speaker, it is crucial that we approve this conference report and finally give the President the authority he needs to get this process going and to make it a reality.

I rise in strong support of the rule and the underlying bill due also to another provision that has been very needed for a long time.

This bill includes the extension of the Andean Trade Preference Act. Due to the ATPA, the U.S. and the Andean nations have enjoyed an $18 billion beneficial trade relationship for the last decade. The extension of the ATPA is not merely a matter of economic or trade policy, it is a decision with consequences for U.S. foreign and national security policy in this hemisphere.

Bolivia, Colombia, Peru and Ecuador are nations that we must continue to help. They have indicated over the past decade that they wish to be strong members of a free and democratic hemisphere, a hemisphere that will one day be free of terrorism and free of tyranny. Continuing ATPA will help the Andean nations fight poverty, terrorism and drug protection, as well as protect democracy and promote human rights. ATPA promotes job creation in a region with where the alternative for many workers is easily a life devoted to drug promotion.

Promoting development in this region is crucial to a U.S. foreign policy that seeks to support countries fighting against terrorism and fighting against the drug trade.

I urge our colleagues to consider the benefits of extending ATPA, not only to our South American neighbors, but also because of the effect on the American consumers, who will enjoy a wide variety of product choice with fewer artificial constraints and restrictions. Extending and improving ATPA is a decisive step toward improved relations with this hemisphere. This legislation will foster the expression of a mutually supported and beneficial relation between the U.S. and the democracies of the Western hemisphere. Nations in this hemisphere are facing numerous challenges that threaten their fledgling democracies, including narco trafficking and terrorism.
will decide how I am going to vote. But I think it is important that we all know that if there is a rule of the House, we ought to abide by it. The Committee on Appropriations should appropriate; the Committee on Ways and Means should deal with its jurisdictions; other appropriating committees should deal with their authorities and jurisdictions, and we should each stick to what has worked so well for so long.

Mr. HASTINGS of Florida. Mr. Speaker, I am privileged to yield 2½ minutes to the gentlewoman from Ohio (Ms. KAPTUR), who has very few peers in this body that have as clear an understanding of trade.

Ms. KAPTUR. Mr. Speaker, I thank the gentleman from Washington for yielding and say that I rise in opposition to the rule on the conference report.

The American people know something that goes on in Washington. Every single time a bill passed by this Congress and signed by the President results in more lost jobs, more penny-wage jobs, more lost markets as imports deluge in here from every single country in the world and we cash out good jobs and benefits in textiles, in electronics, in agriculture, in automotive, in machine tools, in steel; even baseball and U.S. flags.

TPA expands NAFTA to the entire hemisphere. Before NAFTA, we had a trade balance. I say to the gentleman from California (Mr. DREIER), with Mexico. Every year the trade balance has gone down, gone south, losing over hundreds of thousands of jobs into Mexico and cashing out our automotive and machine tool industry and even agriculture now down there. And when people start getting paid $3 a day, then guess what happened? They moved the jobs to China.

So we have had a sucking sound to Mexico, which is now shifting over to China, and I defy any American to go into a store today and buy something that is not made in China, and the American people can verify this through their own experience.

Now, I say to the gentleman from California (Mr. DREIER), he did not really talk about the pain and suffering. Talk to the workers at Brachs Candy in South Chicago. They are about to go through that shutdown, a 100-year-old company. It is one of a long line of millions of U.S. jobs.

I used to feel sorry for you that you really did not understand, but I feel much sorrier for the workers and the farmers of this continent and the world, because you are creating a great divergence between wealth and poverty. You are drawing a new Mason Dixon Line. It is different than what we experienced inside the United States. The wealthy, the shareholders, those on Wall Street and the futures market, those on this system, the workers of our country and the farmers of the world, they are being hurt. What do you think is fueling immigration into this country from the south?

Mr. Speaker, I would urge my colleagues to vote "no" on the rule and "no" on the report. Do not vote for a world with these kinds of extremes in poverty, with every country washing out our middle classes and creating global environmental cesspools and corporate slums and global plantations with penny-wage jobs. Vote for the kinds of trade agreements that build a middle class, not at home and abroad and true world peace.

And what a shame for us, what a shame for us that this is being brought up at 1 o'clock in the morning, just like GATT was about 8 years ago, because they want to do it in the quiet of the night when most people are sleeping. It is too important for that. Have some self-respect for us. Let us debate as we should one of the most important bills that will come before this Congress.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). The Chair would remind Members to address their remarks to the Chair and not to each other directly.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, we have waited far too long to have the ability to sell American products overseas. We stand just critical to America's economy and jobs that we get back into the game, that we start to sell American products, because we have been on the sidelines since 1994. The rest of the world is running circles around us. It is Lewis and Clark days out there and every Nation is out there staking out markets for their country except America.

The potential is just huge for our Nation. Ninety-six percent of the world's population lives outside of the country. As of last year, half of the adults in the world, half of the adults, have yet to make their first telephone call, their first telephone call. That means that if European countries land those contracts, they will create European lands. If Asia lands those contracts, they will create Asian jobs. But if America has the opportunity to get out there and compete, we will create American jobs.

These international trade jobs, they pay more than our domestic jobs here at home. They are less likely to be laid off. In Texas, in our region, in manufacturing alone, since NAFTA, we have created enough new manufacturing jobs to fill every seat in the Astrodome twice over. 'Out of every three new jobs we are creating in our State comes from international trade, and we have $1 billion of environmental projects along our border with Mexico: clean air, clean water, waste water and sewer treatment. That is what we would never have without trade.

Trade is good for our jobs, good for our economy, good for labor rights. There is a principle here. The principle is that America builds a better mousetrap, we should be free to sell it anywhere in the world without discrimination. And if someone else builds a better mousetrap, we ought to be able to be free to buy it for our families and for our businesses. We should not retreat from fair trade competition; we should embrace it, because competition is what America is about. It is the key to our high-wage and our high-tech future.

Mr. Speaker, the bottom line is, we do not have a salesman. America needs a sales force and a sales leader out there. We are providing the President with that. We should support this rule.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 2 minutes to the gentleman from New York (Mr. RANGEL), my good friend, who simply has, throughout time, stood eyeball to eyeball and toe to toe with all who would argue on the subject of trade.

Mr. RANGEL. Mr. Speaker, it is 1:10 in the morning, and I think that all Members of this House recognize that in order for our country to enjoy economic growth, that we have to engage in international trade. We also recognize that the power of commerce and trade remains in this House, but it does not make a lot of sense to believe that 355 lawmakers will be negotiating trade agreements.

So therefore, the power should be given to the executive branch to actually negotiate these agreements, but it does not mean that the House of Representatives should give up its authority to protect the American people and American workers as we yield to the executive branch. Why? Because it is the executive branch that yields a part of our power to world trade organizations, to international organizations.

All we are saying on our side is that there should be some standard for the leaders of the Free World, the United States of America, to be able to say that as we engage in trade, with all of our power and prestige, that there is minimum standards that we expect other nations to follow with their workers, with their right to organize, with their ability to dream, like Americans dream, that their life can be improved.

Do we say that it should reach our standards? No. What we are saying is that there should be standards involved. There should be standards involved in protecting what is not ours, not the United States' and not other countries', but what God has given the world, and that is our environment to live in. Something else that we say we should have, and that is the laws of the United States Congress should not be changed by foreign nations. We should preserve that right.
So all we are saying is that all of us want trade. We recognize that it is necessary for us, better for developing nations; not Cuba, because of the sovereign State of Florida and the Republic of Florida as they dictate our foreign policy and trade policy, but I suggest that we have taken a bad road and nobody is debating such an important subject.

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

Mr. HASTINGS of Florida. Mr. Speaker, may I inquire as to the time remaining?

The SPEAKER pro tempore. The gentleman from Florida (Mr. HASTINGS) has 8 1/2 minutes remaining; the gentleman from New York (Mr. REYNOLDS) has 1 minute remaining.

Mr. HASTINGS of Florida. Mr. Speaker, I am prepared to reserve the balance of our time and ask most respectfully that the gentleman from New York even out some of the time.

Mr. REYNOLDS. Mr. Speaker, the chairman of the Committee on Rules has requested such time as he may consume, and if the gentleman from Florida is prepared to close, I will urge that upon my chair, as he would speak to close.

Mr. HASTINGS of Florida. Mr. Speaker, is the gentleman saying he does not have any more speakers other than the chairperson, or whomever will close?

Mr. REYNOLDS. That is correct.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 3 minutes to the distinguished gentleman from Vermont (Mr. SANDERS), a very good friend of mine.

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

Mr. Speaker, fast track essentially extends our current trade policies. And why in God's name would we want to do that when our current trade policy is an absolute disaster that has cost this country millions of decent-paying jobs and has resulted in the pushing down of wages from one end of America to the other?

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The facts are clear. They are not disputable. When we have a failed policy, why do we want to extend it?

I hear some people talking about how fast track and trade policies have created new jobs. What world are they living in? Is today Vermont or is it Mexico? When they dispute it, we have a $346 billion trade deficit, recordbreaking. No one disputes that between 1994 and 2000, the United States lost more than 3 million decent-paying manufacturing jobs due to our trade policies. In 2001, manufacturing jobs have declined, and for the past 4 years, this is incredible, our Nation has lost 10 percent, 10 percent of our manufacturing base.

Then people come up here and they say, let us continue; let us extend this abysmal, failed policy, what will they catch on, when there are no more manufacturing jobs in America? When all of our kids are flipping hamburgers?

Everybody knows the truth, and the gentlewoman from Ohio (Ms. KAPTUR) said it. We all know it. When we go to a department store and buy a product, where is that product manufactured? We all know it. It is not manufactured in Vermont; it is not manufactured in California; it is not manufactured in China.

Why is it manufactured in China? We know the answer to that. In China, desperate people, desperate people are working for 20 cents an hour, and the corporate titans in this country have said we have taken their plants to China, where people go to jail if they try to form a union; where women are brought in from the countryside to work 15, 16 hours a day, making sneakers for pennies an hour.

We all know that big money has contributed huge amounts to both political parties in order to move these trade issues, but let us stand up for ordinary Americans and for the middle class. Let us not become a poor, low-wage Nation whose trade policies. Let us demand that corporate America reinvest in Vermont, in America, and not just in China. Let us have a fair trade policy, rather than this disastrous so-called free trade.

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

Mr. Speaker, if this rule passes, we will have great debate by sponsors of the legislation. As I have said many times, managing this rule in what is now hopefully an opportunity to pass this conference report that is not a partisan matter on trade, it is a bipartisan matter in both Houses as we look to the debate, and then to move forward with the will of the House.

In my home State, international trade is a primary generator of business and growth. In the Buffalo area, the highest manufacturing and employment sectors are also among the State's top export industries, including electronics, fabricated metals, industrial machinery, transportation equipment, and food and food products.

Consequently, as exports increase, employment in these sectors will increase. In the Rochester area, companies like IBM and Kodak play a significant impact on the local economy. In employment they will benefit directly from increased exports and international sales that will result from new trade agreements and open markets that are negotiated under the trade promotion authority.

For example, about one in every five Kodak jobs in the United States depends on exports. New trade agreements are needed to break down foreign barriers and keep American-made goods competitive overseas, as well as open up foreign markets on domestic companies.

This body and the other body will have the final say on those trade agreements. There are 28 bilateral agreements by Mexico and countries throughout the world. There are 27 by the European Union. Mr. Speaker, this country only has two. The trade promotion authority gives us an opportunity to move forward and an opportunity to see more jobs.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes to my good friend, the gentleman from Ohio (Mr. BROWN), who has been the leader in this regard.

Mr. BROWN of Ohio. Mr. Speaker, I think my friend, the gentleman from Florida, for yielding time to me.

Yesterday, under enormous pressure from defrauded investors, the Republican leadership finally, reluctantly agreed to bring a strong accounting bill to the floor. But tonight, the Republican-dominated House is poised to turn around and give corporate America its most desired prize of all, trade promotion authority, or fast track. The fast track conference agreement is a good idea, for things that work, but it is a bad deal for American workers.

Republican leadership has given these corporations everything it wants in this Congress: insurance companies write legislation to privatize Medicare; energy companies write our energy policy; chemical companies write our environmental policy; Wall Street writes Social Security privatization legislation.

Fast track, the granddaddy of them all, would prevent thousands of displaced workers from obtaining training, trade adjustment assistance, and health care coverage. It fails to make labor and environmental standards required. It negotiated objectives for future trade agreements.

But it is worse than that. This TPA, this fast track, shifts power from democratic governments to corporations. It allows corporations to challenge laws. It threatens food safety laws, worker protection laws that were passed in this Congress, that were passed in the 50 State legislatures, regulations that protect workers and protect the environment.

For example, this legislation thwarts the food safety; it threatens clean air laws, it threatens safe drinking water laws, it threatens worker safety laws, Vote "no" on trade adjustment.

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

Mr. HASTINGS of Florida. Mr. Speaker, I am privileged to yield 2 minutes to my good friend, the gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Just a small bit of history, Mr. Speaker. I came to this Congress under the Presidency of William Jefferson Clinton, when many times we tried to craft a trade bill that respected and understood the role that this Congress has in oversight, respecting the laws of this Nation, understanding the needs of workers and the environment and protecting children.

But it is interesting that under William Jefferson Clinton, this Republican...
House could never get a trade bill to be passed. Now, all of a sudden, there is this great energy to move a bill forward that does not take into consideration the very thoughtful Levin amendment that considered the environment, considered child labor, prohibited benefits to health benefits for laid-off employees.

This particular legislation that has come in the dead of night, when no one has been able to read it, is a trade bill for the trash heap, the trash heap of a Constitution that has been shredded in this trade bill.

Why do I say that? Because this trade bill allows racial profiling to go on by members or employees of the United States Government. I respect the U.S. Customs Agency; but for the life of me, I cannot understand why we have refused to acknowledge that we in this country deserve constitutional rights.

What they have done is they have decided to say that African American women who are nine times more often stopped by U.S. Customs agents then white women, have no constitutional rights. It says to them that they can come in the dead of night, when no one is around, take all the African Americans and search them, and find and no contraband, and under the trade bill the customs agents would do this with impunity.

I believe we can have a trade bill. It can also be a bipartisan trade bill, a responsible trade bill, but I will not lose my constitutional rights on a trade bill that deserves to be put on the trash heap of disappointments.

Mr. REYNOLDS. Mr. Speaker, I am privileged to yield 1 heap of disappointments that deserves to be put on the trash heap of a responsible trade bill; but I will not lose my constitutional rights. It can also be a bipartisan trade bill, a responsible trade bill the customs agents would do this with impunity.

Mr. DREIER), the distinguished chairman of the Committee on Appropriations from the Committee on Appropriations from the Committee on Appropriations from the Committee on Appropriations from the Committee on Appropriations from the Committee on Appropriations from the Committee on Appropriations from the Committee on Appropriations from the Committee on Appropriations from the Committee on Appropriations.

Mr. DREIER. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. FARR), who serves on the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies of the Committee on Appropriations from the number one agricultural State in America, California.

Mr. FARR of California. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise tonight to respond to the request, rather flippantly, that we go back to the offices and read on the Internet what this bill is. I read it, not in my office, because we were voting; but there are 204 pages right here on the floor for 435 Members to read.

I want to wake up America at 12:35 in the morning to tell them they had better understand what is going on here tonight. This is not one little simple trade bill; this is five trade bills. This is a fast track bill, an Andean trade preference bill, a customs reauthorization bill, a trade assistance package, and a dozen provisions including giving the U.S. Trade Representative a slush fund to pay said fines without congressional approval.

This bill gutted the Eshoo trade preference adjustments. Reading this bill, it is a travesty to California agriculture. We sell out California flower growers. We sell out California asparagus growers. Yet they were able to protect the Puerto Rico rum producers. We sell out textiles, shoes, and jewelry; and we ignore the child labor problems that exist in Ecuador in the banana industry, as pointed out by the New York Times.

This is a bad bill. Vote against the rule.

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

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield the remainder of my time to my good friend, the gentleman from Washington (Mr. MCDERMOTT), who serves on the Committee on Ways and Means and certainly has a clear understanding of the measure.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Washington (Mr. MCDERMOTT) is recognized for 30 seconds.

Mr. MCDERMOTT. Mr. Speaker, it is a great pleasure to sit on the Committee on Ways and Means with the most thoughtful chairman we have in the entire history of the Committee on Ways and Means. He sat out here and lectured us about the fact that we had not picked up off the Web this 340-page bill that was sent to us at 6:53, right in the middle of the discussion of the homeland security bill.

What we were supposed to do was get an e-mail from Diane Kirkland. You all know who she is; she is very familiar to all of you. The e-mail says, go and get a link and get this bill. And the chairmen stands over there with that haughty look and says, you were not smart enough to know where to look for the thing that I hid. Vote "no."

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

The previous question was ordered. The SPEAKER pro tempore. The question on the resolution.

The question was taken; and the Speaker pro tempore announced that the time appointed to have

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 220, nays 200, not voting 14, as follows:

[Roll No. 369]

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yeas 220, nays 200, not voting 14,
Mr. HILL and Mr. WYNN changed their vote from ‘yea’ to ‘nay.’

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.
trade agreement that is going to cause the free world to thank us for the great work that we have done. Of course when one would ask how many people in this august body has had the opportunity to read the 304 pages of this bill we are referred to the Web site and e-mail to find out what is here.

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So I guess basically what the chairman is saying is, do not vote for the bill because we can assume that the Members do not know exactly what is in these 304 pages. What he is suggesting is that Members trust him.

So I hope we can staple him to whatever newsletter we are going to send out to tell people what we have done for the free world and how this is going to help the workers. But I doubt very seriously whether we can wave the flag and be so proud of the fact that, when we are talking about international trade, he had to find two Democrats that made it possible, when Democrats in the House are almost half of the House.

What we should be doing when we deal with foreign policy and when we deal with trade is to be able to say when that American flag goes up that it was a bipartisan effort that we made; and that deals were not made in the middle of night or Members not selected one or two, but it means that we come together to find out what is in the best interest of the United States of America and not what is in the best interest of the majority.

In the final analysis, the work that we do in this House is not the work of Democrats, it is not the work of Republicans, it is the work of the people in the House of Representatives that have the opportunity to deal with the commerce provisions of the United States Constitution.

Now, there are some people that may not care what happens in the World Trade Organization, but they may not know that the executive branch negotiate and we give up these powers. But when the final day is written and it is over and the history is written, it is going to be what did the United States of America do to set standards for the rest of the working people in this world.

A lot of people have suffered and died for the right of unions to be able to come and to give us a decent wage, vacation, and all those things. We do not expect the developing countries, that they would assume our standards. What we do hope is that they would be able to assume our dreams, our aspirations, and be able to do that. On this side of the aisle, we say that should be incorporated in each and every agreement that we have, no matter how underdeveloped a country is.

But, listen, the best time to talk about our best work is when everyone is sleeping. The best time to talk about what we did is when no one knows what we have done. So it was a historic bill 1 a.m. in the morning and debate it until 3 a.m. in the morning.

So I guess we are going to find out what happens in this bill at some time, at some place, but this is no way for this Congress to be conducting its business.

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

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Illinois (Mr. CRANE), the chairman of the Subcommittee on Trade.

Mr. CRANE. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in strong support of H.R. 3069.

Mr. Speaker, this bipartisan conference agreement is the culmination of a process that began in the Subcommittee on Trade over a year ago when I introduced H.R. 2149, the Trade Promotion Authority act. Since that time, Republicans and Democrats have trudged miles together in search of this delicate consensus.

Mr. Speaker, trade is fundamental to our relations with other nations. As the President strives, to neutralize international threats to our security, Trade Promotion Authority is an essential tool for him to build coalitions around the world that safeguards our freedoms.

This bill is about arming the President with authority that achieves trade agreements written in the best interest of U.S. farmers, companies, and workers. This legislation will ensure that the world knows that Americans speak with one voice on issues vital to our economic security. At the same time, it ensures that the President will negotiate according to clearly defined goals and objectives written by Congress.

TPA simply offers the opportunity for us to negotiate from a position of strength. In no way does TPA constitute the final approval of any trade agreements. Congress and the American people retain full authority to approve or disapprove any trade agreement at the time the President presents it to Congress.

I am also pleased that included in this legislation is my bill, the Andean Trade Promotion and Drug Eradication Act, which renews our commitment to help the Andean countries in the war on drugs. Notably, the Andean provisions include credits for Andean apparel made of U.S. and regional fabrics, yarn, and for tuna in pouches.

In closing, Mr. Speaker, Americans have never been reluctant to go head to head with our trading partners. We should not dash the best chance we have of creating a better future of dynamic economic growth and success for our workers, businesses, and farmers in the international markets. Restoring this authority to the President will ensure our country's future.

Mr. Speaker, this is an historic moment for the House. Accordingly, I urge an aye vote on H.R. 3069.

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

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

We are not the only people in America working at 2 a.m. in the morning. In the textile plants, what few are left in this world, in other countries, there are people working the third shift. And here is what I want to tell them if they have a chance to listen. I am voting on a piece of legislation that affects your jobs, and I have no idea exactly how it works. But I know this: On pages 271, 272, page 281, 243, and 244, the amount of duty-free apparel that can come into this country to compete with your job has doubled and tripled, and it is some of the dyeing and finishing protections that we fought so hard for, which I think have been tremendously undermined.

My colleagues are asking me to vote on a bill to give the President the ability to unilaterally negotiate trade agreements, and dozens of pages affect textile policy. And when you double the amount that can come in from foreign countries, where the wage rates are almost nothing, no environmental laws, you are going to put some of my people out of business. And you are asking me to vote in the middle of the night on something I do not know about, and I resent the hell out of it, and I am going to vote no.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from California (Mr. DOOLEY),

(Mr. DOOLEY of California asked and was given permission to revise and extend his remarks.)

Mr. DOOLEY of California. Mr. Speaker, I want to first off commend the conferees that put together this conference report, in particular the gentleman from California (Mr. THOMAS), who joined with the majority leader in the Senate, Mr. DASCHLE, and Senator Max Baucus, a member of the Senate Finance Committee, and really put together what I think is a significant step forward on the Trade Promotion Authority that is complemented with the Trade Adjustment Act.

These individuals, Democrats and Republicans, came together because they understand that the future and the welfare of the American people is going to be best advanced if we move forward with a trade agenda that embodies a philosophy of economic engagement, and that by building stronger trade relationships we are going to provide greater economic opportunities for the businesses and the workers that they employ.

But these Democrats and Republicans also understood that we also have to be providing assistance to those workers who are dislocated because of increased competition in trade. They built upon some of the good work of Democrats in the House in the Trade Adjustment Act. They ensured that this final package that we are going to be voting on today, for the first time, includes health benefits for
workers who are dislocated because of trade. Sixty-five percent tax credit for their health insurance. This is a new benefit that never has been provided before.

This trade adjustment package also ensures that tens of thousands of older workers will have wage insurance that they have not had before. And this Trade Adjustment Act package we are voting on today ensures we have a significant expansion of coverage for secondary workers. That is going to ensure that tens of thousands of workers that were not eligible for trade assistance benefits in the past will be covered today.

This is a comprehensive package that embraces the best of policies in terms of how we can advance our economic opportunities and also expand the values of the United States. Through this increased trade with these countries, we ensure that we can expand democracy and capitalism and human rights, while at the same time providing the legitimate safety net for the workers in this country.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. MCDERMOTT), a senior member of the Committee on Ways and Means.

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

Mr. MCDERMOTT. Mr. Speaker, this has been an amazing night. First, the President gets the Homeland Security bill he wants, and now he has the fast track bill he wants.

As I was listening and watching the first, and now reading the second a little bit, I thought of a quote. “Beware the leader who bangs the drums of war in order to whip the citizenry into a patriotic fervor, for patriotism is indeed a double-edged sword. It both emboldens the blood, just as it narrows the mind. And when the drums of war have reached a fever pitch and the blood boils with hate and the mind has closed, the leader will have no need in seizing the rights of the citizenry. Rather, the citizenry, infused with fear and blinded by patriotism, will offer up all of their rights unto the leader and gladly so. How do I know? For this is what I have done. And I am Caesar.”

Now, does that sound familiar to what is going on here tonight? This is an historic bill. When Members return in September, they will give back their voting cards and get a rubber stamp, and they can stamp approve, approve, and they can stamp approve, approve, and they can stamp approve, approve, and they can stamp approve, approve, and they can stamp approve, approve, and they can stamp approve, approve.

Why do I worry about that? Let me tell Members. Let us look at his record. It is one that should be an example for every leader who just wandered on the scene. This man signed a law for $180 billion worth of farm subsidies, which fly in the face of our international commitment to reduce trade-distorting subsidies. Those subsidies drive down the price of agricultural goods, and seriously impair the efforts of developing countries to cultivate their own means of food production.

The President has imposed WTO non-compliant steel tariffs, which have exacerbated our problems with Europe. Despite NAFTA and WTO, the President has slapped the Canadian softwood lumber with 30 percent tariffs. The President has withdrawn the United States from the ABM treaty.

This is the man that Members are giving the right to go out and negotiate for them, and all they have is their stamp “approved,” or not. That is what Members are going to get. That is the participation of Members. Members are yielding up their rights fully to this man. If Members feel comfortable with that, they can jump up and vote “aye.”

This President walked away from the Kyoto treaty. I have several pages of what he has done in the international arena. This is the man who sat on the stage with the President of Brazil and after he made some comments, the Brazilian leader said, “We consider him an amateur.”

Mr. Speaker, we are giving an amateur the right of the American people to decide what happens to child labor, what happens to our economy. Vote “no.”

Mr. THOMAS. Mr. Speaker, I yield myself such time as I consume.

Mr. Speaker, I find it rather ironic that back in December this House examined the trade promotion authority that was sent over to the Senate that created this conference. In that measure was the strongest structure for oversight and control by the Congress in any trade promotion program. The House and the Senate by simply moving a resolution can deny the President the ability to enter into any agreement.

Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. KOLBE), a Member who has been a stalwart in trade for many years.

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

Mr. KOLBE. Mr. Speaker, I rise in support of this by conference agreement. The establishment of important standards and what those standards are and the harmonization of those standards drives trade.

We have traveled a long and difficult road to arrive at this moment. For 8 years, American leadership and national interests have been sitting on the sidelines. During this time, American companies and workers have stood by while we have watched our competitors from other countries gain advantages through trade agreements from other countries at our expense because the President of our country did not have the authority to negotiate agreements of our own.

At last we are bringing a positive trade agenda for the American economy for our consumers, workers, families, farmers. I want to suggest three reasons why trade promotion authority needs to be promoted and supported.

First, it is an economic growth incentive. During the decade of the 1990s, trade has accounted for more than a quarter of our economic growth. To pay more than ever, we need the engine of economic growth if we are going to continue.

Second, trade promotion authority is critical to job creation. In manufacturing, one of every five jobs comes from trade. In the services sector, U.S. exported $295 billion in exports, $180 billion more than was imported.

This bill will create job opportunities for American workers in all kinds of industries, while at the same time it helps those who might lose their jobs with trade adjustment assistance.

Third, trade promotion authority will improve our standard of living. President Bush’s remark that free trade has increased the standard of living is simply as much as $2,000 through the combined effect of higher wages and lower consumer prices.

All of those reasons show how trade promotion is in our national economic interest. It is also in our foreign policy interests. It is a key tool for encouraging economic growth abroad.

The reason we pursue a strong global economy as a key plank of our foreign policy is because successful economic growth abroad helps us achieve our humanitarian and national security policy objectives.

Mr. Speaker, this bill deserves our consideration and support. I urge Members to vote ‘aye.’

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Speaker, I believe in trade. I believe trade is important for our country. I believe trade is important for the world. I believe that former Secretary of State Cordell Hull had it just about right when he said that when goods and products cross borders, armies do not. I believe that.

But tonight’s debate is not about whether we believe in trade or are against trade. Tonight’s debate is about what the rules of trade are going to be. The trade negotiations of the 21st century will be less about the reduction of tariffs and quotas and more about the establishment of important standards and what those standards are going to be like, not only in this country but globally. Standards such as worker rights, environmental protection, child labor protections, food safety and the sanctity of our own domestic laws. An agreement helps us achieve the rules by which the world will be whether or not the harmonization of those standards will move upwards, or whether it will result in a race to the bottom.

We believe Presidents need trade promotion authority, but it is more than just words in a document. A large part of it is based on trust and confidence in the delegation of this extraordinary
power from the Congress to the executive branch.

With all due respect, I wish I had more confidence that the trade policy decisions coming out of this White House was based more on principle rather than politics, because the record thus far does not inspire that type of confidence. We merely have to look at the steel tariff decision or the textiles deals that are being cut, or the lumber decision; but especially the complete 180 degree reversal on the farm bill that the President initially opposed but ultimately signed at the end of the day.

A farm bill that I still believe holds the single greatest potential of bringing down the next round of trade talks that we are about to enter into.

Mr. Speaker, I was one of the few sounding the alarm about how bad this bill was to our Nation’s trade policy. The administration cut my legs and the legs of some of my colleagues out from under us in what they did. Now they ask for our vote of confidence in that we are about to enter into.

The record of the American Commerce Secretary, as we have heard and the House Speaker told us, is not a good record, to say the least.

Mr. THOMAS. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. SMITH).

Mr. SMITH of Washington. Mr. Speaker, there are two stats that have always stuck out for me in trade that I first heard from President Bill Clinton. The first is that 96 percent of the people live somewhere other than the United States of America, which means that if we wish to grow and expand our markets, we are going to need access to those markets. You cannot do that without fast track authority.

Mr. SPRATT. Mr. Speaker, this conference report does far more than just give the President fast track authority. Packed into these 400 pages is something called the Andean Trade Promotion Act, which would expand market access for Andean textile country, this is no trivial matter. These provisions open up duty-free access for Andean textile imports that is four times current trade.

Also packed into this conference report are major amendments to the Caribbean Basin Trade Partnership Act. These almost triple the amount of apparel that can come in duty-free from the 26 countries in the Caribbean and Central America. As if that were not enough, this conference report goes on to expand the African Growth and Opportunity Act, doubling the amount of apparel that can come in duty-free, unencumbered from 35 countries in sub-Saharan Africa.

In Washington State where one out of three jobs is related to trade, we know that expanding trade opportunities for them is what we need to do in order to grow the world’s population. And, of course, that is what we can do.

Despite those two facts, we hear a lot about how, Yes, we support trade, but this isn’t the way to do it because of all the challenges we face. But what I think we have to think about is under those circumstances, what would a trade agreement look like that the opponents support? What can we possibly do in a trade agreement to raise the labor standards throughout the world, throughout the world that does not have our standards, to our level? The answer, of course, is that we cannot. We are not going to get there. Fully 70 percent of the world is dramatically below us in labor standards.

Does that mean that we do not trade with them? Does that mean that we simply say we are going to erect a protectionist barrier? Certainly that is a trade agreement that I guess we would all like. You would like to be able to have those countries’ markets without them having access to yours; but that is not realistic, and it is not good for global stability. I submit that we can move forward, that the world that has been described tonight by those who say that these trade agreements have destroyed us simply is not the one any of us lives in. We can compete. We have competed and succeeded. Under Bill Clinton’s leadership, amongst others, we enjoyed the fastest economic expansion ever, and that was across the board. That was not just the wealthiest 10 percent. That was everybody. We can compete and win. We cannot shut out the rest of the world.

I urge a ‘yes’ vote.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. SPRATT), the ranking member on the Committee on the Budget.

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

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Over the last several years, believe me, I come from textile country, hundreds of plants have closed and textile apparel workers by the thousands have been thrown out of work. These provisions open up duty-free access for Andean textile imports that is four times current trade.

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Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Georgia (Mr. Norwood).

Mr. Norwood. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise tonight to ask you to vote “no.” Vote “no” tonight. Maybe next year, maybe the year after that, but right now we do not need to pass this bill.

We call ourselves being here because we want to have trade promotion authority, we say we are here because we want to have fast track, and I keep asking myself, why did that take 300 pages? Why could we not give the President the authority he wants with 10 pages? And all this other about the time I have been trying to figure it out since 7 o’clock tonight. Well, I do not know all the answers, but I know enough to know this. It is the final nail in the coffin of the textile industry in America. We will not have to fight about it anymore. We are going to lose the jobs if this bill passes.

Many of us right here are going to lose wool plants in our district, you know who you are, just because somewhere in this 300 pages there is another three lines or two.

The President has authority right now. He can make trade agreements anytime, anyplace he wants to. We do get to say yes or no, reject or agree, and vote to amend. That is what we are trying to take away here; is it not? We want to take away our ability to amend.

Well, ladies and gentlemen, we just ought not to give up our responsibility. Five previous Presidents have had this authority. What has happened to us? Well, we import more and we export less and the trade deficit rises. We talk in this bill about displaced workers. I never could figure out what a displaced worker was. But I am pretty sure they are not the folks in my district who are losing their jobs. I wish I had longer, but just vote “no” tonight.

The past five presidents had this authority and what happened? We imported more and exported less. The trade deficit keeps climbing. What does free trade mean to you? Does it mean we open our borders to receive foreign imports or does it mean foreign countries open their borders so we can export anything we want to? No, it is not anything he wants to. We can always pass a resolution that we do not agree with a trade deal that is unfair to the U.S. Then what? What? We can write letters to the trade ambassador saying don’t go to Doha to agree to nonreciprocal trade agreements and the ambassador can do what he pleases, as he did at Doha.

Mr. Thomas. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Texas (Mr. BentSEN).

Mr. BentSEN. Mr. Speaker, I thank the gentleman for yielding me time. Mr. Speaker, I think that the bill before us today is actually a pretty good bill. I voted for the fast track bill that President Clinton sent up, and I think this bill is better than the bill that President Clinton sent up. I also think that this bill contains some items that President Clinton has not seen until tonight.

There has been a lot of discussion about the displaced worker provisions, the trade adjustment assistance. I have worked on that with others in this body, and I think, quite frankly, we have been arguing over whether the glass is half full or half empty.

But I think, quite frankly, in this bill, if you look at the facts, the glass is at least three-quarters full from where we started in this House. It may not be as much as what was in the other body, but it has, for the first time, refundable health insurance for displaced workers. That is not in current law. It expands coverage for secondary workers and shifts in production where we have trade agreements. That is not in current law. It has wage insurance for older workers. That is not in current law. It now matches the training benefits with the monetary benefits. That is not in current law. And it extends them and it increases the appropriations dramatically. That is not in current law.

I think this is good public policy. And while we have disagreements within the trade agreements within my own party, which are, I think, legitimate disagreements, what we should not disagree upon is the fact for the first time in 40 years since this program, the TAA program, was created by John Kennedy, this is a landmark revision of this program.

I think we ought to take advantage of it, and I think we ought to pass it, and I think it is good for the country and it is good for workers and I hope that our colleagues will pass this tonight.

Mr. Rangel. Mr. Speaker, I yield 2 minutes to my friend, the gentleman from New York (Mr. LaFalce), the senior member of the New York delegation, and, at the same time, on behalf of the delegation, thank him for the great service he has provided to his country and to this Congress.

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

Mr. LaFalce. Mr. Speaker, fast track authority, Trade Promotion Authority, is a fraud. It is a hoax. The President has plenary authority to negotiate anything he wants to. What we are purporting to do is forfeit Congressional authority. That is what it is about. We do not grant authority, we purport to forfeit Congressional authority to offer amendments, There is no authority. We cannot do it legislatively, because we have that power constitutionally. So this legislation, if it passes unanimously, is constitutionally unenforceable.

Now, I do not think there is a constitutional scholar who would differ with that. But if they did, legislatively it is a hoax, because in every single so-called fast track bill, there has been a provision. There is in this bill, on page 217, lines 15 through 19. Basically what it says, we will give up our authority to amend, unless we change our mind and wish to amend, at which time we come forth with a rule and we offer any amendments we want. It is a hoax, a fraud.

That is what we really are doing here is purporting to change for the purposes of trade a representative democracy into a parliamentary democracy, where the President is really prime minister, and presidents love that, and the Congress is a parliament, and we are stupid enough to go along with it.

Mr. Thomas. Mr. Speaker, it is my pleasure to yield 1 minute to the gentleman from Ohio (Mr. Boehner), the chairman of the Committee on Education and the Workforce.

Prior to that, I would just like to say for folks who have not been able to read this, I sure hear a lot of citations on pages 200, 300, 350, 361. I just do not get it.

Mr. Boehner. Mr. Speaker, let me congratulate our colleague from California, the chairman of the Committee on Ways and Means (Mr. Thomas), for what really was a very successful negotiation with the Senate over putting this Trade Promotion Authority bill together.

We all know that much of the growth in our economy over the last 10-20 years has come from our ability to
trade more with others around the world. As we reduce trade barriers around the world, it will continue to ensure to the benefit of our children and theirs in this global economy we find ourselves in.

The most significant part of this package, though, is the fact that, for the first time, we make a significant effort to help those who may lose their jobs as a result of their company ceasing operations here. I think the help that is in this bill is in fact substantial. We expand the National Emergency Grants to help those workers, whether it is with health care, child care, transportation, training. This bill authorizes some $510 million to help dislocated workers through these grants.

It is a good bill. It deserves our support.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Oregon (Mr. WU).

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

Mr. Speaker, we have a broad-ranging trade bill before us which purports to deal with antiterrorism, with intellectual property, with transparency, anticorruption, foreign investment, labor and the environment. A prior speaker asked, what would it take to get your support on a trade bill? I will tell you right now, to add one more item to this list; human rights, enforceable human rights. I know that I might be one lonely voice in the wilderness on this right now, but I think that ultimately we will prevail. And I will tell you, even being alone on this issue, it is a heck of a lot better place to be than those who are in prison or suffering under tyrannical regimes in other places, when we can do something about it, when we can use our trade leverage.

Now, let me underscore, we are dealing with threats as diverse as intellectual property and foreign investment, labor and the environment. But being a slow reader, Mr. Speaker, I only got to page 174, and I want to point out that it is with respect to labor and the environment that there is a terrific loophole built into this bill, and I want to point this out with specificity so that no one can say they did not know about it.

Page 174: Parties to a trade agreement from the right to exercise discretion with respect to investigatory, prosecutory, regulatory and compliance matters, and to make decisions regarding the allocation of resources and enforcement with respect to other labor and environmental matters determined to have higher priorities, and to recognize that a country is effectively enforcing its laws if a course of action or inaction reflects a reasonable exercise of such discretion or results from a bona fide decision regarding the allocation of resources, and, here, a key part, no retaliation may be authorized based on the exercise of these rights or the right to establish domestic labor standards and levels of environmental protection.

To deem this a loophole is to call the hole in the side of the Titanic a small leak. I urge rejection of this bill.

Mr. TANNER. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Pennsylvania (Mr. ENGLISH), a member of the Committee on Ways and Means.

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

Mr. Speaker, this is landmark legislation that provides solid benefits to workers and communities facing the challenges of globalization. At a time of record trade deficits, this legislation gives the President the authority to conduct negotiations to strengthen U.S. trade policy in a dramatic way, while at the same time opening new markets to American products.

It establishes a new national compact on trade which will guarantee workers who have been laid off better access to health care benefits, and it provides income stabilization for older workers by giving them the difference between the salary they can earn from their old job and their new, lower job to their earlier job that they lost because of a trade-related displacement.

This legislation incorporates broader trade adjustment assistance for those who need it in the wake of a trade-related layoff by providing secondary worker benefits for upstream workers, as well as for downstream workers, affected by trade shifts to Canada and Mexico. It broadens TAA by providing benefits to workers if a firm shifts production to any country with a free trade agreement with the U.S. or any country eligible under a variety of agreements.

This legislation also gives the administration the power to challenge egregious labor rights and environmental matters, such as child labor, and it promotes greater coordination between the WTO and the ILO.

In short, we will be creating opportunities to link trade, labor rights, and environmental policy to a degree never before achieved.

There are some who will say that this bill will not accomplish enough, Mr. Speaker, and as a group, I marvel even now at their pessimism about the competitiveness of the American worker and the American economy. But how do you explain the long-term goal post as we have been crafting this legislation, and how many of them have associated themselves with the less aggressive trade policy of the last administration?

Vote this bill through. It is the beginning of a new day and a stronger trade policy for America.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman’s courtesy in permitting me to speak on this measure this evening.

The distinguished chairman of the Committee on Ways and Means professes surprise that Members who disagree with him can read the bill. I find it interesting. I remember the same gentleman told us here with a flourish that the proposal had been posted at 3 p.m. this afternoon. It has been pointed out by several people that the Members were not notified until 6:53. But if the gentleman would use the Web, turn to the bottom of the page of 304, he will find that it was not posted until 5:20 p.m.

If he cannot tell time, it makes one wonder what else has been left out in the consideration of this proposal.

I believe in free trade. I don’t want Congress or this Congress immediately involving myself in trade issues, because it was one of the few areas where we could work together in a bipartisan basis. Mr. Speaker, that has been shattered over the last couple of years, and it is a sad, sad note.

Let me give just one example of a concern that I heard from my constituents back home when they knew that I supported trade promotion authority. They worried about the further undermining of Chapter XI provisions that provided a superior position for foreign investors, and they said, that is wrong to go to an international tribunal and avoid the requirements of U.S. law.

Well, what has happened in the conference committee is they fixed it, they fixed it all right, but they fixed it so that not only can foreign investors avoid the responsibilities of U.S. law, now American interests can obey our regulatory provisions and be able to avail themselves to a tribunal rather than be involved under the same requirements that we have now. That is not what my people wanted.

I strongly urge a rejection of this ill-advised piece of legislation and the willingness to draw bright, partisan lines and give up issues of textiles, steel, and agriculture. It is not the way to do the business of the House.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Tennessee (Mr. TANNER), a member of the Committee on Ways and Means.

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

Mr. TANNER. Mr. Speaker, I would like to start by thanking the conferees. This trade is a hard issue for all of us, but the conferees worked long and hard. We have a Republican House and a Democratic Senate. This is a conference report. I think that is bipartisan.

We are talking about economics, basically, and it is a fact that in this country, we can grow more food than we can eat and make more stuff than we can buy and sell to each other. Given that fact, it is an economic fact that unless we can get rid of this surplus production through trade, somebody is going to lose their job. That is not a political argument; that is an economic fact of capitalism.
Mr. Speaker, I think we have a very clear recent historical example of what happens when Congress is not wise enough to make sure that they delegate the authority that Congress retains and the responsibility to negotiate. We have not had the Presidential ability to negotiate for more than 8 years. We have had no agreements.

Members can covet the power and not use it, or we can sensibly delegate it, with the clear proviso that if necessary, and enter into bilateral, multilateral, and world trade arrangements which clearly benefit all Americans.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. HOUGHTON), a member of the Committee on Ways and Means.

Mr. HOUGHTON. Mr. Speaker, I am at my best at 10 minutes of 3 in the morning, but I will do what I can in order to put this thing in clear perspective, as far as I am concerned. This piece of legislation loses no jobs. As a matter of fact, it does not even gain jobs. But we all know that 96 percent of the world's population live outside of the United States. They are our market in the future. We can take a look in terms of the impact of export jobs, and it ranges between 15 and 20 percent extra pay for those people who produce those products.

Mr. Speaker, since 1994, 3 million jobs in our country have evaporated as a result of bad trade laws. In my home State of Michigan, we have lost 150,000 workers to these trade laws. They have lost their paychecks; good jobs, jobs that it can sustain a family with; gone to Asia, to Mexico.

Not only have we lost these jobs, we have crippled whole communities. If one drives through parts of Detroit or Flint or Saginaw, and one can see the devastation that these trade laws have caused, how a tax base has left to pay for fire and police and education and health care. They have been absolutely devastated. We are losing our manufacturing sector. Does anybody deny that? Look at what has happened to steel, textiles, autos. It is a tragedy. And what is even as much a tragedy for this institution is the surrender of the congressional prerogatives given to this body by the Constitution of the United States.

Mr. Speaker, this bill will be recorded as one of the largest surrenders of constitutional authority in the history of our government, giving it to the presidency. And it is not just goods and services that are being bought; we are talking about labor law, environmental law, copyright law, investment, safety law. That is all under the rubric of trade today. One vote is all we are going to get, up or down, that is it, and we know how that works. Historic evening, Mr. Speaker. Vote “no” on this.

Mr. Thomas.

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Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. BONIOR), the former whip.

Mr. BONIOR. Mr. Speaker, I thank the chairman. It is a curse of where I am from, I guess. But I do want to continue this line.

The economic engagements that I believe this country must engage in is truly a matter of national security. As I said, history teaches us that economic partners become military allies, and we have seen over the course of the last few years over 190 trade agreements and we are not a part of them, and we will not be a part of them because we do not have the institutional ability to engage to the bottom line those who would trade with us and those who would negotiate with us on these trading arrangements.

So for that reason, and because I think the bill is far better than any law that we have ever passed before in TPA, and better than TAA in every respect than current law, it deserves our consideration and our vote.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, the basic partisanship which has marked this legislation from the beginning in this House even blinds the majority as to what has happened these last years.

Mr. Speaker, since 1994, 3 million jobs in our country have evaporated as a result of bad trade laws. In my home State of Michigan, we have lost 150,000 workers to these trade laws. They have lost their paychecks, good jobs, jobs that it can sustain a family with; gone to Asia, to Mexico.

Not only have we lost these jobs, we have crippled whole communities. If one drives through parts of Detroit or Flint or Saginaw, and one can see the devastation that these trade laws have caused, how a tax base has left to pay for fire and police and education and health care. They have been absolutely devastated. We are losing our manufacturing sector. Does anybody deny that? Look at what has happened to steel, textiles, autos. It is a tragedy. And what is even as much a tragedy for this institution is the surrender of the congressional prerogatives given to this body by the Constitution of the United States.

Mr. Speaker, this bill will be recorded as one of the largest surrenders of constitutional authority in the history of our government, giving it to the presidency. And it is not just goods and services that are being bought; we are talking about labor law, environmental law, copyright law, investment, safety law. That is all under the rubric of trade today. One vote is all we are going to get, up or down, that is it, and we know how that works. Historic evening, Mr. Speaker. Vote “no” on this.
that area for years and years, and what we are doing is reaching out, not enough, way too late.

And what we hear are criticisms because we are talking about not 1 percent of someone's amount of trade; we are talking about 0.1 percent. That is not a long-term mutually beneficial relationship in which the gentleman from Tennessee and the gentleman from New York talked about how we mutually better each other.

There are important humanitarian outreachs under the structure of trade. But if that is what we get without trade promotion authority, we had better have trade promotion authority.

Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Ohio (Mr. PORTMAN), a member of the Committee on Ways and Means.

Mr. PORTMAN. Mr. Speaker, I thank the chairman for yielding time to me. I want to commend him for coming to a resolution on a very difficult issue. There is not a complex issue, and that is the trade promotion authority and trade adjustment assistance.

This has been a long road, Mr. Speaker. Not since 1984 has this country had the ability to navigate world commerce and to be able to open up barriers to U.S. trade. It is time for America to get back in the game.

Without this authority, countries are not going to deal with us, and others have disparaged that tonight, but the proof is in the pudding. There are 120 trade agreements out there; the United States is party to three. Since 1990, the European Union has negotiated 20 new trade agreements. These are our competitors. These are people who are competing for jobs with our workers. They are currently in negotiations for 15 additional trade agreements.

It is time to get back in the game. It has been long past time. By doing so, we not only open up foreign trade for our goods and our services, we also are able to export our free market economy, which has brought us unprecedented prosperity and has the ability and potential to do that for the rest of the globe, to truly lift all boats.

I am amazed to hear my colleagues on the other side of the aisle, who are free traders, but tonight say that although they supported President Clinton's trade promotion authority, they cannot support it. They are not support trade promotion authority, even though, as compared to the Clinton trade promotion authority, we now have more consultation with Congress.

In fact, it is unprecedented consultation with Congress. It has real teeth. It has a real congressional oversight group. It has never had that before. It has much stronger labor and environment provisions, including on child labor, stronger provisions than in the Clinton trade promotion authority. The ability to effectively enforce countries to enforce their own standards is new. We have not had that before.

Members may not think that is perfect, but that is a lot more than we have had before.

Stronger protection of U.S. trade remedies, including the ability for Members of Congress to help protect our antidumping laws, our countervailing duty laws, that is not here at home by being able to offer a motion on the floor of this House. Any Member would be able to do that. That is more than we ever had in terms of protecting our own trade remedies.

Finally, of course, a dramatic expansion of trade adjustment assistance. I appreciate the fact that there are some on the other side of the aisle who tonight are going to vote for this trade promotion authority primarily because there are unprecedented benefits to workers who have been displaced by trade, both in terms of health care and other benefits.

I want to commend the chairman, because he has gotten the United States, through this new agreement, back in the game. We need to get back in the game for our workers; we need to get back in the game for our jobs here at home.

Vote "yes" on this good bill.

Mr. Rangel. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. BECERRA), a member of the Committee on Ways and Means.

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

Mr. Speaker, since 1994, there are 19 trade agreements that left the Senate. Because essentially what we see here is a bill that is really a kind of a mirage. For example, if a U.S. factory closes and goes overseas to China and 5,000 U.S. workers are out of a job in your congressional district, those workers are not covered under this bill. They will not get trade adjustment assistance. They will not get trade adjustment assistance and they will not get health care benefits.

It is very rare when this provision will be used, and that is why it is in the bill because the goal was not to use trade adjustment assistance. So it is a real mirage. So if Members think they can go home and tell their colleagues and their constituents that they will get trade adjustment assistance, they are flat out wrong. It will rarely be used.

Let me make one other observation, if I may. This next round will not be about trading goods. It will not be about reducing tariffs and quotas. We have done that. That is pretty much over. You can trade goods back and forth all over the world if you want today. What this will be about this next round is about moving investments, and we all know that. And that means basically every U.S. regulation, every law, it is accounting standards, whether it is defining whether a lawyer can practice law, these are going to be all on the table in this next round.
Members mention antitrust laws, that will be on the table. This legislation is not needed for the President at this time. He can negotiate without giving this major delegation of authority by the United States Congress to the President of the United States. I urge a no vote.

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

Mr. Speaker, I appreciate the tone of the debate. I am concerned about the content. For the first time, not primary but secondary workers are covered. Five times in this legislation references to the most abusive forms of child labor are listed. Some of the statements simply are not factually true.

What is true is we have fallen behind in creating arrangements that help us in world trade. It is time to pass legislation to get us back in the game.

With that, I would ask my colleagues to vote yeas and to thank all of my colleagues on the other side of the aisle for their courage and cooperation.

Mr. BEREUTER. Mr. Speaker, this Member rises today to express his very strong support for the conference report for Trade Promotion Authority (H.R. 3009). This Member would like to thank the distinguished gentleman from California, the Chairman of the House Ways and Means Committee (Mr. THOMAS) for introducing the original TPA legislation and for his efforts to move this legislation through the legislative process. Additional appreciation is expressed to the distinguished gentleman from California, the Chairman of the House Rules Committee (Mr. DREIR) for his efforts in expediting the consideration of this legislation; to the Chairman of the Senate Finance Committee, the senior senator from Montana (Mr. BAUCUS); and to all the support- portive conferees who worked to bring this conference report to the House and Senate.

Under the conference report of H.R. 3009, Congress would agree to vote "yes" or "no" on any trade agreement in its entirety, without amendment. My colleague in the past has always supported TPA, or "Fast-Track Authority" as it was previously called, because it is an absolutely critical authority to delegate to the President, acting through the United States Trade Representative, to conclude trade agreements with foreign nations for approval by the Congress. Certainly, TPA is necessary to give our trading partners confidence that the negotiated agreements will not be changed by Congress. Without the enactment of TPA, the United States will continue to fall further behind in expanding its export base and that will cost America thousands of potential jobs. Granting TPA to the President is absolutely essential for America to reach towards its export potential.

Mr. Speaker, giving examples of expanded trade liberalization agreements from my own state, I can stay with confidence and anticipation that approval of TPA certainly will enhance Nebraska's agricultural exports. According to estimates from the U.S. Department of Agriculture, Nebraska ranked fourth among all states with agricultural exports of $3.1 billion in 2000. This represented 35% of the state's total farm income of $8.9 billion in 2000. In addition to increasing farm prices and income, agricultural exports support about 44,800 jobs both on and off the farm. The top three agricultural exports in 2000 were live animals and red meats ($1 billion), feed grains and products ($769 million) and soybeans and products ($454 million). However, Nebraska agricultural exports still encounter high tariff and a whole range of significant barriers. Similar opportunities for growth in exports also exist in Nebraska's service and manufacturing sector. At the November 2001 World Trade Organization (WTO) ministerial in Doha, Qatar, trade ministers agreed to the Doha Declaration which launched a comprehensive multilateral trade negotiation that covered a variety of areas including agriculture. The trade objectives in the Doha Declaration called for a reduction of foreign agriculture export subsidies, as well as improvements in agriculture market access. In order to help meet these trade negotiation objectives, TPA would give the President, through the United States Trade Representative, the authority to conclude trade agreements which are in the best interest of American farmers and ranchers.

This legislation is very important for Nebraska because our state's economy is very export-dependent. According to the U.S. Department of Commerce International Trade Administration, Nebraska has export sales of $1,835 million in 2000. Moreover, 1,367 companies, including 998 small- and medium-sized businesses with under 500 employees, exported from Nebraska in 1998. Therefore, TPA is critical to help remove existing trade barriers to exports of Nebraska and American goods and services.

To further illustrate the urgency for TPA, it must be noted that the U.S. is only party to "free trade agreements" with Mexico and Canada through NAFTA and with Israel and Jordan. However, Europe currently has entered over 30 free trade agreements and it is currently negotiating 15 more such agreements. In addition, there are currently over 150 negotiated preferential trade agreements in the world today. Without TPA, many American exporters will continue to lose important sales to countries that have negotiated preferential trade agreements. For example, many American exporters are currently losing significant export sales to Chile because Canadian exporters face lower tariffs there under a Canada-Chile trade agreement.

This Member would like to focus on the following five subjects as they relate to the conference report of H.R. 3009: financial services; labor and the environment; congressional consultation; the constitutionality of TPA; and the foreign policy and national security implications.

First, as the Chairman of the House Financial Services Subcommittee on International Monetary Policy and Trade, this Member has focused on the importance of financial services trade, which includes banking, insurance, and securities. This Subcommittee was told in a June 2001 hearing that U.S. trade in financial services equaled $20.5 billion in 2000. This is a 26.7% increase from the U.S.'s 1999 financial services trade data. Unlike the current overall U.S. trade deficit, U.S. financial services trade had a positive balance of $8.8 billion in 2000. The numbers for U.S. financial services trade have the potential to significantly increase if TPA is enacted into law. The U.S. is the preeminent world leader in financial services. TPA would further empower the United States Trade Representative to negotiate with foreign nations to open these insurance, banking, and securities markets and to expand access to these diverse financial service products.

Certainly, TPA would particularly benefit U.S. financial services trade as it relates to the Free Trade Area of the Americas since many of the involved countries are emerging markets where there will be an increasing demand for more sophisticated financial services. Furthermore, TPA would also benefit financial services trade as it is part of the larger framework of the World Trade Organization (WTO) General Agreement on Trade in Services (GATS). In 2000, GATS members began a new round of service negotiations.

Second, the conference report of H.R. 3009 includes important labor and environmental provisions. For example, among other provisions, TPA adds a principal U.S. negotiating objective of "labor standards" to its "trade agreements. Trade agreement does not fail to effectively enforce its own labor or environmental laws. This type of provision was also included in the U.S.—Jordan Free Trade Agreement which was signed into law on September 28, 2001 (Public Law No. 107–43).

Third, it is important to note that this legislation has strong congressional consultation provisions for the time before, during, and after the negotiations of trade agreements. For example, the President is required, before initiating negotiations, to provide written notice and to consult with the relevant House and Senate committees of jurisdiction and a Congressional Oversight Group at least 90 calendar days prior to entering into trade negotiations. The Congressional Oversight Group, made up of Members who would be accredited as official advisors to the United States Trade Representative, would provide advice regarding formulation of specific objectives, negotiating strategies and positions, and development of trade agreements. In addition, TPA would not apply to an agreement if both Houses separately agree to a procedural disapproval resolution within any 60-day period stating that the Administration has failed to consult Congress in good faith.

Fourth, enactment of TPA is required to secure a constitutionally sound basis for American trade policy in the globalized economic environment focusing our country today. Under Article II of the U.S. Constitution, the President is given the authority to negotiate treaties and international agreements. However, under Article I of the U.S. Constitution, Congress is given the power to regulate foreign commerce. In this TPA legislation, any trade agreement still has to be approved by Congress by a simple majority; a "no" vote, without any amendments, by both the House and the Senate before it can be signed into law. As a result, TPA does not impinge upon the exclusive power of Congress to regulate foreign commerce. Furthermore, the U.S. Constitution does not provide for a Senate or House rule which prohibits amendments from being offered to a bill during Floor consideration. In fact, the House considers bills almost every legislative week which cannot be amended on the Suspension Calendar. Fifth, extending TPA to the President has critical national security implications. Indeed, the terrorist attacks of September 11th highlighted the extent to which American security
is placed at risk when the U.S. fails to remain engaged, in areas around the world. Many countries of Central America, South America, Asia, and Africa have fragile democratic institutions and market economies. They remain in peril of falling into the hands of unfriendly regimes. Wherever the U.S. helps to develop, the kind of economic stability underpinning democratic societies that enhanced trading opportunities can provide.

Mr. Speaker, this Member is very pleased that the final conference report for H.R. 3009 does not include the amendment which was offered in the other body by the junior senator from Minnesota (Mr. DAYTON) and the senior senator from Idaho (Mr. CRAIG) and included in the version of TPA which was passed by the other body. The Dayton-Craig provision, while undoubtedly well intended, would have opened trade agreement bills negotiated by the President under the TPA to amendment by the other body. The Dayton-Craig provision, while undoubtedly well intended, would have made the Fast-Track agreement bills negotiated by the President under the TPA to amendment—thereby making it very unlikely that other nations would complete trade negotiations with the U.S. Trade Representatives, knowing that such agreements could be further amended by Congress. That problematic circumstance is why Congress had to develop the Fast-Track arrangement in the first place—what we now call TPA or Trade Promotion Authority.

This Member would have been compelled to vote against passage of the conference report for H.R. 3009 since the Dayton-Craig amendment had been included in the final report. The Dayton-Craig amendment certainly would have made TPA unacceptable to the other countries with whom we were attempting to negotiate free trade agreements.

Mr. Speaker, we have outlined the above stated reasons and many others, this Member strongly supports TPA because it is absolutely critically important to the health and the future growth of the U.S. economy. Therefore, this Member very strongly urges his colleagues to support the conference report for H.R. 3009. This is probably the most important vote of the 107th Congress.

Ms. SCHAKOWSKY. Mr. Speaker, I rise in profound regret, disappointment and anger as we consider the conference report before us tonight. Our Constitution is threatened by this ram through this bill, in the dead of night, without giving the American public the ability to look at it and express their views before we vote. It is clear why.

The United States should be using its unprecedented economic power and global leadership position to fight for trade policies that respect labor and human rights, expand economic opportunities for workers, and improve the environment, both at home and abroad. We should use our power not just to promote corporate profits but to promote higher standards of living for working families. We should help stop the global race to the bottom in which some multinational companies move operations from country to country as they search for the one that lets them pay the lowest wages, commit the worst labor abuses, use child labor, and cheats customers without penalty. We should use the power of our markets to push for democratic reforms, equal rights for women, and stronger human rights. And, we should ensure that property rights and profits do not come first, ahead of the ability of governments to protect the very lives of their people.

We had an opportunity in this bill to accomplish those objectives. Tragically, the House Republican leadership rejected that opportunity. This bill abrogates Congressional authority and Congressional responsibility to review trade agreements to ensure that workers' rights and environmental protection are inalienable. The bill confers on the President the authority to amend U.S. labor and human rights obligations. The conference report would have the opportunity to consider only one privileged resolution on each WTO negotiation, agreements that may last five to seven years. Even if serious information arose regarding food safety, environmental regulation or health standards, Congress would get one and only one opportunity to review WTO agreements. Our Constitution is not so preprerative to review and ratify trade agreements.

This bill fails to provide Trade Adjustment Assistance to all workers who lose their jobs. Instead, it makes arbitrary and extraordinarily unfair distinctions. Workers who lose their jobs because of foreign imports are deemed worthy of assistance. Workers who lose their jobs because their employer shut down a factory and moved it to China are not.

The bill holds out the theoretical possibility that workers who lose their jobs because of trade policies will get help in maintaining health insurance coverage for their families, then dashes any hope for meaningful assistance. Lay-off workers would have to pay 35 percent of premium costs for coverage, an amount that may be higher than any marketplace premiums. The costliest and best insurance companies could charge whatever premium they want for whatever coverage they decide to provide. The bill rejects Senate language endorsing the Doha Declaration on TRIPS and Public Health, which promotes patent compulsory licensing and generics will not. Finally, this bill eliminates Senate language to require that, in order to receive special trade benefits under the Generalized System of Preferences (GSP), countries end child labor and discrimination against women and other groups.

Mr. Speaker, if we in this body care about the rights of women and workers; the needs of children and the sick; the environment and human rights; we must reject this conference report. We owe it to the people of our country and the people of the world.

Ms. JACKSON-LEE of Texas. Mr. Speaker, global commerce is a force for progress. However, current trade rules are too often used to undermine environmental protections and democratic rights in the name of free trade. Fast Track is the expansion of presidential authority in international trade. However, the fast track track spreads entitlements to pharmaceutical companies. The conference report fails to provide meaningful healthcare coverage for numerous workers who lose their jobs because of trade. Fast track legislation consistently overlooks the rights of workers in developing countries.

The Chairman of the Committee on Ways and Means and the Chairman of the Senate Finance Committee have prepared a conference report that is big on fluff but short of substance. An example of this is that U.S. businesses will have broad new protections for operating in foreign markets. However, the conference report fails to provide a meaningful healthcare coverage for workers when businesses shift jobs overseas. What this means is that if a Houston company employing 500 workers lose their jobs due to increased imports from Asia, these workers are eligible for healthcare coverage; however, if the same company shuts down their operations in Houston and relocates its operations to Asia, there’s no coverage under this bill. Is this fair?

The conference report would allow foreign investors to have greater rights than are currently afforded them under U.S. law. The language in the conference report could lead to vague, overly broad international standards undermining the Supreme Court’s decisions on the environment, antitrust, tort law, worker health and safety, and others.

The conference report provides laid-off workers a tax credit for insurance coverage. However, this tax credit is poor. It forces workers to pay more for health insurance at the time they lose their job. On average, employers pay 85% of health insurance premiums, however the conference report would only provide a tax credit that would cover 65% of the premium. Is this fair?

In addition, the conference report fails in major ways. It does not guarantee coverage for children and other children. It does not reform necessary to make sure that the limited health care options are available. Moreover, the conference report fails to provide a minimum standard of benefits for workers. What this means is that the conference report does not guarantee minimum premium and out of pocket limits. A worker who has diabetes or a heart condition can be charged by an insurer five to ten times the normal rate. Is this fair?

This is a time when the public has clearly voiced that global trade matters move more than the economy and that good trade deals are not just good for some parts of the country and the country overall. The conference report makes the fast track bill look like NAFTA on steroids. Since NAFTA’s passage in 1995, the trade deficit between the United States and Mexico has ballooned to $29 billion annually. An estimated 700,000 American jobs have been lost to nations that don’t have to play by the same labor and environmental rules that American workers do.

Furthermore, the GAO found that African Americans made up 15% of the workers displaced by the trade under the general Trade Adjustment Act in 1999, though African American workers account for less than 12% of the overall workforce.

The conference report also marginalizes and diminishes Congress’ role on issues such as antitrust, environmental regulation, food safety, accounting standards and telecommunications. The conference report adds a completely new restriction that was not in either the House or the Senate bill.

This restriction allows only one privileged resolution per negotiation. This means that the privileged resolution was raised for WTO negotiations that may last 5-7 years. The conference report creates a historic shift in Congress’ Constitutional prerogative to regulate not just foreign commerce, but more importantly domestic commerce (areas like antitrust, food safety, accounting standards).

The conference report includes language that nullifies customs officials from liability for racial profiling. The report notes that Customs officers have a legal shield unavailable to any other law enforcement officer in the country. This would have the direct effect of weakening protections against racial profiling and other illegal and unconstitutional searches by the Customs Service that have been highlighted in recent GAO studies. Specifically, the GAO
found that passengers of particular races and genders were more likely than others to be subjected to intrusive strip and x-ray searches after frisks or patdowns, even though the results of such searches found that they were less likely to be in possession of contraband. The most extreme examples of racial profiling by the Customs Service were directed against African-American women, who were nine times more likely than white women to be the victim of an intrusive search, even though they were only half as likely as white women to be subjected to x-ray searches. In the conduct of the Customs Service, such a broad grant of immunity, absent legislative scrutiny and oversight, invites continuing civil liberty violations.

I am very strongly opposed to the Fast Track provisions contained in the conference report for H.R. 3009. As we search for increased national security, we must be mindful of the fact that our civil liberties are a precious resource and ensure that freedom is not a casualty of vigilance. The conference report will make it impossible to negotiate any further trade agreements. It tramples on the ability of individuals to address the overzealous activities of the Customs Service and undermines the expectation of privacy.

Moreover, this legislation takes a step backwards on workers' rights and environmental protection. The conference report would essentially rule out the enforcement of workers' rights and environmental protection in future fast-tracked trade agreements, reversing the bipartisan progress that was made on the U.S.-Jordan Free Trade Agreement. The workers' rights negotiating objectives, taken as a whole, are weak and counter-productive. The report will make it impossible to negotiate anything like the U.S.-Jordan FTA on workers' rights.

Therefore, I urge my colleagues to strongly oppose passage of the conference report for H.R. 3009.

Ms. HARMAN. Mr. Speaker, some days are harder than others. The last 24 hours was one of them. The vote on establishing a Department of Homeland Security were difficult, but its urgency is underscored by the continuing threat from terrorism.

Trade Adjustment Assistance (TAA) is another hard issue. I represent a trade-dependent district and am well aware that LAX and the Port of Los Angeles are huge trade multipliers. The Port of Los Angeles and neighboring Port of Long Beach moved $175 billion worth of cargo last year and accounted for 500,000 trade-related jobs in the region. The Los Angeles Customs District is the Nation's second largest, based on value of two-way trade. In 2001, this totaled $212.5 billion, compared with $214.1 billion of the first place New York.

In the South Bay, trade clearly generates high skill, high wage jobs. But not everyone benefits, and so the conversation should not only address those who are hurt. The challenge is to retrain affected workers not freeze them and their outdated skills in an uncompetitive workplace. The policy answer is to provide what has traditionally been called trade adjustment assistance (TAA)—training, wage assistance, and healthcare—to those who are hurt.

The Customs Service is not perfect, but it is better than prior trade negotiating authority and includes the most comprehensive TAA package ever. I will support it.

Mr. CONNORS. Mr. Speaker, this legislation represents one of the finest examples of how the tragedy of September 11th is being used to abuse process and rationalize offenses against the Constitution. Sections 341 and 344 of this bill needlessly expands the scope of Federal authority and threatens the protection of civil rights by granting broad search and seizure immunity to Customs agents and allowing warrantless searches and seizures by the Customs Service.

This provision is not perfect, but it is better than prior trade negotiating authority and includes the most comprehensive TAA package ever. I will support it.

Mr. CONYERS. Mr. Speaker, this legislation is based on an assessment of what a reasonable person or property provided he or she was acting in good faith.

The Customs Service is not perfect, but it is better than prior trade negotiating authority and includes the most comprehensive TAA package ever. I will support it.

When an official seeks qualified immunity, a court is obligated to make a ruling on that issue early in the proceedings so that, if immunity is warranted at all, it is granted. The Customs Service has not granted reasonable immunity. The Customs Service has not granted reasonable immunity.

More than 100,000 federal law enforcement agencies have been highlighted in recent GAO studies. Out of all the possible Federal law enforcement agencies, the Customs Service should not be provided with additional immunity.

The racial profiling problems of the Customs Service are not imaginary and have been subject to documentation and litigation. The GAO found that passengers of particular races and genders were more likely than others to be subjected to intrusive strip and x-ray searches after frisks or patdowns, even though the results of such searches found that they were less likely to be in possession of contraband.

GAO concluded that the Customs Service's pattern of selecting passengers for intrusive searches (their profile) was inconsistent with the implementation of policies that target passengers more consistently with their likelihood of containing illegal contraband and rec-
other contraband inbound or outbound is adequately protected by its ability to secure a search warrant when it has probable cause. Short of an emergency, postal officials can always hold a package while they wait for a court to issue a warrant. There is simply no legitimate justification for this expansion of search authority, unless of course you exclude the need to circumvent the Constitution.

Recently, the U.S. Postal Service wrote a letter to the Chairman of the Financial Services Committee on the issue of searching outbound mail without a warrant: The Postal Service has taken the position that, "There is no evidence that eroding these long established privacy protections will bring any significant law enforcement improvements over what is achieved using existing, statutorily approved law enforcement techniques." In short, experts from the Postal Service have determined that this provision is unnecessary.

As we search for increased national security, we must be mindful of the fact that our civil liberties are a precious resource and ensure that freedom is not a casualty of vigilance. Given that Congress has recently expanded the powers of government officials, now is not the time to cut back on the mechanisms in existing law that are designed to ensure police powers are not abused.

Without arguable justification, these provisions trample the ability of individuals to address the overseers of the government's Customs Service and undermine the expectation of privacy in the U.S. mail. I urge you to join me in opposing this legislation.

THE SUBJECTIVE-INTENT QUALIFIED IMMUNITY PROPOSAL FOR CUSTOMS OFFICIALS—PROBLEMS WITH THE HOUSE PROPOSAL

This issue involves the Constitution—not slap-and-fall cases, or security fraud cases. This proposal would affect cases involving alleged violations of individuals’ constitutional rights, and we should be very careful before we tamper with the rules.

The doctrine of qualified immunity has been established and refined by the Supreme Court. Congress has never enacted a statute that would change the standard for officials’ qualified immunity in constitutional tort cases. This would be the first time.

Current law protects against frivolous lawsuit. The Supreme Court has instructed lower courts to resolve qualified immunity issues at the earliest opportunity. If government officials fail to win qualified immunity at the dismissal or summary judgment stage, they still have the option of appealing these judgments to a higher court immediately.

This proposal would hurt real people. It would increase the likelihood of meritorious claims being thrown out. Parties would end up fighting at length over whether an official did or did not subjectively believe his conduct to be lawful—even if existing law clearly establishes that it was not. Resolving such complicated disputes would expend valuable judicial resources and often lead to inaccurate results. And officials who violated clearly established constitutional rights might not be held accountable.

Why treat customs officials better than the F.B.I. or local cops? Customs officials serve a different role. However, there is simply no reason to treat them differently from other government officials—such as border patrol agents, state and local police officers, and the border patrol guards. All of these officials are entitled to the same, strong shield to liability. There is no need to change the rules for customs officials.

CURRENT LAW

Under current law, every government official—federal, state, and local—is protected by the doctrine of qualified immunity. This is a very broad shield from liability. In the words of the Supreme Court, it protects “all but the plainly incompetent or those who knowingly violate the clearly established law.” Anderson v. Creighton, 483 U.S. 355, 361 (1987).

When an official seeks qualified immunity, a court initially selects the legal standard on that issue early in the proceedings so that, if immunity is warranted, the costs of trial are avoided. Saucier v. Katz, 533 U.S. 194, 200 (2001). The Supreme Court has repeatedly stressed the importance of resolving immunity questions at the earliest possible stage in litigation.” Hunter v. Bryant, 502 U.S. 224, 227 (1991).

Before 1982, the test for qualified immunity had both an objective and a subjective component. First, an official had to prove that he did not violate any established law. Second, he had to show that he acted in “subjective good faith”: i.e., that he believed that he was not violating the plaintiff’s constitutional rights and was not acting with a “malicious intention.”

In 1982, the Supreme Court eliminated the subjective component. It emphasized that consideration of an official’s subjective motivations often involved “broad-ranging discovery and the deposing of numerous persons, including an official’s professional colleagues. Insights of this kind can be peculiarly disruptive of effective government.” Harlow v. Fitzgerald, 457 U.S. 800, 817 (1982). In other words, the subjective test made this issue less—not more—likely to be resolved in summary judgment proceedings. Id. at 816. See also Anderson, 483 U.S. at 641 (“Anderson’s subjective beliefs about the search are irrelevant.”).

HOW THE CUSTOMS SERVICE HAS FAILED IN THREE RECENT CASES

1. Jaffell v. Crews, 183 F.3d 653 (7th Cir. 1999)

Facts: Jaffell was subjected to a strip search following her return from a trip to Jamaica. Customs inspector conducted a pat-down search, then a partial strip search.

Outcome: No drugs found.

Insights: Inspector is entitled to qualified immunity: “Crews, an experienced Customs inspector, was neither incompetent, nor did the district court find that she intentionally violated the law.”


Facts: Passenger was subjected to a strip search claimed racial discrimination and invasion of her privacy.

Insights: Even assuming that customs agents violated the passenger’s rights, they were entitled to qualified immunity: “Qualified immunity is afforded to federal employees too from reasonable mistakes or poor judgment calls.”

3. Brent v. Ashley, 247 F.3d 1294 (11th Cir. 2001)

Facts: Only African American passengers on plane from Italy were detained, isolated, strip searched, and then x-rayed. No contraband was found.

Insights: Passengers’ decision to conduct strip search and x-ray examination based merely on “general profile of arrival from a source country” and “nervousness” violated the law. Moreover, these reasons were explicitly rejected by both the Supreme Court and Eleventh Circuit, the inspectors were not entitled to qualified immunity. However, the subordinates who assisted in the searches were entitled to qualified immunity.

NAACP OVERWHELMINGLY PASSES RESOLUTION OPPOSING FAST TRACK

EMERGENCY RESOLUTION NO. 1

Whereas, the fast track promotion authorizes the President to enter into the North American Free Trade Agreement [NAFTA] and the World Trade Organization [WTO] and the current administration seeks to expand and replicate these trade deals; and

Whereas, the Economic Policy Institute estimates that these trade agreements—which have resulted in ballooning new trade deficits—have cost more than three million American jobs and job opportunities since 1994, with NAFTA alone accounting for the destruction of three quarters of a million of these jobs; and

Whereas, free trade contributes to the rise in income inequality and downward pressure on wages and employers use the threat of moving to overseas to force compliance to new trade rules in order to thwart union organizing drives and exact concessions at the bargaining table; and

Whereas, trade deals that cost jobs, lower wages and increase employer threats hurt the African American community, where median wages are lower, overall unemployment is significantly higher and the benefits of union membership are greater than among white workers; and

Whereas, workers in developing countries have also suffered under the free trade rules—Mexican workers saw their real wages drop and poverty increase under NAFTA, the proliferation of export processing zones in Asia and Latin America has exposed young women workers to health hazards and rights violations—and free trade agreements increase the power of multi-national companies to pit workers against workers in a race to the bottom in wages and working conditions; and

Whereas, agreements on trade and investment in services such as the General Agreement on Trade in Services (GATS) encourage the privatization and deregulation of services including public transportation and utilities, thus threatening an important source of good jobs for African American workers; and

Whereas, investment rules such as Chapter Eleven of NAFTA give private foreign companies the right to demand taxpayer compensation for public interest regulations that diminish the power of multinational investments, thus giving foreign investors more rights than domestic investors and small businesses owners and threatening important environmental and public health regulations such as California’s ban on the toxic fuel additive MTBE; and

Whereas, pharmaceutical companies have used NAFTA to negotiate trade agreements to threaten developing countries with retaliation if they violate patent rules...
July 26, 2002

in order to provide affordable access to essential life-saving medicines, even medicines
needed to treat people with HIV/AIDS; and
Whereas, the last twenty years of increased trade and investment liberalization
have coincided with slower global growth, an
increase in global income inequity and higher public debt burdens, especially in the
poorest countries of Sub-Saharan Africa; and
Whereas, most trade deals continue to be
negotiated in secret and trade disputes are
resolved in secret, thus denying the public
an opportunity to participate in important
public policy decisions which affect their
families, communities and livelihoods; and
Whereas, ongoing trade negotiations at the
WTO and towards a Free Trade Area of the
Americas [FTAA], which would expand
NAFTA to the rest of the Hemisphere, have
failed to make progress towards the creation
of fairer trade rules which would protect
public health and safety and public services,
safeguard the environment, contain enforceable commitments to the International
Labor Organization’s core labor standards
(freedom of association, the right to organize
and bargain collectively and prohibitions on
child labor, forced labor and discrimination)
and stimulate broad-based economic development at home and abroad;
Whereas, the current fast track bills also
fail to make real progress on these fundamental issues, thus guaranteeing that future
trade deals will harm workers, degrade the
environment and undermine progress towards sustainable, equitable and democratic
development around the world.
Therefore, be it resolved, that the NAACP
oppose the fast track bills now being discussed in Congress and urge members of Congress to vote against the fast track bill that
comes out of the current conference; and
Be it further resolved, that the NAACP
urge the Bush Administration to consult
closely with Congress and the public, especially with communities of color, before negotiating any new trade agreements and to
release draft negotiating texts and open up
dispute settlement panels; and
Be it further resolved, that the NAACP
support the inclusion of enforceable protections for the environment, workers’ rights,
public services and public interest regulations in all new trade agreements; and
Be it finally resolved, that the NAACP
urge the Bush Administration to ensure that
trade agreements do not include a commitment by the United States to privatize significant public services, including services
related to national security, social security,
public health and safety, transportation,
utilities and education.
LEADERSHIP CONFERENCE ON CIVIL
RIGHTS,
DEAR SENATOR: On behalf of the Leadership
Conference on Civil Rights, the nation’s largest and most diverse civil and human rights
coalition, I write to express our strong opposition to section 141 of the House version of
the Customs Border Security Act of 2001
(H.R. 3129), and to urge that this provision
not be included in the final version of the
bill that comes out of Conference. This provision would unjustifiably weaken protections against racial profiling and undermine
President Bush’s call to end this pernicious
practice.
Section 141 would provide Customs officers
with legal immunity from civil lawsuits
stemming from searches of individuals entering the country, based on the officer’s assertion that the search was conducted in ‘‘good
faith.’’ We are unaware of any precedent for
this sweeping protection. Customs officers
would be afforded a legal shield unavailable
to any other federal law enforcement officer.

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Under current law, the ‘‘qualified immunity’’ doctrine protects officers from liability for actions ‘‘that did not violate any
clearly established constitutional or statutory rights.’’ The additional protection now
sought by the Customs Service apparently
would cover searches that do violate clearly
established constitutional or statutory
rights but which were undertaken in good
faith.
This additional protection is unjustified
for several reasons. First, individuals victimized by official actions that violate ‘‘clearly
established constitutional or statutory
rights’’ deserve legal redress. Second, a good
faith exception puts a premium on ignorance
of the law; officers should not gain immunity
because they did not understand what constitutes a ‘‘clearly established constitutional
or statutory rights.’’ Finally, there is no reason for the Customs Service to have this additional protection that other law enforcement agents do not. If Congress is going to
debate whether all agents should receive this
unjustified protection, that debate should
not occur on this bill.
In considering whether the Customs Service deserves this unprecedented protection,
Congress should recall that in a March 2000
report, the General Accounting Office found
that black female U.S. citizens were nine
times more likely than white female U.S.
citizens to be subjected to x-ray searches by
the Customs Service. This disparity persisted despite the fact that black women
were less than half as likely to be found carrying contraband as white females. We understand that the Customs Service has taken
steps to address this problem, but this is no
time to reverse the agency’s progress.
Instead of weakening protections against
racial profiling on an ad hoc, agency-byagency basis, Congress should enact legislation to ban racial profiling. A bipartisan bill
to implement that goal, the End Racial
Profiling Act of 2001 (H.R. 2074), has been endorsed by the Leadership Conference and
currently has 93 cosponsors.
Thank you for your consideration of our
views. Please feel free to contact Julie
Fernandes of the Leadership Conference staff
at (202) 263–2856 regarding this issue.
Sincerely,
WADE HENDERSON,
Executive Director.
AMERICAN CIVIL LIBERTIES, UNION,
DEAR SENATOR: The ACLU urges Members
of the Conference Committee to reject several troubling provisions included in the
House and Senate versions of H.R. 3009, the
Andrean Trade Preference Act. Sections 341
and 344 of the House bill and Section 1143 of
the Senate bill should be removed in Conference. These provisions would weaken protections against racial profiling and other illegal searches and undermine the right to
privacy in personal correspondence.
UNWARRANTED IMMUNITY FOR CUSTOMS
OFFICIALS

Section 341 of the House bill provides immunity to a Customs officer conducting a
search of a person or property provided he or
she was acting in ‘‘good faith.’’ The Senate
Bill does not contain a similar provision.
Even though this provision would dramatically change immunity law, the provision
was attached to a Customs Authorization
Bill (H.R. 3129) and never considered by the
judiciary committee. Many major civil
rights organizations opposed this provision
in the House bill including: the Leadership
Conference on Civil Rights, the National Association for the Advancement of Colored
People, the National Council of La Raza, the
Mexican American Legal Defense Fund, the

Frm 00189

Fmt 4634

Sfmt 0634

Counsel on American Islamic Relations and
the American Arab Anti-Discrimination
Committee. The civil rights community believes that passage of this provision would be
a major set-back in the fight to end racial
profiling.
Current law already provides qualified immunity to customs agents. Qualified immunity is based on an assessment of what a reasonable officer should have done in any given
situation. Under current law if a law enforcement officer conducts an unconstitutional
search based upon a reasonable but mistaken
conclusion that reasonable suspicion exists,
the officer is entitled to immunity from suit.
See United States versus Lanier, 520 U.S. 259
(1997). This standard provides customs agents
protection against unreasonable law suits
but also protects individuals from unconstitutional searches. The customs service has
not offered a reasonable justification as to
why the qualified immunity standard should
be changed.
Section 341 would provide a customs officer
with ‘‘good faith’’ immunity. The term
‘‘good faith’’ is not defined in the bill. Presumably an officer could engage in blatantly
discriminatory conduct, but if he in ‘‘good
faith’’ believed that he was justified in doing
so, he could not be held liable. This bill
would expand immunity so that a person
would not be entitled to relief from an unconstitutional search unless the officer acted
in ‘‘bad faith’’—a nearly impossible standard
to meet. No law enforcement official is entitled to this broad grant of immunity. Given
that Congress has recently expanded the police powers of government officials, it should
not at the same time cut back on the mechanisms in existing law that are designed to
ensure police powers are not abused.
Out of all the federal law enforcement
agencies, the Customs Service should not be
provided with additional immunity. The Customs Service has a documented record on racial profiling. A March 2000 General Accounting Office report found that while African
American men and women were nearly 9
times more likely to be searched as white
American men and women, they were no
more likely to be found carrying contraband.
After the GAO Report was released, then
Commissioner Raymond Kelly implemented
a series of changes to customs search policy
designed to address the problem. In June of
2001, the total number of customs searches
had decreased, but people of color, especially
African-Americans, constituted the majority
of the targets of the searches.
Furthermore, customs agents have the authority to conduct extraordinarily intrusive
searches. Based only on a finding of reasonable suspicion, a customs agent can subject a
traveler to a full body cavity search and an
x-ray search. In the recent case Brent versus
Odesta Ashly, et al. 247 F.3d 1294 (11th Cir.
Ct. App. 2001), customs agents in Florida subjected an African-American woman to a
painful strip search and then an x-ray search
even though there was virtually no evidence
of drugs or other contraband.
Recommendation: We strongly urge the Conference Committee to exclude Section 341 of
the House Bill from the final Trade bill.
PRIVACY OF OUTGOING INTERNATIONAL MAIL

Section 344 of the House bill, ‘‘Border
search authority for certain contraband in
outgoing mail,’’ would allow the U.S. Customs Service to open outbound international
mail without a warrant if they have reasonable cause to suspect the mail contains certain contraband. Under current law, the Customs Service is empowered to search, without a warrant, inbound mail handled by the
United States Postal Service and packages
and letters handled by private carriers such
as Federal Express and the United Parcel
Service.

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Section 344 would allow Customs officials to open sealed, outbound international mail without a warrant, without probable cause, and without any judicial review at all. People in the United States have an expectation of privacy in the mail they send to friends, family, or business associates abroad. The Customs Service’s interest in confiscating illegal weapons, drugs or other contraband is adequately protected by its ability to secure a search warrant when it has probable cause. Short of an emergency, postal officials can always hold a package while they wait for a court to issue a warrant.

Last fall, the U.S. Postal Service wrote a letter to the Chairman of the Financial Services Committee on the issue of searching outbound mail without a warrant: “There is no evidence that eroding these long-established privacy protections will bring any significant law enforcement improvements over what is achieved using existing, statutorily approved law enforcement techniques.” (Letter to Chairman Oxley from the USPS, dated October 10, 2001.)

Section 1143 of the Senate bill is similar to Section 141 of the House bill. It would only have authority to search outbound international mail over 16 ounces without a warrant. Section 1143 improves on the House bill because it protects the privacy of letter-weight mail. But, the Senate provision also fails to provide any checks and balances on Customs officials’ unilateral authority to open personal mail over 16 ounces. Customs officials’ power to open personal correspondence without a warrant would be open to abuse because there would be no way to track warrantless searches and no independent third party review of their decisions. At a minimum, Section 1143 should establish oversight mechanisms to ensure Customs officials do not abuse their authority. Recommendation: We strongly urge the Conference Committee to exclude Section 344 of the House bill and Section 1143 of the Senate bill from the final Trade legislation.

We urge you to reject Sections 341 and 344 of the House bill and Section 1143 of H.R. 3009, the Andean Trade Preference Act. These troubling provisions would weaken protections against racial profiling and other illegal searches, and undermine the right to privacy in personal correspondence. Democratic members of both the Judiciary and Ways and Means Committees have consistently opposed these provisions when raised in Customs authorization legislation and the demerits of these proposals should not escape full scrutiny before passage.

Section 341 of the House bill provides immunity to a Customs officer conducting a search of a person or property provided he or she was acting in “good faith.” The Senate Bill does not contain a similar provision. Even though this provision would dramatically change immunity law, the provision was attached to a Customs Authorization bill (H.R. 3129) and never considered by the judiciary committee.

Through a series of meetings, we sought some justification for this proposed change in liability law. The Customs Service, however, failed to demonstrate that existing qualified immunity doctrine provided inadequate protection for Customs agents acting within the scope of their official authority. In fact, the existing doctrine of qualified immunity more than adequately shields public officials performing discretionary functions from civil damages if their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person should have been aware. In no case, where a Customs agent, acting within the scope of his authority, has ever been issued a judgment and most cases are dismissed prior to trial. The Supreme Court has also repeatedly held that the reasonableness of an officer’s behavior, not the subjective “good faith” standard used in this legislation is the proper test for liability.

Section 11 would accord Customs officers a legal shield unavailable to any other law enforcement officer in the country. This provision is especially offensive given the history of weakening protections against racial profiling and other illegal and unconstitutional searches by the Customs Service that have been highlighted in recent GAO studies. Specifically, the GAO found that passengers of particular races and genders were more likely to be subject to intrusive strip and x-ray searches after frisks or patdowns, even though the results of such searches found that they were less likely to be the victims of an intrusive search, even though they were only half as likely as white women to be found carrying contraband. In light of the continued Customs Service’s broad grant of immunity, absent legislative scrutiny and oversight, inviting continuing civil liberty violations.

Similarly, the Customs Service failed to demonstrate evidence of a need to change the legal standard for searching U.S. mail. Under current law, the Customs Service is empowered to search, without a warrant, inbound mail handled by the United States Postal Service and packages and letters handled by private carriers such as Federal Express and UPS. The Customs Service’s interest in confiscating illegal weapons, drugs or other contraband inbound or outbound is adequately protected by its ability to secure a search warrant when it has probable cause. Short of an emergency, postal officials can always hold a package while they wait for a court to issue a warrant.

Recently, the U.S. Postal Service wrote a letter to the Chairman of the Financial Services Committee on the issue of searching outbound mail without a warrant: “There is no evidence that eroding these long-established privacy protections will bring any significant law enforcement improvements over what is achieved using existing, statutorily approved law enforcement techniques.” (Letter to Chairman Oxley from the USPS, dated October 10, 2001.)

Times of crisis are the true test of a democracy. As we search for increased national security, we must be mindful of the fact that our civil liberties are a precious resource and ensure that freedom is not a casualty of vigilance. Without arguable justification, Sections 341, 344 and 1143 trample the ability of individuals to address the activities of the Customs Service and undermine the expectation of privacy in the U.S. mail. I, therefore, urge you to strike these provisions from the trade bill.

Very truly yours,

LAURA MURPHY,
Director, Washington National Office.

KATIE CORRIGAN,
Legislative Counsel.


Re: H.R. 3129—Do not include customs immunity into the trade bill.

DEAR SENSORS, We are writing to urge you to NOT include section 141 of H.R. 3129, “The Customs Border Security Act of 2001” in the current trade bill. Section 141 of H.R. 3129 grants Customs officers immunity against racial profiling and other illegal searches.

We are writing to you on behalf of the Council on American-Islamic Relations, an organization that works to protect the rights of American Muslims. Since Sept. 11 many American Muslims have been subjected to acts of discrimination, harassment and abuse. We are concerned that this bill will lead to more discrimination because it will immunize customs officers who engage in that type of behavior.

Customs agents currently enjoy protections from unwarranted claims of abuse through qualified immunity from prosecution based on objective criteria. Section 141 of H.R. 3129 would grant “good faith” immunity, without defining what “good faith” means, thereby creating a situation where an officer could fabricate discriminatory or unconstitutional conduct, but if he in “good faith” believes that the action he took was justified in doing so, he could not be held liable. The grant of an immunity would make it nearly impossible for a person who has suffered an unconstitutional search and/or seizure to seek redress. No law enforcement officer currently has such a broad grant of immunity.

Customs agents routinely conduct highly intrusive warrantless searches based on racial profiling. For example, a March 2000 General Accounting Office report found that while African American were nearly 9 times as likely to be stopped as whites, and 20 times as likely to be searched as white Americans, they were no more likely to be found carrying contraband. This combination of power and immunity will undoubtedly lead to civil rights abuses.

We urge you to NOT include text from H.R. 3129 in the current trade bill.

Sincerely,

JASON C. ERS,
Director, Governmental Relations.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,

HON. MAX BAUCUS,
Chairman, Senate Committee on Finance, Hart Senate Office Bldg., Washington, DC.

DEAR SENSORS BAUCUS: I urge you and the other Senate Committees to reject Sections 341 and 344 of the House bill and Section 1143 of H.R. 3009, the Andean Trade Preference Act. These troubling provisions would weaken protections against racial profiling and other illegal searches, and undermine the right to privacy in personal correspondence. Democratic members of both the Judiciary and Ways and Means Committees have consistently opposed these provisions when raised in Customs authorization legislation and the demerits of these proposals should not escape full scrutiny before passage.

Section 341 of the House bill provides immunity to a Customs officer conducting a search of a person or property provided he or she was acting in “good faith.” The Senate Bill does not contain a similar provision. Even though this provision would dramatically change immunity law, the provision was attached to a Customs Authorization bill (H.R. 3129) and never considered by the judiciary committee.

Through a series of meetings, we sought some justification for this proposed change in liability law. The Customs Service, however, failed to demonstrate that existing qualified immunity doctrine provided inadequate protection for Customs agents acting within the scope of their official authority. In fact, the existing doctrine of qualified immunity more than adequately shields public officials performing discretionary functions from civil damages if their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person should have been aware. In no case, where a Customs agent, acting within the scope of his authority, has ever been issued a judgment and most cases are dismissed prior to trial. The Supreme Court has also repeatedly held that the reasonableness of an officer’s behavior, not the subjective “good faith” standard used in this legislation is the proper test for liability.

Section 11 would accord Customs officers a legal shield unavailable to any other law enforcement officer in the country. This provision is especially offensive given the history of weakening protections against racial profiling and other illegal and unconstitutional searches by the Customs Service that have been highlighted in recent GAO studies. Specifically, the GAO found that passengers of particular races and genders were more likely to be subject to intrusive strip and x-ray searches after frisks or patdowns, even though the results of such searches found that they were less likely to be the victims of an intrusive search, even though they were only half as likely as white women to be found carrying contraband. In light of the continued Customs Service’s broad grant of immunity, absent legislative scrutiny and oversight, inviting continuing civil liberty violations.

Similarly, the Customs Service failed to demonstrate evidence of a need to change the legal standard for searching U.S. mail. Under current law, the Customs Service is empowered to search, without a warrant, inbound mail handled by the United States Postal Service and packages and letters handled by private carriers such as Federal Express and UPS. The Customs Service’s interest in confiscating illegal weapons, drugs or other contraband inbound or outbound is adequately protected by its ability to secure a search warrant when it has probable cause. Short of an emergency, postal officials can always hold a package while they wait for a court to issue a warrant.

Recently, the U.S. Postal Service wrote a letter to the Chairman of the Financial Services Committee on the issue of searching outbound mail without a warrant: “There is no evidence that eroding these long-established privacy protections will bring any significant law enforcement improvements over what is achieved using existing, statutorily approved law enforcement techniques.” (Letter to Chairman Oxley from the USPS, dated October 10, 2001.)

Times of crisis are the true test of a democracy. As we search for increased national security, we must be mindful of the fact that our civil liberties are a precious resource and ensure that freedom is not a casualty of vigilance. Without arguable justification, Sections 341, 344 and 1143 trample the ability of individuals to address the activities of the Customs Service and undermine the expectation of privacy in the U.S. mail. I, therefore, urge you to strike these provisions from the trade bill.

Very truly yours,

JOHN CONYERS, JR.,
Ranking Member, Committee on the Judiciary.

Mrs. TAUSCHER. Mr. Speaker. I rise to support the Trade Promotion Authority conference report. I am for free and open trade, and I want this President and all presidents to have Fast Track authority. Today, I think we need to remove some misconceptions about Trade Promotion Authority and trade agreement. Rather, it would give our government the authority to negotiate trade agreements.

Congress would still get to vote up or down on every trade agreement that’s made, and I believe that’s an improvement. The workers and to protecting our labor standards and environmental laws during each and every one of those votes.

I believe trade is critical to America’s economic growth and prosperity. The great strength of the American economy is really in the spirit of its people. It’s American innovation, entrepreneurship, and competitiveness that drives our industry, agriculture, and local...
businesses. The good news is every American stands to benefit from free trade.

Mr. Speaker, I am happy to see the conference report contains a solid trade compromise with robust trade adjustment assistance for displaced American workers. In fact, this is the most progressive trade authority ever considered by Congress. It explains the current worker assistance program threefold, and for the first time provides health care assistance for the unemployed.

As we move forward in a global economy, this legislation provides the right balance between reaping the rewards of free trade and protecting displaced American workers. Free trade is in the long-term interest of the United States and our economy, and in the creation of jobs that benefit American workers. I look forward to voting for this comprehensive trade legislation.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise in opposition to H.R. 3009—the Fast Track Conference Report. I also rise in opposition to the amendment to authorize the President to grant duty-free treatment for Andean imports of "tuna," defined as fish in containers weighing with their contents not more than 6.8 kg each.

For months, I have provided the House and Senate with documentation that clearly shows that the Andean countries have the production capacity to supply the U.S. tuna operations in American Samoa, Puerto Rico, and California. I have also clearly demonstrated that the economy of American Samoa is more than 80 percent dependent, either directly or indirectly, on the U.S. tuna fishing and processing industries. Our compromise was the Breaux amendment to protect our U.S. tuna fishing fleet which is to adversely impact canner operations in American Samoa.

Simply put, duty-free treatment for pouch products poses the same threat as duty-free treatment for canned products. Although the pouch tuna business is currently estimated to be about 6 percent of the total tuna business, conservative estimates suggest that the pouch business will grow three, five, and ten years at 75, 50, and 25 percent respectively. This equates to 8 percent share by 2005, 12.2 percent by 2010, and 15.4 percent of total U.S. tuna trade by 2012.

Reuters wire service recently reported that StarKist intends to move away from the standard 6-ounce cans and boost distribution of tuna in a pouch. In other words, pouch product will displace canned product and canneries in American Samoa and Puerto Rico will be unable to compete with low labor costs in the Andean region. This will force a shut down of canning operations in American Samoa and Puerto Rico. This will also lead to the demise of the 100 tuna fishing fleet which will be forced to transship its product to the Andean countries at a disadvantage that will be impossible to overcome. In short, canned tuna will become a foreign controlled commodity instead of the branded product American consumers have trusted with confidence for over 95 years.

Given these eventualities, I cannot support a position that includes unlimited duty-free treatment for pouch products. I stand firm on capacity limitations which equate to no more than 18.1 million kilograms of tuna in airtight containers. I also stand firm on rules of origin. The U.S. tuna boat owners, Chicken of the Sea, and Bumble Bee also support my position and I am grateful for their support.

I also wish to note that I am disappointed that the House receded with an amendment to grant duty-free treatment for tuna packed in 6.8 kg pouches. Mr. Speaker, there is no such thing as a 6.8 kg pouch and it is almost inexcusable that the House would be misinformed on such a critical issue. To set the record straight, there are only two pouch sizes. There is a 7 oz. retail pouch and a 43 oz., or 1.22 kg, institutional food service pouch.

The food service pouch is packed in American Samoa by Chicken of the Sea. The 7 oz. pouch is StarKist's 7 oz. pouch to which it said it will never pack its 7 oz. pouch in American Samoa. Why? Because StarKist is a company that is always in search of low-cost labor. Labor rates in the Andean region are 69 cents an hour and less. In American Samoa, tuna canner workers are paid $3.60 per hour. Given these wage differences, it is unconscionable for the U.S. Congress to give StarKist one more edge in the marketplace and one more reason to leave American Samoa.

This legislation is flawed. It is based on the idea that drugs lords will be enticed to pack tuna for 69 cents an hour. It is baseless thinking and I cannot and will not support the inclusion of tuna in the ATPA. The Philippines, Thailand and Indonesia have also expressed their concerns and provided Congress with statements on how the economic impact the ATPA would have on their region. The Government of the Philippines has blatantly stated that the inclusion of tuna would impede its efforts to eradicate poverty and combat terrorism.

Chicken of the Sea, Bumble Bee, the U.S. tuna boat owners, Puerto Rico, and American Samoa offered up a fair and reasonable compromise to resolve the controversy surrounding the inclusion of tuna in the ATPA. Our compromise was the Breaux amendment which passed the Senate Finance Committee. The Breaux amendment limits the amount of tuna that can enter the U.S. duty-free and also requires a source of origin provision that would require tuna to be caught by U.S. or Andean flag ships.

Capacity limitations are key to ensuring the continued viability of the U.S. tuna and fishing operations in American Samoa, Puerto Rico and California. Rules of origin are necessary to protect our U.S. tuna fishing fleet which is based in the Western Pacific Tropic. There are no fishing licenses left in the Eastern Pacific Tropic and the U.S. tuna boat owners are almost entirely dependent on canning production in American Samoa. Any fluctuation in production affects the livelihood of the U.S. tuna boat owners.

There are about 30 U.S. flag purse seiners operating in the Western Pacific Tropic. This fleet supplies about 200,000 tons of tuna per year to the canneries in American Samoa. The loss of American Samoa as a base would mean the end of the U.S. tuna fishing fleet. The Breaux amendment, however, limits the loss to 50.4 million pounds, or 2.1 million cases. The Breaux amendment also offsets this loss by providing opportunity for the U.S. tuna boat owners to sell their fish to the Andean canneries. Our compromise also encourages Andean countries to develop their own fishing fleets as a means to maximize economic benefits.

Mr. Speaker, the Spanish fishing fleet, which is subsidized by the government of Spain, is alive and well and fishing for lightmeat tuna in the Eastern Pacific Tropic. Japan and Taiwan are well at work transshipping albacore tuna to Andean canneries. It is a well-documented fact that StarKist is purchasing albacore from Japan and Taiwan and transshipping it directly to Ecuador for packing.

I am concerned about these developments because I do not believe the ATPA should provide backdoor benefits for non-Andean countries. Neither Spain nor Japan nor Taiwan should be allowed to send their fish into the U.S. market duty-free. In my opinion, this would violate the intent of the ATPA and would unfairly disadvantage the ASEAN countries.

In fairness to the U.S. tuna boat owners, in fairness to the U.S. tuna cannery workers, and in fairness to American Samoa, United States, and our economy, and in the creation of jobs that benefit American workers. I look forward to voting for this comprehensive trade legislation.

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World trade lifts people out of poverty and stimulates economic development in developing countries, which results in more stable and law-abiding government. There’s no denying that our economy is changing and with that change comes new industries and economic opportunities. The hallmark of the United States’ economic vitality is the ability of our country to innovate and develop new products and services. TPA will help enable our trade negotiators to open new doors to international trade that are essential if we as a country want to remain a leader in world trade.

If we do not approve TPA today, we are forfeiting a critical mechanism to influence negotiations on new trade agreements. I believe that approval of trade promotion authority legislation is essential to the health of our economy. It benefits American consumer and workers alike.

By providing trade promotion authority to the President, the Congress is signaling its support for the Administration to negotiate trade agreements that benefit Americans and that require Congressional consultation.

More importantly, we are sending an important message about U.S. leadership in the global economy. Without TPA, our trade representative cannot demonstrate Congressional support for a new round of WTO negotiations.

This bill also provides some much needed assistance for workers who have been displaced by Trade. Under this bill, for the first time displaced workers will be eligible for a 65 percent advanceable, refundable tax credit that can be used to pay for COBRA. This bill recognizes how difficult it can be for older workers to change careers and provides wage insurance to bridge the gap between old and new earnings (up to $10,000 over 2 years).

But that’s not all—there’s a TAA program for farmers and ranchers, and an expanded training budget (retraining for displaced workers), and extends the availability of benefits for up to 2 and a half years.

As I have always said, I may be pro Trade, but I am also pro helping displaced workers, and that proposition I stand by.

We must act with one voice in supporting this legislation and the responsibility of Congressional oversight in trade.

We now live in a global economy that has been brought together through advances in technology, transportation and communications. International trade is not only a reality, but it is a necessity if we plan to thrive in the 21st century.

In this climate marked by a global economic downturn and a war on terrorism that crosses international boundaries, this legislation is an opportunity to signal U.S. leadership in the world. Trade opens economic opportunities that minimize the conditions that give rise to extremist groups, dictatorships and violations of human rights.

American trade in the world is defined largely by trade and economic ties with other countries. Our security is dependent upon prosperity.

We could spend countless hours modifying this bill, but the question comes down to whether this Congress supports a vision where America continues to be a global leader. If we reject this balanced proposal, we send entirely the wrong signal to other countries that America does not support an ongoing policy of trade expansion that has been the hallmark of our country’s prosperity and a model for people and democracies the world over.

I urge my colleagues to vote for this proposal and stand on the side of economic opportunity and openness. It is the right time and right thing to do.

Mr. BLUMENAUER. Mr. Speaker, I support free trade. The removal of trade barriers by both the United States and our trading partners will ultimately strengthen the economies of all nations.

I have long believed that the best process for achieving the elimination of trade barriers is for us to grant the President a properly-structured authority to submit trade agreements, negotiated pursuant to that structure, for an up-or-down vote by the Congress. With the proper provisions for environmental and labor protections, trade agreements can facilitate both our economic and our environmental goals.

Sadly, the leadership of this House has refused to give us such legislation or even an open process to consider the bill before us. Once again the Republican majority has resorted to a “martial law” rule, preventing members from even one day to look at the bill on which we’re voting. This is the latest in a series of affronts to bipartisanship, collegiality and the legislative process.

Relying as we must on third-party descriptions of the conference committee’s agreement, I conclude that my concerns about labor, the environment and meaningful trade adjustment assistance have not been met in this report, just as they were not in the trade promotion bill that was rammed through this House by a single-vote margin in December.

The conference has not dealt with the flaws in the mechanisms established for investment protection under the North American Free Trade Agreement—mechanisms the New York Times yesterday called “secret trade courts” in its editorial urging the congressmen to correct this. The conference language does not ensure the continued enforceability of environmental agreements the United States has entered into with our trading partners. The conference bill fails to extend the core labor standards of the International Labor Organization to trade agreements entered into with our neighbors in the Americas. The bill shortchanges displaced American workers with inadequate trade adjustment assistance.

As I have argued before, in this body and to the Administration, we could have achieved broad, bipartisan support for trade promotion authority if the Republican leadership had dealt fairly and these issues as part of their legislation. Instead, the leadership has continued a pattern of unduly partisan, non-participatory legislating on trade. For me, this is perhaps the most disappointing feature of the bill before us.

Finally, it is ironic that this partisan approach to TPA has forced the Administration to make a hash of this nation’s trade priorities. In the name of advancing free trade, the Administration has made egregious projectionist concessions on steel, textiles and agricultural products in order to secure votes for passage. I can only hope this atmosphere changes and we return to building a majority for an honest, bipartisan trade policy for our nation’s future.

Ms. KILPATRICK. Mr. Speaker, I rise in opposition to the conference report to H.R. 3009, the Fast Track Trade legislation that comes before us today. I do support trade agreements that will benefit all parties involved; however, the conference report that we consider today does not do this. It is a far departure from what I think America needs in the direction of fair and equitable trade agreements. Everything that was positive was eliminated in conference and the result is a piece of legislation that will take us down a precarious, dangerous path for our nation.

Workers are the backbone of any company, but Fast Track would erode the rightful safety guards they are owed. Trade Adjustment Assistance (TAA) and health protections are significantly weakened in the conference report. The tax credits included would not assist displaced workers, by forcing them to pay more for their health insurance. Moreover, there is no guarantee that workers who had health coverage for a couple of months, or had no health coverage at all, prior to losing their jobs would even be afforded assistance. And for those workers that belonged to companies who shifted their factories overseas, this bill basically says to them, “tough luck for you.”

What kind of assistance are we providing them? This is not assistance, it’s corporate maximization, and it’s the workers that pay the price.

Proponents of the trade agreement state that the conference report does indeed contain labor protections for U.S. workers; and that the provisions in the report are modeled after the Jordan Free Trade Agreement. That’s simply not correct.

The conference report falls short of the standards set in the Jordan FTA by excluding key commitments that deal with the incorporation of core labor standards in domestic law and the commitment to work towards the implementation and improvement of these laws. To state that the conference report affords strong labor protections is disingenuous.

In addition to the unacceptable worker protections in the conference report, there are a long string of other dangerous provisions that would take us backwards in our dealings. First, the environment plays second fiddle, if not worse, to promoting trade. Instead of being a leader in this area and protecting and advancing our standards, the U.S. would promote poor environmental policy in the name of signing a “good agreement.”

Congressional oversight in ensuring that trade agreements are sound policy is also completely diluted. The conference agreement leaves the President with the ability to withdraw fast track and denies Congress our right to ensure that the trade laws of our nation are not forsaken in trade agreements.
On the other hand, foreign investors would be afforded even more rights than they have under current law. While Congress’s rights are restricted, the rights of foreign investors are increased. This is a sell-out of the worst kind.

This conference report gives the President and Congress a blank check to send away worker protections, environmental protections, Congressional oversight, and so much more. It’s a check that we shouldn’t pass—it’s a check that we should stamp with a big “void.” For these reasons, I oppose passage of the conference report to H.R. 3009. We can and should do much better.

Mr. UDALL of New Mexico. Mr. Speaker, tonight we have before us the Conference Report on Trade Promotion Authority—or Fast Track.

I was hopeful that the Conferences would give us a bill that had real and meaningful protections for America’s working men and women. I was hopeful that the Conferences would give us a bill that had real and meaningful safeguards for U.S. taxpayers against unfair suits against domestic public-interest laws. I was hopeful that the Conferences would give us a bill that had real and meaningful protections for American workers against unfair suits against domestic public-interest laws.

However, and not surprisingly, H.R. 3009 has none of these important components. Therefore, I will vote “no”, and I urge my colleagues to do the same.

While I was hopeful that H.R. 3009 would have real and meaningful protections for working families, it amazingly takes a great step back on workers’ rights. As written, this bill effectively rules out any enforcement of laws that protect workers against unfair agreements.

How can American workers compete with foreign companies who pay their workers slave wages? How can American workers compete with foreign companies who crush union representation? How can American workers compete with companies that employ children? Put simply, they cannot.

While I was hopeful that H.R. 3009 would have real and meaningful safeguards for the environment, this bill actually reduces the role of this Congress to enforce environmental standards. We should be encouraging our international competitors to protect the environment. We should be providing assistance to other nations to achieve real environmental protections. However, this bill fails to ensure parity for the environment and commercial considerations in future trade agreements.

While I was hopeful that H.R. 3009 would have real and meaningful protections of Congressional prerogative to change U.S. trade laws, this bill is a major step backwards. Why was the Trade Adjustment Assistance Act language from the private bill stripped from the Conference Report? This bill actually diminishes the already minimal oversight Congress has over U.S. trade laws. This bill actually prevents Congress from withdrawing from a trade agreement, even if the trade agreement is found to undermine our trade laws.

I was hopeful that the Conferences would give us a bill that had real and meaningful expansion of the Trade Adjustment Assistance program. Amazingly, this conference reduces the Senate-passed TAA proposal to cover only 65 percent tax credit to cover health care costs. During these times of economic uncertainty, this is another slap in the face to laid-off workers. Worst of all, this 65 percent figure is above what is available to these workers. Struggling workers will actually pay more for their health care at a time when they’ve lost their jobs.

While I was hopeful that H.R. 3009 would have had meaningful instructions regarding international accounting rules, this bill does not address the issue. At a time when we are passing international accounts to our domestic accounting industry, this bill does nothing to prevent many of the shortcomings on the international front. We’ve just taken some great steps to improve what we do here in the U.S., but this bill could limit congressional changes to accounting regulations that are deemed “more trade restrictive than necessary.”

I was hopeful that the Conferences would give us a bill that had real and meaningful protections for U.S. taxpayers against unfair suits against domestic public-interest laws. As a former State Attorney General, I am particularly sensitive to the unintended consequences of federal laws. As 35 current State Attorneys General wrote to Chairman Thomas and Chairman Baucus, they have grave concerns that the investment provisions . . . [and] to the independence of our judicial system.” As we already have seen in California, foreign companies have used the NAFTA investor states to secure a $7 billion verdict over a California clean-water law and a Mississippi jury award in a fraud case. We should not allow our own state laws to be used against us in the name of free trade.

While I cannot support this bill, I have taken many pro-trade votes in this Congress. I will continue to support trade agreements that protect the environment. I will continue to support trade agreements that provide important safeguards to protect the rights of American working families as well as the rights of our trading partners. I will continue to support trade agreements that protect our ability to exercise our Constitutional duty to provide oversight of the executive branch. As I’ve stated previously, this legislation does none of these things.

I urge my colleagues to vote “no” on the Fast Track Conference Report.

Mr. OXLEY. Mr. Speaker, I rise today to support the Trade Promotion Authority Conference Report. I would like to thank the distinguished Chairman of the Ways and Means Committee for his efforts in drafting this balanced and fair legislation. Trade Promotion Authority is absolutely critical to reenergize our economy, create jobs and stimulate growth. TPA will grant the President, in consultation with Congress, the ability to negotiate in good faith with our trading partners. Without TPA the United States will lose its negotiating authority. It is counting on us. We must approve TPA today.

Mr. EVANS. Mr. Speaker, I cannot support this fast track conference report as submitted. This agreement clearly does not reflect the needs and concerns of my constituents. In the last two years, I have witnessed two major steel mills close in my district and several factories shift production lines overseas. This legislation gives the President unbridled authority to enter into more trade agreements that send good paying jobs overseas, while weakening existing trade laws.

As I have said before, I do not share President Bush’s vision for unfettered free trade that hurts the workers of the 17th district of Illinois. The President has continually threatened to veto any agreement that contains language preventing him from weakening anti-dumping statutes. This agreement fulfills the President’s desire to freely trade away anti-dumping protections.

The President has indicated one of his first steps after passage of fast track will be to expand NAFTA to include all of Central and South America. This expansion benefits a few importers at the expense of thousands of workers and farmers in my district. Never has there been a worse time in the economy to give the President so much authority to trade away jobs. We should not give the President services. The U.S. is the world’s largest exporter of services, and service is the fastest growing sector of the U.S. economy, accounting for 80 percent of both GDP and private employment. In 2000, the cross-border services trade surplus was $76.5 billion, offsetting 17 percent of the $452 billion trade deficit that year. The President’s vision for the future of U.S. jobs in 2000 and added 20.6 million new U.S. jobs to the economy between 1989 and 1999.

Services encompass all economic activity other than agriculture, manufacturing and mining.

Financial services are a key component in the trade in services equation. Financial services firms contributed more than $750 billion to U.S. Gross Domestic Product in 1999, nearly 8 percent of total GDP. More than six million employees support the products and services these firms offer. Expanded trade in financial services will enable U.S. service providers to gain access to more markets in critical global financial centers and developing countries.

With greater trade in financial services, global economies will be required to develop more sophisticated and more transparent financial systems. This will result in a stronger and more innovative global economic marketplace. With economic hardships in Argentina, Japan and China, expanded trade in financial services will benefit these countries and others to reform their financial practices and develop more stable economic systems.

I strongly encourage my colleagues to vote to approve TPA. This legislation will give the President the critical authority to seek to open additional markets for U.S. financial service providers, improve the regulation of international financial markets, and provide international customers access to a greater number of financial products. All of these actions will lead to a more sophisticated, better run global financial marketplace and a faster economic recovery. Our workers are counting on us, our employers are counting on us, and the world is counting on us. We must approve TPA today.
The SPEAKER pro tempore. Without objection, I am asking unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous material on the subject of the concurrent resolution just presented.

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

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 132

Resolved by the Senate (the House of Representatives concurring), That, in consonance with section 132(a) of the Legislative Reorganization Act of 1946, when the House recesses or adjourns at the close of business on Thursday, August 2, 2002, or Tuesday, August 6, 2002, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it shall stand recessed or adjourned until 12 noon on Tuesday, September 3, 2002, or such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Friday, July 26, 2002, on a motion offered by its Majority Leader or his designee pursuant to section 2 of this concurrent resolution, it stand adjourned until 2:00 p.m. on Wednesday, September 4, 2002, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

Sec. 2. The Majority Leader of the Senate and the Speaker of the House, or their respective designees, acting jointly after consultation with the Minority Leader of the Senate and the Majority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate.
The Speaker pro tempore laid before the House the following communication from the Speaker of the House of Representatives:


Pursuant to section 2 of Senate Concurrent Resolution 132, I hereby designate Representative Richard K. Armey of Texas to act jointly with the Majority Leader of the Senate or his designee, in the event of my death or inability, to notify the Members of the House and the Senate, respectively, of any reassembly under that concurrent resolution. In the event of the death or inability of my designee, the alternate Members of the House listed in the letter bearing this date that I have placed with the Clerk are designated, in turn, for the same purpose.

J. Dennis Hastert, Speaker of the House of Representatives.

ELECTION OF MEMBER TO COMMITTEE ON AGRICULTURE

Mr. ARMNEY. Mr. Speaker, I offer a resolution (H. Res. 539) and I ask unanimous consent for its immediate consideration in the House.

The Speaker pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. Res. 539

Resolved, That the following Member be and is hereby elected to the following standing committee of the House of Representatives:

Agriculture: Mr. Gekas of Pennsylvania.

The Speaker pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

DISPENSING WITH CALENDAR

WEDNESDAY BUSINESS ON WEDNESDAY, SEPTEMBER 4, 2002

Mr. ARMNEY. Mr. Speaker, I ask unanimous consent that the business of the House be dispensed with on Wednesday, September 4, 2002.

The Speaker pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF HON. FRANK R. WOLF TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH SEPTEMBER 4, 2002

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


I hereby appoint the Honorable Frank R. Wolf or, if not available to perform this duty, the Honorable Wayne T. Gilchrest to act as Speaker pro tempore to sign enrolled bills and joint resolutions through September 4, 2002.

J. Dennis Hastert, Speaker of the House of Representatives.

AUTHORIZING SPEAKER, MAJORITY LEADER, AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND TO MAKE APPOINTMENTS AUTHORIZED BY LAW OR THE HOUSE NOT WITHSTANDING ADJOURNMENT

Mr. ARMNEY. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Wednesday, September 4, 2002, the Speaker, majority leader, and minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The Speaker pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION TO ENTERTAIN MOTIONS TO SUSPEND THE RULES ON WEDNESDAY, SEPTEMBER 4, 2002

Mr. ARMNEY. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to entertain motions to suspend the rules on Wednesday, September 4, 2002, subject to consultation with the minority leader by Thursday, August 29, 2002.

The Speaker pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MANY THANKS TO STAFF

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

Mr. ARMNEY. Mr. Speaker, I would like to thank the following people for their outstanding commitment to the success of the House — the Speaker’s Office, the cloak room staff, the clerks, the door keepers, the Capitol Police, the legislative counselors, the pages, and all of those marvelous people I am looking forward to seeing for another day.

The SPEAKER pro tempore. The Clerk will notify the Senate of the permission to entertain motions to suspend the rules.

APPOINTMENT OF MEMBER TO UNITED STATES GROUP OF THE NORTH ATLANTIC ASSEMBLY

The Speaker pro tempore. Without objection, and pursuant to 22 U.S.C. 1928a and clause 10 of rule I, the Chair announces the Speaker’s appointment of the following Member to the United States Group of the North Atlantic Assembly to fill the existing vacancy thereon:

Mr. TANNER of Tennessee.

There was no objection.

APPOINTMENT OF ADDITIONAL CONFEREES ON H.R. 4546, BOB STUMP NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

The Speaker pro tempore. Without objection, the Chair appoints the following additional conferees on H.R. 4546:

As additional conferees from the Committee on Small Business, for consideration of sections 233, 824, and 829 of the Senate amendment and modifications committed to conference: Mr. MANZULLO, Mrs. KELLY and Ms. VELAZQUEZ.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conference.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. ROUZEMA (at the request of Mr. ARMNEY) for today after 5 p.m. on account of illness.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Ms. PELOSI, to include extraneous material, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,690.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on July 26, 2002 he presented to the President of the United States, for his approval, the following bills.
H.R. 2175. To protect infants who are born alive, otherwise known as the “Born-Alive Infants Protection Act of 2001.”

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.

ADJOURNMENT

Mr. ARMLEY. Mr. Speaker, pursuant to Senate Concurrent Resolution 132, 107th Congress, I move that the House do now adjourn.

The motion was agreed to. The SPEAKER pro tempore. Pursuant to Senate Concurrent Resolution 132, 107th Congress, the House stands adjourned until 2 p.m., Wednesday, September 4, 2002.

Thereupon (at 3 o’clock and 40 minutes a.m.), Saturday, July 27, 2002, legislative day of Friday, July 26, 2002, pursuant to Senate Concurrent Resolution 132, the House adjourned until Wednesday, September 4, 2002, at 2 p.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for official foreign travel during the second quarter of 2002, by Committees of the House of Representatives, as well as reports of foreign currencies and U.S. dollars utilized for speaker-authorized official travel during the first quarter of 2002, and the fourth quarter of 2001 pursuant to Public Law 95–384, are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 31, 2002

<table>
<thead>
<tr>
<th>Name of Member or employee</th>
<th>Arrival</th>
<th>Departure</th>
<th>Country</th>
<th>Per diem 1</th>
<th>Transportation</th>
<th>Other purposes</th>
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1 Per diem constitutes lodging and meals.
2 If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DONALD A. MANZUOLI, Chairman, July 15, 2002.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 31, 2002

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<th>Name of Member or employee</th>
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2 If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LARRY COMBEST, Chairman, July 15, 2002.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON RESOURCES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 31, 2002

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2 If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMES V. HANSEN, Chairman, July 17, 2002.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO LONDON, ENGLAND, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN FEB. 21–26, 2002

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1 Per diem constitutes lodging and meals.
2 If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

SHERWOOD L. BOLSHEKERT, Chairman, July 11, 2002.
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Committee total: 39,069.40

1 Per diem constitutes lodging and meals.
2 If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.


REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO LONDON, ENGLAND, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN FEB. 21–26, 2002—Continued

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<th>Name of Member or employee</th>
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<th>Departure</th>
<th>Country</th>
<th>Per diem ¹</th>
<th>Transportation</th>
<th>Other purposes</th>
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<td>Mexico</td>
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Committee total: 1,938.00

1 Per diem constitutes lodging and meals.
2 If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RICHARD A. GEPHARDT, Minority Leader, June 1, 2002.
EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker’s table and referred as follows:

276. A letter from the General Counsel, Department of the Treasury, transmitting a draft of the Treasury's response to the amendment and report of the Rural Electrification Act of 1936, and for other purposes; to the Committee on Agriculture.

277. A letter from the Technical Review Coordinator, Department of Agriculture, transmitting the Department’s final rule — Mediterranean Fruit Fly; Removal of Quarantine Zone No. 01-08-02-01 issued July 9, 2002, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Agriculture.

278. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department’s final rule — Change in Disease Status of Austria Because of BSE [Docket No. 02-064-2] received July 12, 2002, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Agriculture.

279. A letter from the Administrator, Farm Credit System, Department of Agriculture, transmitting the Department’s final rule — Lamb Meat Adjustment Assistance Program (RIN: 0560-AG17) received July 17, 2002, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Agriculture.

280. A letter from the Executive Vice President, Department of Agriculture, transmitting the Department’s final rule — Dairy Recourse Loan Program for Commercial Dairy Producers (RIN: 0560-AF41) received July 23, 2002, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Agriculture.

281. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department’s final rule — Change in Disease Status of Poland Because of BSE [Docket No. 02-068-1] received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Agriculture.

282. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department’s final rule — Livestock Indemnity Program (RIN: 0560-AG39) received July 23, 2002, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Agriculture.

283. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department’s final rule — Change in Disease Status of Greece With Regard to Foot-and-Mouth Disease [Docket No. 01-059-2] received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Agriculture.

284. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department’s final rule — Change in Disease Status of Finland Because of BSE [Docket No. 02-068-1] received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Agriculture.

285. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department’s final rule — Child and Adult Care Food Program: Implementing Legislative Reforms to Strengthen Program Integrity (RIN: 0584-AC94) received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Agriculture.

286. A letter from the Assistant Secretary of the Navy, Department of Defense, transmitting notification of the decision to order up to 100,000 additional workstations under the Navy Marine Corps Intranet (NMCI) contract; to the Committee on Armed Services.

287. A letter from the Assistant Secretary, Department of Defense, transmitting notification of each military skill to be designated as critical for purposes of payment of the special retention bonus; to the Committee on Armed Services.

288. A letter from the Assistant Secretary of Labor, Department of Defense, transmitting the Department’s proposed legislation to implement the Federal Employees’ Compensation Act Amendments of 2002; to the Committee on Education and the Workforce.

289. A letter from the Associate Deputy Administrator for Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting the Department’s final rule — Payable in Terminated Single- Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits [Docket No. 02-060] received July 12, 2002, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Education and the Workforce.

290. A letter from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting the Department’s final rule — Processing Requests for Indemnification Pursuant to Her Husband’s Federal Employees’ Compensation Act Amendments of 2002; to the Committee on Education and the Workforce.

291. A letter from the Administrator, Federal Emergency Management Agency, transmitting notification of each military skill to be designated as critical for purposes of payment of the special retention bonus; to the Committee on Armed Services.


293. A letter from the Principal Deputy Administrator, Environmental Protection Agency, transmitting the AGENCY’s final rule — Approval and Promulgation of Implementation Plans; Arizona — Maricopa County’s Finalized Implementation Plan for theserious Area Plan for Attainment of the PM-10 Standards [AZ0202-062; FRL-7141-3] received July 17, 2002, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Energy and Commerce.

294. A letter from the Principal Deputy Administrator, Environmental Protection Agency, transmitting the AGENCY’s final rule — Protection of Stratospheric Ozone; Listing of Substances in the Foam Sector [FRL-7237-4] (RIN: 2060-AG12) received July 17, 2002, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Energy and Commerce.

295. A letter from the Assistant General Counsel for Regulations, Department of Transportation, transmitting notification of the decision to order up to 100,000 additional workstations under the Navy Marine Corps Intranet (NMCI) contract; to the Committee on Armed Services.
Offer and Acceptance (LOA) to Pakistan for defense articles and services (Transmittal No. 02-55), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

3.05. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 196-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3.06. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 196-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3.07. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 190-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3.08. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 190-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3.09. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 190-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3.10. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 190-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3.11. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 190-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3.12. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 190-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3.13. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 190-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3.14. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 190-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

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3.16. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 190-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3.17. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 190-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3.18. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 190-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3.19. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 190-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3.20. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 190-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3.21. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 190-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3.22. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 190-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3.23. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 190-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3.24. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 190-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3.25. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 190-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3.26. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 190-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3.27. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 190-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3.28. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 190-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.
8371. A letter from the Chief, Regulations Branch, Department of the Treasury, transmitting the department’s final rule—Access to Customs Security Areas at Airports (RIN: 1515-AD04) received July 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8372. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service’s final rule—Relief From Joint and Several Liability (RIN: 1445-AW64) received July 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.


8374. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service’s final rule—Programs and Procedures of the Regulations Division (Rev. Proc. 2002-52) received July 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8375. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service’s final rule—Executive Order 13187 (Rev. Proc. 2002-52) received July 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8376. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service’s final rule—Executive Order 13145 (Rev. Proc. 2002-52) received July 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8377. A letter from the Executive Director, Office of the National Park Service, transmitting the annual report on the use of the Office of Compliance by covered employees; jointly to the Committees on Agriculture and Energy and Commerce.

8378. A letter from the Acting Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting a draft Environmental Impact Statement for Gulf of Mexico, Gulf of Mexico Offshore Management Plan 2002; jointly to the Committee on Resources and Transportation and Infrastructure.

8379. A letter from the Secretary, Department of Transportation, transmitting a bill entitled the “Federal Railroad Safety Improvement Act”; to the Committee on Transportation and Infrastructure, Energy and Commerce, and the Judiciary.


REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HANSEN: Committee on Resources. H.R. 4883. A bill to reauthorize the Hydrographic Services Improvement Act of 1998, and for other purposes; to the Committee on Transportation and Infrastructure. (Rept. 107-621). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 5012. A bill to amend the John F. Kennedy Center Act to authorize the Secretary of Transportation and Infrastructure to enter into an agreement with an agency of the Federal Government to sell, lease, or convey a portion of a plaza adjacent to the John F. Kennedy Center for the Performing Arts, and for other purposes (Rept. 107-622). Referred to the Committee of the Whole House on the State of the Union.

Mr. BONILLA: Committee on Appropriations. H.R. 5283. A bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2003, and for other purposes (Rept. 107-623). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMAS: Committee of Conference. H.R. 5382. A bill to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes (Rept. 107-624). Ordered to be printed.

Mr. REYNOLDS: Committee on Rules. H.R. 5383. Resolution waiving points of order against the conference report accompanying the bill (H.R. 3099) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes (Rept. 107-625). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mrs. JO ANN DAVIS of Virginia: H.R. 5240. A bill to direct the Secretary of the Interior to conduct a study of the suitability of the Northern Neck National Heritage Area in Virginia, and for other purposes; to the Committee on Resources.

By Mr. LANG EVIN (for himself, Mr. GREENWOOD, Mr. BRADY of Pennsylvania, Mr. PASCRELL, Mrs. MORELLA, Mr. MCHUGH, Mr. FROST, Mr. KILDEE, Mr. WAXMAN, Mr. CUMMINGS, Mr. OWENS, Mr. STARK, Mr. ENGEL, Mr. McNULTY, Mr. BALDACCI, Mr. BAIRD, Ms. WOOLEY, Mr. MCDERMOTT, Mr. SHISH disrespectful, Mr. MAYER, Mr. MUSgrave, Mr. FOLEY, Mr. MENENDEZ, Ms. BROWN of Florida, Mr. LAMSPRIEND, Mr. MATSUI, Mr. ORRSTEIN, Mr. DELEAOGAR, Mr. IVEY of California, Mr. DAVIS of Illinois, Mrs. CHRISTENSEN, Mrs. NAPOLITANO, Mr. ACKERMAN, Mr. FORD, Mr. FATTAH, Mr. LANTOS, Mr. FAH of California, Mrs. JONES of Ohio, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. GREEN of Texas): H.R. 5241. A bill to amend the Public Health Service Act to establish a program to provide tax credits to assist family caregivers in acquiring affordable and high-quality respite care, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HOUGHTON (for himself and others): H.R. 5232. A bill to amend the Internal Revenue Code of 1986 to encourage the granting of employee stock options; to the Committee on Ways and Means.

By Mr. CARSON of Oklahoma (for himself, Mr. MATHISON, Mr. MORAN of Kansas, and Mr. BAIRD): H.R. 5243. A bill to promote rural safety and improve law enforcement; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DINGELL: H.R. 5244. A bill to direct the Administrator of the Environmental Protection Agency to carry out certain authorities with respect to the promulgation of rules and regulations relating to the importation of municipal solid waste, and for other purposes; to the Committee on Energy and Commerce.

By Mr. CONROY: H.R. 5245. A bill to study the feasibility and desirability of the formation of regional transmission organizations to carry load in the Western Electric Coordinating Council, and for other purposes; to the Committee on Energy and Commerce.

By Mr. LATHAM: H.R. 5246. A bill to amend title XVIII of the Social Security Act to reform payments to rural and other health care providers under the Medicare Provider Reimbursement Rates program; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LATHAM (for himself, Mr. GANSKE, Mr. NUSLE, and Mr. THUNE): H.R. 5247. A bill to amend the Agricultural Marketing Act of 1946 to increase competition and transparency among packers required to report information on the price and quantity of livestock purchased by the packer; to the Committee on Agriculture.

By Mr. HAYWORTH (for himself, Mr. STUMP, and Mr. SHADDOCK): H.R. 5248. A bill to provide legal exemptions for certain activities of the National Park Service, United States Forest Service, United States Fish and Wildlife Service, or the Bureau of Land Management undertaken in the national interest, to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LANTOS (for himself, Mr. BROWN of Ohio, Mr. SMITH of New Jersey, Mr. HILLIARD, Ms. WATSON, Ms. LEE, Mr. PALLONE, Mr. STUPAK, Mrs. NAPOLITANO, Mr. BERNARD, Mr. ACKERMAN, Mr. LENTZ, Mr. HAGAN, Mr. BERKLEY, Ms. KIMMEN, and Ms. ROS-LIHTMEN): H.R. 5249. A bill to promote safe and ethical clinical trials of drugs and other test articles on people overseas; to the Committee on International Relations.

By Mr. SMITH of New Jersey (for himself and Mr. EVANS): H.R. 5250. A bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care; to the Committee on Veterans’ Affairs.

By Mr. MANZULLO: H.R. 5251. A bill to prohibit dry equipage of air traffic managers, supervisors, and specialists of the Federal Aviation Administration at regional and headquarters locations, and for other purposes; to the Committee on Government Reform.

By Mr. WAXMAN (for himself, Mr. MATSUI, and Mr. RANGEL): H.R. 5252. A bill to provide for Social Security trust funds by ensuring that the Government repays its debts to the trust funds; to the Committee on Ways and Means, and in addition to the Committee on Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SANDLIN (for himself, Mr. SHOWS, Ms. EDDIE BERNICE JOHNSON
of Texas, Mr. Reyes, Mr. Israel, Mr. Doggett, Mr. Ross, Mr. Pascrell, Ms. Sanchez, Ms. Berkley, Mr. Gonzalez, Mr. Holt, Mr. Meeks of New York, Mr. DeLauro, Ms. Brown of California, Ms. Sanchez, Ms. Woolsey, Mr. Lampson, Ms. Berkley, Mr. Loe, Mr. Reyes, Mr. Watters of Oklahoma, Mrs. Clayton, Mrs. Morella, Ms. Ros-Lehtinen, Mr. Roemer, Mr. Brady of Texas, Mr. Becerra, Mr. Pallone, Mr. Davis of Illinois, Mr. Green of Texas, Mrs. Maloney, Mr. Meeks of New York, Mr. Lewis of Georgia, Mr. Rush, Mr. Filner, Mr. Rodriguez, Ms. Solis, Mr. Gonzalez, Mr. Honda, Mr. Doggett, Ms. Bay, Mr. Wynn, Mr. Cummings, Mr. Rangel, and Mr. Holt.

H.R. 5256. A bill to create a separate DNA database for violent predators against children, and for other purposes; to the Committee on the Judiciary.

By Mr. Doggett (for himself, Mr. Waxman, Mr. Breaux, Mr. Cardin, Mr. Cynk, Mr. Levin, Mr. Lewis of Georgia, Mr. Matsu, Mr. McDermott, Mr. McNulty, Mr. Stark, Mr. Abercrombie, Mr. Ackerman, Mr. Allen, Mr. Andrews, Ms. Baldwin, Mr. Bentsen, Mr. Berman, Mr. Blumenauer, Mr. Brown of Ohio, Mrs. Capps, Mr. Capuano, Mr. Corson of Oklahoma, Mr. Crowley, Mr. Davis of Illinois, Mr. DeFazio, Ms. DeGette, Mr. Delahunt, Mr. Eshoo, Mr. Evans of California, Mr. Filner, Mr. Gutierrrez, Mr. Hinojosa, Mr. Hoeppel, Mr. Holt, Mr. Honda, Ms. Jackson-Lee of Texas, Mr. Jackson-Lee of Illinois, Mr. Kaptur, Mr. Kennedy of Rhode Island, Mr. Kildee, Mr. Kind, Mr. Kucinich, Mr. LaFalce, Mr. Lampson, Mr. Langevin, Mr. Lantos, Ms. Lee, Ms. Lofgren, Mr. Lynch, Mrs. McCarthy of New York, Ms. McCarthy of Missouri, Mr. McGovern, Mrs. Maloney of New York, Mr. Matheson, Mr. Meek, Mr. Meeks of New York, Mr. George Miller of California, Mrs. Mink of Hawaii, Mr. Napolitano, Mr. Oberstar, Mr. Olver, Mr. Owens, Mr. Pallone, Mr. Pascrell, Ms. Pelosi, Ms. Pomroy, Mr. Rohmman, Ms. Roybal-Allard, Mr. Rush, Ms. Sanchez, Mr. Sanders, Ms. Schakowsky, Mr. Schiff, Mr. Sherman, Mr. Shays, Ms. Slaughter, Ms. Solis, Mr. Tierney, Mr. Udall of Colorado, Mr. Udall of New Mexico, Ms. Vlazquez, Ms. Waters, Ms. Watson, Ms. Wasserman Schultz, Ms. Wuu, and Ms. Millender-McDonald):

H.R. 5264. A bill to amend the Internal Revenue Code to exclude from the definition of wagering or wagering transactions tobacco products sold in the United States, and for other purposes; to Committee on Ways and Means, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. Jackson-Lee of Texas (for herself, Mr. Lewis of Georgia, Mr. Wynn, Mr. Brown of Ohio, Mr. Rush, Ms. Eddie Bernice Johnson of Texas, Mr. Filner, Mr. Stark, Mr. Davis of Illinois, Mrs. Clayton, Mr. Payne, Mr. Souder, Mr. Broun, Mr. Rodriguez, Ms. Solis, Mr. Gonzalez, Mr. Pallone, Mr. Honda, Mr. Pas- ton, Ms. Watson, Mr. Cummings, and Mr. Ros-Lehtinen):

H.R. 5256. A bill to establish the Cultural Competence Commission; to the Committee on Energy and Commerce.

By Mr. Barton of Texas (for himself and Mr. Tauzin) (both by request):

H.R. 5256. A bill to amend the Clean Air Act to reduce air pollution through expansion of cap and trade programs, and to provide an alternative regulatory classification for units producing as a result within the program, and for other purposes; to the Committee on Energy and Commerce.

By Mr. Ackerman:

H.R. 5267. A bill to modify the waiver authority of the President regarding foreign assistance restrictions with respect to Pakistan; to the Committee on International Relations.

By Mr. Andrews (for himself, Mr. Gilman, Mr. Blumenauer, Mr. Bart-lett of Maryland, Mr. Smith of New Jersey, and Mr. Creme):

H.R. 5258. A bill to strengthen enforcement of provisions of the Animal Welfare Act relating to animal fighting, and for other purposes; to the Committee on Agriculture.

By Ms. Baldwin (for herself and Mr. Obey):

H.R. 5269. A bill to guarantee for all Americans quality, affordable, and comprehensive health insurance coverage; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. Biggert (for herself, Mr. Ehlers, Ms. Tauscher, Ms. Woolsey, Mr. Geog, Mr. Honda, Mr. Wamp, Mr. Johnson of Illinois, Mr. Andrews, Mr. Calvert, Mr. Houghton, Mr. Hastings of Washington, Mr. Culhane, Mr. Capuano, and Mr. Boswell):

H.R. 3270. A bill to authorize appropriations for fiscal years 2003, 2004, 2005, and 2006 for the Department of Energy Office of Science, to ensure that the United States is the world leader in key scientific fields by restoring a healthy balance of science funding, to ensure maximum utilization of the national user facilities, and to secure the Nation’s supply of scientists for the 21st century, and for other purposes; to the Committee on Science.

By Mr. Bonior:

H.R. 5257. A bill to waive time limitations specified by law in order to lower the Medal of Honor to be awarded to Gary Lee Medlin, a helicopter crew chief and door gunner, who served in the 1st Cavalry Division during the Vietnam War; to the Committee on Armed Services.

By Mr. Brown of Ohio (for himself and Mr. Waxman):

H.R. 5272. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater oversight of pharmaceuticals; to the Committee on Energy and Commerce.
By Mr. CARSON of Oklahoma (for himself and Mr. POMEROY):

H.R. 5273. A bill to reward the hard work and risk of individuals who choose to live in and help preserve America’s small rural towns, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. CLAYTON (for herself, Ms. MCKINNEY, Mr. FROST, Mrs. THURMOND, Ms. HAWTHORNE, Mr. WATT of North Carolina, Mr. LEVIN, Mr. CUMMINGS, Mr. INSLEE, Ms. BROWN of Florida, Mr. DAVIS of Illinois, Mr. HOLDEN, Mrs. VELAZQUEZ, Ms. LEE, Mrs. EDIE BERNICE JOHNSON of Texas, Mr. HILLARD, Mr. WYNN, Mr. MARKEY, Mr. CLYBURN, Mrs. MEEK of Florida, Mrs. CHRISTENSEN, Mr. SCOTT, Mr. FORD, Mr. BISHOP, Mr. TOWNS, and Ms. WOOLSEY):

H.R. 5274. A bill to direct the Secretary of the Interior to conduct a study of the feasibility and ability of establishing the Northeastern North Carolina Heritage Area in North Carolina, and for other purposes; to the Committee on Resources.

By Mr. COSTELLO:

H.R. 5275. A bill to provide for the external regulation of nuclear safety and operational safety and health at nonmilitary energy laboratories owned or operated by the Department of Energy; to the Committee on Science, and in addition to the Committees on Energy and Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DINGELL (for himself, Mr. BROWN of Ohio, Mr. WAXMAN, and Mr. STARK):

H.R. 5276. A bill to amend title XIX of the Social Security Act to improve the qualified Medicare beneficiary (QMB) and special low-income Medicare beneficiary (SLMB) programs within the Medicaid Program; to the Committee on Energy and Commerce.

By Mr. PARKER (for himself, Mr. POMEROY, and Mr. CAMP):

H.R. 5277. A bill to clarify the tax status of the Young Men’s Christian Association retirement fund; to the Committee on Ways and Means.

By Mr. ENGLISH (for himself and Mr. MUSCOTTO):

H.R. 5278. A bill to amend the Internal Revenue Code of 1986 to encourage investment in high productivity property, and for other purposes; to the Committee on Ways and Means.

By Ms. ESHOO (for herself, Mr. SIMMONS, Mrs. MALONEY of New York, Mr. SANCHEZ, Mr. RANGEL, Mr. BURSKI, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MCDERMOTT, Ms. WOOLSEY, Ms. MCCOLLUM, Ms. BROWN of Florida, Ms. DELAURÉ, Mr. PILNÉ, Mr. PASCHKELL, Ms. PELOSI, Mr. PAYNE, Mr. HALL of Ohio, Mr. MORAN of Virginia, Ms. MCCARTHY of Massachusetts, Mr. KOELTZOW, Mr. HINCHEY, Mr. BOUCHEZ, Mr. DELAHUNT, Mr. HOLT, Mr. OLIVER, Mr. SERRANO, Mr. MOORE, Mr. CAPUANO, Mr. HLAGOJEVICH, Mr. FORD, Ms. LOFOPHER, Ms. SOLIS, Mr. ROTHMAN, Mr. WEBLER, Mr. GUTIERREZ, Mrs. MEEK of Florida, Ms. RIVES, Mr. BONJOUR, Mr. CLAY, Ms. KUCINICH, Mr. BERMAN, Mr. BROWN of Ohio, Mr. FARR of California, Mr. CONYERS, Mr. BALDWIN, Mrs. MCDONALD of New York, Mr. GEORGE MILLER of California, Mr. ENGEL, Mr. WEISER, Mr. WATERS, Mr. COX, Mr. CARSON of Indiana, Mr. DAVIS of Illinois, Mr. REYES, Mr. PALLONE, Mrs. DAVIS of California, Mr. FRANK, Mr. NEAL of Massachusetts, Mr. WAXMAN, Mr. SHEARMAN, Mrs. MINE of Hawaii, Mr. MALONEY of Connecticut, Mr. SHAYS, Ms. LEE, Mr. LUTHER, Ms. SLAUGHTER, Mrs. MILLER, Mrs. NAPOLITANO, Mr. HONDA, Mr. LANTOS, Ms. NEVILLE, Mr. TIBBIE, Mrs. VELAZQUEZ, Mrs. JONES of Ohio, Ms. ROYBAL-ALLARD, Mr. HOEFFEL, Mr. SCHAACK, Mrs. MEYER, Mr. NEWTON, Mr. CLEMENT, Mr. RUSH, Mr. CARDIN, Ms. BERKLEY, Mr. SANDERS, Mr. COYNE, Mr. WYNN, Mr. TOWNS, Mr. STARK, Mr. KENNEDY of Florida, Mr. ANDERSON of Georgia, Mr. UNDERWOOD, Mr. ANDREWS, Mr. LAMPSON, Mr. MERHAN, Mr. LARSON of Connecticut, Mr. MENEDEZ, Mr. CASTEEL of Florida, Mr. WATT of North Carolina, Mr. JACKSON of Illinois, Mr. LIPINSKI, Mr. ABERCRUMBIE, Mr. HASTINGS of Florida, Mr. NAGLE of Florida, Mr. CROWLEY, Mr. SAWYER, Mr. ACKERMAN, Ms. JACKSON-LEE of Texas, Mr. THOMPSON of Mississippi, Mrs. TAUCHEHR, Mr. CUMMINS of New York, Mrs. CHRISTENSEN, Mr. JEFFERSON, Mr. LYNCH, and Mr. ACEVIDO-VILA):

H.R. 5279. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974 and related laws to strengthen programs for ensuring and protecting the nation’s forests, grasslands, and special areas; to designate certain Federal lands as Ancient Forests, Roadless Areas, Watershed Protection Areas, and Special Areas where logging and other intrusive activities are prohibited, and for other purposes; to the Committee on Agriculture, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FATTAH (for himself, Mr. HOEFFEL, and Mr. BRADY of Pennsylvania):

H.R. 5280. A bill to designate the facility of the United States Postal Service located at 2001 East Willard Street in Philadelphia, Pennsylvania, as the “Robert A. Bork Post Office Building”; to the Committee on Government Reform.

By Mr. FRAKE (for himself, Mr. SHADEGO, Mr. JONES of North Carolina, Mr. CANNON, and Mr. HAYWORTH):

H.R. 5281. A bill to provide temporary legal exemptions for certain land management activities of the Federal land management agencies undertaken in federally declared disaster areas; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GREENWOOD (for himself and Mr. TOWNS):

H.R. 5282. A bill to amend the Public Health Service Act to improve immunization rates by increasing the distribution of vaccines and improving and clarifying the vaccine delivery, injury compensation, and other purposes; to the Committee on Energy and Commerce.

By Mr. HAYWORTH:

H.R. 5283. A bill to direct the Secretary of Agriculture to exchange certain land in the State of Arizona; to the Committee on Resources.

By Ms. HOOLEY of Oregon:

H.R. 5284. A bill to direct the President to assess states for the advisability of each State to use the Death Master File of the Social Security Administration in issuing drivers’ licenses to individuals; to the Committee on Ways and Means.

By Mr. INSLEE (for himself, Mr. NEATHERCUTT, Mr. BOUCHEZ, Mr. MANZULLO, Mr. MORAN of Virginia, Mrs. MINK of Hawaii, Mr. LARSEN of Washington, Mr. KUCINICH, Mr. KLEczka, Mr. LATCH, Mr. LOFOPHER, Ms. BROWN of Florida, Mr. DICKS, and Mr. SMITH of Washington):

H.R. 5285. A bill to amend title 17, United States Code, with respect to royalty fees for welcoming by cities for purposes; to the Committee on the Judiciary.

By Mrs. JOHNSON of Connecticut (for herself, Mr. SHAYS, Mr. SIMMONS, and Mr. DAN MILLER of Florida):

H.R. 5286. A bill to amend title 38, United States Code, to require Department of Veterans Affairs pharmacies to dispense medications for veterans enrolled in a local care system of that Department for prescriptions written by private practitioners, and for other purposes; to the Committee on Veterans’ Affairs.

By Mr. JONES of North Carolina:

H.R. 5287. A bill to amend title 16, United States Code, to provide for forgiveness of certain overpayments of retired pay paid to deceased retired members of the Armed Forces following death; to the Committee on Armed Services.

By Mr. LAFalCE (for himself, Mr. QUINN, Mr. HOUGHTON, Mr. STUPAK, Mr. OBERSTAR, Mr. LARSEN of Washington, Mr. CONROY, Mr. KELLOGG, Mr. MARKEY, Mr. WELCH, Mr. CONROY, Mr. ROTHMAN, Mr. MCTRUN, Mrs. JONES of New Jersey, Mr. WINTER, and Mr. WELD of Pennsylvania):

H.R. 5288. A bill to authorize the Ukrainian Congress Committee of America to establish a memorial on Federal land in the District of Columbia to honor the victims of the Ukrainian famine-genocide of 1932-1933; to the Committee on Foreign Affairs.

By Mr. LEVIN (for himself, Mr. BLAGOJEVICH, Mr. BONIOR, Mr. DAVIS of Illinois, Mr. DOGGERTY, Mr. ENGLE, Mr. GILMAN, Mr. GUTTERREZ, Mr. HINCHEY, Mr. HOEFFEL, Mr. HORN, Ms. KAPYUR, Mr. KILDEE, Ms. KILPATRICK, Mr. KNOLENBERG, Mr. LANGKEVIN, Mr. LANTOS, Mr. LIPINSKI, Mr. McINTYRE, Mrs. MEEK of Florida, Mr. MENENDEZ, Mr. PALLONE, Mr. QUINN, Mr. SCHRADER, Mr. SLAUGHTER, Mr. SMITH of New Jersey, Mr. WYNTER, and Mr. WELDON of Pennsylvania):

H.R. 5289. A bill to authorize the Ukrainian Congress Committee of America to establish a memorial on Federal land in the District of Columbia to honor the victims of the Ukrainian famine-genocide of 1932-1933; to the Committee on Foreign Affairs.
H. R. 5300. A bill to help protect the public against the threat of chemical attacks; to the Committee on Energy and Commerce.

By Mr. PETRI (for himself and Mr. MURPHY of Pennsylvania):

H. R. 5301. A bill to strengthen secondary and post-secondary education programs emphasizing the importance of horticulture, and philosophy of free institutions, the nature of Western civilization, and the nature of the threats to freedom from totalitarianism; to the Committee on Education and the Workforce.

By Mr. RADANOVICH:

H. R. 5302. A bill to facilitate a Forest Service land exchange to eliminate a private in-holding in the Sierra National Forest in the State of California and provide for the permanent employment of Boy Scouts of America of a parcel of National Forest System land currently used under a special use permit, and for other purposes; to the Committee on Resources.

By Mr. ROHRABACHER:

H. R. 5303. A bill to authorize the Administrator of the National Aeronautics and Space Administration to establish an awards program in honor of Charles “Pete” Conrad, astronaut and space scientist, for recognizing the discoveries made by amateur astrophotographers andEarth orbit trajectories; to the Committee on Science.

By Ms. SANCHEZ (for herself, Mr. PULFREY, Ms. CARSON of Indiana, Mr. SANDERS, and Mr. HOFERFLI):

H. R. 5304. A bill to amend the Internal Revenue Code to provide a deduction for health insurance costs of self-employed individuals to be allowed in computing self-employment taxes; to the Committee on Ways and Means.

By Mr. SANDERS:

H. R. 5305. A bill to authorize the disinterment from the Lorraine American Cemetery in St. Avois and the remains of Private First Class Alfred J. Laitres, of Island Pond, Vermont, who died in combat in France on December 25, 1944, and to authorize the transfer of his remains to the custody of his next of kin; to the Committee on Veterans’ Affairs.

By Mr. SANDERS:

H. R. 5306. A bill to provide assistance for the development of indoor disease prevention and health promotion centers in urban and rural areas of the United States; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, and the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SAXTON (for himself and Mr. CORLE):

H. R. 5307. A bill to provide for the use of COPPS funds for State and local intelligence officers, and for other purposes; to the Committee on Judiciary.

By Mr. SCHAPFER (for himself, Mr. UDALL of Colorado, Mr. REILLY of Massachusetts, Mr. THOMSON of Mississippi, Mr. REID of Oregon, Mr. MOULTON of Vermont, Mr. BRADY of Pennsylvania, and Mr. MCDONALD of Illinois):

H. R. 5308. A bill to designate the facility of the United States Postal Service located at 301 South Howes Street in Fort Collins, Colorado, as the “Barney Apodaca Post Office”; to the Committee on Post Office and Civil Service.

By Mr. SHADEGG (for himself, Mr. HANSON, Mr. MCCINNS, Mr. FLAKE, Mr. SCHAPFER, Mr. GIBBONS, Mr. HERRIG, Mr. HOBSTROHM, Mr. HOFFSTRA, Mr. DOOLITTLE, Mr. HELEPY, Mr. TANCREDO, Mr. DEmINT, Mr. BRYANT, Mr. PETERSON of Pennsylvania, and Mr. HALL of North Carolina):

H. R. 5309. A bill to authorize the Regional Foresters to exempt tree-thinning projects, which are necessary to prevent the occurrence of wildfire likely to cause extreme harm to the forest ecosystem, from laws that give rise to legal causes of action that delay or prevent such projects; to the Committee on Agriculture, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THUNE (for himself, Mr. MORAN of Kansas, Mr. OSBORNE, Mr. REHBERG, Mr. BERHUTER, Mr. POMEROY, Mr. LUCAS of Oklahoma, Mr. UDALL of New Mexico, Mr. TERRY, Mr. PETERSON of Arizona, Mr. GIBBONS, Mrs. CUBIN, and Mr. MCINNIS):

H. R. 5310. A bill to provide emergency livestock assistance and emergency crop loss assistance to agricultural producers; to the Committee on Agriculture.

By Ms. THUNE (for herself, Mrs. EMERSON, Mr. KINSTON, Mr. GUTKNECHT, Mrs. NORTHUP, Mr. MANZOLU, Mr. CALVERT, Mr. GOODE, Mr. BERHUTER, Mr. HOEKSTRA, and Mr. GOODLATTE):

H. R. 5311. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; to the Committee on Energy and Commerce.

By Mr. TIERNEY (for himself, Mr. SAWYER, Mr. SHIMKUS, Mr. BALDWIN, Mr. HOORN, Mr. GONZALEZ, Mr. KENEDY of Rhode Island, Mr. PHILIPS, Mr. DAVIS of Illinois, Mr. UDALL of New Mexico, Mr. VISCOSKY, Mr. SEHANN, Mr. HUBBARD of Ohio, Mr. HILLIARD, Mr. STARK, Mr. HINJOSA, Mr. PAYNE, Mr. ANDREWS, and Mr. GEORGE MILLER of California):

H. R. 5312. A bill to allow Federal prisoners to receive education credits for credits for academic and other purposes; to the Committee on Education and the Workforce.

By Mrs. WATERS:

H. R. 5313. A bill to provide incentives for States to have in effect laws mandating the reporting of child abuse by certain individuals, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. CARSON of Indiana, Mr. SANDERS, Mr. BOYDEN of Michigan, Mr. BUTLER of Wisconsin, Mr. DAVIS, Mr. REHBERG, Mr. BEREUTER, Mr. POMEROY, Mr. LUCAS of Oklahoma, Mr. UDALL of New Mexico, Mr. TERRY, Mr. PETERSON of Arizona, Mr. GIBBONS, Mrs. CUBIN, and Mr. MCINNIS:

H. R. 5314. A bill to provide for a Small and Disadvantaged Business Ombudsman for Procurement in the Small Business Administration, and for other purposes; to the Committee on Small Business.

By Mr. DeFAZIO (for himself, Mr. KUCINICH, Mr. CROWLEY, Mr. UDALL of Colorado, Mr. HINCHET, Mr. GEORGE Miller of California, Mr. LACHENAL of Illinois, Mr. FILLNER, Mr. HOLEY of Oregon, Mr. UDALL of New Mexico, Mr. FARIS of California, Ms. SBAUGHMAN, Ms. McKIRWIN, Ms. WATTERS, Ms. WATTS, Ms. HEBBERD, Mr. REHBERG, Mr. HINJOSA, Mr. PAYNE, Mr. ANDREWS, and Mr. GEORGE MILLER of California):

H. R. 5315. A joint resolution calling for a resolution for the use of force by the United States Armed Forces against Iraq before such force is deployed; to the Committee on International Relations.

By Mr. DAVIS of Illinois:

H. Con. Res. 452. Concurrent resolution supporting the efforts and activities of individual organizations and individuals to honor the lives of enslaved Africans in the United States and to make reparations to
their descendants for slavery and its lingering effects; to the Committee on Government Reform.

By Mr. HYDE (for himself and Mr. PALLONE):

H. Con. Res. 453. Concurrent resolution expressing the sense of Congress relating to the increasing insecurity situation in Zimbabwe and the failure of the Mugabe regime to take appropriate measures to mitigate the impact of its failed policies on the nutritional well-being of the people of Zimbabwe and of other countries in the Southern Africa region; to the Committee on International Relations.

By Mr. KOLBE (for himself and Mr. HOYER):

H. Con. Res. 454. Concurrent resolution expressing the sense of Congress regarding housing affordability and urging fair and expedient review by international trade tribunals to ensure a competitive North American market for sawed lumber; to the Committee on Ways and Means.

By Mr. LEACH (for himself, Mr. KIND, Ms. MCCOLLUM, Mr. RAMSTAD, Mr. OBERSTAR, Mr. SABO, Mr. NUSSELE, Mr. LUTHER, Mr. EVANS, Mr. BOSWELL, Mr. MANZULLO, Mr. GUTHRIE, and Mr. LATHAM):

H. Con. Res. 455. Concurrent resolution to express support for the celebration in 2004 of the 150th anniversary of the Grand Excursion by MN Express by Minneapolis and Saint Paul, Minnesota; to the Committee on International Relations.

By Mr. SCHAEFFER:

H. Con. Res. 457. Concurrent resolution honoring Rick Lee Schwartz and Milt Stollak, who died in a plane crash on July 18, 2002, while fighting the Big Elk fires near Estes Park, Colorado; to the Committee on Government Reform.

By Mr. SMITH of Texas (for himself, Mr. CAPUANO, Mr. LEACH, and Mrs. LOWEY):

H. Con. Res. 458. Concurrent resolution recognizing the occasion of the Sixth World Symposium on Choral Music, to be held August 16-18, 2002, in Minneapolis and Saint Paul, Minnesota; to the Committee on International Relations.

By Mr. REYNOLDS:

H. Res. 509. A resolution waiving points of order against the conference report to accompany the bill (H.R. 3989) an Act to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; considered and agreed to.

H. Res. 510. A resolution designating majority membership on certain standing committees of the House; considered and agreed to.

By Mr. LOBIONDO:

H. Res. 511. A resolution expressing the sense of the House of Representatives that funding available from the Highway Trust Fund to encourage States to require law enforcement officers to impound motor vehicles of those charged with driving while impaired should not be subject to issue of appropriate warnings to those who take custody of suspects of driving while intoxicated; to the Committee on Transportation and Infrastructure.

By Mr. PALLONE (for himself and Mr. BROWN of Ohio):

H. Con. Res. 456. Concurrent resolution honoring the Indian American Friendship Council; to the Committee on International Relations.

By Mr. WALSH (for himself, Mr. GILMAN, Mr. GALLEGLY, Mr. NEAL of Massachusetts, Mr. QUINN, Mr. SMITH of New Jersey, Mr. ENGEL, Mr. KING, Mr. KENNEDY of Rhode Island, Mr. CROWLEY, Mr. ACKERMAN, Ms. DUNN, Mr. MACHU, Mr. HYDE, and Mr. DOLAN):

H. Res. 513. A resolution recognizing the historical significance and timeliness of the United States-Ireland Business Summit; to the Committee on International Relations.

By Mr. WELDER of Florida (for himself, Mr. PENCE, Mr. FITTS, Mr. GUTHRIE, Mr. KENN, and Mr. JONES of North Carolina):

H. Res. 514. A resolution expressing serious concern regarding the publication of instructions on how to create a synthetic human polo virus, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Science, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WYN (for himself, Ms. JACKSON-LEE of Texas, Mrs. CHRISTENSEN, Mr. TOWNS, Mr. CUMMINGS, Mr. SCOTT, Mrs. CLAYTON, Mr. DAVIES of Illinois, and Mr. PAYNE):

H. Res. 515. A resolution expressing the sense of the House of Representatives that small business concerns should continue to play an active role in assisting the United States military, Federal intelligence and law enforcement agencies, and State and local police forces by designing and developing innovative technologies and services from innovative businesses to improve homeland defense and aid in the fight against terrorism; to the Committee on Small Business.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

352. The SPEAKER presented a memorial of the House of Representatives of the State of Illinois, relative to House Resolution No. 703 memorializing the United States Congress to sustain the President’s affirmative decision on Yucca Mountain’s suitability as a permanent nuclear repository for high-level radioactive materials; to the Committee on Energy and Commerce.

353. Also, a memorial of the House of Representatives of the State of Illinois, relative to House Resolution No. 811 memorializing the United States Congress to enact legislation requiring providers of cellular telephone service to make priority access to cellular telephone service available to emergency service providers in order to assure its availability during public emergencies; to the Committee on Energy and Commerce.

354. Also, a memorial of the House of Representatives of the State of Illinois, relative to House Resolution No. 812 memorializing the United States Congress to express appreciation to the President of the United States, George W. Bush, for his condemnation of the terrorist attacks committed against the nation of Israel; to the Committee on International Relations.

355. Also, a memorial of the House of Representatives of the State of Illinois, relative to House Resolution No. 866 memorializing the United States Congress to express appreciation to the President of the United States, George W. Bush, for his condemnation of the terrorist attacks committed against the nation of Israel; to the Committee on International Relations.

356. Also, a memorial of the Legislature of the State of Colorado, relative to Senate Joint Resolution No. 02-001 memorializing the United States Congress to demand that the USS Pueblo be returned to the United States Navy; to the Committee on International Relations.

357. Also, a memorial of the House of Representatives of the State of Illinois, relative to House Resolution No. 965 memorializing the United States Congress to enact legislation granting posthumous citizenship to non-citizen servicemen killed in action while serving our nation in the armed forces of the United States; to the Committee on Judiciary.

358. Also, a memorial of the Senate of the State of Oklahoma, relative to Senate Resolution No. 59 petitioning the President and the United States Congress to adopt a National Identity Passenger Rail Policy that would include dedicated funding for the High-Speed Rail Corridor System; to the Committee on Transportation and Infrastructure.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, Mr. WYN introduced a bill (H.R. 3515) for the relief of Web’s Construction Company, Incorporated; which was referred to the Committee on Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 68: Mrs. MORELLA, Mr. PASTOR, Mr. SHOWS, Mrs. MALONEY of New York, Mr. HOSTETTLER, Mrs. JO ANN DAVIS of Virginia, Mr. WELDER, and Mr. FITTS.

H.R. 229: Mr. KOPP.

H.R. 285: Mr. DAVIS of Illinois.

H.R. 294: Mr. CHABOT.

H.R. 348: Mr. RANGEL, Mrs. MORELLA, Mr. CROWLEY, Mr. REYES, Mr. FRANK, Mr. MENENDEZ, Ms. SANCHEZ, and Mr. McDERMOTT.

H.R. 369: Mr. MENENDEZ and Mrs. THURMAN.

H.R. 488: Ms. WATER.

H.R. 536: Mr. NEAL of Massachusetts.

H.R. 599: Mr. MCCOLLUM.

H.R. 600: Mr. LARSON of Connecticut.

H.R. 638: Mr. ORPHARDT.

H.R. 690: Ms. KILPATRICK.

H.R. 831: Mr. STRUCKER.

H.R. 848: Mr. FARR of California.

H.R. 854: Mr. SHAW, Mr. BOYD, and Mr. WEXLER.

H.R. 902: Mr. KOPP and Ms. KAPUR.

H.R. 951: Mr. NUSSELE, Mr. BILIRAKIS, Mr. FOSSELLA, and Mr. REHBERG.

H.R. 973: Mr. PETTerson of Minnesota.

H.R. 1089: Mr. BICERNA.

H.R. 1109: Mr. OSBORN.

H.R. 1143: Mr. DEUTSCH.

H.R. 1155: Mr. HAMRA.

H.R. 1182: Mr. BARLETT of Maryland.

H.R. 1198: Mr. ADEHRHOLT.

H.R. 1201: Mr. PAYNE.

H.R. 1485: Mr. NEAL of Massachusetts.

H.R. 1490: Mr. SPARR.

H.R. 1517: Mrs. DAVIS of California.

H.R. 1591: Mr. GOODLATTE.

H.R. 1624: Ms. ROYBAL-ALLARD.

H.R. 1672: Ms. KILPATRICK, Mr. WATT of North Carolina, Mr. NADLER, Mr. PALLONE, Mr. CLYBURN, and Mr. BISHOP.

H.R. 1725: Mr. CLAY.

H.R. 1808: Mr. HONDA and Mr. PETTerson of Minnesota.

H.R. 1841: Mr. LUTHER, Ms. SOLS, Mr. HONDA, Mr. SHIMKUS, Mr. SABO, and Ms. EDDIE BERNICE JOHNSON OF Texas.

July 26, 2002

CONGRESSIONAL RECORD—HOUSE

H5997
H. R. 2014: Mr. PAUL.
H. R. 2063: Mr. SABO and Mr. BRECKETT.
H. R. 2098: Mr. SCHROCK.
H. R. 2123: Mr. KANJORSKI and Mr. PUCKERING.
H. R. 2142: Mr. BONIOR and Ms. VELAZQUEZ.
H. R. 2145: Ms. KILPATRICK and Mr. CLYBURN.
H. R. 2160: Mr. BREERUT.
H. R. 2198: Ms. SANCHEZ.
H. R. 2219: Mr. FRANK.
H. R. 2294: Mr. WOLF and Mr. CAPUANO.
H. R. 2350: Mr. NORTWOOD, Mr. DOYLE, Mr. DAVIS of Illinois, and Mr. ORSONE.
H. R. 2377: Mr. PHELPS and Mr. BARTON of Texas.
H. R. 2380: Mrs. MINK of Hawaii.
H. R. 2357: Mr. GREEN of Wisconsin, Mr. HOUGHTON, and Ms. SCHAKOWSKY.
H. R. 3623: Mr. BASS.
H. R. 2403: Mr. SMITH of Virginia, Mr. GARNER, Mr. MILLER of Florida, Mr. DAVIS of Virginia, Mr. BASS, Mr. O'BRIEN, Mr. MILLER of California, and Mr. DAVIS of California.
H. R. 2471: Mr. MILLER of California, Mr. WATTS of Virginia, Mr. DAVIS of Florida, Mr. BASS, Mr. BROWN of Ohio, Mr. STARK, Mr. KILDEE, Mrs. CHRISTENSEN, and Mr. BAIRD.
H. R. 5130: Mr. GRUCCI, Mr. WEIXLER, Mr. VISALSKY, and Ms. RIVERS.
H. R. 5146: Mr. FREDSON.
H. R. 5147: Mr. ROYCE and Mr. FLETCHER.
H. R. 5157: Mr. SWENNY and Mr. WATT of North Carolina.
H. R. 5158: Mr. RODRIGUEZ.
H. R. 5183: Mr. REHERO.
H. R. 5187: Mr. BECERRA, Ms. SANCHEZ, Mr. HOLT, Ms. MCCOLLUM, and Mr. CROWLEY.
H. R. 5181: Mr. FISCHER.
H. R. 5202: Mr. KLEZCA.
H. R. 5207: Mr. GUTENKLECHT, Mr. KENNEDY of Minnesota, Ms. MCCOLLUM, Mr. SABO, Mr. LUTHER, Mr. PETERSON of Pennsylvania, and Mr. OSBORNE.
H. R. 5214: Mr. THUNE, Mr. POMO, Mr. HANSEN, and Mr. NETHERCUTT.
H. R. 5227: Mr. REHERO, Mr. MCMETH, and Mr. BAYH.
H. R. 5233: Mr. HORRFR.
H. J. Res. 86: Mr. TAYLOR of Mississippi.
H. J. Res. 91: Mr. SESSIONS.
H. J. Res. 105: Mr. GEPHARDT.
H. Con. Res. 20: Ms. ROS-LEHTINEN, Mr. PHILIPS, Mr. WEIXLER, and Mr. COSTELLO.
H. Con. Res. 46: Ms. WOOLSEY, Mr. LINDER, and Mr. GUTIERREZ.
H. Con. Res. 98: Mr. UNDERWOOD, Ms. FALEOMAVAOKA, and Ms. EDDIE BERNICE JOHNSON of Texas.
H. Con. Res. 297: Mr. UNDERWOOD, Ms. MCKINNEY, Mr. SCHIFF, Mr. CROWLEY, Mr. WEIXLER, Mr. SOUDER, and Mr. HALL of Ohio.
H. Con. Res. 915: Ms. WATERS and Mr. SCHIFF.
H. Con. Res. 401: Mr. SHERMAN.
H. Con. Res. 408: Ms. MATSU.
H. Con. Res. 416: Mr. CHABOT.
H. Con. Res. 432: Mr. ANDREWS, Mr. BURTON of Indiana, Mr. ROHRABACHER, Mrs. WATSON, Mr. CHAMER, Mr. JEFFERSON, Mr. KIND, Mr. ROHRABACHER, Mrs. TAUSCHER, Mr. JONES of North Carolina, Mr. GUTENKLECHT, Mr. BORKHART, Mr. GREENWOOD, Mrs. MEEK of Florida, Mr. HASTINGS of Florida, Mr. FOLKLEY, and Mr. BLUMENAUER.
H. Con. Res. 417: Mr. CLEMENT.
H. Con. Res. 438: Mr. HILLIARD and Mr. WATT of North Carolina.
H. Con. Res. 445: Mr. ISTOK, Mr. SOUDER, and Mrs. JO ANN DAVIS of Virginia.
H. Res. 17: Ms. SLAUGHTER.
H. Res. 226: Mr. BACA.
H. Res. 398: Mr. COLLINS, Mr. HAYWORTH, Mr. FREELINGHUYSEN, Mr. BONILLA, Mr. LEWIS of California, Mr. TAUSCHER, Mr. SHIMKUS, Mr. MARKER, Ms. HART, Mr. NORTWOOD, Mr. SANDERS, Mr. FORD, Mr. SMITH of New Jersey, and Mr. UPTON.
H. Res. 429: Mrs. MORELLA, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BETSEN, Mrs. MALONEY of New York, Mr. COMPARE, Mrs. BONO, Mr. TOM DAVIS of Virginia, and Mr. BOOZMAN.
H. Res. 467: Mr. ROHRABACHER and Ms. BERRY.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

WASHINGTON, DC

H. Res. 5098: Mr. PALLONE.
H. R. 5105: Mr. SANDERS.
H. R. 5116: Mr. BARD, Mr. DICKS, Ms. DUNN, Mr. INSELER, Mr. LASHER of Washington, Mr. DAVIS of Florida, Mr. NETHERCUTT, Mr. SMITH of Washington, and Mr. WALDEN of Oregon.
H. R. 5214: Mr. LYNCH, Mr. SABO, Mr. FROST, Mr. BROWN of Ohio, Mr. TURNER, Mrs. JONES of Ohio, Mr. STEELE, Mr. KILDEE, Mrs. CHRISTENSEN, and Mr. BAIRD.
H. R. 5138: Mr. GUCCI, Mr. WEIXLER, Mr. VISALSKY, and Ms. RIVERS.
H. R. 5146: Mr. FREDSON.
H. R. 5147: Mr. ROYCE and Mr. FLETCHER.
H. R. 5157: Mr. SWENNY and Mr. WATT of North Carolina.
H. R. 5158: Mr. RODRIGUEZ.
H. R. 5183: Mr. REHERO.
H. R. 5187: Mr. BECERRA, Ms. SANCHEZ, Mr. HOLT, Ms. MCCOLLUM, and Mr. CROWLEY.
H. R. 5181: Mr. FISCHER.
H. R. 5202: Mr. KLEZCA.
H. R. 5207: Mr. GUTENKLECHT, Mr. KENNEDY of Minnesota, Ms. MCCOLLUM, Mr. SABO, Mr. LUTHER, Mr. PETERSON of Pennsylvania, and Mr. OSBORNE.
H. R. 5214: Mr. THUNE, Mr. POMO, Mr. HANSEN, and Mr. NETHERCUTT.
H. R. 5227: Mr. REHERO, Mr. MCMETH, and Mr. BAYH.
H. R. 5233: Mr. HORRFR.
H. J. Res. 86: Mr. TAYLOR of Mississippi.
H. J. Res. 91: Mr. SESSIONS.
H. J. Res. 105: Mr. GEPHARDT.
H. Con. Res. 20: Ms. ROS-LEHTINEN, Mr. PHILIPS, Mr. WEIXLER, and Mr. COSTELLO.
H. Con. Res. 46: Ms. WOOLSEY, Mr. LINDER, and Mr. GUTIERREZ.
H. Con. Res. 98: Mr. UNDERWOOD, Ms. FALEOMAVAOKA, and Ms. EDDIE BERNICE JOHNSON of Texas.
H. Con. Res. 297: Mr. UNDERWOOD, Ms. MCKINNEY, Mr. SCHIFF, Mr. CROWLEY, Mr. WEIXLER, Mr. SOUDER, and Mr. HALL of Ohio.
H. Con. Res. 915: Ms. WATERS and Mr. SCHIFF.
H. Con. Res. 401: Mr. SHERMAN.
H. Con. Res. 408: Ms. MATSU.
H. Con. Res. 416: Mr. CHABOT.
H. Con. Res. 432: Mr. ANDREWS, Mr. BURTON of Indiana, Mr. ROHRABACHER, Mrs. WATSON, Mr. CHAMER, Mr. JEFFERSON, Mr. KIND, Mr. ROHRABACHER, Mrs. TAUSCHER, Mr. JONES of North Carolina, Mr. GUTENKLECHT, Mr. BORKHART, Mr. GREENWOOD, Mrs. MEEK of Florida, Mr. HASTINGS of Florida, Mr. FOLKLEY, and Mr. BLUMENAUER.
H. Con. Res. 417: Mr. CLEMENT.
H. Con. Res. 438: Mr. HILLIARD and Mr. WATT of North Carolina.
H. Con. Res. 445: Mr. ISTOK, Mr. SOUDER, and Mrs. JO ANN DAVIS of Virginia.
York, relative to Resolution No. 81-2002 petitioning the United States Congress to reject the President’s proposal to amend the formula distribution for all CDBG entitlement agencies and to continue the important investment it leverages in local communities; to the Committee on Financial Services.

66. Also, a petition of the Village of Downers Grove, relative to Resolution No. 2002-53 petitioning the United States Congress to immediately pass H.R. 1097 establishing FDA authority over tobacco products; to the Committee on Energy and Commerce.

Also, a petition of the Board of Regents, Baylor University, relative to a Resolution petitioning the United States Congress that the Board herby expresses our deepest and most heartfelt sympathy to all families affected by this national tragedy and extend our prayers that faith in God will sustain each individual touched by this immeasurable loss; to the Committee on International Relations.

Also, a petition of the Legislature of Rockland County, New York, relative to Resolution No. 337 petitioning the United States Congress to call for the widespread condemnation of terrorism; to the Committee on International Relations.

Also, a petition of the Committee of the Township of Hopewell, Mercer County, relative to Resolution No. 02-198 petitioning the United States Congress to call for the widespread condemnation of terrorism; to the Committee on Transportation and Infrastructure.

Also, a petition of the Legislature of Rockland County, New York, relative to Resolution No. 336 petitioning the United States Congress to support and call for the widespread condemnation of terrorism; to the Committee on Transportation and Infrastructure.

Also, a petition of the Board of Regents, Baylor University, relative to a Resolution petitioning the United States Congress that the Board herby expresses our deepest and most heartfelt sympathy to all families affected by this national tragedy and extend our prayers that faith in God will sustain each individual touched by this immeasurable loss; to the Committee on International Relations.

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Also, a petition of the Committee of the Township of Hopewell, Mercer County, relative to Resolution No. 02-198 petitioning the United States Congress to call for the widespread condemnation of terrorism; to the Committee on Transportation and Infrastructure.
The Senate met at 9:55 a.m. and was called to order by the Honorable BILL NELSON, a Senator from the State of Florida.

**PRAYER**
The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, You have promised leaders who trust You the gift of discernment. We claim that gift today. Give the Senators x-ray penetration into the deeper issues in each decision they must make. Remind them that You are ready to give them the discernment for what is not only good, but Your best, not only expedient, but excellent. Help them to know that the need before them will bring forth the gift of discernment You have inspired within them. You have done this for the great leaders of our history and we claim nothing less today. You are our Lord and Saviour. Amen.

**PLEDGE OF ALLEGIANCE**
The Honorable Bill 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 legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
WASHINGTON, DC, July 26, 2002.

To the Senate:  
Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Bill Nelson, a Senator from the State of Florida, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. NELSON of Florida thereupon assumed the Chair as Acting President pro tempore.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

**SCHEDULE**

Mr. REID. Mr. President, we are going to vote in just a minute on the nomination of Julia S. Gibbons to be U.S. Circuit Judge for the Sixth Circuit. There was some question as to whether there would be a vote following that. There will not be. That will be done by voice vote. This will be the first and last vote of today.

Following this vote, we will resume consideration of the prescription drug bill. The minority has an amendment that they are going to offer.

**RESERVATION OF LEADER TIME**
The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

**EXECUTIVE SESSION**

**NOMINATION OF JULIA SMITH GIBBONS, OF TENNESSEE, TO BE U.S. CIRCUIT JUDGE FOR THE SIXTH CIRCUIT—RESUMED**

**CLOTURE MOTION**
The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session and proceed to the cloture vote on Executive Calendar No. 810.

Under the previous order, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

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.

Harry Reid, Tom Daschle, Charles Schumer, Mitch McConnell, Fred Thompson, Bill Pirtle, Phil Gramm, Jon Kyl, Charles Grassley, Wayne Allard, Trent Lott, Don Nickles, Larry Craig, Craig Thomas, Mike Capo, Jeff Sessions, Pat Roberts, Jim Bunning, John Ensign, Orrin G. Hatch.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call under the rule has been waived.

The question is, Is it the sense of the Senate that debate on Executive Calendar No. 810, the nomination of Julia Smith Gibbons, of Tennessee, to be U.S. Circuit Judge for the Sixth Circuit, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from Hawaii (Mr. INOUYE), the Senator from Georgia (Mrs. MILLER), and the Senator from Washington, (Mrs. MURRAT), are necessarily absent.

Mr. NICKLES. I announce that the Senator from Missouri (Mr. BOND), the Senator from Texas (Mr. GRAMM), the Senator from North Carolina (Mr. HELMS), the Senator from Texas (Mrs. HUTCHISON) the Senator from Arkansas (Mr. HUTCHINSON), and the Senator from Wyoming (Mr. THOMAS) are necessarily absent.

Mr. CARPER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 89, nays 0, as follows:

- This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
The PRESIDING OFFICER. On this vote, the yeas are 98, the nays are 0. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. HATCH. Mr. President, this morning we moved closer to the confirmation of Judge Julia Smith Gibbons of Tennessee to the 6th Circuit Court of Appeals. In so doing, we will bring relief to a Circuit with a 50 percent vacancy rate, with 9 empty seats out of 18, despite the fact that the President nominated 6 fine public servants to fill those seats on May 9, 2001, well over 400 days ago. I look forward to confirming her finally.

I rise this morning to express my most profound concern for the course of judicial confirmations in general and my support for the confirmation of Justice Priscilla Owen of Texas. The Judiciary Committee gave Justice Owen a 5-hour hearing earlier this week, which I am afraid did not do credit to the Committee.

I will comment on Justice Owen's qualifications, and to address some of the deceptions, distortions and demagoguery orchestrated against her nomination, that we have all read in the national and local papers.

I would like first to comment on the two jingos that are being used about her record as if they had substance: two jingos that are being used about the nation, that we have all read in the nation, the deceptions, distortions and demagoguery that I must admit that it's curious to hear it argued that the nominee is twice elected by the people of the most populous State in the Circuit for which she is now nominated is "out of the mainstream." Texans are no doubt entertained to hear that.

Listening to some of my colleagues' commentary on judges, I sometimes think that main-stream for them is a northeastern river of thought that flows through New Hampshire early and of laws, in Massachusetts, swells in Vermont, and deposits at New York City. Well, the mainstream that I know, and that most Americans can relate to, runs much broader and further than that.

The other mantra repeated by Justice Owen's detractors is that she is "conservative." I believe that the use of political or ideological labels to distinguish judicial philosophies has become highly misleading and does a disservice to the public's confidence in the independent judiciary, of which the Senate is the steward. I endorse the words of my friend, and former Chairman of the Judiciary Committee, Senator Biden, when he said some years ago that: [Judicial confirmation] is not about pro-life or pro-choice, conservative or liberal, it is not about Democrat or Republican. It is about intellectual and professional competence to serve as a member of the co-equal branch of the Government.

I believe it is our duty to confirm judges who stand by the Constitution and the law as written, not as they would want to rewrite them. That was Tennessee Governor Don Sundquist's first criterion for the Federal bench, and it is mine. I also want common sense judges who respect American culture. I believe that is what the American people want.

I believe we do a disservice to the independence of the Federal judiciary by using partisan or ideological terms in referring to judges.

My reason was well stated by Senator Biden when he said that: "it is imperative [not to] compromise the public's confidence in the court by courting controversy: are a forum for the fair, unbiased, and impartial adjudication of disputes." We compromise that perception, I believe, when we play partisan or ideological tricks with the judiciary. Surely, we can find other ways to raise money for campaigns and otherwise play at politics, without dragging this nation's trust in the judiciary through the mud, as some of the outside groups continue to do.

All you have to do to see my point is read two or three of the fund-raising letters that have become public over the past couple of weeks that spread mistruths and drag the judiciary branch into the mud, as many recent political campaigns increasingly find themselves. On a lighter note, while on ideology, let me pause to point out that one of the groups deployed against Justice Owen is the Communist Party of America, but then I don't know that they have come out in favor of any of President Bush's nominees. I suspect after the fall of the Berlin Wall, they must have a lot of time on their hands.

Today I wish to address just why a nominee with such a stellar record, a respected judicial temperament, and as fine an intellect as Justice Owen has, who graduated third in her class from Baylor's law school, a great Baptist institution, when few women attended college in 1974, who has obtained the highest score in the Texas Bar examination, and who has twice been elected by the people of Texas to serve on their Supreme Court, the last time with 63 percent of the votes and the support of every major newspaper of every political stripe, I would like to address just why such a nominee could get as much organized and untruthful opposition from the usual leftist, Washington special interest groups that we see. I will peel through what is at play for those groups. We need to expose and repel what is at play for the benefit and independence of this Senate.

And I would like to address also the reasons why I am confident that she will be confirmed notwithstanding. Not least of which is that, far from being the "judicial activist" some would have us believe her to be, she garnered the American Bar Association's unanimous rating of "well qualified." The Judiciary Committee has never voted against a nominee with this highest of ratings.

The first reason for the organized opposition, of course, is plain. Justice Owen is from Texas, and Washington's well paid reputation destroyers could not help but attempt to attack the widely popular President of the United States, at this particular time in an election year, by attacking the judicial nominee most familiar to him. Justice Owen, welcome to Washington.

But as I prepared more deeply for the Hearing earlier this week, the second reason became apparent to me. In my 26 years on the Judiciary Committee I have heard no group of judicial nominees as superb as those that President Bush has sent to us, and he has sent both Democrats and Republicans.

In reading Justice Owen's decisions, one sees a judge working hard to get it right, to get at the legislature's intent and to apply binding authority and rules of judicial construction. It is apparent to me that all the sitting judges the President has nominated, Justice Owen is the most outstanding of them. She is, in fact, the best, and despite what her detractors say, she is the best judge that any American, any consumer and any parent could hope for.

Her opinions, whether majority, concurrences or dissents, could be used as a law school text book that illustrates exactly how, and not what, an appellate judge should think, how she should write, and just how she should do the people justice by effecting their will through the laws adopted by their elected representatives. Justice Owen clearly approaches these tasks with both scholarship and mainstream American common sense. She does not
substitute her views for the legislature’s, which is precisely the type of judge that the Washington groups who oppose her do not want.

She is precisely the kind of judge that our first two Presidents, George Washington and John Adams, had in mind when they agreed that the justices of the State supreme courts would provide the most learned candidates for the Federal bench.

So in record, the second reason for the militant and deceptive opposition to Justice Owen became quite plain to me. In this world turned upside down, simply put, she is that good.

Another reason for the opposition against Justice Owen is the most demagogic, the issue of campaign contributions and campaign finance reform. Some of her critics are even eager to tie her to the current trouble with Enron.

Well, she clearly has nothing to do with that. Neither Enron nor any other corporation has donated to her campaigns, in fact, they are forbidden by Texas law to make campaign contributions in judicial elections. It was embarrassing to me, as it would be to any American who watched the hearing earlier this week, to see Justice Owen defeat these demagogic allegations, but being a Texas woman, she did so with style, elegance, and grace—and without embarrassing her questioners.

Not that there was even a need for more questions. The Enron and campaign contributions questions were amplified in a letter to Chairman LEAHY and the Committee dated April 5 by Alberto Gonzales. I will ask unanimous consent, to place this and other related letters into the RECORD. And I would place into the RECORD a retraction from The New York Times saying that they got their facts wrong on this Enron story. Such retractions don’t come often, not as often as the invention of facts by the smear groups. And despite the retraction, CNN was repeating the same wrong facts just this week!

Notably, at the hearing Justice Owen received no questions from my Democrat colleagues on her views on election reform and judicial reform, of which she is a leading advocate in Texas. She is also a leader in Gender Bias Reform in the courts and a reformer on divorce and child support proceedings. But my colleagues seemed to take little interest in this, nor in her acclaimed advocacy to improve legal services and funding for the poor.

All of these are aspects of her record her detractors would have us ignore. I certainly did not read these positive attributes in the nonsensical document or booklets that were sent to me or released prior to the hearing by the Washington radical special interests lobby.

I will also ask unanimous consent, to place into the RECORD letters from leaders of the Legal Society and 14 past presidents of the Texas Bar Association, many of whom are leading Texas Democrats.

The fourth reason for the opposition to Justice Owen is the most disturbing to me. For some months now, a few of my Democrat colleagues have strained to point out when they believe they are voting for judicial nominees that they believe to be pro-life. I have disputed their view that the record contains no such information of personal views from the judges we have reported favorably out of the Judiciary Committee.

Each time they assert it, my staff has scoured the transcripts of hearings and turned up nothing. What does turn up is that each time my colleagues have asserted this, they have done so only for nominees who are men.

I am afraid that the main reason Justice Owen is being opposed, is not that personal views, namely on the issue of abortion, are being falsely ascribed to her, they are, but rather because she is a woman in public life who is believed to have personal views that some maintain should be available for a woman in public life to have.

Such penalization is a matter of the greatest concern to me because it represents a new glass ceiling for women jurists. And they have come too far to allow it to burst open up. So, I say just as they approach the tables of our high courts after long-struggling careers.

I am deeply concerned that such treatment will have a chilling effect on other women because they will be kept from weighing in on exactly the sorts of cases that most invite their participation and their perspectives as women.

The truth is that Justice Owen has never written or said anything critical of abortion rights. In fact, the cases she is challenging on have everything to do with the rights of parents to be involved in their children’s lives, and nothing to do with the right to an abortion.

Ironically, the truth is that the cases her detractors would point to as proof of apparently unacceptable personal views are a series of fictions. This is what I mean about exposing the misstatements of the left-wing activist groups in Washington. I will illustrate just three of these fictions.

The first sample fiction is the now often-cited comment attributed to then Texas Supreme Court Justice Alberto Gonzales, which was Southern opinion. He said that Justice Owen’s dissent signified “an unconscious act of judicial activism.” Someone should do a story about how often this little shibboleth has been repeated in the press and in several websites of the professional smear groups. The problem with it is that it isn’t true. Justice Gonzales was not referring to Justice Owen’s dissent, but rather to the dissent of another colleague in the same case.

The second sample fiction is the smear of the supposed portrayal of a case involving buffer zones and abortion clinics. In that case, the majority of the Texas Supreme Court ruled for Planned Parenthood and affirmed a lower court’s injunction that protected abortion clinics and doctor’s homes and imposed 1.2 million dollars in damages against pro-life protesters. In only a few instances, the court tightened the buffer zones against protesters. The primary focus of the majority opinion and was excoriated by dissenting colleagues, who were, by that way, admittedly pro-life.

When describing that decision, abortion rights leaders hailed the retraction of facts by the smear groups. And it is how Planned Parenthood describes this same case in their fact sheet on Justice Owen: “[Owen] supports eliminating buffer zones around reproductive health care clinics . . .”

In fact, her decision did exactly the opposite.

The third and most pervasive sample fiction concerns Justice Owen’s rulings in a series of Jane Doe cases which first interpreted Texas’ then-new parental involvement law. The law, which I supported as important to emphasize was passed by the Texas legislature, not by Justice Owen, with bipartisan support, requires that an abortion clinic give notice to just one parent 48 hours prior to a minor’s abortion. Unlike States with more restrictive laws such as Massachusetts, Wisconsin, and North Carolina, consent of the parent is not required in Texas. A minor may be exempted from giving such notice if they get court permission.

Since the law went into effect, over 650 notice bypasses have been requested from the courts. Of these 650 cases, only 10 have had facts so difficult that two lower courts denied a notice bypass, only 10 have risen to the Texas Supreme Court.

Justice Owen’s detractors would have us believe that in these cases, she would have applied standards of her own choosing. Ironically, in each and every example they cite, whether concurring with the majority or dissenting, Justice Owen was applying not her own standards but the standards enunciated in the Roe v. Wade line of decisions of the United States Supreme Court, which she followed and recognized authority.

For example, detractors take pains to tell us that Justice Owen would require that to be sufficiently informed to get an abortion without a parent’s knowledge, that the minor show that they are being counseled on religious considerations. They appear to think this is nothing more than opposition to abortion rights. They are so bothered with this religious language that various documents produced by the abortion industry lobby italicize the word religious in a series of bills. But that is not Justice Owen’s invention, but rather the words of the Supreme Court’s pro-choice decision in Casey.
Should she not follow one Supreme Court decision, but be required to follow another? Is that what we want our judges to do, pick and choose which decisions to follow? That appears to be the type of activist judge these groups want, and this Senate should resist all such attempts at judicial confirmation.

The truth is that rather than altering the Texas law, Justice Owen was trying to effect the legislature’s intent. No better evidence of this is the letter of the pro-choice woman Texas Senator stating her “unequivocal” support of Justice Owen.

Senator Shapiro says of Justice Owen: “Her opinions interpreting the Texas [parental involvement] law serve as prime example of her judicial restraint.” I understand why the Washington left-wing groups don’t like that in a judge, but the Senate and the Judiciary Committee should applaud and commend such restraint and temperament.

The truth is that, rather than being an activist foe of Roe, Justice Owen repeatedly cites and follows Roe and its progeny as authority. She has to, it’s what the Court has said is the law. Compare this to Justice Ruth Bader Ginsburg who wrote in 1985 that the Roe v. Wade decision represented “heavy handed judicial intervention” and the spirit of the rules relating to judicial restraint.

In relation to this, I would like briefly to comment on the mounting offensive to sabotage the judicial confirmation by asking nominees to share personal views or to ensure that nominees share the personal views of the Senator on certain cases.

To illustrate my view, I’ll tell you that many people have recently called on the Senate to investigate Justice in Texas. Senate should applaud and commend such restraint and temperament.

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July 26, 2002

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well-established that judicial recusal is neither necessary nor appropriate in cases involving parties or counsel who contributed to that judge’s campaign. See Public Citizen, Inc. v. Romer, 274 F.3d 212, 215 (5th Cir. 2001). Apex Towing Co., v. Tolin, 97 S.W.2d 903, 907 (Tex. App. 1939), rev’d on other grounds, 41 S.W.3d 118 (Tex. 2001); Aguilar v. Anderson, 355 S.W.2d 925 (Tex. Civ. App. 1961). See also, David Lynn Mach., Inc., 784 S.W.2d 106, 107 (Tex. App. 1999). Indeed, in any state where elected judges, any other rule would be unworkable. We must protect a judge from any inappropriate influence on judges from campaign contributions. The First Amendment disclosures are disclosure of contributions to the treasury by which judges explain the reasons for their decisions. If the people of a state deem those protections insufficient, the people may choose a system of appointed judges rather than elected judges, as Justice Owen has advocated for Texas.

Surmising that the concerns you raised would likely focus on her sitting in cases in which Enron had an interest, we have undertaken a review of her decisions in such cases. We have reviewed Texas Supreme Court docket records and Enron’s 1994-2000 SEC Form 10Ks to determine the cases in which Enron or affiliates of Enron were parties to proceedings before the Court since July 1995 (when Justice Owen took her seat). The decisions of the Texas Supreme Court since January 1995 in proceedings involving Enron have been ordinary and raise no questions whatsoever.

A judge’s decisions are properly assessed by examining their legal reasoning, not by conducting a numerical or statistical calculation. But even those who would attempt to draw conclusions based on such calculations would find nothing in connection with Enron. To begin with, we are aware of no proceedings involving Enron in which Justice Owen cast the deciding vote. In six proceedings in which we know that Enron was a party, Justice Owen’s vote can be characterized as favorable to Enron in two cases and adverse in two cases. With respect to the remaining two, one cannot be characterized either way, and she did not participate in the other case because it had been a matter at her law firm when she was a partner. Eight other matters could not be characterized either way because we know that Enron or an affiliate was a party, but the court declined to hear them. In the proceedings that could be characterized either way, the Court’s actions could be characterized as favorable to Enron in four cases, adverse in three cases, and one was dismissed by agreement of the parties. We will supply the Judiciary Committee copies of the cases on request.

There has been some media attention on one case involving Enron in which Justice Owen wrote the opinion for the Court. See Enron Corp. v. Spring Creek Independent School District, 922 S.W.2d 931 (Tex. 1996). The issue in that case concerned the constitutionality of an ad valorem tax statute that allowed market value of inventory to be set on one of two different dates. The Court held that the statute did not violate the state constitution—and the decision was unanimous. I understand that two Democratic Justices who sat on the Court at that time (Justice Raul Gonzalez and Rose Spece) dissented. They argued that the statute violated the state constitution, and the case was to enjoin the tax from being assessed.

Finally, I am informed that, if confirmed, Justice Owen will donate all of her unspent campaign contributions to qualify tax-exempt charitable and educational institutions. The American Bar Association’s Code of Ethics section 2.18(a)(5) of the Texas Election Code. I trust that the foregoing will resolve all questions concerning the propriety of Justice Owen’s activities in financing her campaigns. As you know, I served with Justice Owen, and I am convinced from my work with her that she is a person of exceptional integrity, character, and intellect. Both Senators from Texas strongly support her nomination. The American Bar Association has unanimously rated Justice Owen “well qualified” for the Court in that rating process is the nominee’s integrity. Despite her superb qualifications and the “Judicial Emergency” in the Fifth Circuit declared by the Judicial Conference of the United States, Justice Owen has not received a hearing for nearly 11 months since her May 9, 2001, nomination. With respectfully request that the Committee afford this exceptional nominee a prompt hearing and vote.

Sincerely,

ALBERTO R. GONZALES, Counsel to the President.

APRIL 1, 2002.

Re Justice Priscilla Owen.

Hon. PATRICK LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: We served on the Texas Supreme Court with Justice Priscilla Owen when the case of Enron Corporation et al. v. Spring Creek Independent School District, 922 S.W.2d 931 (Tex. 1996) was decided. The issue in this case was the constitutionality of an ad valorem tax statute that allowed market value of inventory to be set on one of two different dates. In a unanimous opinion, all justices, Democrats and Republican alike, agreed with the opinion authored by Justice Owen that the choice of valuation date in ad valorem tax statute did not violate a provision of the State Constitution requiring uniformity and equality in ad valorem taxation. We found the decision of the United States Senate to support and other states instructive on this issue.

In our ruling, we agreed with the rulings of the Harris County Appraisal District and the trial court.

Cordially,

RAUL A. GONZALEZ,
Justice, Texas Supreme Court, 1984-1998.


PERDUE, BRANDON,
FIELDER, COLLINS & MOTT, L.L.P.,
Houston, TX, July 1, 2002.

Re Justice Priscilla Owen.

Hon. PATRICK LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR CHAIRMAN LEAHY: My name is Robert Mott. I was the legal counsel for the Spring Independent School District in the case of Enron Corporation et al. v. Spring Independent School District, 922 S.W.2d 931 (Tex. 1996). I was the losing party in this case. I have been disturbed by the suggestions that Justice Priscilla Owen’s decision in this case was influenced by the campaign contributions of the Enron Corporation and its affiliates. I would like to set the record straight.

I have been disturbed by the suggestions that Justice Priscilla Owen’s decision in this case was influenced by the campaign contributions of the Enron Corporation and its affiliates. I would like to set the record straight. I believe that such suggestions are nonsense. Justice Owen authored the opinion of a unanimous court consisting of four Democrats and Republican. While my clients and I disagreed with the decision, we were not surprised. The decision of the Court was to uphold an act of the Legislature regarding property valuation. It was based upon United States Supreme Court precedent, of which we were fully aware when we argued this case.

I firmly believe that there is absolutely no reason to question Justice Owen’s integrity based upon the decision in this case.

Sincerely,

ROBERT MOTT.

De Leon, Boogins & Renouclle, Austin, TX, June 26, 2002.

Re nomination of the Honorable Priscilla Owen to the U.S. Court of Appeals for the Fifth Circuit.

Hon. PATRICK LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: This correspondence is sent in support of the nomination by President Bush of Texas Supreme Court Justice Priscilla Owen for a seat on the U.S. Court of Appeals for the Fifth Circuit.

As the immediate past President of Legal Aid of Central Texas, it is of particular significance to me that Justice Owen has served as the liaison from the Texas Supreme Court to the statewide committee coordinating legal services to the poor and pro bono legal services. Undoubtedly, Justice Owen has an understanding of and commitment to the availability of legal services to those who are disadvantaged and unable to pay for such legal services. It is that type of insight and empathy that Justice Owen will bring to the Fifth Circuit.

Additionally, Justice Owen played a major role in organizing a group known as Family Law 2000 which seeks to educate parents about the effect the dissolution of a marriage can have on their children. Family Law 2000 seeks to lessen the adversarial nature of legal proceedings surrounding marriage dissolution. The Fifth Circuit would be well served by having someone with a background in family law serving on the bench.

Justice Owen has also found time to involve herself in community service. Currently Justice Owen serves on the Board of Texas Hearing and Service Dogs. Justice Owen is also a member of the American Bar Association, a Fellow of the American and Houston Bar Foundations. Her stature as a member of the Texas Supreme Court was recognized in 2000 when every major newspaper in Texas endorsed Justice Owen in her bid for re-election to the Texas Supreme Court.

It has been my privilege to have been acquainted with the members of the U.S. Court of Appeals for the Fifth Circuit. The late Justice Jerry Williams was my administrative law professor in law school and later became a personal friend. Justice Reaveley has been a friend over the years. Justice Johnson is also a friend. In my opinion, Justice Owen will bring to the Fifth Circuit the same intellectual ability and integrity that those gentlemen brought to the Court.

I earnestly solicit your favorable vote on the nomination of Justice Priscilla Owen for a seat on the U.S. Court of Appeals for the Fifth Circuit.

Thank you for your attention to this correspondence.

Very truly yours,

R. DE LEON.
The reform debate and suggested positive changes that would enhance and improve our state judicial branch of government.

While the Fifth Circuit has one of the highest per judge caseloads of any circuit in the country. The long wait has been a great surprise. She is still a conservative. And that is still not a good reason to vote her down.


An article in Business Day on Tuesday about criticism of Justice Priscilla Owen of the Texas Supreme Court, a nominee for a federal judgeship who accepted campaign donations from Enron, misstated the amount of money saved by the company because of a decision she wrote. Enron would have paid a tax of $224,988.65, not $15 million. The larger sum, cited in her opinion as the district's revenue loss, was the amount by which the value of a piece of the company's land was lowered.

NOMINATION OF CHRISTOPHER C. CONNER, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE

Mr. REID. Mr. President, under the previous order, the Senate will now proceed to the consideration of Executive Calendar No. 826.

The PRESIDING OFFICER. The clerk will state the nomination.

The legislative clerk read the nomination of Christopher C. Conner, of Pennsylvania, to be United States District Judge for the Middle District of Pennsylvania.

Mr. REID. Mr. President, I ask unanimous consent that the Senator from Pennsylvania be recognized for up to 3 minutes.

Mr. SANTORUM. Mr. President, I thank the Senator from Nevada for agreeing to recognize me.

Now that the nomination has been confirmed by the Senate, I congratulated Conner on his confirmation from outside of Harrisburg, PA, for filling the vacancy in the Middle District. Judge Conner is one of six members from Pennsylvania who are on the Executive Calendar in the Senate. Including him, there are five district judges and one Third Circuit nominee, and I am very gratified that we have been able to unlock the logjam on judges and begin the process of moving forward.

Kit Conner is a very distinguished member of the bar in the Middle District in Pennsylvania. He is a tremendous lawyer and advocate, someone who has made substantial contributions to his community and is going to be an excellent Middle District judge. I look forward to his swearing in ceremony very soon.

If we go down the listing of judges in the order in which they appear on the calendar, the next judges to be confirmed are also Pennsylvania judges, at least nominees for judicial vacancies, and the nominee would be Joy Flowers Conti from the Western District of Pennsylvania, John Jones from the Middle District, and then D. Brooks Smith, who is
a judge from the Western District who has been nominated for the Third Circuit. Hopefully next week, maybe as early as Monday or Tuesday, we can get to some of these nominations in the order in which they appear on the calendar. That is the way the Senate is proceeding, and so we can begin to fill some of these vacancies we have in Pennsylvania, and in particular the Judge Brooks Smith vacancy to the Third Circuit, so we can begin to get the expeditious justice that people in Pennsylvania and the Third Circuit deserve.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Christopher C. Conner, of Pennsylvania, to be United States District Judge for the Middle District of Pennsylvania?

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid upon the table, and the President will be notified of the Senate's action.

Mr. LEAHY. Mr. President, today's confirmation of Mr. Christopher Conner to the District Court for the Middle District of Pennsylvania, the Democratic Senate will have confirmed a total of 60 judicial nominees since the change in Senate majority a little over one year ago and 49 district court nominees.

Today's nominee has not proven to be very controversial and the Senate has acted quickly on this nomination.

Mr. Conner was nominated in March of this year to a relatively recent vacancy and received a hearing in May, shortly after his paperwork was completed.

With today's confirmation, the Judiciary Committee will have held hearings for a total of 10 District Court nominees from Pennsylvania, including Judge Davis, Judge Baylson and Judge Rufe, who were confirmed in April. Those confirmations illustrate the progress being made under Democratic leadership and the fair and expeditious way this President's nominees are being treated.

With today's confirmation, we will have confirmed four nominees to the District Courts in Pennsylvania. I think that the Senate Judiciary Committee and the Senate as a whole have done well by Pennsylvania, despite some Republican obstructionist practices during Republican control of the Senate, particularly regarding nominees in the Western half of the State.

Nominees from Philadelphia were not immune from Republican obstructionist tactics, despite the best efforts and diligence of my good friend from Pennsylvania, Senator SPECTER, to secure confirmation of all of the judicial nominees from all parts of his home State, without regard to which party controlled the White House.

For example, Judge Legrome Davis was first nominated to the position of U.S. District Court Judge for the Eastern District of Pennsylvania by President Clinton on July 30, 1998. The Republican-controlled Senate took no action on his nomination and it was returned to the President at the end of 1998. On January 26, 1999, President Clinton renominated Judge Davis for the same vacancy. The Senate again failed to act on Judge Davis' nomination and his nomination was returned after two more years.

Under Republican leadership, Judge Davis' nomination languished before the Committee for 888 days without a hearing.

Unfortunately, Judge Davis was subjected to the kind of inappropriate partisan rancor that befall so many other nominees to the district courts in Pennsylvania and to the Third Circuit during the Republican control of the Senate. I want to note emphatically, however, that I know personally that the senior Senator from Pennsylvania, strongly supported Judge Davis' nomination and worked hard to get him a hearing.

The lack of Senate action on Judge Davis' initial nominations are in no way attributable to a lack of support from the senior Senator from Pennsylvania. Far from it, in fact, I gave Senator SPECTER full credit for getting President Bush to re-nominate Judge Davis earlier this year and commended him publicly for all he has done to support this nomination from the outset.

This year we moved expeditiously to consider Judge Davis, and he was confirmed within a few months of his renomination by President Bush. The saga of Judge Davis recalls for us so many nominees from the period of January 1995 through July 10, 2001, who never received a hearing or a vote and who were the subject of secret anonymous holds by Republicans for reasons that were never explained.

At Judge Davis' recent confirmation hearing, Senator SPECTER testified that Judge Davis did not get a hearing because local Democrats objected. I was the ranking Democrat on the Judiciary Committee during those years and never heard that before. My understanding of the time, from July 1998 until the end of 2000, was that Judge Legrome Davis would have had the support of Senator SPECTER as well as every Democrat on the Judiciary Committee and in the Senate. Despite that bipartisan support, he was not included by the then-Chairman of the Committee in the May 2000 hearing for a few other Pennsylvania nominees.

In contrast, the hearing we had earlier this year for Ms. Conti was the very first hearing on a nominee to the Western District of Pennsylvania since 1994, in almost a decade, despite qualified nominees of President Clinton. No nominee to the Western District of Pennsylvania received a hearing during the entire period that Republicans controlled the House and the Senate.

One of the nominees to the Western District, Lynette Norton, waited for almost 1,000 days, and she was never given the courtesy of a hearing or a vote. Unfortunately, Ms. Norton died earlier this year, having never fulfilled her dream of serving on the Federal bench.

Large numbers of vacancies continue to exist, in large measure because the recent Republican majority was not willing to hold hearings or vote on more than 50 of President Clinton's judicial nominees, many of whom waited for years and never received a vote on their nomination. It is the Democrats, particularly the Republican-controlled Senate, that has been broken with that history of inaction from the Republican era of control, delay and obstruction.

With today's confirmations of Mr. Conner to the Federal district courts in Pennsylvania, the Senate will have confirmed 49 district court nominees, meaning that more than 8 percent of the district court nominees confirmed so far are from Pennsylvania.

Mr. HATCH. Mr. President, I rise to support the nomination of Christopher Conner to be U.S. District Judge for the Middle District of Pennsylvania.

I have enjoyed looking over the record of Mr. Conner's broad litigation background, and I have concluded that he will bring to the Court the necessary legal experience and temperament for an effective Federal judge.

Christopher Conner is a native of Harrisburg, PA, and a highly respected civil litigator. Upon graduation from Dickinson School of Law in 1982, Mr. Conner joined the Harrisburg firm today known as Mette, Evans and Woodside. He was named a shareholder in 1988.

He currently serves as chair of his firm's Corporate & Commercial Litigation Practice Group. His practice has focused on civil litigation, primarily business litigation, employment law, mediation, and Federal civil rights litigation. He has handled contract disputes, employment discrimination suits, Lanham Act claims, large-scale class-action cases, sexual harassment cases, and insurance coverage matters.

Mr. Conner is certified as a mediator in Federal and State courts, and he has experience in providing human resources training and consulting for associations, including diversity training.

The ABA has awarded him a unanimous Well Qualified rating, and I rate him highly as well. I strongly believe Mr. Conner will make an excellent Federal judge in Pennsylvania.

The PRESIDING OFFICER. The Senator from Nevada.
Resolved, That the House insist upon its amendment to the amendment of the Senate to the bill (H.R. 4546) entitled “An Act to authorize and provide for fiscal year 2002 military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes”, and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following Members be the managers of the conference on the part of the House:

From the Committee on Armed Services, for consideration of the House amendment and the Senate amendment, and modifications committed to conference: Mr. Boehlert, of New York, Mr. Hunter, Mr. Hansen, Mr. Weldon of Pennsylvania, Mr. Heffley, Mr. Saxton, Mr. McCuigh, Mr. Everett, Mr. Bartlett of Maryland, Mr. McKeon, Mr. Watts of Oklahoma, Mr. Thornberry, Mr. Hoestetter, Mr. Chablis, Mr. Jones of North Carolina, Mr. Hillelson of California, Mr. Spratt, Mr. Ortiz, Mr. Evans, Mr. Taylor of Mississippi, Mr. Abercrombie, Mr. Meehan, Mr. Underwood, Mr. Allen, Mr. Snyder, Mr. Royce of California, Mr. Underwood, Mr. Sablan of Guam, Mr. Lung of Nevada, Mr. Walden of Tennessee, Mr. Abercrombie, Mr. Meehan, Mr. Underwood, Mr. Allen, Mr. Snyder, Mr. Royce of California, Mr. Underwood, Mr. Sablan of Guam, Mr. Lung of Nevada, Mr. Walden of Tennessee, Mr. Abercrombie, Mr. Meehan, Mr. Underwood, Mr. Allen, Mr. Snyder, Mr. Royce of California, Mr. Underwood, Mr. Sablan of Guam, Mr. Lung of Nevada, Mr. Walden of Tennessee, Mr. Abercrombie, Mr. Meehan, Mr. Underwood, Mr. Allen, Mr. Snyder, Mr. Royce of California, Mr. Underwood, Mr. Sablan of Guam, Mr. Lung of Nevada, Mr. Walden of Tennessee.

From the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 11 of rule X: Mr. Goss, Mr. Reuter, and Ms. Pelosi.

From the Committee on Education and the Workforce, for consideration of sections 331, 332, 333, 341, and 366 of the House amendment, and sections 331-333, 542, 656, 1094, and 1107 of the Senate amendment, and modifications committed to conference: Mr. Issakson, Mr. Wilson of South Carolina, and Mr. George Miller of California.

From the Committee on Energy and Commerce, for consideration of sections 601 and 3201 of the House amendment, and sections 311, 312, 601, 3135, 3155, 3171-3173, and 3201 of the House amendment, and modifications committed to conference: Mr. Tauzin, Mr. Barton, and Mr. Dingell.

From the Committee on Government Reform, for consideration of sections 323, 304, 805, 1003, 1004, 1101-1106, 2811, and 2813 of the House amendment, and sections 241, 654, 817, 907, 907-1009, 1061, 1101-1106, 2811, and 3173 of the Senate amendment, and modifications committed to conference: Mr. Burton, Mr. Weldon of Florida, and Mr. Waxman.

From the Committee on International Relations, for consideration of sections 1201, 1202, 1204, title XIII, and section 3124 of the House amendment, and subtitle A of title XII, sections 1212-1216, 3136, 3151, and 3156-3161 of the Senate amendment, and modifications committed to conference: Mr. Hyde, Mr. Gilman, and Mr. Lantos.

From the Committee on the Judiciary, for consideration of sections 611 and 1035 of the House amendment, and sections 1067 and 1070 of the Senate amendment, and modifications committed to conference: Mr. Goodlatte, Mr. Smith of Texas, and Mr. Conyers.

From the Committee on Resources, for consideration of sections 311, 312, 601, title XIV, sections 2821, 2832, 2841, and 2863 of the House amendment, and sections 601, 2821, 2832, 2863, and 2841 of the Senate amendment, and modifications committed to conference: Mr. Duncan, Mr. Gibbons, and Mr. Rahall.

From the Committee on Science, for consideration of sections 341, 236, 1236, 3155, and 3163 of the Senate amendment, and modifications committed to conference: Mr. Boehlert, Mr. Smith of Michigan, and Mr. Hall of Texas.

From the Committee on Transportation and Infrastructure, for consideration of sections 601 of the House amendment, and sections 601 and 1063 of the Senate amendment, and modifications committed to conference: Mr. Young of Alaska, Mr. LoBiondo, and Ms. Brown of Florida.

From the Committee on Veterans’ Affairs, for consideration of sections 641, 642, 643, 721, 722, 723, 724, 726, 727, and 729 of the House amendment, and sections 541 and 641 of the Senate amendment, and modifications committed to conference: Mr. Smith of New Jersey, Mr. Bilkakis, Mr. Jeff Miller of Florida, Mr. Filner, and Ms. Carson of Indiana.

Mr. REID. Mr. President, I ask unanimous consent that the Senate disagree to the House amendment to the Senate amendment, agree to the request for a conference, and that the Chair be authorized to appoint conferees on the part of the Senate, without further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Presiding Officer (Mr. CARPER) appointed Mr. Levin, Mr. Kennedy, Mr. Byrd, Mr. Lieberman, Mr. Cardin, Mr. Sanders, Mr. Shaheen, Mr. Sotul, Mr. Sessions, Mr. Collins, and Mr. Bunning conferees on the part of the Senate.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session and re-examine consideration of S. 812, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

Pending:

Reid (for Dorgan) amendment No. 4299, to permit commercial importation of prescription drugs from Canada.

AMENDMENT NO. 4299 TO AMENDMENT NO. 4299

(Purpose: ‘‘To provide for health care liability reform’’)

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I am about to send to the desk an amendment. I understand from discussions with the other side, we will be allowed to vote on or in relation to this amendment sometime Tuesday morning, with the time prior to that equally divided. I say to my friend from Nevada, what was he thinking of, a couple of hours equally divided on Tuesday morning before the vote or in relation thereto?

Mr. REID. I say to my friend, we will probably come in at about 9:30, have an hour of morning business, with the vote to occur around noon, which would allow us to do our party conferences. So I suggest 90 minutes equally divided.

Mr. MCCONNELL. That would certainly be agreeable to me. I thank the assistant majority leader.

Mr. REID. Staff is putting that in writing. Before the day is out, we will try to iron out something like that. We will get it worked out between the two leaders.

Mr. MCCONNELL. I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. MCCONNELL) proposes an amendment numbered 4326 to amendment No. 4299.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. DURBIN. Reserving the right to object, and I will not object, if the Senator could give me a copy of his amendment to Mr. Taucher.

Mr. MCCONNELL. I say to my friend from Illinois, I will be happy to do that. Of course, it will be out there from now until Tuesday morning so people will have ample opportunity to take a look at it. As soon as the clerk can Xerox a copy, I am sure he will be glad to give it to the Senator from Illinois.

Mr. DURBIN. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Text of the amendment is printed in today’s CONGRESSIONAL RECORD under “Text of Amendments.”)
in any way adversely impacted by a cap under the McConnell amendment. We do place reasonable caps on lawyers’ fees. By doing so, it ensures that the injured victim, not the victim’s lawyer, gets the majority of the award. After all, that is only fair. It is the victim who suffered the injury and not the lawyer.

This amendment also allows punitive damages, even though we know, all of us who understand punitive damages, that they are meant designed to enrage the plaintiff but, rather, to punish the defendant. We allow punitive damages under a cap, a reasonable limit of twice compensatory damages. So no limits on compensation for pain and suffering, but a limit on punitive damages of twice compensatory damages, twice the economic and noneconomic damages.

Essentially, what we are doing is guaranteeing the injured victim full compensation. In addition to guaranteeing the victim full compensation, we are also ensuring that they get more of the money to which they are entitled by providing a reasonable cap on the fees for the lawyer.

In order to bring some certainty to the system, and drive the costs of insurance down, the amendment caps punitive damages at twice the sum of the compensatory damages awarded. It provides some certainty. This is a very pro-victim, pro-consumer amendment.

When we voted on this back in 1995, one of the arguments made, I recall, was that there was no crisis, what is the problem? Frankly, we thought it was a growing crisis at that point. Today, it is a perfectly apparent crisis. The Nevada Governor has called a special session beginning Monday on this very issue. This crisis is sweeping the country.

We have a map that I think is useful. The red States are States that are currently experiencing a medical liability crisis; States such as Nevada that I mentioned, the State of Washington, the States of Oregon, Texas, Mississippi, Georgia, Florida, and the cluster in the Northeast—New York, Pennsylvania, West Virginia, and Ohio. My own State of Kentucky is a State with problem signs.

To give an example, we have doctors moving to Indiana, across the Ohio River, because Indiana has reasonable caps and therefore has not a medical malpractice crisis and the doctors are not bailing out. In States that have enacted a reasonable approach, the crisis does not exist.

Another interesting chart gives a sense of what has happened since we last voted on this issue in 1995. The median jury award then was around $500,000; today it has gone up to $1 million. I don’t think anybody believes that doctors and nurses and health care professionals are any more negligent today than they were then. I do not pose anyone would suggest there has been some kind of dramatic deterioration in their behavior over the last 7 years, but in fact the awards have gone up dramatically, and of course, as we know, the insurance rates along with it, leading to an exodus from this field across America. The crisis has arrived. It is here.

To give an example from my own State, a few weeks ago in Corbin, KY, the Corbin Family Health Center was forced to shut the doors because the doctors were unable to find an affordable insurance policy. Dr. Richard Carter and his four colleagues deliver about 250 babies a year and have never lost a malpractice claim. Yet when their insurance company, the St. Paul Companies, decided to leave the medical malpractice business, the Corbin Family Health Doctors lost their coverage—a group that had never lost a claim. The remaining few insurance companies that were willing to provide insurance rates were only willing to do so for $800,000 to $1 million, a whopping 465 percent increase.

This problem is on all across America. Tuesday we will have an opportunity to elaborate. There are a number of Senators on my side of the aisle who want to speak to this national crisis. I retain the remainder of my time.

The McConnell amendment places major new restrictions on the right of seriously injured patients to recover fair compensation for their injuries. These restrictions only serve to hurt those patients who have suffered the most severe, life-altering injuries, and to have their cases proven in court. If we were to arbitrarily restrict the compensations which seriously injured patients can receive, as the sponsor proposes, what benefits would result? Certainly, less accountability for health care providers will never improve the quality of health care. It will never even result in lower health care costs.

The cost of medical malpractice premiums constitutes less than two-thirds of 1 percent. Do we understand that? The cost of medical malpractice premiums constitutes two-thirds of 1 percent of the Nation health care expenditures each year. Malpractice premiums are not the cause of the high rate of medical inflation.

Over the decade from 1988 to 1998, the cost of medical care rose 13 times faster than the cost of malpractice insurance. This chart reflects that: The growth of health care costs plus 74 percent; and the medical malpractice costs, 5.7 percent.

These restrictions are not only unfair to patients but an effective way to control medical malpractice claims. There is scant evidence to support the claim that enacting limits will lower insurance rates. There is substantial evidence to the contrary. There are other ways to address the costs of medical malpractice insurance that do not hurt patients.

The supporters of the McConnell amendment have argued that restricting an injured patient’s right to recover fair compensation will reduce malpractice premiums. They cite a report released just yesterday by the Department of Health and Human Services. However, that data is neither comprehensive or persuasive. It looks at the last month of the last year of the 27 States that currently have a cap on malpractice damages, and it looks at the rate of increase in those States for only 1 year.

In essence, that report cherry-picks the data to support a politically pre-determined conclusion.

Let’s look at the facts: 23 States currently have a cap on medical malpractice damages. Most have had those statutes for a substantial number of years. And 27 States do not have a cap on malpractice damages. The best evidence is that the cost of malpractice insurance is to compare the rates in those two groups of States. Based on the data of medical
liability monitored on all 50 States, the average liability premium in 2001 for doctors practicing internal medicine was slightly less, 2.2 percent for doctors in States without caps on malpractice, $7,715; and in States with caps on damages, $7,887. Internists actually pay more for malpractice insurance in the States that have the caps.

The average liability premium in 2001 for general surgeons was also slightly less. For doctors in States without caps, $26,144; in States with caps, it was $26,740. Doctors are also paying more in States that have caps.

The average liability premium on OB/GYN physicians in 2001 was only 3.3 percent more for doctors in States without caps, $44,485; and in States with caps, $43,000—a very small difference.

This evidence clearly demonstrates that capping malpractice damages does not benefit the doctors it purports to help. Their rates remain virtually the same. It only helps the insurance companies earn bigger profits.

Since malpractice premiums are not affected by the imposition of caps on recovery, it stands to reason that the availability of physicians does not differ between States that have caps and the States that do not. So we understand that? We are talking about comparing the number of available physicians between the States that do have caps and the States that do not. AMA data show that there are 233 physicians per 100,000 residents in States that do not have medical malpractice caps and 223 physicians per 100,000 residents in States with caps.

Looking at the particularly high cost of obstetrics and gynecology, States without caps have 29 OB/GYNS per 100,000 while States with caps have 27.4 per 100,000. Clearly, there is no correlation.

California, the State that has the lowest caps the longest, set a $250,000 cap on noneconomic damages in the mid-1970s, which has not been adjusted for inflation since. If the tort reformers are correct, you would expect California to have had a smaller percent of growth in premiums since those caps were enacted. Between 1991 and 2000, premiums in California actually grew more quickly, 3.5 percent, than did the premiums nationwide.

The State with the caps shows the malpractice insurance actually went up. If this amendment were to pass, it would sacrifice fair compensation for injured patients in an attempt to reduce medical malpractice premiums. Doctors would not get the relief they are seeking. Only the insurance companies, which created recent market instability, would benefit.

Even supporters of the industry acknowledge that enacting tort reform will not produce lower insurance premiums.

Shane Schwartz, the association’s general counsel, told Business Insurance:

\[
\ldots \text{ many tort reform advocates do not contend that restricting litigation will lower insurance rates and ‘I’ve never said that in 30 years.} \]

The American Insurance Association even released a statement earlier this year, March 13, 2002, acknowledging:

[T]he insurance industry never promised that tort reform would achieve specific premium savings.

Listen to that. The American Insurance Association even released the statement on March 13:

[T]he insurance industry never promised that tort reform would achieve specific premium savings.

A National Association of Insurance Commissioners study shows that in 2000, the latest year for which data is available, total insurance industry profits as a percentage of premiums for medical malpractice insurance was nearly twice as high—13.6 percent—as overall casualty and property insurance profits—7.9 percent.

Do we understand that now? The insurance industry commissioners are now saying that the insurance industry profits, as a percentage of premiums for medical malpractice, are twice as high as overall casualty and property insurance profits.

In fact, malpractice was a very lucrative line of insurance for the industry throughout the 1990s. Recent premium increases have been an attempt to maintain high profit margins despite sharply declining investment earnings. Insurance industry practices are responsible for the sudden, dramatic premium increases which have occurred in some States in recent months. The explanation for these premium spikes can be found, not in legislative halls or in courtrooms, but in the boardrooms of the insurance companies themselves.

There were inflation increases in recent months in a number of insurance lines, not just medical malpractice. In 2001, rates for small commercial accounts have gone up 21 percent, rates for midsize commercial accounts have gone up 32 percent, and rates for large commercial accounts have gone up 36 percent. These increases were attributable to general economic factors and industry practices, not medical liability tort law.

Insurance industry profits as a percentage of premiums for inflation since. If the tort reformers are correct, you would expect California to have had a smaller percent of growth in premiums since those caps were enacted. Between 1991 and 2000, premiums in California actually increased more than other States, 10 years ago. Further limiting patients’ right to sue for medical injuries would have virtually no impact on lowering overall health care costs. Medical malpractice insurance costs as a proportion of the national health care spending are minuscule, amounting to less than 60 cents per hundred dollars spent. In some States in recent months. The explanation for these premium spikes can be found, not in legislative halls or in courtrooms, but in the boardrooms of the insurance companies themselves.

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Insurance industry profits as a percentage of premiums for medical malpractice insurance have risen slowly in the last decade by just over the rate of inflation. Malpractice claims have not exploded in the last decade. Closed claims, which include claims where no payment was made, have remained constant, while paid claims have averaged just over $110,000. Medical malpractice profitability over the last decade has declined at just over 12 percent per year despite a decline in profits in the last 2 years.

That is the profit they have been making over the last decade.

This analysis of why we are seeing a sudden spike in premiums was basically confirmed by a June 24, 2002, Wall Street Journal article describing what happened to the malpractice insurance industry during the 1990s:

Some of these carriers rushed into malpractice coverage because an accounting practice widely used in the industry made it appear more profitable in the early 1990s than it really was.

Does that have a ring to it, Mr. President? Carriers rushing in because an accounting practice widely used in

They often do so by underpricing their plans and insuring poor risks. When investment income dries up because interest rates fall, the stock market declines, or cumulative price cuts lower profit, the insurance industry then attempts to increase premiums and reduce coverage. This creates a downward spiral which produces a manufactured crisis each time their investments turn downward.

For example, St. Paul, one of the largest medical malpractice insurers, which has been experiencing serious financial difficulties lately, actually released $1.1 billion in reserves between 1992 and 1997 to enhance its bottom line and make those dollars available for investment. Some of the company’s investments did not go well. It lost $108 million in the collapse of Enron alone. When claims became due, those reserves were not available to pay them.

A recent study of the Consumer Federation of America, presented at a hearing of the Health Subcommittee of the House Committee on Energy and Commerce last week, documented this industry’s trend:

It is the hard insurance market and the insurance industry’s own business practices that are largely to blame for the rate shock that physicians have experienced in recent months.

The Consumer Federation’s findings are highly enlightening:

Medical malpractice rates are not rising in a vacuum. Commercial insurance rates are rising overall. The rate problem is caused by the classic turn in the economic cycle of the industry, spent up—but not caused—by terror attacks. Insurers have underpriced malpractice premiums over the last decade. It would take a 50 percent hike to increase inflation-adjusted rates to the same level as 10 years ago. Further limiting patients’ right to sue for medical injuries would have virtually no impact on lowering overall health care costs. Medical malpractice insurance costs as a proportion of the national health care spending are minuscule, amounting to less than 60 cents per hundred dollars spent. In some States in recent months. The explanation for these premium spikes can be found, not in legislative halls or in courtrooms, but in the boardrooms of the insurance companies themselves.

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Does that have a ring to it, Mr. President? Carriers rushing in because an accounting practice widely used in
the industry made the area seem more profitable in the early 1990s than it really was? And now we are going to take it out on the individuals who are most vulnerable and most severely hurt in our society?

A decade of shortsighted price slashing led to industry losses of nearly $3 billion last year.

I continue the quote from the Wall Street Journal:

I don’t like to hear insurance company executives say it’s the tort system—it’s self-inflicted. To quote, chief executive of SCPIE Holdings, Inc., a leading malpractice insurer in California.

This is what he said:

I don’t like to hear insurance companies say it’s the tort system—it’s self-inflicted.

Zuk then continues:

Then it continues:

The losses were exacerbated by carriers’ declining investment returns. Some insurers had come to expect that big gains in the 1980s and stock prices would continue, industry officials say. When the bull market stalled in 2000, investment gains that had patched over inadequate premium rates disappeared.

Let’s look back at the type of severely injured patients who would be denied fair compensation under the McConnell amendment. These are the people who are being asked by those across the aisle to pay for the mistakes of the insurance industry and the wrongdoing of health care providers:

Leyda Uuam—from Massachusetts—underwent surgery to correct a protruding belly button when she was 5 weeks old. Leyda will never walk, talk, move, or have any normal function after she suffered brain injury due to a series of errors by anesthesiologists, nurses, and a transport team.

When Mrs. Oliveira’s unborn baby showed signs of distress, her doctor failed to perform a timely cesarean birth as common sense would indicate. Instead, he attempted a forceps delivery. When Mrs. Oliveira’s unborn baby showed signs of distress, her doctor failed to perform a timely cesarean birth, leading to the baby’s death. The doctor misdiagnosed her as having an acute neck sprain and sent her home. Unfortunately, he failed to diagnose her symptoms as the warning leak of a brain aneurysm even though he had written a textbook which included an entire chapter on warning leaks.

Ten days after her hospital visit, Elizabeth’s aneurysm ruptured and she had a stroke. The bleeding destroyed brain tissue, requiring the removal of 1/3 of the frontal lobe of her brain. Elizabeth was left paralyzed as a result of her misdiagnosed aneurysm.

Philip Lucy’s nasal cancer was misdiagnosed by doctors as high blood pressure for 2 years, although he continued to complain of pain. It was finally discovered that his left sinus was completely filled with a cancerous mass.

Evela Dostal, a recent retiree, died a slow and painful death after her surgeon failed to give her antibiotics before her gallbladder surgery. She developed sepsis and was hospitalized for a lengthy period of time, during which she underwent 3 more surgeries, as her condition slowly deteriorated.

Mt. Keck, 63, was admitted to the hospital for pneumonia. She sustained brain injuries because a nurse failed to monitor her vital signs, and failed to notify the doctors of her worsening condition. She now suffers from paralysis and cannot speak. The hospital was purposefully understaffed to increase profits.

As we debate this amendment, let us all remember that we are dealing with people’s lives—many of them have suffered life-altering injuries as a result of substandard medical care. The law is there to protect them, not to shield those who caused their injuries.

I hope the people who do not accept the McConnell amendment for the reasons I have outlined. As we have seen on so many different occasions, the neediest, the youngest, and the most vulnerable individuals in our society are often those who suffer the greatest kinds of neglect and negligence.

If we are going to have accountability in our society, we ought to have accountability by the insurance companies and not accountability by the others—not accountability by others even in the corporate world but accountability by schoolchildren. If they are not able to learn and be successful, then they are not included in terms of the completion of their education. And they are being held accountable. We are not getting the resources for them in order to give them the fair chance.

It seems to me we are being asked to protect the strongest elements in terms of the protection of our society, especially during the course of this whole debate. Now we see it with regard to an amendment to protect the insurance companies. When we look at any piece of legislation, we should ask: Who is going to benefit, and who is going to lose? The answer is very simple with this amendment. The people who are going to benefit are going to be the insurance companies themselves, and the people who are going to pay the price are going to be the most vulnerable people in our society who need our protection.

The PRESIDING OFFICER (Mr. CORZINE). The Senator from Kentucky.

MR. MCCONNELL. Mr. President, I listened with interest to the speech of my friend from Massachusetts, although I must say that it must have been drafted to address a different amendment other than the one the Senator from Kentucky sent to the desk. None of the victims that Senator Kennedy recounted would have lost a penny of economic or noneconomic damages under the amendment that is at the desk—not a penny. We don’t cap either pain and suffering, or economic damages. There is no cap at all.

I did not hear my friend from Massachusetts talk about the legal fees. Let us go back and take a look at what this amendment does before yielding to my friend, the only doctor in the Senate, to address this issue.

There are no caps on economic and noneconomic damages in this amendment. Two things are capped: Punitive damages, which are designed to punish the defendant and not enrich the plaintiff; are capped at twice the rest of the damages. There is a very reasonable cap on attorney’s fees. And the reason for that is the plaintiffs—the victims—the senior Senator from Massachusetts is talking about are only getting about 52 percent of the money. Those grievously injured parties are not getting enough of the awards.

Let us in this debate talk about the amendment that is before us—not the amendment that might have been before us in the ACA.

The AMA supports the amendment—frankly, somewhat tepidly. They would like to go further. But the AMA does support my amendment. Obviously, they think it would make a difference in being able to continue to provide health care for our American citizens.

Mr. President, the amendment I offer would make needed reforms to medical malpractice litigation.
There are few challenges facing this body that are more complex than improving the quality and affordability of health care in America. This week, we will have debated competing proposals to expand Medicare and create a prescription drug benefit. In the past year, the Senate has passed legislation to strengthen our Nation’s defenses against the threat of bioterrorism and provide new resources to the researchers at the National Institutes of Health. While all of these proposals are worthy of this body’s consideration, the Senate has not yet addressed one of the fundamental problems limiting the accessibility and affordability of quality care: reforming our Nation’s flawed medical malpractice system.

These reforms are essential to ensuring that quality health care is available and affordable to all Americans. After all, what good is a Medicare drug benefit if you can’t find a doctor to write a prescription or a pharmacist to fill it? Our current medical malpractice system encourages excessive litigation, drives up costs, and literally scares care-givers out of the medical profession. All too often, these lawsuits result in verdicts that insurance companies settle out of court. Since 1995, the median amount awarded in medical malpractice cases has grown from $350,000 to $500,000 in 2000. These escalating settlements might make one wonder, “Are our doctors, nurses and hospitals twice as negligent as they were just 6 years ago?” The answer is, of course, no: the doctors haven’t gotten worse, but the system has. In fact, plaintiffs only won 38 percent of the medical malpractice claims that went to trial, essentially the same as it was in 1995, 35 percent.

This is particularly true in rural areas of this Nation. While many doctors in more urban and suburban areas are willing to set up practices in rural areas, they cannot forgo malpractice insurance because their premiums are increasing 13 percent each year. Let me be perfectly clear, I am not talking about a thirteen percent increase over seven years, these premiums are increasing 13 percent EVERY year.

This may make people wonder, “Why should I care about how much doctors pay for malpractice insurance premiums?” The answer is access. Doctors are less likely to provide those services for which they are likely to be sued. This is particularly true in rural areas of this Nation. While many doctors in more urban and suburban areas are willing to set up practices in rural areas, they cannot forgo malpractice insurance. Therefore, many doctors are forced to establish practices in more urban and suburban areas where they can earn the fees necessary to cover their malpractice premiums.

Today I offer the same amendment the Senate agreed to in 1995. For the benefit of my colleagues who have joined the Senate since we last debated this issue, my amendment would do the following: The McConnell amendment would limit punitive damages to two times of compensatory damages, economic and non-economic. This provision would help end the litigation lottery, where punitive damages are awarded out of all proportion to the underlying conduct. The threat of being unreasonably held responsible for millions and millions of dollars in damages hangs like the sword of Damocles over the heads of our medical professionals.

My amendment would eliminate joint liability for non-economic and punitive damages. As a result, defendants would only be liable for their own proportionate share for the harm that occurred. It is unfair for an injured person to be put liable for his injury, and his doctor to responsible for only 1 percent, yet the doctor has to pay for all of the damages. The amendment places modest limits on attorneys’ contingency fees in medical malpractice cases. Specifically, the amendment would only allow personal injury lawyers to collect 33 percent of the first $150,000 of an award and 25 percent of the award on all amounts above $150,000.

My amendment encourages States to develop alternative dispute resolutions mechanisms to help resolve disputes before they go to court. As I noted earlier, the amendment I offer today is the same one that the Senate considered in 1995. Unfortunately, as we all know, it is impossible to pass contentious legislation in this body without the 60 votes necessary to invoke cloture. Therefore, in the interests of preventing a filibuster against the larger product liability bill, I withdrew my medical malpractice amendment, and it has never been signed into law.

In 1995, the Senate considered our medical malpractice system to be so flawed that it required the federal government to enact limits on the contingency fees charged by personal injury lawyers and punitive damages. In the period since then, the system has gotten worse, not better.

I might not be so passionate about enacting medical malpractice reforms if these lawsuits were an accurate mechanism for compensating patients who had been truly harmed by negligent doctors. Unfortunately, the data shows just the opposite. In 1996, researchers at the Harvard School of Public Health performed a study of 51 malpractice cases which was published in the New England Journal of Medicine. In approximately half of those cases, the patient had not even been treated by the physician who was sued. The doctor settled the matter out of court, presumably just to rid themselves of the nuisance. In the report’s conclusion, the researchers found that, “there was no association between the occurrence of an adverse event due to negligence or an adverse event of any type and payment.” In everyday terms, this means that the patient’s injury had no relation to whether or not they received payment in their malpractice case.

While the research showing that litigation’s effectiveness at compensating the injured hasn’t stopped the personal injury lawyers from rushing to the courthouse to file more lawsuits, the jackpots in the personal injury lawyers’ litigation lottery have increased dramatically since we considered this issue in 1995. As my first chart shows, the Jury Verdict Research Service reports that the median award made by a jury has more than doubled since 1995, from $474,000 to $1,000,000 in 2000. Not surprisingly, the increase in jury awards has led to a similar increase in the dollar value of settlements reached out of court. Since 1995, the median settlement has increased from $350,000 to $500,000 in 2000.

These escalating settlements might make one wonder, “Are our doctors, nurses and hospitals twice as negligent as they were just 6 years ago?” The answer is, of course, no: the doctors haven’t gotten worse, but the system has. In fact, plaintiffs only won 38 percent of the medical malpractice claims that went to trial, essentially the same as it was in 1995, 35 percent.
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urance from $23,000 to $88,000. Now, ex-
282 percent increase in malpractice in-
was forced to close its obstetrics pro-
Community Hospital in Atmore, AL,

This problem is not limited to Ken-
tucky. On July 1 of this year, Atmore Com-
was forced to close its obstetrics pro-
gram because it could not afford the 282 percent increase in malpractice in-
surance from $23,000 to $88,000. Now, ex-
cepting mothers must travel either to the hospital in Brewton, AL, 30 miles
away, or to the big city hospitals in Mobile or Pensacola. That’s more than an hour and a half drive.

Nor is the problem limited to the South. The administrators at Copper Queen Hospital in Atmore
AZ were recently forced to close their maternity ward because their family
practitioners were looking at a 500 per-

In New Jersey, the director of Obstet-
ics at Holy.name Hospital at Hopkinton
was forced to lay off six em-
employees from his practice when his
malpractice premiums doubled. He told
the New York Times “The issue is, we
can’t stay open. It’s going to restrict access to care. It’s going to change the way OB is delivered to the population, and they’re not going to like it.”

While our flawed medical mal-
practice system may be hitting obstet-
icians particularly hard, it is nega-
tively impacting nearly every aspect of the medical profession. Many radiolo-
gists in Georgia are no longer reading mammograms, Atlanta Business
Chronicle, 6/21/2002, because of the li-
ability associated with the service. These doctors only make up 5 percent of a radiolo-

However, no one should be fooled into
thinking that this medical malpractice cri-
se is limited to the small hospitals of rural America. Perhaps the most
publicized case involves the closure of the trauma unit at the University of Nevada Medical Center, UMC. Trauma centers are classified as “super emergency rooms” because they are
staffed with highly trained sur-
gers and specialists who are qualified to treat the highest risk cases. Nearly
all of the highly skilled surgeons and specialists at the UMC trauma unit decided they could no longer risk the
liability exposure and resigned. UMC’s director Dr. John Fields ex-
plained that, “We want to be here, that’s the sad thing. These physicians
want to take care of patients, but they are withdrawing from high-risk activi-

What does the closing of UMC’s Trau-

I would like to read from a recent
article that appeared in the Allentown Morning Call.

Thomas DiBenedetto is a marked

He feels the bull’s-eye on his back
every time someone is wheeled into Le-
High Valley Hospital’s emergency room
with broken, mangled bones.

Now, I am tempted to take issue with
Senator MCCONNELL had two speech-

He won all four cases. Yet, his mal-
practice insurance costs this year went
up nearly a third, to $44,000. Even
though his record is clean, he expects
the bill to continue to climb.

Now, I am tempted to take issue with
the AMA and the National Association
of American Physicians, which have crossed the line from having serious problems to being
in a crisis. I know how bad the situa-
tion is in Kentucky, and I think Ken-
tucky ought to be listed as a crisis State. I noted the closure of the Corbin
Family Health Center earlier, and we
deed daily reports of how Kentucky phys-
cians are packing their medical bags
and heading to Indiana, which has
more reasonable tort laws.

For those doctors who are
such as was spent on the Medicare
Home Health benefit. I don’t think
anyone would argue that these dollars
be better spent improving pa-
ient care rather than lining the pock-
ets of the personal injury lawyers.

I will be the first person to admit
that the reforms I propose today are
modest. As many of my colleagues
know, I have authored even stronger
reforms contained in free-standing leg-
islation, the Common Sense Medical
Malpractice Reform Act. Our con-
ation’s health care is staring down the
barrel of a medical malpractice cri-
sis, and it must be addressed soon.

Pennsylvania has faced a similar cri-

Mr. DURBIN, Mr. President, par-
liamentary inquiry: As I understand it,
to promote a time frame in terms of the
allocation of time.

The PRESIDING OFFICER. We are
under a time agreement. The time is
limited and under the control of the
Senator from Kentucky and the Sen-
ator from Massachusetts.

The Senator from Tennessee.

Mr. KENNEDY, Mr. President, I
think we were trying to go back and
forth. I know the Senator has to leave.
I don’t know what the Senator’s time
limitation is. Could he take 7 minutes?

Mr. FRIST, Mr. President, I have
a time constraint. I have been on the
floor since last night waiting to make
my opening statement.

I would be happy to yield 3 minutes,
if the Senator has to make an airplane
or something.

Mr. KENNEDY, Mr. President, I
want the record very clear—then we are not
from side to side? I thought we
were going from side to side. I with-

(Laughter)

Several years ago the Hudson Institute
conducted a study in which it esti-
mated that liability costs added $450 to
the cost of each patient admission to a
hospital and accounted for 5.3 percent
of their medical expenditures. In 1994, the Towers-Perrin Research firm esti-

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when their insurance company. The St.
Paul Cos., decided to leave the medical malpractice business, Corbin Family
Health’s doctors lost their coverage.
The remaining few insurance compa-
nies that were willing to provide cov-

We have followed the side-to-side rule. Now we are making it clear that on this legislation we no longer have to follow it. If that is the way it is going to be—we have respected that since the start of this debate. This is the first time I have been on the floor for 7 days that we have not done that.

I am prepared to yield to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee has the floor.

Mr. FRIST. How much time has been used by each side?

The PRESIDING OFFICER. The Senator from Massachusetts has used 23 minutes. The Senator from Kentucky has used 11 minutes.

The Senator from Tennessee.

Mr. FRIST. Mr. President, I want to change the topic and focus where I believe the impact is most being felt today. It really has not been discussed on the floor thus far; and that is, at the level of the doctor-patient relationship, at the level where care is actually delivered. We heard a lot about the budget numbers and the insurance company rates increase, but what I would like to do is focus on where the impact actually is.

Yesterday, I was at a hospital, not as a physician, but I was there with someone in my family. I was in an emergency room 2 nights ago and then yesterday. Again, I was not there as a doctor or as a U.S. Senator. It was a local hospital, George Washington University Hospital. On a side table, I picked up a newsletter. Again, it was not intended for me. The newsletter is called the “GW Medicine Notes.” I have it in my hand. It is written by their medical staff for their medical staff and, I guess, for people in the hospital. The letter is from the chairman, Dr. Alan G. Wasserman. The whole front page really tells the story that much of the debate will be about today and on Tuesday.

I will open with just one sentence or two sentences from this letter, again not intended for me, but to really express the sentiment, the impact of what is happening all across America because what we are seeing today is, indeed, a crisis.

The words, again, from Dr. Wasserman, in what is called the “GW Medicine Notes,” a monthly publication of GW, the George Washington Department of Medicine:

What we now have is a runaway train that isn’t stopping. The malpractice problem is not just a physician problem. It is beginning to affect the ability of patients to get proper care in a timely manner.

I may refer back to this letter because I found it fascinating, sitting there yesterday waiting for an MRI scan, just to see the sentiment that patients are actually being hurt. When I saw the words: “What we have is a runaway train that isn’t stopping.” the imagery I think, is very appropriate.

We cannot do little things. This train is barreling through, and patients are being hurt. Forget all the rhetoric, the dollars and cents, the bad insurance companies and the profits. Patients are being hurt by the current tort system that we have in effect today. The good news is, there is something we can do about it, and it starts right here with this McConnell amendment that is on the floor today.

I want my colleagues to listen very carefully. I hope, in the expanded reach, people are listening, because we have an opportunity, in this amendment, to change the patient care, and to reverse this runaway train, which is hurting patients today.

How can I say so definitively that patients are being hurt? You can look in the media. You can go into hospitals. I encourage everybody to ask their doctors. The next time you see your doctor or see a nurse or go into a hospital or interact with your health care system, just ask: What are these malpractice premiums doing?

We will talk a little bit about why premiums are going up.

What is being said around the country? Pick up the newspaper any day all across the country. Allentown, PA; Beckley, WV; Jackson, MS; Kansas City, KS; Jackson, MS. November 23, 2001:

Costs Lead Rural Doctors to Drop Obstetrics.

That is because of the cost of the malpractice insurance. OB/GYNs are refusing to deliver babies and are dropping obstetrics.

Allentown, PA:

CARE CRISIS: Malpractice premiums crippling doctors. The emergency has stricken physicians in southeastern Pennsylvania, forcing some to leave their practices and patients behind.

Beckley, WV:

The situation may be more acute in West Virginia than elsewhere, but doctors across the board and around the country are facing double-digit hikes in malpractice premiums, something many haven’t seen since the 1980s.

Kansas City, KA:

Insurance rates reach crisis level for doctors. Some physicians have been forced to leave practices.

Again, we are talking about access to health care and costs of health care.

Dayton, OH:

WOMEN’S HEALTH CARE CRISIS LOOMS . . . Rising malpractice premiums may force some doctors to stop delivering babies.

Buffalo, NY:

Soaring costs of medical malpractice insurance have caused fears among doctors that they will be forced to either quit their profession or practice in another state.

We all recognize this problem. I think both sides are going to state, again and again, that medical liability insurance premiums are skyrocketing. Why? The facts are there. We know it. We see it. Our physicians tell us why. We can look at what our insurance companies are having to charge today. The question is, why?

Medical liability claims and damage awards are exploding, and when they explode, that ends up being translated into increased premiums. People think those increased premiums are paid for by the doctor. When the doctor pays $50,000 or $100,000 in malpractice insurance, it is not really paid by the doctor, because the doctor is going to pass that onto the patient.

When you go to a doctor for a particular procedure part of that procedure is going to just buy the insurance. These costs ultimately increase premiums. First of all, increased jury awards are exploding, and when they are eventually passed back to the patient.

We saw a chart earlier today. Let me just show it again. It is not just in George Washington Hospital, where I happened to find this newsletter and talked to the doctors and nurses there, and not just at Vanderbilt but all throughout the local and national medical community. The problem is all over the United States of America.

This is from the AMA. Basically, it outlines, in red, the States that are in crisis. You can see, it is not just on the east coast, and it is not just in the South, and it is not just in the Northwest. Shown in red are States in crisis: New York, Pennsylvania, Texas, Nevada and Washington. Shown in yellow, including my home State, are States with problem signs. As these rates increase 15, 16, 17 percent, sometimes 20 percent, sometimes 30 percent, they will force more States into the red unless we act.

The end product of all this, all those articles, the end product of the newsletter—this is what is circulating in hospitals and clinics all over the United States of America—is that patients are suffering.

Why do I say that? No. 1, access to care. It is not just a matter of the costs, but it is access to care. If you are in a motor vehicle accident and you need a trauma center, we have seen centers close. These escalating, out-of-sight, skyrocketing premiums, which no longer can be tolerated. If you are one of those individuals who needs that care, the access is not there, and you are going to be hurt.

If you need an obstetrician—in many ways, it is a woman’s issue—and your former gynecologist-obstetrician is one who gave that interest in delivering babies because the malpractice insurance was so high, your access to obstetrics care, the delivery of babies, and the prenatal and perinatal care all of a sudden disappears.

Why? Ask your obstetrician. It is because the malpractice insurance has gone sky-high, from $10,000, $20,000, $30,000, $50,000, $100,000 up to $150,000, and it can no longer be sustained over time.

So physicians are dropping services. They have no choice. They are moving away from procedures that have a higher challenge rate because of the risk of the procedures. But if you are one who needs that procedure, you suffer from a lack of access to care. Those procedures that are a little bit higher
risk, physicians are beginning to leave and not do them.

We have had letters read about malpractice insurance. All of us understand that malpractice insurance needs to be addressed. It is the only way to improve this system. Malpractice does occur. There is nothing in his amendment that lowers the standards in any way in addressing true malpractice.

My colleagues who are physicians are now demanding action by Congress. Why? Because they took that Hippocratic oath to take care of patients, to do no harm. To illustrate this runaway train concept that Dr. Wasserman mentioned in his newsletter, things are at a crisis. We have level 1 trauma centers across the country. They are not closing permanently but closing for this very reason—not for a whole broad range of reasons of cost increases but for this very reason—the high costs of liability insurance.

A level 1 trauma center is a big deal. It is not just an emergency room, and emergency rooms are terribly important, but it is not just an emergency room that sutures cuts or takes care of serious headaches. This is where you go if you are in a severe motor vehicle accident, have severe head trauma, multiple injuries, bleeding in the abdomen. This is where you go where you have trained specialists 24 hours a day to save your life. That is what a level 1 trauma center is.

The only level 1 trauma center facility at the University of Nevada Medical Center closed on July 3 after 57 orthopedic surgeons basically resigned because medical malpractice insurance rates make it too costly for them to treat high-risk patients.

Luckily, fortunately, the trauma center re-opened when the surgeons agreed to return for at least 45 days. People can look at that case and say it was for this reason or that. The bottom line is, we have a group of people in a community who took an oath to take care of patients, but basically said this is such a severe, fast-moving, heavy, runaway train that we can’t sustain what we do professionally because of this crisis.

This particular trauma center is one of the 10 busiest in the country and is the only one in Las Vegas. When it closed, the nearest trauma center was roughly an hour and 20 minutes away. That means patients with severe injuries are not treated immediately, and patients can’t afford increased in health care costs. We have known that for a long time.

Now what is happening, the actual care expected by the American people and that the American people deserve is less available. We call it less access. But whether it is a trauma center closing, whether it is a woman who wants to keep her obstetrician, but the obstetrician is no longer in her area, or a doctor delivering babies because of these premiums, because of these excessive lawsuits, these frivolous lawsuits today, he can’t afford his old specialty that he was trained to do. Then there is the third reason. You have physicians leaving parts of the country. Basically, some parts of the country, these red areas where you have this crisis level, malpractice insurance has gotten so high that a physician can either quit—and they are doing that—they have no choice. Ask your physicians.

Mr. MCCONNELL. Will the Senator yield?

Mr. FRIST. I am happy to yield.

Mr. MCCONNELL. In response to his observation, what is happening in my State is they are going across the river to Indiana which, as you will note, is a State which has modest caps on recoveries, therefore, has a higher panel. Mr. FRIST. I thank the Senator from Kentucky. He is exactly right. We have people moving from a yellow State, such as Kentucky, to a white State. The white means States that are currently OK. You take California. I will come back to California and comment on that. We have people from Mississippi, that already has fewer physicians, moving up to Tennessee. And who knows, they may end up moving to Wisconsin or Indiana or out to California for the same reason.

What is important, in response to the Senator from Kentucky’s question, is that physicians are making decisions not on places they either like to practice to deliver the care they are trained to do, but rather making decisions because of this exorbitant, runaway train. It is almost like a litigation lottery, malpractice lawsuit premiums that they have to pay. They tell you that. That is the reason they are moving.

So we have the cost issue. We have the specialty issue. We have physicians changing specialties, not because of their individual practice, what kind of care they are giving, but because the premiums that high-flying obstetricians versus gynecologists. Obstetricians deliver the baby; the gynecologists takes care of many other women’s issues. Then you have the geographic movement to other States.

There is a reason for all of this. It is a litigation problem. We need to fix the problem, and it can be fixed. The numbers are staggering. Between 1995 and the year 2000, the average injury award jumped over a 5-year period more than 70 percent, to $3.5 million. That is the average. Most of the $3.5 million injury awards today top $1 million of all the awards. The payouts aren’t the only problem.

Simply defending a medical malpractice claim, whatever the claim is, is more than $20,000, whether or not the doctor is at fault or the hospital is at fault. So there is an incentive through these exorbitant contingency fees where the trial lawyers, the personal injury lawyers, may make 40 percent. If there is a jury award, the trial lawyer, the personal injury lawyer gets 40 percent of the cut. Thus the personal injury lawyer has the incentive, the economic incentive to go out and engage in lawsuits, in frivolous lawsuits.

Each one of those which comes forward, no matter what, just to defend costs at least $20,000. In 2001, physicians in many States saw their liability premiums increase for these frivolous lawsuits, excessive lawsuits that go to the millions and millions of dollars, with the trial lawyers taking off 40 percent—and Senator MCCONNELL’s amendment addresses this contingency fees. We need to directly put some sort of control on the incentive that trial lawyers have to dig up these cases, then the physicians, because of the tremendous cost, whether the case is frivolous or not, they tell their insurance companies settle these suits. Why? Because they don’t want to be tied up in a court. They want to deliver care. That is what physicians are trained to do. That is what they are obligated to do.

The solution: Intelligent, reasonable tort reform, sensible reform with fair and equitable compensation for those negligently injured. California has addressed this. Hopefully, over the next several days or hours we will address that. We have experience in California. For the same reason, California put very reasonable controls and caps and incentives addressing things broadly, and they have been able to control their costs. So we know it can be done.

I see my time is about over. I look forward to coming back Monday to talk a little bit more about this issue. The bottom line is, the McConnell amendment will help patients. That is what is about. Patients are suffering today. We know reform works. We have seen it in California, in those States that have been progressive enough to do that. Now we have a duty to make sure these red States become yellow States and eventually become white States where we don’t have this crisis today.

Sensible tort reform works. Let’s act now to protect patients, their accessibility to quality care, the premiums that physicians have to pay which are ultimately translated down to cost to that individual patient.

I urge support of the underlying amendment.

Mr. MCCONNELL. I thank the Senator from Tennessee. He has a unique perspective as the only physician in the Senate for lending his voice to this most important cause. I might say to my friend, to those on the other side of the aisle, we may or may not win Tuesday morning, but this is not going
away. We will be back, and we will some day address this problem because it is a national problem. Some on the other side will argue for States rights, which I always find interesting coming from very liberal Members of the Senate, that somehow this is not a national problem. I intend to outline in my full remarks exactly why it is a national problem and can only be corrected at the national level. I thank my friend for his outstanding comments this morning and look forward to continued discussion.

Mr. FRIST. Mr. President, I ask the Senator from Kentucky to allow me to enter three sentences in the Record, and then I will close. First, I thank the Senator for his comments. This does give us an opportunity to point to the fact that this is a national crisis that has to be addressed. We have an obligation to address this crisis.

Dr. Frank Boehm, who is a good friend of mine, writes a newspaper article in the Nashville Tennessean. Though I do not have one of his articles, I can only feel good from what is going on around the State of Tennessee and around the country and is also one of the preeminent high-risk obstetrical doctors in the United States of America. I communicated with him the other day. I close with two or three sentences of what he said. He sees a lot of these high-risk cases coming through and reviews a lot of cases. He says:

What this has taught me is that doctors, hospitals and nurses are being sued in large numbers, in large part because of the possibility of a settlement or trial judgment of a large amount of money.

Then he talks about some of the things we can do, many of which are in the underlying McConnell amendment. He closes with this:

Doctors need tort reform and so do our patients. Many OB/GYN physicians leaving States to practice elsewhere, or just closing up shop, patients are suffering from a lack of access to medical care in many parts of our country.

That was in an e-mail in response to my question of what is the lay of the land.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I thank the Senator from Tennessee particularly for his fine observation. There has been an effort on the part of some—and I am sure we will hear it again Tuesday—to say this is about insurance companies. This is not about insurance companies. It is about doctors, and it is about patients.

The AMA does support the McConnell amendment. I ask unanimous consent that I have their support be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:


Re Medical Liability Reform Amendment
Hon. Mitch McConnell,
U.S. Senate, Washington, D.C.

DEAR SENATOR MCCONNELL: The American Medical Association (AMA) commends you for your leadership in initiating an amendment to S. 812 (“Greater Access to Affordable Pharmaceuticals Act of 2001”) that would bring several common-sense reforms to our broken medical liability litigation system.

Many states in our nation are experiencing an emerging medical liability insurance crisis. With isubstantial use of unaffordable medical liability insurance premiums are skyrocketing. In many cases, physicians are finding that medical liability insurance is no longer available or affordable. The media now reports on almost a daily basis that the situation has become so critical in some states that physicians are forced to limit services, retire early, or move to another state where the medical liability system is more stable.

The most troubling aspect of our unregulated medical liability system is the effect on patients. Access to care is being seriously threatened in 12 states, including Kentucky, a crisis is looming. Emergency departments are losing staff and scaling back certain services such as trauma care. Many OB/GYN’s have stopped delivering babies, and some advanced and high-risk procedures are being postponed because surgeons cannot find or afford insurance.

Your amendment includes key building blocks to effective reforms, such as allowing injured patients unlimited economic damages (e.g., past and future medical expenses, future of past and future earnings, cost of domestic services, etc.), establishing a “fair share” rule that allocates damage awards fairly and in proportion to a party’s degree of fault, preventing double recovery of damages, allowing periodic payment of future damages, and preventing excessive attorney contingent fees (thereby maximizing the recovery of patients).

In addition to these necessary reforms, we urge you to include a reasonable limit of $250,000 on noneconomic (suffering) damage awards, while allowing states the flexibility to establish or maintain their own laws limiting damage awards that have proven effective in stabilizing the medical liability insurance market. Multiple studies have shown that a limit on non-economic damages is the most effective reform to contain run-away medical liability costs. Such reform has also been proven effective at the state level. We also urge you to include a reasonable cap on punitive damages, such as the greater of 2 times economic damages or $250,000.

By enacting meaningful medical liability reforms, Congress can provide an opportunity to increase access to medical services, eliminate much of the need for medical treatment motivated primarily as a precaution against lawsuits, and stabilize the physician-relationship, help prevent avoidable patient injury, improve patient safety, and curb the single most wasteful use of precious health care dollars—the costs, both financial and emotional, of health care liability litigation.

The proposals in your amendment are an important step in the right direction to strengthen our health care system. The AMA looks forward to working with you regarding a reasonable reform on non-economic damages.

Sincerely,

MICHAEL D. MAVES, MD, MBA.

Mr. MCCONNELL. Mr. President, I see the Senator from Ohio in the Chamber. I will be happy to yield him such time as he may need.

Mr. VOINOVICH. Mr. President, about 10 minutes will do it.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise today as a Senator from a State that is on the edge of becoming one of those red areas on that national map. This Senator does not want his State to become one of those red States. I rise in strong support of Senator McConnell’s medical liability amendment.

The litigation tornado that continues to sweep the Nation does not seem to be losing strength. In fact, at the rate lawsuits continue to be filed, the only entity that stands to lose strength is our economy.

The cost of medical liability insurance has had an enormous impact on the rising cost of health care. Congress has the opportunity to 10 that more and more of my constituents are complaining that the cost of insurance is so high that they can no longer afford to buy it. In particular, the effect of rampant litigation has really had a disastrous impact on the health care industry. When a pharmaceutical company decides not to develop and produce a new drug because the cost of possible litigation could erode any profit, who really loses?

When physicians choose not to perform certain procedures, such as delivering babies, because malpractice insurance rates are too high, who loses?

Even worse, when a physician stops practicing medicine because he or she no longer can afford the insurance premiums or is so fearful of malpractice being filed against them, who loses?

Recently, the American Medical Association released new data which found that medical liability has reached crisis proportion—I underscore “crisis proportion”—in 12 States. One of those 12 States is Ohio.

In addition, the American College of Obstetrics and Gynecology, the ACOG, issued a red alert and warned that without State and Federal reforms, chronic problems in the Nation’s medical liability system could severely jeopardize the availability of physicians to deliver babies in the United States of America.

The good news for Ohioans is that Ohio did not make the ACOG’s list of nine hot States, those in which a liability insurance crisis currently threatens the number of physicians available to deliver babies.

The bad news is that Ohio is only one step short of that mark. It is one of three States where a crisis is brewing. In fact, signs of the crisis are already beginning to show. Currently, in Hancock County in northwest Ohio, they have only one physician to deliver babies. Think about it, a county with a population of
over 70,000 people has 1 physician to deliver babies. He has indicated that if his insurance premiums continue to climb at the current rate, he will have to close up shop.

That sounds like a crisis to me, and I am like a campaign volunteer. The women in Hancock County who need someone there to deliver their babies.

I believe this amendment that Senator McCONNELL has before us gets us on our way to enacting meaningful medical liability reform. It limits the attorney’s fees so that the money awarded in court goes to the injured parties, who are the people who really need the money. It also allows physicians to pay any large judgments against them over a period of time to avoid bankruptcy and requires all parties to participate in alternative dispute resolution proceedings, such as mediation or arbitration, before going to court. It limits punitive damages to twice the sum of compensatory damages. These are all reasonable and commonsense approaches.

One of the growing areas in the legal profession is mediation and arbitration. In fact, the Michael Moritz School of Law at Ohio State University, of which I am a graduate, is one of the leading centers of that initiative in the legal profession.

When I was Governor of Ohio, I joined the chief justice of the supreme court and wrote to all the businesses in our State encouraging them to agree to mediation and arbitration in order to reduce litigation costs and, frankly, improve the economic environment in our State.

Why shouldn’t we do this in medical malpractice cases? Doesn’t it make sense? Providing a commonsense approach to our medical liability problems is certainly a win-win situation. Patients would not have to give away large portions of their judgments to their attorneys and physicians could focus on doing what they do best: practicing medicine and providing health care.

I know there are differences of opinion about how to approach this, but we do have a crisis in this country. If those who are opposed to Senator McCONNELL’s amendment are concerned about this problem, then it would serve us well to sit down and figure out some way we can address this problem. We need to do it now, not tomorrow, not next month. I can tell you, we do not do nothing about this problem, we are going to see more and more people in this country do without medical care. We are going to see a lot more of our physicians dropping out of the practice of medicine. And we will have something we have never experienced in this great country, and that is a health care crisis.

I thank the Chair. I yield back any time to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I thank the Senator from Ohio, who represents one of those red States in crisis, for his important contribution to this debate. I thank him so much.

Mr. President, I ask unanimous consent that Senator Frist be allowed to control the remainder of the time we have for the morning on this issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Tennessee.

Mr. FRIST. Mr. President, how much time is remaining on our side?

The PRESIDING OFFICER. The Senator has 50 minutes under his control. Mr. FRIST. And the other side?

The PRESIDING OFFICER. Sixty-seven minutes.

Mr. FRIST. Mr. President, I mentioned in comments a few minutes ago the fact that I was in the hospital yesterday and two nights ago with a family member and I will go there in a few minutes. Being there as a patient’s family is a different perspective than being there as a physician or Senator. As one walks and sees people working hard, day in and day out, 24 hours a day, as one watches the shift change at 7 or 8 at night, fresh people coming in and starting, and see physicians coming in at 9, 10 at night, starting early in the morning, seeing in the emergency room and trauma centers going on around-the-clock, when one sees that and recognizes that we can do something that will make that better when the trends, especially in the last 3 to 4 years, are getting worse, it makes one feel very passionately about that.

When I see doctors leaving the practice of medicine for this reason, these exorbitant, skyrocketing, out-of-control—this runaway train which I mentioned earlier, such good imagery—it makes me want to passionately come to this body and make sure that people understand, make sure that my colleagues understand, that physicians are leaving the practice of medicine because of these exorbitant malpractice suits.

A physician who gets up every morning to take care of patients who come through that door is being charged $100,000 not for what they do but to cover the legal system and these out-of-control malpractice suits, which I will say are in many cases driven by the trial lawyers, there is no question in my mind, and if you talk to people broadly they will say lawyers have the incentive.

When one sees that happening and sees that patients are going to suffer, they want to act. That is what this McConnell amendment allows us to do, to do something that does not solve the problem; it does not go as far as I want to go. As the Senator from Kentucky said, does not go so far as the American Medical Association, which represents so many tens of thousands of doctors, would go, but it is a first step. It puts the issue back on the table, and I suspect we ought to talk about this issue in this body.

It has been 7 years since we have actually addressed this issue, an issue that patients are being hurt by, that is driving physicians out of the practice of medicine, that is driving physicians from Kentucky to Indiana, from Mississippi to Tennessee, out of New York City, out of New York, out of Texas, out of Florida, that is driving the price of insurance premiums up and will not care up. It is unnecessary. In fact, it is hurting patients unnecessarily; it is not helping patients.

If there is malpractice, there needs to be appropriate punishment. There needs to be appropriate economic compensation. It needs to be fair. It needs to be equitable. But these skyrocketing lawsuits, many of them frivolous, need to be brought under some sort of moderation and some sort of control.

I mentioned that Dr. Wasserman, who is chairman of the Department of Medicine at George Washington University, who is in the hospital working right now—we did not even really talk about this specifically in any detail, but in the newsletter he earlier, which is pretty good reflection of what is going on in every hospital around the country, it is important for my colleagues to know that sentiment.

In that same newsletter, I read one sentence earlier saying that what we are facing, in terms of this lack of tort reform, a medical liability crisis being a runaway train, a beautiful analogy. He said, and I quote from the second paragraph of the letter:

Malpractice rates are increasing at a rapid rate, as this nation’s insurance companies are going out of business, refusing to write new policies, or raising rates 50 to 200 percent.

People say, why? Some say it is the bad insurance companies that are making profits and taking advantage of people broadly, and that is where the problem is. Well, I disagree. It may be part of the problem that may need to be addressed, but the fundamental problem is the frivolous lawsuits, with no sort of restraint, with out-of-control incentives for the personal injury lawyers to take a 40 percent cut, to increase the number of cases, to bring these suits, again with no limits, no caps, not a $100,000 cap, a $500,000 cap, a $1 million cap, $5 million cap or $10 million—it does not matter what it is, they take away 40 percent of whatever it is so they are going to drive it high.

The McConnell amendment stops short of what I would really like to do, and it does not have any sort of limitation of payments. It looks at limits on attorney’s fees, establishes proportional liability, looks at both scopes, such as collateral service reform, which we will be able to talk about, but it is a good first step.

Dr. Wasserman, in his newsletter—and this will be the last time I will quote from it, but it captures it—says: Be patient. There is a coming crisis. Already, there is a shortage of physicians, there is a shortage because people do not want to come in certain areas. Do not try to have a baby in Las Vegas. There are no obstetricians. Try to find a rheumatologist...
in Florida in the winter with less than a 3-month wait.

At some point, this will be politically important when more people are denied immediate access to health care, and then maybe change will come.

That hurts us in many ways, because it basically says we do not have the guts to face an issue that is not just dollars and cents and profits and all of this class warfare that we hear about, but also that is hurting patients, where the patients suffer.

The example is right before our eyes, and I do not see how we cannot address it. The example I mentioned earlier in the great State of Nevada, where physicians actually had to close down a trauma center, a level-1 trauma center, which is sophisticated care that can be delivered adequately in no other way, and if you are in that automobile accident, your care is in jeopardy. It does not have to be that way if we pass this amendment, continue the discussion, again, hopefully improve and strengthen this amendment in the future.

This is not going to go away. It is getting worse. It is getting worse before our eyes. We last talked about it on this floor 7 years ago. This is the first time since then. That is inexcusable. I mentioned the level 1 trauma center having to close, leaving patients for that period of time if they were in an accident having to go an additional hour and a half for proper care.

Let’s look at the obstetricians and gynecologists. Again, as I mentioned earlier, a very high percentage of obstetricians are trained to do gynecology, women’s health issues. An obstetrician’s practice is to deliver babies. It is a good example because as these doctors’ insurance premiums go sky high, and when they go sky high, they have no choice but to pass it along to their patients— I cannot deliver babies anymore. I am going to change to the field of gynecology.

Then the mom, who has been going to that obstetrician for 5 years, 10 years, 20 years, is going to have to change their practice, and I hear all the time: I am not delivering babies anymore, and the reason I am not is because I cannot afford that malpractice insurance. So then all of a sudden there is this problem with access to care affecting the individual. We talked a little bit about costs; we talked about physicians moving.

I again ask women all over this country to ask their obstetrician what is happening in gynecologic care today because of malpractice insurance.

Nationwide, I out of 10 OB/GYNs no longer deliver babies because of this high cost of liability insurance. Obstetricians are not just geographically moving but are leaving the practice altogether. Again, I can say that. I can go to a hospital and say that. I can say that as a Senator and as a physician. The best thing is for people to talk to their obstetricians and ask how this malpractice insurance impacts on them.

Earlier today we heard some comments about insurance companies, and I think on Tuesday we will have the opportunity to come back to that as well.

Much of my focus is on the individual patient and on the impact on the practice of medicine, which is very real. I do want to at least introduce the fact that these insurance companies, many of which claim they are mutual funds— and I will use the example of the State Volunteer Mutual Insurance Company in Tennessee. It is owned by the physicians in Tennessee.

Again, it is not a red State yet. It is on the verge of being a crisis State. Eighty percent of the physicians in Tennessee come together and have a mutual insurance company because they can have the input and they can try to keep the rates down in the very best way possible.

I will read from a letter, and I ask unanimous consent to have this printed in the RECORD, dated July 25, from the State Volunteer Mutual Insurance Company.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE VOLUNTEER MUTUAL INSURANCE COMPANY.


Hon. William H. Frist, MD, U.S. Senate, Washington, DC.

Dear Senator Frist: I am writing to urge you to support tort reform legislation currently being considered by the Congress.

Recent news reports, doctors and hospitals in a number of states are currently facing a true crisis in the cost and availability of professional liability insurance. These states include West Virginia, Pennsylvania, New Jersey, Florida, Nevada and Mississippi and several other states. Access to patient care in those states is being adversely impacted, especially in the area of pre-natal and obstetrical care.

While our situation in Tennessee has not yet reached the crisis experienced in those states, there is reason to believe that our state could well face the same sort of problems in coming years if we do not act now to make some changes in our civil justice system.

St. Paul Insurance Company, the nation’s largest writer of health care professional liability insurance, announced such losses that it announced last December that it was completely withdrawing from the market, adversely affecting tens of thousands of physicians who carried coverage with that company, some of whom were in Tennessee.

Professional liability premiums for doctors in Tennessee have been steadily rising in recent years. State Volunteer Mutual Insurance Company, which covers most practitioners in Tennessee, premiums have increased by 45 percent over the past three years, in order to keep up with rapidly escalating losses in medical malpractice lawsuits. Only approximately 4 percent of this 45 percent increase was related to lower investment yield, with the remainder being due to increasing medical malpractice losses. State Volunteer Mutual Insurance Company is a policyholder owned mutual company with no outside investors.

In recent years both juries and judges in Tennessee have made multi-million dollar awards for non-economic type damages, over and above economic losses. The average award has been $7,811 in economic loss but gave $2,650,000 in non-economic damages.

Awards in personal injury and wrongful death cases in Tennessee are dramatically increasing, according to the latest statistical report of the state’s Administrative Office of the Courts. In fiscal year 2001, even though few cases were disposed earlier than in the previous year, damages awarded statewide were more than $94 million. This represented an increase of more than $51 million over the previous year. The total was the largest since the courts began reporting these statistics. According to the same report, the average award for fiscal year 2001 was $259,284, up $56,965 from the previous year, the largest average since awards have been reported.

Senator Frist, doctors and hospitals in Tennessee are dedicated to providing excellent care to our state’s population but at a time when health care reimbursements are shrinking, and professional liability costs are dramatically increasing, doctors in Tennessee believe that the Congress should enact some common sense tort reform that will preserve citizens’ access to health care and compensate them for their actual economic and non-economic damages caused by negligence, while modifying the current system of unlimited liability that doctors and other health care professionals and institutions currently face.

Reforms modeled after California’s “MICRA” law make sense to me. California passed legislation in 1975 that helped solve a crisis in that state. It is my understanding that key provisions in California’s civil justice reform included the following:

$250,000 cap on non-economic damages; reasonable sliding scale for lawyers’ contingency fees; collateral source payment offsets; periodic payment of future damages.

I believe similar reforms on a national basis will go far toward alleviating the health care crisis now facing much of the country and will reduce today’s crisis from coming to pass in Tennessee.

Thank you for your attention and concern regarding this important issue.

Sincerely,

Steven C. Williams,
President and Chief Executive Officer.
Mr. Frist. The State Volunteer Mutual Insurance Company is a policyholder owned mutual company with no outside investors.

So I think they don’t have a huge incentive to go out and gouge the communities or patients. It is mutually owned by physicians throughout the State of Tennessee.

In the letter to me, I read further:

Senator Frist, doctors and hospitals in Tennessee are dedicated to providing excellent care to our state’s population. But at a time when health care reimbursements are shrinking, and professional liability costs are dramatically increasing, doctors in Tennessee believe that Congress should enact some common sense reforms that will preserve citizens’ access to health care and compensate them for their actual economic and non-economic damages caused by negligence, while modifying the current system of unlimited liability that doctors and other health care professionals and institutions currently face.
This letter was written by Steven C. Williams, president and CEO of the insurance company, but also representing 80 percent of the physicians in Tennessee, calling for sensible reform, for moderate reform, reform that does not go overboard. That is the McConnell medical malpractice amendment indeed does.

What is most important is what is happening to patients. Patients are suffering under the current system. It is a runaway train. We all know it is a problem. We have seen it in Las Vegas at the trauma center. We see it in various States. We go in our physician’s offices and hear it. The problem is getting worse. It is increasing in its impact and not getting better. That is why we call for action now.

The Tennessee Medical Association, in a letter dated July 24, 2002, to me:

We have a storm brewing here in Tennessee. While the waves are not yet crashing in on us, as in many States, including our next-door-neighbor, Mississippi, it most certainly is coming. Over the last two years, medical malpractice insurance rates have gone up 32 percent.

Of additional concern is that in Tennessee there is a very clear trend of increasing awards in medical malpractice cases. This is true, in a large part by a growing public perception and environment that likens the courtroom to a casino where there appears to be no limit.

That was Michael A. McAdoo, president, Tennessee Medical Association.

The medical liability premiums are skyrocketing. It is because the medical liability claims are exploding. It is because the awards are exploding. The problem is not limited to just the Northeast or the Southeast. But as you can see from this map, the medical liability crisis is all over the United States of America. It has to do with cost and access to care and physicians leaving their profession.

The problem is that we do means we have to identify the underlying problem and not just worry about the edges or tinker around the edges. I mentioned earlier, an average jury award over a 5-year period jumped more than 70 percent on average. When more than half of all jury awards top $1 million, we have this field of defensive medicine. That means physicians in the emergency room that I was in two nights ago, attending to a patient, are going to have a little bit lower in terms of terms of arts. Why? Because if that headache, which to your exam is just a routine frontal headache treatable by a doctor, if you do not get the CAT scan or MRI scan, the risk, although it is beyond the normal bounds of routine acceptance, a nurse, or a hospital is going to err on getting the expensive tests, although in your clinical judgment and using the practiced guidelines out there today, you do not need the tests. But you will get the series of more expensive tests that unnecessary testing.

Again, the American people pay for it. Those costs are unnecessary. They are there because of the fear of skyrocketing lawsuits, numbers of lawsuits, awards themselves. No one wants to be in that category. The best protection is to get the range of tests, although you may think they are unnecessary.

What is the effect on the doctor? In 2001, physicians in many States saw their rates rise by 30 percent, and even more. That is just physicians, generally. If you look at the specialists, such as obstetricians or possibly neurosurgeon or neonatal specialists, malpractice insurance is rising by as much as 200 percent, and in some cases 300 percent.

In New York and in Florida, obstetricians—the ones who deliver babies, gynecologists, and surgeons pay more than $100,000 for $1 million in coverage. That $100,000 they pay comes out of their pocket initially, but for them to stay in business and continue what they do, they take that $100,000 and divide it up among the ranks of the uninsured, the underinsured, the unrepresented. I do not know it to me, the people all across America. That is why this issue is so powerful today.

People for the first time realize one doctor out there, who took an oath to do no harm, to help patients, who trained 4 years in medical school, a year in internship, 5 years in surgical residency, 2 years in specialty training, and a year of fellowship, just to be able to help people, are having to pay $100,000, not to help people, but to protect themselves. That is absurd.

Ultimately, for them to stay in business it gets passed all the way back through the system to that individual patient. It may come in taxes. It may come for those who do not have insurance, and pay retail, who do not have any insurance when the overall prices in health care go up. If you do not have insurance, you are in trouble today because the overall price of health care is going up. And you will hear it, you will see it, you will read it. Look at the headlines. That is one doctor.

For annual premiums, some doctors in Florida and New York pay, again, above $100,000. That is one individual doctor. This is not a big corporation that pays this. It is not a big hospital paying it. These are individual doctors paying this money so they can fulfill that Hippocratic oath of doing no harm.

In Tennessee, which is not yet in the crisis mode, and is not considered to be in crisis, but it has problem signs today, the premiums rose 17.3 percent last year in 1 year. They will rise anywhere from 15 percent to 17 percent this year. What we need to do is ask why? Is there more malpractice today? Are physicians not as well trained this year. What we need to do is ask why? Are they not using the tests appropriately today in order to take care of patients? If so, we need to debate that issue and look at it and look at the data that is out there.

No. I think the dynamics are because of frivolous lawsuits, because the personal injury trial lawyers have a huge incentive, a huge financial incentive for themselves in order to bring cases forward, which puts physicians in a position where it is easier to settle these cases rather than going to court for 2 years, if you have the insurance. So there is this huge settlement, even if you do not have malpractice, even if you know that you are absolutely innocent. It is easier to settle for $1 million or $2 million in order to go back to the practice of medicine.

The system is broken, and it is getting worse. Can it be fixed? Yes. The McConnell amendment makes a first step there—intelligent, reasonable, balanced tort reform. It will help address it, but it will not solve the entire problem. It is not going to make it go away, but I can tell you, it will help patients because they will not have to be driven to the ER when there is no problem there. They will not have to go to see an ob/gyn, with whom they have the first baby and second baby, will not have left practice because of that malpractice insurance; because they will be able to see the neurosurgeon for the child who has a brain tumor because the ob/gyn, with whom they have the first baby and second baby, will not have left practice because of that malpractice insurance.

I mentioned earlier that today is different than 6 years ago when we last addressed this. It is not just different because the problem is getting worse. Ask the physicians, ask the people in the hospitals who are working there every day. Read the newspaper, and you will see that every newspaper is going to address this in a direct way. I think we need to go back and look at hard data that is out there today, in terms of what certain States have done and been able to accomplish and what other States have tried, and learn from that.

In California there is what is called MICRA, which is the Medical Injury and Compensation Reform Act. It became law in the mid-1970s. It is a good example of what works. When you look at States, other big States, you see a lot of them are in trouble. You see New York City is in trouble. If you are in New York City, talk to the physicians, ask them what has happened in terms of their last issues recently.

Look at Pennsylvania; it is in trouble. Look at Florida, look at Texas, where there is trouble. This is California in white, meaning they do not have a huge problem there. You do not hear it. I was in California this past weekend and probably talked to six or seven people in the medical profession at academic health care centers, and it is not No. 1 on their list for reform because they say it is not a big issue there.

Looking backward? In the 1970s, California passed MICRA—Medical Injury and Compensation Reform Act. California doctors and patients have been spared much of
the medical liability crisis that we see across the country today. I think it is a good surrogate measure, that California's premium, the premiums they are paying today, are among the lowest medical malpractice insurance premiums in the country. MICRA is the reason.

I have used this example of obstetricians and gynecologists, so I will keep going back to that. It is the reason that the obstetrician, the one who delivers babies in California, may pay about $40,000 for medical liability insurance where, if you took that same obstetrician—same training, same medical school, had done the same number of procedures, delivered the same number of babies as—and you put them in, let's say Florida or let's say New Jersey, or you put them in New York, the premiums—here, say, $40,000 for that insurance—it will be above $100,000, maybe up as high as $150,000. The same person, same training, same number of babies, same Hippocratic Oath—"Do no harm"—here paying around $40,000; in these red States, paying upwards to $150,000.

My colleagues have to ask why, but more important, the American people have to ask why. Is there less malpractice in California? I don’t think so.

Better trained doctors in California? I don't think so. The reason goes back to the tort system, the liability system.

In other States it has been allowed to run out of control, and that is why this McConnell amendment comes in. Again, we have not really talked about all the things that are in the amendment. We will have the opportunity to do that. But that is why it is important to go back and look at what is in the amendment. It doesn’t go very far. It doesn’t go far enough for me or, I think, for most of my colleagues in the medical profession.

But why does MICRA work? Why does this doctor with the same training pay so much less than these other States?

Let's look at MICRA. What does MICRA do? This is not the McConnell amendment. I don’t want to confuse the two, but it shows what commonsense reform in a State that was way ahead of the curve can accomplish. MICRA does limit attorney’s contingency fees to a sliding fee scale. This allows the patient, when there is an award, to keep the money.

If it is malpractice and you are trying to compensate the patient, to have the lawyer walk away with 40 percent of the money doesn't make sense to me. I don't think it makes sense to the American people once they really understand that. With this limiting of how much the attorney can take out of what is sent home by the jury to the patient, by limiting that in some way, you have some element of control of this runaway train which is hurting patients.

It is pretty simple. In my mind it is simple. If you look at how much a lot of these personal injury trial lawyers make today, especially in the environment where we are looking a lot more at the corporate world, the numbers are incredible. Ask, if you take the top 50 personal injury trial lawyers in America, what is their take? What do they make? When you talk about that, at what is their take? What do they make? When you talk about that, and you put it in the form of time.

If you are in the field of law, you would like to say, I am out just to save the world and do good. But when you take 40 percent of the take after a multimillion malpractice injury—first of all, I am within that is saying. And that is the reason why this is so important. It needs to be about the patient. That is whom you take the oath to serve.

It is hard for me to understand how you could have the huge contingency fees today when you hear physicians are leaving, they are not taking care of patients, they are being forced to close down trauma centers.

MICRA, patient statute of limitations on bringing a suit 1 year from discovery or 3 years. This is the California law. This ensures that a suit would be brought in a reasonable amount of time. It limits the, and it also keeps evidence and by convincing evidence.

We talk about economic damages and again this is sort of technical. The fact that an award to the person who has been injured. But it allows personal injury lawyers to collect contingency fees. Specifically, the amendment allows personal injury lawyers to collect 33 percent, or a third, of a $150,000 award, and about $25 percent of the amount above $150,000.

There is full compensation there. So, under MICRA, patients are fully compensated for their economic loss due to medical malpractice, and they are compensated for lost wages, and they are compensated for the medical care and the future costs of medical care.

I use California because we have not talked about it on the floor of the Senate. We haven’t talked about it in committee, because this whole issue has not been addressed. The bottom line is you can have reforms—which the majority of States do not have today, and that is the reason there is a role for this body to act—because the problem is well identified, and the problem is getting worse. The problem has not been adequately addressed—California and a handful of others have addressed it—so that we have an obligation to the patients.

The reforms in California have helped the patients. Injured patients receive a larger share of whatever award. If there is malpractice and there is an award, the patient can walk—hopefully, can walk—home with more of that award. In addition, these reforms have helped slow down the overall rising cost of medicine.

There is no question in my mind that physicians are practicing defensive medicine, which the physicians have to practice, and this drives up the overall cost of health care today.

We talk a lot about prescription drugs, about the importance of generics, about the importance of coverage within Medicare, about having a competitive system—all of which we hope will actually slow down the skyrocketing of medical care today. Indeed, the cost of health care in California has been slowed by the McConnell amendment, yet we have the arena of control, skyrocketing, runaway train costs in liability that other States have.

Mr. EDWARDS. Mr. President, will the Senator yield for a time question?

Mr. FRIST. I would be happy to yield.

Mr. EDWARDS. Does the Senator have an idea how much more time he would like?

Mr. FRIST. Probably 5 minutes, and then I would be happy to yield the floor.

Madam President, how much time do we have on either side of the PRESIDING OFFICER (Ms. STABENOW). Eighteen and one-half minutes.

Mr. FRIST. Madam President, let me take a couple of minutes, and then I would be happy to sit down and look forward to the opportunity to talk about all of this on Tuesday, which I believe is when we will come back to this.

The McConnell medical malpractice amendment does the following:

It limits the punitive damages. It limits punitive damages to two times the sum of what are called compensatory damages. Again, this gets sort of technical. We talk about economic damages and noneconomic damages. It allows punitive damages in those cases where the award has been proven by clear evidence and by convincing evidence.

I mentioned attorney fees. I am critical of that because I don’t understand what the money and the numbers at the injury trial lawyers walk away with so much money that has been awarded to the person who has been injured. But it does limit attorney fees.

The McConnell amendment places very modest limits on attorney’s contingency fees and medical malpractice cases. Specifically, the amendment allows personal injury lawyers to collect 33 percent, or a third, of a $150,000 award, and about $25 percent of the amount above $150,000.

Again, that is pretty modest from my standpoint. The fact that an award to somebody who has been injured is $150,000, it was malpractice, and the fact that a trial lawyer will take away $100,000, maybe up as high as $150,000.

Again, that is pretty modest from my standpoint. The fact that an award to somebody who has been injured is $150,000, it was malpractice, and the fact that a trial lawyer will take away $100,000, maybe up as high as $150,000.
the cause. Again, that is when it should be filed.

The McConnell amendment is modest. It identifies the problem. It gives us the opportunity to talk about the problem on both sides of the aisle. It does not include all of the measures I think are necessary to address this problem eventually. But it is a good first step in the right direction.

We have evidence that reasonable tort reform—and we can debate what reasonable tort reform is—if you think, again, the McConnell amendment is the first step. It doesn’t go quite far enough, but it is a good first step.

We know that by addressing this we are going to hold down health care costs which are skyrocketing. The premiums are going up 15 percent, 17 percent, and 20 percent—last year, this year and next year. That translates down to the patient. Those premiums are eventually going to be passed down to the patient. To my mind, there is no question what will happen when those premiums are eventually going to be passed down to the patient. To my mind, there is no question that everybody who has health care who pays for that will be paying.

On the access issue, the McConnell amendment is a simple amendment. I am convinced. Ask your physician, if you have the opportunity over the weekend. Somebody will put them in the ranks of the uninsured.

On the access issue, the McConnell amendment is a simple amendment. I am convinced. Ask your physician, if you have the opportunity over the weekend. Somebody will put them in the ranks of the uninsured.

We need to look at Las Vegas, and we need to look at the many examples which are in newspapers all across the country in specialty practice because of malpractice insurance, or leaving a State.

We have an opportunity to do something which protects patients and which improves their access and clearly stops the deteriorating access to quality care before this problem gets worse.

I urge support of this amendment and look forward to coming back to it over the next several days.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Madam President, I yield myself such time as I may use.

Let me say, first, from the discussion that we have been having all over America, and on the floor of the Senate for the last few weeks about trying to reinsert some responsibility and accountability because of the fundamental notion we believe in this country—everybody—every person, every company, big business, small business, and everybody in America—should be responsible and accountable for what they do, one of the reasons we have had such a downside in Wall Street lately is people have lost confidence in the responsibility of people who run some—I emphasize some—of the companies that have been on the front pages of the newspapers for the last several months. What they want us to do is reinsert some of that corporate responsibility. So we work very hard on that.

At a time when the focus is on trying to make sure we have real responsibility and real accountability in this country, the President yesterday went to my home State to do exactly the opposite. The President went to North Carolina to say: I am going to side with big insurance companies and against victims. I am going to say if a child who has been the result of bad care is trying to get some help for him and his family over a long period of time, I am going to put a limit on that. I am going to put a limit for a very simple reason: The big insurance companies and victims are going to have to pay.

Unfortunately, there is a pattern with this administration. Every time they have a choice between the interests of average Americans, kids, families, and people who do not have lobbyists in Washington, DC, representing them, on the one hand, and on the other hand, the interests of big HMOs, big oil companies, big energy companies, the drug industry, the pharmaceutical drug industry, and big insurance companies, on the side of those interests come into conflict with the interests of ordinary Americans, this administration consistently sides with the big interests. They have done it on the Patients’ Bill of Rights. They have prevented us from having a real and meaningful Patients’ Bill of Rights. While we try to protect families and patients, they side with the big HMOs. I think we are going to overcome it.

On preventing us from having a meaningful prescription drug benefit for senior citizens and doing something about the costs of prescription drugs in this country, on which the Presiding Officer has worked so hard, we know that is a fight between ordinary Americans and ordinary families who need these prescription drugs and the pharmaceutical industry. The President has stood with the big pharmaceutical industry.

On trying to do something about clean air in this country, the President and his administration have proposed weakening our clean air law—all in the interest of protecting his friends in the oil industry, in the energy industry, and against the interests of ordinary Americans.

So now he adds to that list, going to my home State of North Carolina, to say to the victims: I am going to make sure the big insurance companies of America are protected. At the end of the day, that is all this is about.

The proposal the President made is different from this amendment—which I will talk about in a minute—which is to impose a limit of $250,000 on some of the damages for children can be recovered against these big insurance companies.

For example, in the case of a child who may be born blind or crippled for life or a child who has to be taken care of by his or her parents every single day of her life, every day of the year for the rest of their lives, the President says: I am going to make sure the insurance companies don’t have to pay what they are obligated to pay to that family, to that child.

It is wrong. It is no more complicated than that. And the children and the families, who have been the victims, know it is wrong.

The President held a roundtable yesterday in North Carolina on this subject. How many victims participated in that roundtable? How many people whose lives have been destroyed and who need the help that the insurance companies is obligated to do for them participated? Everybody else was well represented. What about the people who don’t have lobbyists? What about the people who aren’t represented here in Washington by lobbyists? The families, the kids who are hurt by all this, were they at the roundtable? Were their voices heard?

I invite the President to come back to North Carolina, and this time, instead of talking to these powerful interests, I hope he will sit down with these kids who have been injured, these victims and listen to what they have to say, listen to what their lives are like.

One of the phrases that was used in the administration proposal was: You have these families who have won the lottery.

Well, I can tell you what the parents of a child who was a victim said yesterday from North Carolina. I know these people because I represent them. The parents said: Our little girl was born, because the child she has got, she couldn’t see, she couldn’t hear, she couldn’t walk. Every day of her life—7 days a week, 24 hours a day—we took care of her. And we loved her so much. There is nothing we wouldn’t have done for her. And then she died. And when we go to visit her at her grave, we don’t feel much like we won the lottery.

These are the people whom these kinds of proposals affect. These are people with whom we have to look at the consequences, even though they are not up here with powerful, fancy lobbyists representing them. They are the people we have to look out for. And they are the people who expect their President to look out for them. Unfortunately, he continues to stand with big insurance companies, with big pharmaceutical companies, with big HMOs. These people need his help. It is no more complicated than that.

Now, as to this amendment and the purpose of it, first, medical malpractice premiums constitute less than 1 percent of health care costs in this country. So think about the logic. The argument is, we are going to do something about health care costs in this country, and the way we are going to do it is to try to do something misguided—we are going to try to do something about medical malpractice premiums, which constitute about two-thirds of 1 percent of health care costs in this country.

First of all, it is the wrong place to start if you are going to do something
about health care costs in this country. If you want to do something about health care costs, you ought to do what the President said, and I and so many of us have tried to do—bring the cost of prescription drugs under control in this country, because that will have a real effect on health care costs. They are the driving force in rising health care costs in this country.

This is minuscule by comparison. So, No. 1, it is a misguided effort in terms of what it is focused on. No. 2, it will not stop these kinds of proposals—the President’s proposal yesterday in North Carolina, and this amendment, which is different—are proposals that impose limitations on recoveries for victims, for families, to try to get rid of some concepts in the law. They have been used in many places around the country. They do not work. They do not, in fact, have the kind of impact on insurance premiums that these people who are proposing them have said.

If you look at medical malpractice premiums in this country, and you look at the States that have these provisions that impose limits on the families, and then you look at the States that do not have them, the costs of medical malpractice insurance—I am looking for the year 2001 for internal medicine, for general surgery, for obstetrics and gynecology—are virtually identical.

That sounds logical. If you impose limits on what the victims and the families can recover, why does that not help bring the cost of the insurance down? Why does it not have an effect on premiums? Because logic would tell you it would because insurance companies have to pay less, theoretically. So, as a result, why don’t they lower the premiums? Because the insurance companies have nothing to do with this. That is the reason.

Then there is the company takes the money that they receive in premiums, and they invest it. Where do they invest it? They invest it in that same stock market in which most of the people in America are invested.

You can look at every time they start raising premiums. They come to Washington and say: There is a crisis; we have to do something about this; this is a serious problem; we have these outrageous awards for children and families. You have to stop it. The way to stop it is to cut off the rights of the victims. That is the way to stop it.

So why? Because they are not doing well in their investments. Every single time, when the stock market falls, and the insurance companies’ money that is invested is not bringing back a good return—in fact, they are losing money—they raise premiums.

Who has to pay those higher premiums? The health care providers. They are just as much a victim of this as the kids and the families who are victims of the bad medical care. The insurance companies are the ones that are responsible. You can look at it. It is as sure as the Sun is going to come up tomorrow, if they are doing well on their investments, the premiums stay relatively stable. When they are not doing well on their investments, the premiums go up. That is what this is all about.

While these kinds of proposals are aimed at reducing the rights of victims—which is what they are—and, what we ought to be doing is looking at what the big insurance companies are doing when they get unhappy with the results of their investments. That is what drives this.

If you look at what has happened in these States—the Senator from Tennessee talked about California at great length. California has some of the most severe limitations in the country on what victims can recover—severe limitations. They have been in place a long time.

So let’s look at what has happened in California. Between 1991 and 2000, over that about 10 years—a little less than 10 years—the premiums in California went up more than the national premiums. Why? Why? In the world, if they have got these serious limitations on recoveries—and they have been in place for years in California—why would their premiums go up? And why would they go up faster than in the rest of the country, many places which do not have these kinds of limitations? Because the rise in premiums, and what is happening in what insurance companies charge people around the country, is in direct relation to how they are doing in their own investments.

In some cases, it is an insurance company or the insurance industry that exists in a region. In some cases it is national, and in many cases, of course, it is connected to the international and the reinsurance markets, but it is clear as day that it is directly related to how they are doing in the stock market.

So this effort is misguided. Besides that, I do want to point out, though, that the Senators who are proposing this amendment to put limits on what victims can receive, even they are not willing to go as far as the administration is. The administration proposes a $250,000 limit on some damages for children, among others, who have a life-long disability as a result of bad medical care.

This amendment does not make that proposal. They are not willing to go that far. They know that when you put a limit on those kinds of recoveries, on those kinds of damages, it is like a laser directed at the most severely injured, and usually the youngest, because young children who have severe injuries for life, which they and their parents are going to have to carry for the rest of their lives—and you are limiting them to $250,000 in those kinds of damages. It is like a laser directed at those kinds of victims.

This amendment does not make that proposal. They are not willing to go that far. They know that when you put a limit on those kinds of recoveries, on those kinds of damages, it is like a laser directed at the most severely injured, and usually the youngest, because young children who have severe injuries for life, which they and their parents are going to have to carry for the rest of their lives—and you are limiting them to $250,000 in those kinds of damages. It is like a laser directed at those kinds of victims.

Instead, this proposal goes about it in a different kind of way. What this proposal suggests is a couple things: One, that we get rid of something called joint and several liability. Without going into too much detail about this, we believe in this country—and it is a law of the land for many years—that if you have a victim, whether it is a victim of criminal conduct or bad medical care, or somebody who has behaved wrongly, and you have a victim, the victim should not be held responsible for the damages that have been caused. Several people who caused it, they share the responsibility.

What this proposal says is, all right, somebody got hurt as a result of the bad behavior of a group of people. Always remember, you have an amount—has been lost by the victim. Let’s say it is $100,000 that has been lost by the victim. If that money has been lost, it is shared among the defendants. What we have always said in America is, if part of our law, the victim should never be the one held responsible for that loss. The loss doesn’t go away. The loss is always there; the damages are always there.

This proposal, if you have five people who are responsible, the victim, none of them can be required to pay more than whatever a jury determines is their percentage responsibility. But remember, these are all wrongdoers. So on one side of the equation you have the losses. On the other side of the equation you have the group of wrongdoers. The amount that has been lost does not change. Somebody has to be responsible for that. So are we going to say that the wrongdoers are responsible or are we going to shift some of that responsibility to the innocent victim?

That is what this proposal does. It says we are going to get rid of what is called joint and several liability, which allows you can call for one or all of the wrongdoers, and says instead, if there is a wrongdoer you can’t get to, for whatever reason, that part of the responsibility goes back to the victim. It violates what we believe in this country. It violates our fundamental notion of responsibility and accountability that the people who ought to be held accountable for are the people who did wrong, not the innocent victim. That is what is wrong with this specific proposal.

There are other proposals. The next proposal says if there is an award of something called punitive damages, then half of that money will go to the Government. Now, let’s talk about that in a real case. Let’s explain what the equation of that is.

To get punitive damages, the conduct has to be either criminal or very close to criminal. That is what is required in order for punitive damages to be awarded. So let’s say you have a teenager who is in America who looks at some of the bad conduct of this kind of criminal conduct. The jury awards these damages to that young girl. This is what this amendment says to that...
outside the halls of Congress represent. They count on us to stand up for them. As we go through these fights, we will stand up for them. This is one of them. How much time do we have remaining? The PRESIDING OFFICIAL. Forty-five and a half minutes.

Mr. EDWARDS. Madam President, I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICIAL. The Senator from Nevada.

Mr. REID. Before the Senator from North Carolina leaves, I would like to ask him a question or two. I am sorry I was not able to hear all of his remarks. Having tried a few cases in my day, one of the concerns I have about this tort debate is the fact that the insurance industry is the only one that I know of, other than baseball, that can sit down in a restaurant in sight of everybody or in some dark room, wherever they want, and knowingly and openly conspire to set prices. There is nothing wrong with that. That is because of the McCarran-Ferguson law passed during the depths of the Depression. They can do that. Let me give you an example. I want to show how unnecessary the debate is here in the Senate, first of all, this is something the States should be doing, as is happening in Nevada.

This coming Monday, the Nevada State legislature is convening in a special session to deal with medical malpractice. I may not agree with what the State legislature does or doesn’t do, but that is where this should be settled.

The State of Nevada is different than the State of North Carolina. We have all kinds of different problems with our torts than the Senator does.

I have two questions for my friend. First of all, do you think it would be a good idea for the Congress, after some 70 years, to take a look at McCarran-Ferguson to find out if insurance companies should be exempt from fixed prices, be exempt from the Sherman Antitrust Act? That is my first question.

The second question is, don’t you think that tort liability, whether it is medical devices, medical malpractice, or products liability, should be settled by State legislatures?

Mr. EDWARDS. The Senator asked two very good questions. First, I think it is a terrific idea for us to look at the insurance industry, its practices in general, and what effect McCarran-Ferguson has on those practices. The Senator describes a large part of the problem.

The Senator knows as well as I do, you can’t move in Washington without bumping into some lobbyist representing the insurance industry. They are so well heard and so well represented. I think it is a very good idea.

As to the second question, we have differences between us and California. These are the kinds of issues that ought to be resolved at the State level. We have always believed that. There is a little bit of an inconsistency for the administration that normally says these are matters that ought to be left to the States, we think it is a terrific idea for the States to make these decisions but in the case where they want to do something on behalf of the insurance industry, which is what this is, they want to take it away from the States; they want to do it at the national level.

What has historically been done in this area is the way it should be done, which is these are matters about State courts, how State courts handle these kinds of cases. They are in touch with it. They know what is happening in their individual States, what the problems are, and they can address them in a responsible and equitable way.

I thank the Senator for his questions. We reserve the remainder of our time. Madam President.

The PRESIDING OFFICIAL. Who yields time?

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICIAL. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICIAL (Mr. REID). In my capacity as a Senator from the State of Nevada, I ask unanimous consent that the order for the quorum call be rescinded.

Without objection, it is so ordered.

In my capacity as a Senator from the State of Nevada, I ask unanimous consent that the quorum call that will shortly be called for be charged equally against both sides for the time remaining.

Without objection, it is so ordered.

I suggest the absence of a quorum, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICIAL (Mr. SARBANES). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BENNETT. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business.

The PRESIDING OFFICIAL. The Chair would inform the Senator that it is the Chair’s understanding there is running time off of the allocated time on this amendment. I suggest to the Senator that he may want to use the time that has been allocated to his side on the amendment.

Mr. BENNETT. Mr. President, I ask unanimous consent that the case that I be allowed to speak with the time remaining.

The PRESIDING OFFICIAL. The Senator will be recognized and the time remaining on the amendment will be
The PRESIDING OFFICER. Without objection, it is so ordered.

**STOCK MARKET VOLATILITY**

Mr. BENNETT. Mr. President, I have been reading the popular press, as have most of us. As we watched the gyrations that occur in the stock market, I have been interested at the moment, I have been interested at the way people in the press have been portraying what has been happening. We have been told in the last few weeks that the market went down because President Bush's speech was not tough enough when he spoke to Wall Street. We have been told that the market went up because Chairman Greenspan's presentation to the Banking Committee was encouraging. We have been told that the market went down because the Banking Committee's bill on corporate governance was too tough and was frightening people. Then we were told that the market went up dramatically because the same bill was passed and people were reassured.

The consequence of all this is to demonstrate to me that the popular press does not have a clue as to why the market does what it does. They do not understand market forces, and they are looking for reasons with little or nothing to do with what happens in the market.

I will make a few comments about the market and what it is we might really do in Congress if we want to have an impact on the market and the economy.

In the short-term, there are two factors that we know about investors in the stock market. No. 1, they hate uncertainty. They hate a situation where they do not know what is going on. This is one of the reasons why they reacted to the recent scandals with respect to accounting: They did not have the certainty that they could depend on the numbers.

Now, as they are beginning to sort through some of the information we have, they are beginning to feel a slight increase in certainty in their reaction to the numbers. That is showing up in some of the stabilization in the market. It has nothing to do with what kind of a speech the President gives or how eloquent we are in the Senate.

No. 2, the market has a herd mentality in the short-term. If everyone is selling, we ought to sell. That is the reaction that brokerage houses have. They are those who say: We are contrarians; if everyone is selling, we are going to buy; we are out of the herd mentality. But they are in a herd mentality among the contrarians.

So there is no careful analysis of what is going on but a flight from uncertainty and a herd mentality, both of which rule the market in the short-term.

In the long term, however, which is what really matters, there are also two factors in the market we must pay attention to. No. 1, in the long term, the market is self-correcting. Errors of judgment are paid for on one side of the trade. One brokerage house or one fund manager who overreacts and makes a serious mistake is offset by another fund manager who serendipitously makes the right decision. Over time, the markets are self-corrected so that the frantic headlines we see in Time Magazine or on the front pages of the New York Times, the market this or the market that, on the basis of the President's speech or the Congress's actions, over time they have no relevance to reality whatever. The market over time is self-correcting, goes in the right direction, and rewards people who do the right thing and punishes people who do the wrong thing.

Second, over time, the market depends on fundamentals. There are periods of time when we have froth. There are periods that I call "tulip time"—remembering the tulip mania of the Dutch economy. Over time, these periods of froth are squeezed out, and the market makes its decision on fundamentals.

I say to my friends in the popular press who are trying to sell air time or newspapers: Stop trying to frighten the American people one way or the other. Come back to an understanding that fundamentals in the economy are the things that really matter—not speeches by the President, not actions necessarily by the Congress.

I think we had to act on the corporate governance area, but we didn't drive the market up or down by the action that we took. We added to the question of fundamentals.

How well the Sarbanes-Oxley bill works will play itself out in the fundamentals. If it works in a solidly fundamental way, it will benefit the markets. If it turns out it has flaws, it will hurt the market. But the speeches we imagine as we pass the bill have little or no impact.

One final comment. If we were serious about doing something to change the culture in corporate America, we ought to consider removing taxation on dividends. We have had a lot of conversation about options and managing earnings. If dividends become a reason why people buy stocks, as they once were, that would change the nature of corporate governance fairly fundamentally.

If a CEO knows his stock price would go up if his dividend were increased and if his investors knew if they get an increase in dividends it would not be eaten up in taxes, there would be a change in the corporate boardrooms of this country that would be salutary.

I don't have the time to go into this, but at some future time I will explore it. I raised this with Chairman Greenspan when he testified before the Banking Committee and asked him about the propriety of removing taxation from dividends. That was the beginning of a conversation that I want to have over time.

As we go through the experience of the present economic difficulties and the gyrations of the market, it is time to reflect on fundamental things we can do that will change the nature of the corporate culture. Addressing stock options and expensive stock options is something we can talk about. Dealing with corporate compensation is something we can talk about.

Back to my earlier point. Over time, the market responds to fundamentals, and, over time, we ought to look at some fundamental changes. That means we have to look at the tax laws. There is nothing that government does that affects corporate activity more than the Tax Code. That is where we ought to look for serious cultural changes.

I yield the floor.

**ORDER OF PROCEDURE**

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I ask to speak on another subject.

The PRESIDING OFFICER. The time would be charged against the time remaining on this side for debate on the amendment. There are 32 minutes remaining. I suggest the Senator speak as in morning business but we continue to charge the time against the time remaining on the pending amendment.

Mr. CORZINE. I ask unanimous consent to speak in morning business and that the time I use be charged against the time allocated for debate on the amendment. I expect to use up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

**SOCIAL SECURITY**

Mr. CORZINE. Mr. President, I bring up a subject that I have been speaking about frequently. That is our Social Security system, one that I believe the American people deserve to have a debate about before the election in November.

There have been many attempts to put off this debate until after the election so we can decide policy that will truly impact the American people for many, many years and decades to come. It is extremely disappointing we have had a hard time engaging in that debate. This week we actually made some progress, at least with regard to debate, not necessarily with regard to the content of the debate.

I express my great disappointment and, frankly, my utter amazement...
about comments made this past week by the President’s press secretary, Mr. Ari Fleischer, with respect to the privatization of Social Security. I will read the beginning of an article from the Washington Post on Thursday on the White House’s remarks, and I will ask unanimous consent to have this article printed in the Record.

The article is titled: “Bush Continues to Back Privatized Social Security.”

It reads:

The White House yesterday stood firmly behind President Bush’s plan for workers to divert some of their social security payroll taxes over to personal savings accounts, despite the dramatic drops suffered in recent months.

Basically, for the past 2 1/2 years, White House Press Secretary Ari Fleischer took a swing at the existing Social Security Program, calling it “dangerous” to let the people pay a lifetime of high taxes for a Social Security benefit that under current projections they’ll never receive.

Let me repeat:

. . . calling it “dangerous” to let people pay a lifetime of high taxes for a Social Security benefit that under current projections they’ll never receive.

Often we hear people talking about trying to scare seniors and all kinds of hyperbolic commentary about Social Security, but this tops it.

Yesterday, the Congress, under your leadership, took the leadership with regard to corporate reform to help make sure corporate America, the Nation’s accounting profession, those who are responsible for managing corporate America, are more responsible. But after reading Mr. Fleischer’s remarks, I think we should consider a similar initiative to make the administration’s statements on Social Security equally responsible.

It is inconceivable that we would be talking to the American people in terms that, under current projections, they will never receive their benefits.

Let me take a moment to review where things stand on this issue of Social Security, which I do believe truly needs a full debate—maybe not in context that Mr. Fleischer is talking about, but we do need a debate in front of the election.

Last December, President Bush’s Social Security Commission proposed plans to privatize Social Security that would require deep cuts in guaranteed benefits—not eliminate, deep cuts. For workers now in their twenties, those cuts would exceed 25 percent. From younger workers and future generations, those cuts could be much deeper, up to and beyond 45 percent.

Unfairly, and in my view inappropriately, these cuts would apply to everyone, even those who choose not to risk their Social Security benefits in privatized accounts. For those who do participate in privatized accounts, the cuts would be especially disastrous, more extreme than the numbers that are cited for retirees.

These deep cuts would undermine the fundamental purpose of Social Security, which is about providing a basic level of security to those who have worked hard, contributed to our Nation, paid into the Social Security system, and trusted that the system would be available, and those resources would be available for their retirement. Social Security promises Americans a basic level of security on which they can count. It is the keystone of a social insurance program that our Nation overwhelmingly supports, has for generations—70 years—and that retirees can depend on for a rock solid guarantee regardless of what the stock market does or what asset markets of all kinds do, regardless of inflation and regardless of one’s lifespan. Social Security will be there and that fundamental guarantee is what the program is all about.

By contrast, privatizing Social Security would shred, would break that guarantee, and in my view we must not let that happen. It is one of the most important issues our Nation should be debating as we face this election this fall. The lines are very clearly drawn. Mr. Fleischer suggested they stand firm in their belief that the privatization of Social Security is the direction we should take.

The huge volatility in the stock market over the past several months should make clear to all Americans that equity investments by their nature cannot offer the same security that Social Security offers. If an old market hand, markets go up, they go down, they go sideways. They are volatile through time. Sometimes they have serious erosions in value.

In the past 2 1/2 years, stocks have lost nearly $8 trillion in value. The S&P index has declined by about 45 percent. This year alone, stocks have lost close to $3 trillion. That translates to real understanding and equity for those who were dependent on it, primarily focused on a 401(k) in the stock market. Many of those losses have been suffered in our pension systems. They have been suffered in IRAs, 401(k)s, personal savings. Those who have truly understood the security that one might draw from them.

But through all of that, Social Security stands firm. The guaranteed benefits are in place. One doesn’t have to wonder whether those resources for one’s retirement security are going to be available. Basic, critical benefits will be there for the beneficiaries, regardless of the state of the stock market.

In light of that dramatic volatility, I had hoped that President Bush would reconsider his support for privatizing Social Security. As I said, Mr. Fleischer’s remarks today indicate that President’s position had not changed.

For me, this is extremely disappointing, and I certainly call on the President to rethink his position. On these matters of great national import—whether it was the corporate reform activity that we had a debate about for 3 or 4 months, leading up to yesterday’s successful passage of corporate reform; whether it is with regard to the fiscal policy that has seen us move from substantial surpluses, 3 years of surpluses into substantial deficit; and now, on Social Security—we see this continual sense of inflexibility.

Leadership is about thoughtful respect for the facts, changing realities that might require a change in one’s position. I hope the President will consider that in the context of Social Security, taking into account the kind of market volatility we have seen, taking into consideration the kind of risk that many of those who have had their investments in the stock market over long periods of time.

Having said that, my concern about Mr. Fleischer’s statement Wednesday goes beyond his reaffirmation of this administration’s continuing support for privatizing Social Security. He went much further. Let me just read again from the story I cited from the Washington Post. Mr. Fleischer claimed that Social Security was “going bankrupt,” and that it was dangerous to:

. . . let people pay a lifetime of high taxes for a Social Security benefit that under current projections they’ll never receive.

“Going bankrupt,” if that is not scare language, I don’t know how one could otherwise categorize it.

This statement is simply outrageous. It is simply outrageous to suggest that people now paying into the system will never receive a Social Security benefit. It is not just misleading; it is absolutely factually wrong. I am afraid it is part of a concerted effort by those advocates of privatization to scare Americans, especially younger Americans, into believing that the only way they are ever going to get a retirement benefit out of Social Security is to invest in their personal accounts, to invest in privatized accounts, to invest in the stock market.

I am not against investing private funds beyond Social Security in all kinds of assets. But we are talking about a guaranteed benefit for all of Americans. In the 1930s, before we had Social Security, or before 1930, almost 50 percent of senior Americans lived in poverty. Because of the benefit of Social Security, now we are down to about 10 percent. It is a fundamental, solid program. People know that our Government has created a situation where they can have security in their retirement. It is a sacred trust with the American people. It is based on a promise that if you work hard and contribute to your country, you will enjoy a very basic level of security in retirement.

By the way, this is not exactly a princely sum that people get out of Social Security. I wish we could make it better.

Last year, the average retiree benefit was about $10,000—not exactly what
some of the salaries of big corporate executives are about—and about $9,000 for women. That is not exactly a princely sum, as I suggested, in my part of the country. In New Jersey, the average rental payment for an individual worker is about $1,200 a month. I don’t think $10,000 matches up with what you even have to pay for rent in many parts of the country. It is not exactly as if our Social Security system is providing excessive amounts of resources for individuals in their retirement. But it does provide that bedrock safety net.

Unfortunately, I guess there are those who seem to think $10,000 is too much. They want to break Social Security’s promise to seniors in the future by cutting those benefits by 25 percent, or 45 percent. Those are big numbers. That is hard to put together against the cost of retirement for most Americans.

One way they justify such claims is by arguing that the current system will bankrupt workers by the end of the century. We heard Mr. Fleischer’s remarks. They seem to be hoping that will be a self-fulfilling prophecy, that somehow or another they can scare people into believing we ought to undermine Social Security. I stand here today quite confident that folks on this side of the aisle, if we have anything to say on the matter, are not going to let that happen.

That is why we need to have this debate about Social Security privatization before people go to the polls this November. It is one of those defining issues for the American people to express themselves about. It is very clear: Do you want privatization of Social Security that puts the responsibility and the risk on the shoulders of Americans or do you want a guaranteed system that provides benefits if you have paid into that system when you retire? It is very clear, it is not a complex concept—guaranteed benefits versus risk.

For those concerned about the future of Social Security, let me remind my colleagues that Social Security benefits are established in the United States Code and represent a legal commitment—I think we call it an entitlement—by the Federal Government and with the full faith and credit of the United States.

Unlike many other programs, Social Security is not subject to a yearly appropriations process. The entitlement and benefit is not dependent on future congressional action. Mr. Fleischer is just flat out wrong.

As a purely legal matter, this entitlement would remain a binding obligation of the Government even if Congress were to allow the Social Security trust fund to become insolvent. However, as a practical matter, the point is moot. First, the nonpartisan actuaries at the Social Security Administration project that the trust fund will be fully solvent for 40 years; that is, 2041. After that, there still would be enough funding for three-quarters of the benefits to the actuarial life on which they are making the calculations. But there is nothing in the law to prohibit Congress from replenishing the funds or changing some of the terms and conditions. We can do a number of things to establish the security of that trust fund.

We ought to start by balancing our budget so we are not spending the Social Security trust fund on everything under the Sun other than for what it is intended. But we could take actions here on the floor of the Senate with the Congress and the President working together to flush that up. As a matter of fact, we have a legal obligation to do that.

I think it is absolutely essential that Mr. Fleischer review the context in which he says we are going to have a bankruptcy because we have written into law that that is not going to happen. I am confident that long before the year 2041, the President’s committee will come together in a bipartisan way, as they have in history in different periods of time, move beyond privatization proposals which would actually worsen the Social Security financial system, and work together to solve the program’s long-term funding needs. It can be done. It is not beyond the realm of a lot of reasonable people. We ought to talk to the American public about that.

But the reality is that privatization is not the direction that is going to provide the kind of security that I think most Americans are looking for in their retirement.

I think we ought to get away from giving blatantly false and misleading arguments and scaring people about the solvency of Social Security, as Mr. Fleischer did on Wednesday. I think we need to stop the scare tactics for young workers and for women. That is not exactly a realistic fits versus risk.

Mr. Fleischer made clear that Bush continues to favor permitting Americans to take a portion of the taxes they ordinarily contribute to Social Security trust fund and invest it on their own. That is a big mistake. Mr. Fleischer said. “Nothing has changed his views about allowing younger workers to have those options.”

Fleischer recalibrated his sale pitch for private retirement accounts, deemphasizing earlier arguments that such investments would generate more retirement savings through higher returns. Instead, he said that the current system is “going bankrupt” and that the government should grant people more control over their money. He used the word “options” a dozen times.

The White House’s reminder that Bush wants to overhaul Social Security comes as the administration is redoubling its efforts to draw attention to strong points in the economy. The remarks about the retirement system, on a day when the stock market rose after nine weeks of historic declines, typify an administration that has prized consistency in its policy positions, rather than shifting with changed circumstances.

Bush’s position on Social Security was a major tenet of his 2000 campaign. Last year, he assigned a commission to recommend such a system, and the panel responded in December with three proposals. Each would require at least $2 trillion to convert to the new approach, the commission found. It also concluded that the program, destined to face enormous economic strains by the middle of the next decade as the baby boom generation retires, will require not just benefits, money from elsewhere in the federal budget—or both.

For now, the White House essentially is speaking into a legislative vacuum. Republicans, fearing that the volatile issue could prove damaging in the elections this fall, persuaded Bush last winter that Congress should not consider any Social Security reforms until 2003. Now some in the party are suggesting that debate should be deferred until after the 2004 presidential election.

House Republicans have themselves from Bush’s ideas—at least rhetorically—by passing a bill that promised not to “privatize” the retirement system, although many in the party still favor what they now call “individual investments.” House Democrats are trying to force a vote on the president’s proposal, believing that a debate may prove politically advantageous during a season of investment losses and corporate scandals.

In the absence of legislation, the most ardent proponents of individual accounts continue to press their cause. This week, the Cato Institute, a libertarian think tank, issued a poll it argued that two-thirds of voters support that arrangement. Andrew Biggs, who works on Social Security at Cato and was a staff member of the White House commission, said today his findings are striking because the survey was conducted during an interval earlier this month.
July 26, 2002

Mr. BYRD. Mr. President, I thank the Chair and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with Senators Breaux, Bayh, Boxer, Snowe, Feingold, and Wyden offered to speak therein for a period not to exceed more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

REVISED ALLOCATION TO SUB-COMMITTEES FOR FISCAL YEAR 2003

Mr. BYRD. Mr. President, on Thursday, June 27, the Senate Committee on Appropriations, by a unanimous roll-call vote of 29 to 0, approved the allocation to subcommittees for fiscal year 2003.

On Wednesday, July 24—just this past Wednesday—Congress adopted the conference report to accompany H.R. 4775, the fiscal year 2002 supplemental appropriations bill.

Today, I submit a revised allocation which has been modified, primarily, to conform to the way for each subcommittee to provide funds for each of the supplemental.

These revised allocations were prepared in consultation with my colleagues, Senator STEVENS, the distinguished ranking member of the committee, who stands with me committee to present bills to the Senate consistent with the allocations.

Furthermore, we stand committed to oppose any amendments that would breach the allocations.

I ask unanimous consent that a table setting forth the revised allocation to subcommittees be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Senate Committee on Appropriations—Revised FY 2003 Subcommittee Allocations Discretionary Spending

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<th>Subcommittee</th>
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Revised on July 25, 2002

Mr. BYRD. Mr. President, I thank the Chair and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOCIAL SECURITY

Mr. SARBANES. Mr. President, I want to take the floor for a moment or two to commend the able Senator from New Jersey for the statement that was just made about Social Security privatization, and for focusing on this absolutely outrageous statement made by the White House Press Secretary earlier this week. To terrify people with that kind of statement is absolutely irresponsible. I think it is very important that be put on the Record.

I thank the Senator from New Jersey for the analysis and focus he is bringing to this issue of privatizing Social Security. It is an extraordinarily important issue. I agree with the Senator that it ought to be fully debated.

The President and his advisers apparently have not abandoned their bad idea of privatizing Social Security. If that is the case, then we need to lay out in front of the country exactly what is involved. The biggest thing involved, in my judgment, is the very point which the able Senator from New Jersey was making just a few moments ago; that is, the question of the guaranteed benefit.

Under the existing Social Security system, we seek to provide an assured benefit level in Social Security. So when someone stops working, and they start drawing their Social Security, they are told, you will get X amount of dollars per month in your Social Security check. In addition, of course, we also provide for a cost-of-living adjustment in that check.

So the beneficiary, in planning their retirement, and their standard of living under retirement, knows that each month the Social Security check will come, and it will be in this amount—a guaranteed benefit—and that they can count on that.

The privatization, first of all, undercuts the guaranteed benefit concept, and carries with it the risk that your monthly benefit check may be far less. It also carries the risk it may be far more. But who knows? Who knows?

Can you imagine the trauma of senior citizens all across the country if the amount of their Social Security check had been linked to the movement of the stock market in recent months? You would have some elderly person, for whom Social Security is their only source of income, reading stories about the drop in the Dow Jones and the Nasdaq and all the rest of it, thinking to themselves: How much is going to be in my next monthly check? How am I just going to get through the needs of life if the amount of my Social Security check is going to drop, because of it now being tied to the movements in the market?

Any responsible discussion about this has been that you would have an added amount of Social Security that might then be placed in the market, so at least you would guarantee to the person sort of the minimum retirement upon which they could absolutely plan and absolutely count. And that is what needs to be laid out and debated.

The Senator from New Jersey has pinpointed that concern. I commend him for doing it. It is very important. People need to focus on this issue. We need to have this debate. We ought not to be in a situation where the White House Press Secretary can make the kind of statements he is making, seek to undercut confidence in the system, and then use that as an argument for some fundamental change which would jeopardize the guaranteed benefit aspect of the Social Security system which is an extremely important part of it.

I thank the Senator for the excellent job he is doing in bringing this issue to the attention of the Nation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SARBANES). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. SARBANES. Mr. President, I ask unanimous consent to be able to proceed as if in morning business, with the time to be charged against the time that was allocated for debate on the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPENDING

Mr. SARBANES. Mr. President, I want to take the floor for a moment or two to commend the able Senator from New Jersey for the statement that was just made about Social Security privatization, and for focusing on this absolutely outrageous statement made by the White House Press Secretary earlier this week. To terrify people with that kind of statement is absolutely irresponsible. I think it is very important that be put on the Record.

I thank the Senator from New Jersey for the analysis and focus he is bringing to this issue of privatizing Social Security. It is an extraordinarily important issue. I agree with the Senator that it ought to be fully debated.

The President and his advisers apparently have not abandoned their bad idea of privatizing Social Security. If that is the case, then we need to lay out in front of the country exactly what is involved. The biggest thing involved, in my judgment, is the very point which the able Senator from New Jersey was making just a few moments ago; that is, the question of the guaranteed benefit.

Under the existing Social Security system, we seek to provide an assured benefit level in Social Security. So when someone stops working, and they start drawing their Social Security, they are told, you will get X amount of dollars per month in your Social Security...
LEGISLATIVE HISTORY OF TITLE VIII OF HR 2673: THE SARBAES-NOXLEY ACT OF 2002

Mr. LEAHY. Mr. President, yesterday during my floor remarks on the final passage of H.R. 2673, the Sarbanes-Oxley Act, I requested unanimous consent that a section by section analysis of Title VIII, the Corporate and Criminal Fraud Accountability Act, which I authored, be included in the CONGRESSIONAL RECORD as part of the official legislative history of those provisions of H.R. 2673. That unanimous consent request was granted due to a clerical error, this essential legislative history was not printed in yesterday’s CONGRESSIONAL RECORD.

It is my understanding that this document will appear in yesterday’s CONGRESSIONAL RECORD when the historical volume is compiled. However, in order to provide guidance in the legal interpretation of these provisions of Title VIII of H.R. 2673 before that volume is issued, I have an unanimous consent that the same document be printed in today’s CONGRESSIONAL RECORD and be treated as legislative history for Title VIII, offered by the sponsor of these provisions, as if it had been printed yesterday.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS AND DISCUSSION OF THE CORPORATE AND CRIMINAL FRAUD ACCOUNTABILITY ACT (TITLE VIII OF H.R. 2673)

Title VIII has three major components that will enhance corporate accountability. Its terms track almost exactly the provisions of S. 8, 2010, introduced by Senator Leahy and reported unanimously from the Committee on the Judiciary. Following is a brief section by section and a legal analysis regarding its provisions.

SECTION-BY-SECTION ANALYSIS

Section 801.—Title. “Corporate and Criminal Fraud Accountability Act.”

Section 802.—Criminal penalties for altering documents

This section provides two new criminal statutes which would clarify and plug holes in the current criminal laws relating to the destruction or fabrication of evidence and the preservation of financial and audit records.

First, this section would create a new 20-year felony which could be effectively used in a wide array of cases where a person destroys or creates evidence with the intent to obstruct an investigation or matter that is, as a factual matter, within the jurisdiction of any federal agency or any bankruptcy. It also covers acts either in contemplation of or in furtherance of a crime.

Second, the section creates a new 10-year felony which applies specifically to the willful failure to preserve audit papers of companies that issue securities. Section (a) of the statute has two sections which apply to accountants who conduct audits under the provisions of the Securities and Exchange Act of 1934. Subsection (a)(1) is an independent criminal prohibition on the destruction of audit or review work papers for five years, as that term is widely understood by regulators and the industry. Subsection (a)(2) requires the SEC to promulgate reasonable and necessary regulations within 180 days, after the opportunity for public comment, regarding the retention of categories of electronic and non-electronic audit records which contain opinions, conclusions, analysis or financial data, in addition to the actual audit work papers. Willful violation of such regulations would be a crime. Neither the statute nor any regulations promulgated under it deny any independent legal obligation under state or federal law to maintain or refrain from destroying such records. In Conference language, we adopted a provision that the rulemaking called for under the (b) provision was mandatory, and gave the SEC authority to amend and supplement such rules in the future, after proper notice and comment.

Section 803.—Debts nondischargeable if incurred in violation of securities fraud laws

This provision would amend the federal bankruptcy statutes to remove any possibility that a person who destroys or creates evidence with the intent to obstruct an investigation or matter that is, as a factual matter, within the jurisdiction of any federal agency or any bankruptcy, it also covers acts either in contemplation of or in furtherance of a crime, willfully destroys or creates evidence with the intent to obstruct an investigation or matter that is, as a factual matter, within the jurisdiction of any federal agency, or any bankruptcy.

This provision is consistent with the bankruptcy court's holding that such delay is due to the bad faith of the person attempting to obstruct an investigation, and whether the offense involved more than minimal planning or the abuse of a special skill or position of trust. Subsection 3 requires the SEC to promulgate appropriate regulations for new offenses created in this Act.

Subsections 4 and former subsection 5 of the Senate passed bill, which was moved to Title 11 in Conference, require the Commission to review guideline offense levels and enhancements under U.S.S.G. §2B1.1, relating to fraud. Specifically, the Commission is requested to review the fraud guidelines and consider enhancements for cases involving significantly greater than 50 victims and cases in which the solvency or financial security of a substantial number of victims is endangered. New Subsection 5 requires a comprehensive review of sentencing guidelines relating to sentencing organizations. It is specifically intended that the Commission's review of sentencing guidelines cover areas in addition to monetary penalties, additional punishments such as supervised release, completion programs, probation and administrative action, which are of an extremely important in deterring corporate misconduct.

Section 806.—Whistleblower protection for employees of publicly traded companies

This section provides for whistleblower protection to employees of publicly traded companies. It specifically protects them when they take lawful acts to disclose information or otherwise assist criminal investigators, federal regulators, Congress, supervisors (or other proper people within a corporation), or parties in a judicial proceeding in detecting and stopping fraud. If the employer does take illegal action in retaliation for lawful and protected conduct, subsection (b) allows the employee to file a complaint with the Department of Labor, which is governed by the same procedures and burdens of proof now applicable in the whistleblower protection provisions in the employee can bring the matter to federal court only if the Department of Labor does not resolve the matter in 180 days (and there is no Showing of each delay of the claimant as a normal case in law or equity, with no amount in controversy requirement. Subsection (c) governs remedies and provides for the reinstatement of the whistleblower, backpay, and compensatory damages to make a victim whole, including reasonable attorney fees and costs, as remedies if the employee prevails. Subsection (d) would supplement the patchwork of existing technical securities law violations with a more general and less technical provision, which would provide a framework for Congressional rulemak ing that such delay is due to the bad faith of the beneficiary or any bankruptcy. It also covers acts either in contemplation of or in furtherance of a crime, willfully destroys or creates evidence with the intent to obstruct an investigation or matter that is, as a factual matter, within the jurisdiction of any federal agency, or any bankruptcy.

This provision is consistent with the bankruptcy court's holding that such delay is due to the bad faith of the person attempting to obstruct an investigation, and whether the offense involved more than minimal planning or the abuse of a special skill or position of trust. Subsection 3 requires the SEC to promulgate appropriate regulations for new offenses created in this Act.

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This section would create a new 10-year felony for defrauding shareholders of public companies. It would provide for criminal and civil penalties of up to $1 million and imprisonment for a maximum of five years.

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laws, but rather are intended to provide a flexible tool to allow prosecutors to address the wide array of potential fraud and misconduct which can occur in companies that are publicly traded. Attempted frauds are also specifically included.

**DISCUSSION**

Following is a discussion and analysis of the Act’s Title 8 provisions.

Section 802 creates two new felonies to clarify and close loopholes in the existing criminal laws relating to the destruction or fabrication of evidence and the preservation of financial records. First, it creates a new general anti-shredding provision, 18 U.S.C. §1519, with a 10-year maximum prison sentence. Currently, provisions governing the destruction of evidence are a patchwork that have been interpreted, often very narrowly, by federal courts. For instance, certain current provisions make it a crime to persuade another person to destroy documents, but not a crime to actually destroy the same documents yourself. Other provisions, such as 18 U.S.C. §1503, have been narrowly interpreted by courts, including the Supreme Court in United States v. Aguilar, 115 S. Ct. 593 (1995), to apply only to situations where the obstruction of justice can be directly linked to a pending judicial proceeding. Still other statutes have been interpreted to draw distinctions between what type of government function is obstructed. Still others, such as Sections 1517 and 1518 apply to obstruction in certain limited types of cases, such as bankruptcy fraud, examinations of financial institutions, and health care fraud.

In short, the current laws regarding destruction of evidence are full of ambiguities and technical limitations that should be corrected. This provision is meant to fix those problems.

Section 1519 is meant to apply broadly to any acts to destroy or fabricate physical evidence as well as any act done with the intent to obstruct, impede or influence the investigation or proper administration of any matter, and such matter is within the jurisdiction of an agency of the United States, or such acts done in relation to or in contemplation of such a matter or investigation. The fact that a matter is within the jurisdiction of an agency is intended to be a jurisdictional matter, and not in any way linked to the intent of the defendant.

The intent required is the intent to obstruct, impede or influence an agency of the United States’ jurisdiction. This statute is specifically meant not to include any technical requirement, which some courts have read into obstruction of justice statutes, to tie the obstructive conduct to a pending or imminent proceeding or matter by including such a requirement. It is also sufficient that the act is “in contemplation of” or in relation to a matter or investigation. It is also meant to do away with the distinctions, which some courts have read into obstruction statutes, between court proceedings, investigations, regulatory or administrative proceedings (whether formal or not), and less formal governmental inquiries, regardless of their title. Destroying or falsifying documents to obstruct any of these types of matters or investigations, which are considered to be a jurisdictional matter, regardless of the activity.

Questions of criminal intent are, as in all cases, appropriately decided by a jury on a case-by-case basis. This new provision also extends the statute of limitations for destruction done in contemplation of such federal matters, so that the timing of the act in relation to the beginning of the matter or investigation would not affect prosecution if the intent of the provision is simple; people should not be destroying, altering, or falsifying documents to obstruct any government function. Finally, this section could also be used to prosecute a person who actually destroys the records himself in addition to one who simply persuades another to do so. The views of the Federal Bureau of Investigation have been that other technical distinction which burdens successful prosecution of wrongdoers.

Second, Section 802 also creates a 10 year federal prison sentence for the willful failure to preserve financial audit papers of companies that issue securities as defined in the Securities Exchange Act of 1934. The new statute is not to be used to punish those who independently require that accountants preserve audit work papers for five years from the date of the audit, (conclusions or opinions) would make it a felony to knowingly and willfully violate the five-year audit retention period in (1)(a) or any of the rules that the SEC or PCAOB promulgate under subsections (1)(b) and (c), which contains a mandatory requirement for the SEC to issue reasonable rules and regulations, are intended to include additional records which contain conclusions, opinions, analysis, and financial data relevant to an audit or review. Specifically included in such materials are emails, contracts, legal agreements, and other electronic records. The Conference added the ability of the SEC to update its rules to specifically allow it to capture additional records which could be of importance in the future as technologies and practices of the accounting industry change. In addition, the rules would also require the retention of all such substantive material, whether or not the conclusions, opinions, analyses or data in such records support the final conclusions reached by the auditor or expressed in the final audit or review so that state and federal law enforcement officials and regulators and victims can conduct more thorough investigations. The SEC regulation is clear. The SEC shall and "is required to" promulgate regulations relating to the retention of the categories of items which are specifically enumerated in the statutes, as well as the courts have held that such audits are also recovered by both (a) and (b). When a publicly traded company is involved, many of these close calls are resolved in favor of the SEC’s jurisdiction. Willful violation of these regulations will also be a crime under this section.

In light of the apparent massive document destruction by Andersen, and the company’s admission that its public accounting policy, even in light of its prior SEC violations, it is intended that the SEC promulgate rules and regulations that require the retention of all such substantive material, including material which casts doubt on the views expressed in the audit of review, for such a period as is reasonable and necessary for effective enforcement of the securities laws and the criminal laws, most of which have a five-year statute of limitations. It should also be noted that criminal tax violations, which many of these documents entail to, have a six-year statute of limitations and the regulatory portion of the Act requires a 7 year retention period. By granting the SEC broad discretion, it is not intended that the SEC be prohibited from consulting with other government agencies, such as the Department of Justice, which investigates and enforces violations of federal criminal law or pertinent state regulatory agencies.

N judging or settlement against the wrong-
date of enactment, no matter when the con-
duct occurred. As Attorney General Gresoire
testified at the Committee hearing, in the
Enron state pension fund litigation the cur-
rent statute of limitations may cost many
states to forgo claims against Enron
based on alleged securities fraud in 1997 and
1998. In Washington state alone, the short
statute of limitations may cost the state,
including state employees, firefighters and police
officers nearly $50 million in lost Enron in-
vestments which they can never recover.

Especially in securities fraud cases, the current short statute of
limitations may insulate the worst offenders from account-
ability. As Justices O'Connor and Kennedy said in their dissent in Lampf,
Pliva, Lipkind, Prupis, & Petigrow v. Gil-
bertson, 111 S. Ct. 2773 (1991), the 5-4 decision upholding the statute of limi-
tations in securities fraud cases, the current “one and three”
limitations period perma-
ents serious limitations on
most securities fraud cases, the current “one and three”
limitations period makes securi-
ities fraud actions “all but a dead letter for injured investors who by no conceivable
standard of fairness or practicality can be expected to file suit within three years after
the violation occurred.” The Consumers Union and the Consumers Federation of America,
along with the AFL-CIO and other institu-
tional investors, strongly support the bill, and/views this section in particular as a
prioritized part of the limited agenda.

The experts agree with that view. In fact,
the last two SEC Chairman supported ex-
tending the statute of limitations on securi-
ties fraud cases. Former Chairman Arthur Levitt testified before a Senate Sub-
committee in 1995 that “extending the statute
of limitations is warranted because many
securities frauds are inherently com-
plex, and the law should not reward the per-
petrator of a fraud, who successfully con-
scealed the deceit, with the benefit of more
than two and a half years.” Before Chairman Levitt, in the last
Bush administration, then SEC Chairman
Richard Breeden also testified before Congress
in favor of extending the statute of limitations in securities fraud cases. React-
ing to the Lampf opinion, Breeden stated in
1991 that “[e]vents only come to light years
after the original distribution of securities,
and the Lampf cases could well mean that by
the time investors discover they have a case,
they are already barred from the court-
house. The House and the Senate securities
regulators joined the SEC in calling for a
legislative reversal of the Lampf decisions
at that time.

In fact, Congress extends the short limitations period under current law is an invitation to take
sophisticated steps to conceal the deceit. The
experts have long agreed on that point, but unfortunately they have been proven
right again. As recent experience shows, it
only takes a few seconds to warm up the
shredder, but unfortunately it will take years
to put this complex piece back together again. It is
time that the law is changed to give victims the time they need to prove fraud cases.

Section 806 of the Act ensures that those
who destroy evidence or perpetuate fraud are
appropriately punished. It would require the
Commission to consider enhancing criminal
penalties in cases involving obstruction
of justice and serious fraud cases where a
large number of victims are injured or when the
victims face financial ruin.

The Act is not intended as criticism of the
current guidelines, which were based on the
hard work of the Commission to conform with
existing law. It is intended to join the provisions of the
Act which substantially raise current stan-
tary maximums in the law as a policy ex-
pression of the reasonable standard of reasonableness sufficient to deter financial misconduct and
to request the Commission to review and en-
hance its penalties as appropriate in that
light. Currently, the U.S.S.G. recognize that a
wide variety of conduct falls under the of-
fense and its penalties. The Act does not mean that
for obstruction involving the murder of
a witness or another crime, the U.S.S.G. allow, by cross-referencing significant enhancements
as determined by the U.S.S.G., a significant
increase in the enhancement range. For ob-
struction cases involving the murder of
a witness or another crime, the U.S.S.G. allow, by cross-referencing significant enhancements
as determined by the U.S.S.G., a significant
increase in the enhancement range.

In addition, current guidelines allow only
very limited consideration of the extent
of economic devastation that a fraud causes its
victims. Judges may only consider whether a
fraud endanger the “solvency or financial
security” of a victim to impose an upward
departure from the recommended sentencing
range. This is not a factor in establishing the
range itself unless the victim is a financial
institution. Subsection (b) of the provision
requires the Com-
mision to consider requiring judges to con-
sider the extent of such devastation in set-
ting the actual recommended sentencing
range in cases such as the Enron matter,
where public companies and individual
victims, have lost their life savings.

Finally this provision requires a complete
review of the Chapter 8 corporate mis-
deeds provisions. This section would not only
monetary penalties but other actions
designed to deter organizational crime, such as
probation and compliance enforcement
schemes.

Section 806 of the Act would provide whis-
tleblower protection to employees of
publicly traded companies who report acts of
fraud to federal officials with the authority
to remedy the wrongdoing or to supervisors
or appropriate individuals within their com-
pany. Section 806 would provide both rein-
statement and backpay, and all compensatory
damages needed to make a victim whole should
the claimant prevail. The Act does not sup-
plant or replace state law, but sets a na-
tional floor for employee protections in the
context of publicly traded companies.

Section 807 creates a new 25 year felony
under Title 18 for defrauding shareholders of
publicly traded companies. Unlike bank fraud or health care fraud, there is no
generally accessible statute that deals with
the specific problem of securities fraud. In
these cases, federal investigators and prose-
cutors are forced either to resort to a
patchwork of technical Title 15 offenses and
regulations, which may criminalize par-
simoniouse conduct, and may treat the cases as
generic mail or wire fraud or to treat the cases as
radically new cases and to meet the technical elements of
of law school professors and came to the following conclusion. At the facilities of the top 100 law schools 80 percent of law professors were Democrats, or leaned left, and only 13 percent were Republicans, or leaned right. These liberal professors promulgate their ideology to future students.

Anyone associated with America’s campuses or law schools knows that nonliberal views are regularly stifled and those espousing those views are often publicly shunned and ridiculed. It militates against the opportunity to exchange ideas and the exchange of ideas in universities that set the stage for the formation of the Federalist Society. And given my Democrat colleagues’ reaction to the Society, it appears to be fighting against liberal narrow-mindedness still.

In 1982, the Federalist Society was organized, not to foster any political agenda, but to encourage debate and public discourse on social and legal issues. The Federalist Society has accomplished just that. It has served to open the channels of discourse and debate in many of America’s law schools.

The Federalist Society espouses no official dogma. Its members share acceptance of three universal ideas: 1. that government’s essential purpose is the preservation of freedom; 2. that our Constitution embraces and requires separation of governmental powers; and 3. that judges should interpret the law, not write it.

For the vast majority of Americans, these are not controversial issues. Rather, they are basic Constitutional assertions that are essential to the survival of our republic. They are truths that have united Americans for more than two centuries. Recently we have seen the emergence of some groups that seek to undermine the third of these ideas—that judges should not write law. Those judges have attempted to use the judiciary to circumvent the democratic process and impose their minority views on the American people.

This judicial activism is a nefarious practice that seeks to undermine the principle of democratic rule. It results in an unelected oligarchy, government by a small elite. Judicial activism imposes the will of a small group of politicized lawyers upon the American people and undermines the work of the people’s representatives.

Indeed, if the radical left is successful, if we continue to appoint judges that are committed to writing law and not interpreting it, than all of us can just go home. We could resign ourselves to live under the oligarchical rule of lawyers. I happen to know a few lawyers, and please trust me when I say, this is not a good idea.

Beyond acceptance to its three key ideas, freedom, separation of powers, and that judges should interpret, it is challenging, if not impossible, to find consensus among Federalist Society members. Its members hold a wide array of differing views. They are so diverse that it is impossible to describe a Federalist Society philosophy.

The assertion that members are ideological carbon copies of each other is ludicrous. The Society revels in open, thoughtful, and rigorous debate on all kinds of issues. The premise that public policy and social issues should not be accepted as part of a party-line but rather warrant much thought and dialogue. Any organization that sponsors debate on issues of public importance as opposed to self-serving indoctrination, is healthy for us all.

Now, how does the Federalist Society accomplish its goal? Not by lobbying Congress, writing amicus briefs, or issuing press releases. The Federalist Society seeks only to sponsor fair, serious, and open debate about the need to enhance individual freedom and the role of the courts in saying what the law is rather than what it should be. The Society believes that debate is the best way to ensure that principles that have not been the subject of sufficient attention for the past several decades receive a fair hearing.

The Federalist Society’s commitment to fair and open debate can be seen by a small sampling of some participants in its meetings and symposiums. They have included scores of liberals like Justices Ruth Bader Ginsburg and Stephen Breyer, Michael Dukakis, Barney Frank, Abner Mikva, Alan Dershowitz, Alan Dershowitz, Alan Dershowitz, Alan Dershowitz, Alan Dershowitz, Alan Dershowitz, Alan Dershowitz, Alan Dershowitz, Alan Dershowitz, Alan Dershowitz, Alan Dershowitz, Alan Dershowitz, Alan Dershowitz, Alan Dershowitz.

I would like to include for the RECORD a list of 60 participants in Federalist Society events that demonstrate the remarkable diversity of thought of Federalist Society events. One of them is Nadine Strossen, President of the ACLU, who has participated in Federalist Society functions regularly and constantly since its founding. She has praised the Federalist Society for its prominent principled diversity and intellectual diversity, noting that there is frequently strenuous disagreement among members about the role of the courts. Strossen has even said that she cannot draw any firm conclusion about a potential judicial nominee’s views based on the fact that he is a Federalist Society member.

It seems to me that an organization that includes such a wide array of opinion serves this nation well and does not deserve the vilification it gets from the usual suspects.

There are many notable conservatives that also affiliate with the Federalist Society. But as the members of the Senate demonstrate, even amongst those that are often labeled “conservatives” there is a much disagreement on most social and political issues. Some often portray the Federalist Society as a tightly-knit, well-organized coalition of conservatives who are united by their right-wing ideology. This is far from true. Allow me to illustrate further.
Two years ago the Washington Monthly published an article entitled “The Conservative Cabal That’s Transforming American Law,” which cited a 1999 decision by a panel of the D.C. Circuit’s Court of Appeals as the “network’s most far-reaching victory in recent years.” The decision overturned some of the EPA’s clean-air standards on the grounds that it was unconstitutional for Congress to delegate legislative authority to the executive branch. C. Boyden Gray, a former White House Counsel for President Bush and a member of the Federalist Society’s Board of Visitors, filed an amicus brief making the winning argument.

However, this is not the smoking gun case that opponents of the Federalist Society would have us believe it to be to prove that it is part of the vast right wing conservative conspiracy. First, the case was overturned on appeal by the Supreme Court, in a decision written by Justice Antonin Scalia, a frequent participant in Federalist Society activities who was the faculty advisor to the organization when he taught at the University of Chicago.

Second, the Washington Monthly piece also attacked Boyden Gray as a water carrier for the Federalist Society for advancing Microsoft’s effort against antitrust enforcement. Of course, Mr. Gray serves on the Society’s Board of Visitors with Robert Bork, who has been Microsoft’s chief intellectual adversary. Not quite the vast right wing conspiracy hobo globin some of my colleagues would have the American people believe in.

A close examination of the Federalist Society reveals not a tight-knit organization that demands ideological unity, but an association of lawyers, much like the early bar associations that like the early bar associations that were the Federalist Society, made up of individuals from across the political spectrum who were committed to the principles of freedom and the rule of law according to the Constitution. As a former co-chairman myself, I applaud that the President has sought out its members to fill the federal bench.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

60 DIVERSE PARTICIPANTS IN FEDERALIST SOCIETY EVENTS

SUPREME COURT JUSTICES
1. Justice Stephen Breyer
2. Justice Ruth Bader Ginsburg
3. Justice Anthony Kennedy
4. Justice Antonin Scalia
5. Justice Clarence Thomas

CABINET MEMBERS
6. Griffin Bell
7. Abner Mikva
8. Bernard Nussbaum
9. Zhigmin Brezinski
10. Alan Keyes

ELECTED
11. Barney Frank
12. Michael Dukakis
13. George Pataki
14. Eugene McCarthy
15. Charles Robb
16. Jim Wright
17. Mayor Willie Brown

JUDGES
18. Robert Bork
19. Guido Calabresi
20. Richard Posner
21. Alex Kozinski
22. Pat Wald
23. Stephen Williams

LAW SCHOOL DEANS
24. Robert Clark—Harvard
25. Anthony Kronman—Yale
26. Paul Brest—Stanford
27. John Sexton—NYU
28. Geoffrey Stone—Chicago

LAW SCHOOL PROFESSORS
29. Alan Dershowitz—Harvard
30. Laurence Tribe—Harvard
31. Cass Sunstein—Chicago

INTEREST GROUPS
32. Nadine Strossen—President, ACLU
33. Steve Shapiro—General Counsel, ACLU
34. Ralph Nader—Public Citizen Litigation Group
35. Patricia Ireland—Fmr. President, NOW
36. Anthony Podesta—People for the American Way
37. Martha Barnett—Fmr. President, ABA
38. George Bushnell—Fmr. President, ABA
39. Robert Raven—Fmr. President, ABA
40. Talbot “Sandy” D’Alemberte—Fmr. President, ABA
41. Larry Gold—Asst. General Counsel, AFL-CIO
42. Daemon Silvers—Asst. General Counsel, AFL-CIO
43. Nan Aron—Exec. Dir., Alliance for Justice
44. Richard Sincere—Pres., Gays and Lesbians for Individual Liberty
45. Michael Myers—NY Civil Rights Commission
46. Samuel Jordan—Fmr. Dir., Program to Abolish the Death Penalty—Amnesty Int’l
47. Marcia Greenburger—Co. Pres., National Women’s Law Center
49. Linda Chavez—Pres., Center for Equal Opportunity
50. Ward Connerly—Founder/Chairman, American Civil Rights Initiative
51. Thomas Sowell—Hoover Institute
52. Michael Horowitz—Hudson Institute
53. Clint Bolick—VP, Institute for Justice

COLUMNISTS
54. Christopher Hitchins—The Nation
55. Michael Kinsley—Slate/The New Republic
56. Juan Williams—NPR/The Washington Post
57. George Will—ABC News
58. Bill Kristol—The Weekly Standard
59. Nat Hentoff—The Village Voice
60. Richard Cohen—The Washington Post

FURTHER EVIDENCE THAT ONE DAY IS NOT ENOUGH TIME

Mr. LEVIN. Mr. President, yesterday a report was released by the General Accounting Office, Gun Control: Potential Effects of Next-Day Destruction of NICS Background Check Records. The report provides evidence that one day is simply not enough time for law enforcement agencies to complete thorough and accurate analysis of purchase records. Under current National Instant Criminal Background Check System regulations, records on tabled firearms sales can be retained for up to 90 days, after which the records must be destroyed. On July 6, 2001, the Department of Justice published proposed changes to the NICS regulations that would reduce the maximum retention period from 90 days to only one day.

Yesterday’s GAO report found that during the first 6 months in which the 90-day retention policy was in effect, the Federal Bureau of Investigation used the records to launch 235 firearm-retrieval actions, an investigation and coordinated attempt to retrieve a firearm with state or local law enforcement assistance. Of the 235 firearm-retrieval actions, 228 or 97 percent could have been initiated under the one-day record destruction policy. An additional 179 firearm-retrieval actions could have been initiated under the 90-day record retention policy, according to records, but the firearm had not yet been transferred to the buyer. The one-day destruction policy, according to the report, would make it difficult for the FBI to assist law enforcement agencies in gun-related investigations, and ultimately, compromise public safety. Internal Department of Justice memos further indicate that the FBI’s 90-day retention policy is within the scope of the Brady Law.

The retention of NICS Background Check Records for a 90-day period of time is critical, and I am greatly concerned by the Attorney General’s action. I support the “Use NICS in Terrorist Investigations Act” introduced by Senators Kennedy and Schumer. This legislation would simply codify the 90-day period for law enforcement agencies to complete thorough and accurate analysis of purchase records. The GAO report provides further evidence that the Schumer-Kennedy bill is good policy. I urge my colleagues to support this common sense piece of gun-safety legislation.

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 May 14, 1994 in National City, CA. A gay man was beaten...
CORRECTION OF THE RECORD REGARDING RESOURCES FOR MEDICARE PRESCRIPTION DRUGS AND TAX RELIEF

Mr. GRASSLEY. Mr. President, yesterday some on the other side attacked last year's bipartisan tax relief legislation. They were led by the distinguished Majority Leader, Senator Tom Daschle. As an example of these claims, I have an unanimous consent to place in the RECORD an article from yesterday's edition of Roll Call Daily.

There being no objection, the material was to be printed in the RECORD, as follows:

[From the Roll Call Daily, July 25, 2002]

DASCHLE BLAMES BUSH TAX CUT FOR FAILURE ON PRESCRIPTION DRUG REFORM

(By Polly Forster)

Senate Majority Leader Thomas Daschle (D-S.D.) expressed frustration with the chamber's failure to enact a sweeping Medicare prescription drug benefit and blamed President Bush's $1.35 trillion tax cut for "starving" the opportunity to pass substantive reform.

Daschle also expressed doubt that a conference committee will be able to work out the differences in the House and Senate versions of trade legislation before the Houses recess this week.

Daschle charged that House Ways and Means Chairman Bill Thomas (R-Calif.) was possibly undermining a key component of the Senate trade bill by revisiting the details of the Trade Adjustment Assistance bill and thereby delaying a final result.

"It sounds like he's trying to undermine the TAA package," Daschle said. "If that's the case, we'll wait until September."

Legislation on prescription drug benefits appeared similarly in flux. Daschle said Democrats were forced to revise their priorities because last year's tax cut shrunk the possibilities available to them.

"We don't have the resources because, in large measure, the tax cut precludes it," Daschle said. "Because of the tax cut and the deficits we are now facing, we've got to be concerned about the overall cost."

But a Senate GOP leadership aide dismissed the validity of that argument, saying that Democrats now find themselves in a corner and are "grasping at straws" to avoid the blame.

"Because Democrats stopped the bipartisan Finance Committee from doing its work, they've caused every possible drug proposal to fail in the Senate," said the GOP aide.

Since none of the proposals for drug benefit reform passed through the Finance Committee, all measures are subject to a 60-vote threshold.

Senate Finance Chairman Max Baucus (D-Mont.) has spent the last several days in meetings with key lawmakers from both sides in an effort to craft something most Senators could agree to.

Daschle said the goal of the talks is to find a proposal broad enough to win over at least 10 Republicans. "We only got 52" for a Democratic bill, he said, "and we need the other eight. That means we've got to scale back and broaden our level of support."

Daschle said Democrats will not be offering any more proposals but instead will be looking to craft a bipartisan measure.

Baucus spokesman Michael Siegel said the Senator was looking at two approaches to the issue: using Medicare as the channel to deliver drug benefits and where available using private companies, and also to extending a "catastrophic" coverage bill that was short of nine votes Wednesday.

Daschle said the Senate will stay on the issue as long as it takes, including the early part of September after the recess, until there is a result—possibly forestalling consideration of a bill to create the federal department of Homeland Security.

"It means our highest priority is to get the bill done and we don't do other things until we get it done," he said.

Daschle vowed an equal commitment to retaining the worker protection element in the trade package now in conference.

"We're in no hurry," he said. "It's more important to me to have a good package even if that means we have to wait until October."

A top Senate Democratic aide said negotiations broke down Thursday morning over the TAA element, which would provide health coverage for workers displaced by international trade.

Senate Democrats expected Thomas to concede ground on that part as the House was only just able to pass their bill on the floor.

The breakdown left at least one Senate Democratic leadership aid frustrated. "It's ridiculous for Thomas to be stuck on this because it's his chamber that needs to attract the votes to pass the bill, not the Senate," the aide said.

Mr. GRASSLEY. There is a very sophisticated, well-coordinated campaign on the part of the Democratic Leadership to derail last year's bipartisan tax relief. It seems that everything that adds up as a national problem is twisted to fit the facts of the tax cut. I'm sure that the next attack will be that tax relief causes the decline of Western Civilization. Or, perhaps, the Democratic Leadership would twist a phrase from Justice Oliver Wendell Holmes and claim that "record high taxes are the price we must pay for a civilized society."

Many in the media agree with this concept and rarely, if ever, challenge the factual basis for these attacks on last year's tax cut bill. Well, let me tell my friends in the Democratic Leadership, I'm going to correct the record every time. It's fine to attack tax relief if you must, on ideological grounds. If the Democratic Leadership thinks we need to maintain record levels of taxation and keep growing government. That's something on which we can disagree.

On facts, however. I'm going to correct the use of incorrect data. I'm also going to compare the record of the Democratic Leadership against the specific attack on the tax cut.

A couple days ago, I corrected the record on incorrect data used with respect to the scoring of permanent tax relief. Today, I'm going to take the latest attack and compare it with the record of the Democratic Leadership.

The Roll Call Daily article is entitled "Daschle blames Bush Tax Cut for Failure on Prescription Drug Reform." According to the article, the Distinguished Majority Leader said and I quote:

'’We don't have the resources, because, in large measure, the tax cut precludes it. Because of the tax cut and the deficits we are now facing, we've got to be concerned about the overall cost.

Now, I noticed this same point being made by others in the Democratic Leadership. I must say the Democratic Leadership spends a lot of time coordinating messages. They are very good at it. Perhaps, though, if less time were spent on partisanship attacks on the President and Congressional Republicans, we might resolve more problems. After all, isn't that what we're paid to do? That is, do the People's business.

So, the charge is the tax cut ate the surplus and there's not enough money left for a Medicare prescription drug benefit. It's all the President's fault. It's the fault of the bipartisan budget resolution, Boy, do I get tired of hearing this stuff. It gets very old.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARISON OF BUSH, DEMOCRATIC, AND SENATE PASSED BUDGETS

(Fiscal year 2002 through 2011)

<table>
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<tr>
<th>Project Surplus</th>
<th>Bush budget</th>
<th>Democratic alternative</th>
<th>Senate passed</th>
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<tr>
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<tr>
<td>Projected Available Surplus</td>
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<td>0.4 T</td>
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<tr>
<td>Tax Cuts</td>
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<td>2.7 T</td>
</tr>
<tr>
<td>High Priority Needs</td>
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<td>1.2 T</td>
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<tr>
<td>Prescription Drugs</td>
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<td>311 B</td>
<td>308 B</td>
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<tr>
<td>Deficit</td>
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<td>106 B</td>
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</tr>
<tr>
<td>Agriculture</td>
<td>1 B</td>
<td>88 B</td>
<td>58 B</td>
</tr>
</tbody>
</table>
Mr. GRASSLEY. Under that Democratic Alternative, "resources," that's the term Senator DASCHLE used, set aside for a Medicare prescription drug benefit were $311 billion. Under the bipartisan budget resolution, guess what, it's about the same number, $300 billion. That's right, both sides allocated basically the same resources, $311 billion versus $300 billion for Medicare improvements and a prescription drug benefit. So, the Democratic budget had prevailed, we'd basically be where we are today.

There's another part of the record we have to examine. It's last year's Democratic Alternative tax relief package. The Democratic alternative was supported by all members of the Democratic Leadership and all but three members of the Democratic Caucus. Well, guess what. All of those Senators voted for a $1.260 trillion tax cut. That's 93 percent of the cost of the bipartisan tax relief. So, apparently 7 percent is a big difference. It's a big enough difference for the Democratic Leadership to blame President Bush and the bipartisan group of Senators that supported the tax relief package.

I make this statement for one basic reason. The issues of budgeting, prescription drugs, and tax relief are important matters. Certainly everyone of us hears about 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 be consistent in what we're saying.

TAKING OUR STAND AGAINST HIV/AIDS

Mr. FRIST. Mr. President, I spent the first 20 years of my career studying and working in medicine. I graduated from medical school in 1978. After that, I trained as a surgical resident for two years. I then worked as a heart and lung transplant surgeon until I was elected to the United States Senate in 1994. During that time, HIV/AIDS went from a disease without a name to a global pandemic claiming nearly 20 million people infected.

It's hard to imagine an organism that cannot survive outside the human body can take such an immense toll on human life. But HIV/AIDS has done just that—already killing thirteen million people. Today more than 40 million people—including three million children—are infected with HIV/AIDS. HIV/AIDS is a plague of biblical proportions.

And it has only begun to wreak its destruction upon humanity. Though one person dies from AIDS every ten seconds, two people are infected with HIV in that same period of time. If we continue to fight HIV/AIDS in the future as we have in the past, it will kill 68 million people in the 45 most affected countries between 2000 and 2020. We are losing the battle against this disease.

There is neither a cure nor a vaccine for HIV/AIDS. But we do have reliable and inexpensive means to test for it. Also, because we know how the disease is spread, we know how to prevent it from being spread. We even have treatments that can suppress the virus to almost undetectable levels and significantly reduce the risk of mothers infected with HIV/AIDS from passing the disease to their children.

We have many tools at our disposal to fight the spread of HIV/AIDS. But are we using those tools as effectively as possible? The gloomy statistics prove overwhelming that we are not. What we must do is focus on what is truly needed and what is proven to work and marshal resources towards those solutions. We have beaten deadly diseases on a global scale before; we can win the battle against HIV/AIDS too.

More than 70 percent of people infected with HIV/AIDS worldwide live in Sub-Saharan Africa. But the devastation of the disease—and its potential to devastate in the future—is by no means limited to Africa. HIV/AIDS is global and lapping against the shores of even the most advanced and developed nations in the world.

AIDS is spreading rapidly in the Caribbean. Asia and the Pacific is home to 6.6 million people infected with HIV/AIDS—including 1 million of the five million people infected last year. Infections are rising sharply—especially among the young and injecting drug users—in Russia and other Eastern European countries. And the Americas are not immune. Six percent of adults in Haiti and four percent of adults in the Bahamas are infected with HIV/AIDS.

I believe the United States must lead the global community in the battle against HIV/AIDS. As Sir Elton John said in testimony before a committee on which I serve in the United States Senate, "What America has done for its people has made America strong. What America has done for others has made America great." Perhaps in no better way can the United States show its greatness in the 21st century—and show its true selflessness—than leading a victorious effort to halt the spread of HIV/AIDS.

But solving a global problem requires global leadership. International organizations, national governments, faith-based organizations and the private sector must coordinate with each other and work together toward common goals. And, most importantly, we must make communities the focus of our efforts. Though global leadership must come from places like Washington, New York and Brussels, resources must be directed to where they are needed the most—to the men and women in the villages and clinics and schools fighting HIV/AIDS on the front lines.

Adequate funding is and will remain crucial to winning the battle against HIV/AIDS. But just as crucial as the amount of funding is how it is spent. Should we spend on programs that prevent or lower the rate of infection? Should we spend on treatments that may prolong the life of those who are already infected? Should we spend on the research and development of a vaccine? The answer is yes…to all three questions.

We can only win the battle against HIV/AIDS with a balanced approach of prevention, care and treatment, and the research and development of an effective vaccine. HIV/AIDS has already infected tens of millions of people and will infect tens of millions more. We need to support proven strategies that will slow the spread of the virus and offer those already infected with the opportunity to live as normal lives as possible. And if our goal is to eradicate HIV/AIDS—and I believe that is an eminently achievable goal—then we must develop a highly effective vaccine.

But even with proven education programs or free access to anti-retroviral drugs or a vaccine that is 80 to 90 percent effective, our ability to slow the spread of HIV/AIDS and treat those already infected would be hampered. The infrastructure to battle HIV/AIDS in the most affected areas is limited at best. We need to train health care workers, help build adequate health facilities, and distribute basic lab and computer equipment to make significant
and sustainable progress over the long-term. To win the battle against HIV/AIDS, we must not only fight the disease itself, but also underlying conditions that contribute to its spread—poverty, starvation, civil unrest, limited access to health care, weak education systems and reemerging infectious diseases. Stronger societies, stronger economies and stronger democracies will facilitate a stronger response to HIV/AIDS and ensure a higher quality of life in the nations most affected by and most vulnerable to the disease and its continued spread.

And we can make significant progress without vast sums of money and burgeoning new programs. Take, for example, providing something as basic and essential as access to clean water. 300 million or 45 percent of people in Sub-Saharan Africa don’t have access to clean water. And those who are fortunate enough to have access sometimes spend hours walking to and from a well or spring.

It costs only $1,000 to build a “spring box” that provides access to natural springs and protects against animal waste run-off and other elements that may cause or spread disease. 85 percent of the 10 million people who live in Uganda don’t have access to a nearby supply of clean water. It would cost only $25 million to build enough “spring boxes” to provide most of the people living in rural Uganda with nearby access to clean water.

Providing access to clean water is just one of the many ways in which the global community can empower the people most affected by and most vulnerable to HIV/AIDS. In some cases, such efforts—like supporting democracy and encouraging free markets—may cost little or take a long time, but they will make a significant difference in the battle against HIV/AIDS and the quality of life of billions of people throughout the world.

We have defeated infectious diseases before—sometimes on an even larger scale. Smallpox, for example, killed 300 million people in the 20th century. And as late as the 1950’s, it afflicted up to 50 million people per year. But by 1979 smallpox was officially eradicated thanks to an aggressive and concerted global effort.

What if we had not launched that effort in 1967? What if we had waited another 35 years? Smallpox likely would have infected 350 million and killed 40 million more people. That is a hefty price for inaction—a price that we should be grateful we did not pay then, and we should not want to pay now.

Right now we are losing the battle against HIV/AIDS. But that doesn’t mean we can’t win it in the end. Indeed, I believe we will ultimately eradicate HIV/AIDS. We have the tools to slow the spread of the disease and provide treatment to those already infected. And we have the scientific knowledge to develop an effective vaccine. But we need to focus our resources on what is truly needed and what is proven to work. And we need global leadership to meet a global challenge.

In 2020, when it is estimated that more than 85 million people will have died from HIV/AIDS, how will we look back upon this day? Will we have proven the experts right with inaction? Or will we have proven them wrong with initiative? I hope that we will be able to say that in the year 2002 we took our stand against HIV/AIDS and began to turn back what could have been, but never became the most deadly disease in the history of the world.

CBO ESTIMATE OF THE TAX SHELTER TRANSPARENCY ACT

Mr. BAUCUS. Mr. President, the Committee on Finance filed a legislative report on S. 2498, the Tax Shelter Transparency Act of June 28, 2002. At the time the report was filed, the Congressional Budget Office cost estimate was not available. The cost estimate has been finalized by the CBO and is attached for public review.

I ask unanimous consent that the enclosed cost estimate for S. 2498 be printed in the Record. There being no objection, the material was ordered to be printed in the Record, as follows:

The estimated budgetary impact of the bill is shown in the following table.

<table>
<thead>
<tr>
<th>Fiscal Year, in Millions of Dollars</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
</tr>
<tr>
<td>------</td>
</tr>
<tr>
<td>17</td>
</tr>
</tbody>
</table>

BASIS OF ESTIMATE

All estimates were provided by JCT. The provisions relating to reportable transactions and tax shelters would compose a significant portion of the effect on revenues if enacted. These provisions would increase revenues by $17 million in 2002, $547 million over the 2002-2007 period, and about $1.3 billion over the 2002-2012 period.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects through 2006 are counted.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2498, the Tax Shelter Transparency Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Erin Whittaker and Annie Bartsch, who may be reached at 226-2720.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen.)

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE—S. 2498

July 26, 2002

CONGRESSIONAL RECORD—SENATE

S7425
IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

JCT has determined that the bill contains no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, and tribal governments.

IMPACT ON THE PRIVATE SECTOR

JCT has determined that sections 101, 102, 104, 201–203, and 215 of the bill contain private-sector mandates. JCT has determined that the cost of complying with these mandates would exceed the threshold established by UMRA ($115 million in 2002, adjusted annually for inflation) in 2005 and 2006.

ESTIMATE PREPARED BY:

Erin Whitaker and Annie Bartsch (226–2720).

ESTIMATE APPROVED BY:

G. Thomas Woodward, Assistant Director for Tax Analysis.

ACCOUNTING REFORM

Mr. BIDEN. Mr. President, I rise today to voice my support for H.R. 3764, the Sarbanes-Oxley bill. While not perfect, this is important legislation. I commend my friend and colleague, Senator SARBANS, the distinguished chairman of the Senate Banking Committee, for his relentless effort to usher this landmark legislation through the Senate. I am proud to have worked with him on such an important cause.

To restore some level of confidence, the accounting reform legislation we have passed is critical to stem the corporate greed threatening our economy. Over the last several months the market has lost considerable value. The dollar is at a 2-year low. Investors are questioning the strength of our financial markets. Each day seems to bring new revelation of corporate excess—some horrific story about unabashed corporate greed and malfeasance. It is a seemingly endless onslaught. We don’t know where it will end. And, frankly, we fear how deep it might go.

There is a crisis of confidence in American business. It runs deep, with revelations about cooked books, fraudulent numbers, inflated values, and stock options that make the average working American—who earns about $31,000 a year and fears for his or her pension and health care benefits—sick. In fact, a Pew Forum survey conducted in March, long before the recent revelations, said the esteem in which business executives are held is falling by the day. I shudder to think what those numbers would be now.

Something is clearly wrong with the way corporate America is doing business. Everyone here knows that—and if you follow the money—you will see that investors also know it. They are registering their concern by pulling out of the market. Some have lost their retirement savings. Others have to postpone their retirement. They are unable to pay college tuitions they have a right to expect a little truth in accounting.

The accounting reform legislation we approve today goes a long way to restore their confidence and stem the tide of market uncertainty. It will bring accountability and transparency to corporations, their officials, and their accountants. We should insist on nothing less.

In addition, the Sarbanes-Oxley bill includes significant new criminal laws for white collar offenses, and raises penalties for a number of existing ones. I am proud to have sponsored, along with my good friend from Utah, Senator HATCH, S. 2717, the White-Collar Penalty Enhancement Act of 2002. It grew out of a series of hearings I held this year in the Judiciary Subcommittee on Crime and Drugs in which we heard about the “penalty gap” between white collar offenses and other serious financial frauds.

The Senate unanimously adopted our bill as an amendment to the Sarbanes bill several weeks ago, and we are pleased that its key provisions are in the legislation approved by the House-Senate conference. Let me briefly summarize those provisions which will become law once the President signs this legislation.

Our bill significantly raised penalties for wire and mail fraud, two common offenses committed by white collar crooks in defrauding financial victims. It also created a new 10-year felony for criminal violations under the Employee Retirement Security Act of 1974 (ERISA). Under current law, a car thief who committed interstate auto theft was subject to 10 years in prison, while a pension thief who committed a criminal violation of ERISA was subject to up to 1 year in prison. Our bill now treats pension theft under ERISA like other serious financial frauds by raising the penalties to 10 years.

Our bill also amended the Federal conspiracy statute which currently carries a maximum penalty of 5 years in prison. In contrast, in our Federal drug statutes, a drug kingpin convicted of conspiracy is subject to the maximum penalty contained in the predicate offense which is the subject of the conspiracy—a penalty which can be much higher than 5 years. I say what is good for the drug kingpin is good for the white collar crook. Thus, our bill harmonized conspiracy for white collar fraud offenses with our drug statutes. Now, executives who conspire to defraud investors will be subject to the same tough penalties—up to 20 years—as codefendants who actually carry out the fraud.

Our bill also directed the U.S. Sentencing Commission to review our existing Federal sentencing guidelines. As you know, the sentencing guidelines carefully track the statutory maximum penalties that Congress sets for specific criminal offenses. Our bill requires the sentencing commission to go back and recalibrate the sentencing guidelines to raise penalties for the white collar offenses affected by this legislation.

Finally, and most significantly, our bill required top corporate officials to certify the accuracy of their company’s financial reports filed with the Securities and Exchange Commission.

Incredibly, under current law, there is no requirement that corporate officials certify the financial health of a company—once uncovered—can lead, almost overnight, to a company’s bankruptcy, wholesale loss of jobs for its employees, and a total collapse in the value of the company’s pension funds.

That is why Federal Reserve Board Chairman Alan Greenspan last week testified before the Senate Banking Committee that imposing criminal sanctions on CEOs who knowingly misrepresent the financial health of their company is the key to real reform of corporate wrongdoing.

I am pleased that this centerpiece of the Senate-passed accounting bill is retained in the final legislation. Our provision is simple: corporate officials who cook the books and then lie about them face stiff penalties. We believe these former CEOs will go to jail. Our bill says that all CEOs and CFOs of publicly traded companies must certify that their financial reports filed with the SEC are accurate. If they knowingly certify a false report, they are subject to the conspiracy statute which we heard about the “penalty gap” between white collar offenses and other serious financial frauds.

But we may have left one stone unturned. I regret that this final bill makes a small but significant change from the original Biden-Hatch amendment—put the chairman of the board on the hook, along with the CEO and CFO. This final bill removed the board chairman from the group of corporate officials who are required to certify the accuracy of the reports. I think that is a mistake. Contrary to what some in the business community argued, requiring the board chairman to certify the accuracy of these financial reports would not have threatened the management of a corporation or the integrity of its executives.

Rather, our bill merely would have formalized what should be normal procedure—what every American thinks is plain old common sense—namely that corporate executives certify that their books are not cooked.
and their numbers are truthful. I do not see—and I am sure the American people fail to see—what is wrong with demanding truthfulness in the valuation of a publicly traded company. It would seem to me that those in positions of responsibility in the business community, from the chairman of the board down—should embrace the notion of truth in accounting.

Why would they demand anything less after what we have seen in the last few weeks with a $4 billion discrepancy in WorldCom’s books? After all, “the buck stops” with the chairman of the board—to whom the CEO and CFO report. It strikes me as crazy that we will now hold the CEO and CFO responsible, but not their boss. Indeed, as many have recently pointed out, in most American corporations, the CEO is the chairman of the board. To let board chairs off the hook could create a loophole where crooked CEO’s simply change hands to escape accountability for their corporate filings.

Some naysayers have suggested that the certification requirement would undermine the ability of the chair to oversee and act independently of the chief executive officer. It is absurd that a requirement that merely prohibits top corporate officers from lying about the company’s financial health would sacrifice board independence. If anything, it ensures proper oversight by fostering a healthy division of responsibility between management and the board of directors, by encouraging the board chair to actively engage in the periodic process of checking the accuracy of financial statements; and by recognizing that the board chair has a vital role in “stopping corporate debacles” by not knowingly or willfully contributing to the filing of false financial reports.

Other opponents suggested that the certification requirement would likely drive independent chairman out of business and discourage otherwise good business leaders from serving on boards of directors. This is the same old “sky is falling” claim that Wall Street uttered during consideration of the original securities legislation in the 1930s, and it has repeated this mantra with virtually every congressional reform offered ever since.

Truth be told, the certification requirement would likely drive independent chairman out of business and discourage otherwise good business leaders from serving on boards of directors. This is the same old “sky is falling” claim that Wall Street uttered during consideration of the original securities legislation in the 1930s, and it has repeated this mantra with virtually every congressional reform offered ever since.

Mr. DOMENICI. Mr. President, I rise today to continue my efforts to raise awareness of the dire situation we are facing in the western United States due to the ongoing drought.

I have been speaking on the Senate floor repeatedly emphasizing the impact the drought is having on the west, and especially its impact on New Mexico. The water situation has affected businesses and the livestock industry, and it has turned forests into tinderboxes.

Now, it appears that there is another problem arising from the lack of water. A recent article by the Albuquerque Journal highlights the fact that “hundreds of thousands of bark beetles are killing Pinon pines all over New Mexico.” These are “trees that have survived New Mexico’s arid climate for 75 or 100 years [and] are [now] succumbing to the beetles.”

The drought has made the situation even worse. Without adequate water, the pines can’t repel the bark beetles that burrow into vital tissues, lay eggs, and kill the Pinos. “It’s been something that’s been building the last several years, especially since 2000,” said Bob Cain, a New Mexico State University forest entomologist. “It’s going to be a long time before there’s many Pinos in there again.”

Even before the drought of 2002, the trees faced still competition for water because forests have grown overly dense during decades of human fire suppression.

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ADDITIONAL STATEMENTS

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severe that even trees that should have enough resources around them are getting hit.”

Fence line-size holes in the trunk marked where the beetles entered, and small piles of fine sawdust on the branches and the ground were signs of their success.

In addition, there were several “pitch tubes” in acheckbox trunk. The tree had spurted out resin, or sap, in an attempt to eject the beetles. A healthy tree can fight off beetles that way, but drought means the trees don’t have enough moisture to produce the needed sap.

Bark beetles are efficient killers.

Once a successfully bored into a pinon or ponderosa pine, they send out a chemical signal that attracts thousands of other beetle.

They invade the phloem tissue right under the bark, the tissue that carries sugars from the pine needles to the tree’s roots. The beetles also carry pockets of fungus on their bodies. The fungus attacks the water-conducting tissues of the tree.

Once the signs of beetle infestation are clear, it’s too late to save the tree.

“You really have no good evidence of beetles in the tree until the tree is fading,” Cain said. “Insecticides are not efficient at that point.”

The only solution is to cut down the tree and get rid of it—and the beetles inside—to stop the beetle invasion from spreading to other trees. To use it for firewood, first stack the logs in the sun and cover them with plastic for several days to kill the beetles.

The insecticide Sevin can be used to protect high-value trees that are at risk, but Cain said it is not recommended for general use. Watering trees so they are able to fight off an attack also can help.

“The good news is if we get these monsoons, the trees will become more resistant,” he said.

Drought also has increased populations of spider mites in corn crops in eastern New Mexico.

“It can be quite severe,” said Mike English, head of the NMSU Extension Service’s Agricultural Science Center in Los Lunas, N.M. “Those half your crop.”

The drought could be making blood-sucking kissing bugs a problem in the southern part of the state, Sutherland said.

The bugs’ usual prey, small rodents and birds, probably are in shorter supply so they are biting people and leaving behind, itchy, red welts, she said.

“You’ve seen mosquito bites but you ain’t seen nothing yet,” she said. “These are a lot worse.”

Still, the situation in New Mexico could be worse.

Grasshoppers and Mormon crickets are ravaging crops and pastures in Nebraska and other Western states in what could be the biggest such infestation since World War II, according to agricultural officials.

There were early reports of a few pockets of grasshopper problems in New Mexico in Lea and Eddy counties and near Silver City, English said. But Sutherland said there were no reports of major problems in the state as of mid-July.

THE OREGON RED CROSS

• Mr. SMITH of Oregon. Mr. President, as I am sure many of my colleagues are aware, as I speak here today on the floor of this House of Representatives, I am practitioners in my own state of Oregon. At last count, there were no fewer than fifteen fires burning throughout the state, leaving behind hundreds of thousands of charred acres and a sobering path of destruction. As such, I stand here to salute and pay tribute to the benevolent Oregonians of the Red Cross who, throughout this tragedy, have responded with remarkable compassion and service to their communities.

When fire first broke out near my own home in Pendleton, OR, the Umatilla Chapter of the Red Cross was there and opened an emergency shelter for residents of fire threatened homes.

More than 600 volunteers and staff enlisted for what fortunately became a substantial “cold start” exercise.

In Lake County, Oregon, where the Winter, Toolbox Complex, and Grizzly Complex fires have combined to form a 115,000 acre inferno, the Red Cross has been on the ground, organizing local residents and setting up a shelter to disseminate information and to provide aid to affected families. That shelter remains on standby status today, pending containment of the fire, which is not expected for another week.

There are similar examples throughout the state and throughout the country of local Red Cross chapters responding to Rosella Porterfield's needs.

For as tragic as this fire season has been to date, the staff and volunteers of the Red Cross have responded with an equal level of kindness and selflessness.

This has been a very emotionally charged past few months. As a U.S. Senator and as an Oregonian, I am deeply proud of how the people in my state have responded to life-threatening crises. The generosity shown by so many truly reaffirms one’s faith in the goodness of people. Today, I salute the workers and the volunteers who gave and continue to give of themselves to help our communities in need.

TRIBUTE TO ROSELLA FRENCH PORTERFIELD

• Mr. BUNNING. Mr. President, I rise today to honor a truly amazing and admirable individual, Mrs. Rosella French Porterfield. This Saturday, the Elsmere Park Board will be rededicating the Rosella French Porterfield Park to honor the retired educator, who played such a vital part in the successful integration of the Elranger-Elsmere Independent School System.

A bronze plaque depicting Mrs. Porterfield holding the hands of a young Debbie Onkst of Erlanger, a white student who later followed in her footsteps, was installed at the site.

Mr. Porterfield will take this opportunity to express his gratitude and appreciation for Mrs. Porterfield’s efforts to achieve common goals, the kids could be brought together in an educational atmosphere.

It was a voluntary and rational approach to a community’s educational needs. This happened largely because of the efforts of individuals like Rosella Porterfield.

I kindly ask that my fellow colleagues join me in thanking Mrs. Porterfield for her vision, persistence, and patience. When I think of Rosella’s actions and the effect she had on her community, I recall the words of Winston Churchill, who said, in reference to the heroic efforts of Great Britain’s R.A.F. “Never have so many owed so much to so few.”

TRIBUTE TO TONY TURNER

• Mr. MCCONNELL. Mr. President, I rise today to pay tribute to my dear friend, the late Tony Turner. On June 30, 2002, Tony passed away after succumbing to injuries suffered in a tragic car accident. He was only 40 years old.

Tony Porterfield was a caring individuated individual, Mr. Rosella French Porterfield. This Saturday, the Elsmere Park Board will be rededicating the Rosella French Porterfield Park to honor the retired educator, who played such a vital part in the successful integration of the Elranger-Elsmere Independent School System.

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famous for his self-deprecating sense of humor and brightened the lives of many people with his light-hearted jokes. Tony will be remembered for many reasons, not the least of which is his dedication to his family and friends.

Born and raised in eastern Kentucky, Tony was a widely respected broadcaster. Over the course of his 26-year career, he worked his way from the position of radio disc jockey to television news anchor and station manager. Tony's passion for broadcasting developed at an early age. He landed his first job at WFSP radio in Harlan, and was general manager of that station from 1976 to 1986. After 10 years in radio, Tony moved to television and was a reporter and general assignment editor at WYMT-TV in Hazard. Tony was an outstanding journalist and had the ability to connect with just about everyone. His unique skills were quickly realized and he worked as a reporter and general assignment editor at WYMT-TV in Hazard.

Tony was well respected in the Hazard community and throughout the State of Kentucky. On behalf of myself and my colleagues, we offer our deepest condolences to his loved ones and express our gratitude for his many contributions.

HONORING GUNNERY SERGEANT STEPHANIE K. MURPHY, UNITED STATES MARINE CORPS, ON BECOMING THE FIRST FEMALE DRILL INSTRUCTOR AT NAVAL OFFICER CANDIDATE SCHOOL

- Mrs. LINCOLN. Mr. President, at this time of great challenge to our Nation, it is with immense pride that we take a moment to recognize the efforts of the men and women in our armed forces. I rise today to honor one woman in particular who will be making history next week. On Friday, August 2, 2002, the United States Navy's Officer Candidate School will graduate its first class trained by a female drill instructor. This moment played a vital role in our armed forces, and specifically in the Navy and Marine Corps, for many years, Gunnery Sergeant Stephanie K. Murphy is the first Class Drill Instructor to train future Naval officers.

A native of Pine Bluff, AR, Gunnery Sergeant Murphy has served in the Marine Corps since 1988. In 1996, Murphy graduated from Drill Instructor School in Parris Island, SC where she completed six cycles training Marine enlisted recruits. After receiving an accelerated promotion to Gunnery Sergeant, Murphy requested to go to Pensacola, FL in September 2001 to train Naval Officer Candidates.

Gunnery Sergeant Murphy follows in the proud tradition of trail-blazing women in the military, women such as Opha Mae Johnson, who became one of the first 305 women accepted for duty in the Marine Corps Reserve on August 13, 1943. During World War II, women returned to the Corps to “free a man to fight.” By the end of World War II, a total of 23,145 officer and enlisted women reservists served in the Marine Corps. Unlike their predecessors, women Marines in World War II performed over 200 military assignments. In addition to clerical work, their numbers included parachute riggers, mechanics, radio operators, map makers, motor transport support, and welders. Women Marines became a permanent part of the regular Marine Corps on June 12, 1948 when Congress passed the Women’s Armed Services Integration Act.

Today, women account for over 40 percent of all Marine officers and over five percent of the active duty enlisted force. Like their distinguished predecessors, women in the Marine Corps today continue to serve proudly and capably in whatever capacity their country and Corps require. Gunnery Corps drill instructors have helped train Naval Officer Candidates since the days of the Navy’s World War II Pre-Flight Training Schools. This link was reaffirmed following World War II to strengthen the bond that connects the Navy/Marine Corps Team.

In an uncertain world, Americans know that we can count on our men and women in uniform. It is with overwhelming pride that we recognize their tremendous sacrifice and determination. We ask that you join us today in honoring Gunnery Sergeant Stephanie Murphy and all the courageous individuals serving in the military.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(THE Nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 10:14 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:


H.R. 3763. An act to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 4965. An act to prohibit the procedure commonly known as partial-birth abortion.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, July 26, 2002, she had presented to the President of the United States the following enrolled bill:


REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mrs. MURRAY, from the Committee on Appropriations, without amendment:

S. 2808: An original bill making appropriations for the Department of Transportation.
and related agencies for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107–227).

By Mr. LANDRIEU, from the Committee on Appropriations, without amendment:

S. 2809: An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107–227).

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment in substitute:

S. 1992: A bill to amend the Employee Retirement Income Security Act of 1974 to provide a description of plan assets for participants in individual account plans, to improve disclosure, account access, and accountability under individual account plans, and for other purposes. (Rept. No. 107–228).

S. 1115: A bill to amend the Public Health Service Act with respect to making progress toward the goal of eliminating tuberculosis, and for other purposes. (Rept. No. 107–107).

By Mr. JEFFORDS, from the Committee on Environment and Public Works, without amendment:

S. 2771: A bill to amend the John F. Kennedy Center for the Performing Arts, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CLELAND:

S. 2692. A bill to amend the Internal Revenue Code of 1986 to provide tax fairness for military families; to the Committee on Finance.

By Mr. HARKIN (for himself and Mr. CONRAD):

S. 2803. A bill to amend the Federal Meat Inspection Act, the Poultry Producers Inspection Act, and the Federal Food, Drug, and Cosmetic Act to provide for improved public health and food safety through enhanced enforcement for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. COLLINS (for herself, Mr. SANTORUM, Mr. SARBAKES, Mr. ENWARS, Mr. FEINGOLD, Mr. KENNEDY, Mr. SCHUMER, Mr. SMITH of Oregon, and Mrs. CLINTON):

S. 2804. A bill to amend the National Maritime Heritage Act of 1994 to reaffirm and revise the designation of America's National Maritime Museum, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CORZINE (for himself and Mr. TUCKER):

S. 2805. A bill to amend title 23, United States Code, to provide for criminal and civil liability for permitting an intoxicated automobile operator to operate a motor vehicle; to the Committee on Environment and Public Works.

By Ms. LANDRIEU:

S. 2806. A bill to provide that members of the Armed Forces performing services on the island of Diego Garcia shall be entitled to tax benefits in the same manner as if such services were performed in a combat zone, and for other purposes; to the Committee on Finance.

By Ms. LANDRIEU:

S. 2807. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of dependent care assistance programs sponsored by the Department of Defense for members of the Armed Forces of the United States; to the Committee on Finance.

By Mrs. MURRAY:

S. 2808. A bill making appropriations for the Department of Transportation 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 Ms. LANDRIEU:

S. 2809. An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. HOLLINGS (for himself, Mr. MCCAIN, Mr. BURNS, and Mr. ENSSLIN):

S. 2810. A bill to amend the CommunicationsSatellite Act of 1962 to extend the deadline for the INTEIF, and initial public offering; considered and passed.

By Mr. ENZI:

S. 2811. A bill to direct the Secretary of Agriculture and the Administrator of the Interior to designate certain Federal forest lands at risk for catastrophic wildfires as emergency mitigation areas, to authorize the use of alternative emergency management in those areas, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. TORRICELLI:


By Mrs. CLINTON:

S. Res. 308. A resolution expressing the sense of the Senate regarding the “Once-a-Day” program to promote local farm products; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BIDEN (for himself, Mr. MCCAIN, and Mrs. FEINSTEIN):

S. Res. 309. A resolution expressing the sense of the Senate that Bosnia and Herzegovina should be congratulated on the 10th anniversary of its recognition by the United States; to the Committee on Foreign Relations.

By Mr. HARKIN (for himself, Mr. KENNEDY, Mr. HATCH, and Mr. GEGI):

S. Res. 310. A resolution honoring Justin W. Dart, Jr. as a champion of the rights of individuals with disabilities; considered and agreed to.

By Mr. DASHIEL:

S. Con. Res. 132. A concurrent resolution providing for a conditional adjournment or recess of the Senate and the conditional adjournment of the House of Representatives; considered and agreed to.

ADDITIONAL COSPONSORS

S. 321

At the request of Mr. Grassley, the name of the Senator from Iowa (Mr. MURKOWSKI) was added as a cosponsor of S. 321, a bill to amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the Medicaid program for such children, and for other purposes.

At the request of Mr. BENNETT, the name of the Senator from New York (Mr. SCHUMER) was withdrawn as a cosponsor of S. 1456, a bill to facilitate the security of the critical infrastructure of the United States, to encourage the secure disclosure and protected exchange of critical infrastructure information, to enhance the analysis, prevention, and detection of attacks on critical infrastructure, to enhance the recovery from such attacks, and for other purposes.

S. 203

At the request of Mr. HARKIN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 203, a bill to clarify the authority of the Secretary of Agriculture to prescribe performance standards for the production of meat, meat products, poultry, and poultry products processed by establishments receiving inspection services.

S. 218

At the request of Mr. JEFFORDS, the name of the Senator from Missouri (Mr. GARNER) was added as a cosponsor of S. 218, a bill to provide for the establishment of health plan purchasing alliances.

S. 219

At the request of Ms. STABENOW, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 219, a bill to amend the Agriculture and Consumer Protection Act of 1973 to assist the neediest of senior citizens by modifying the eligibility criteria for supplemental foods provided under the commodity supplemental food program to account the extraordinarily high out-of-pocket medical expenses that senior citizens pay, and for other purposes.

S. 219

At the request of Mr. REECH, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 219, a bill to provide for the reissuance of a rule relating to ergonomics.

S. 220

At the request of Mr. BIDEN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 220, a bill to amend the International Financial Institutions Act to provide for modification of the Enhanced Heavily Indebted Poor Countries (HIPC) Initiative.

S. 226

At the request of Mr. DODD, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 226, a bill to improve access to printed instructional materials used by blind or other persons with print disabilities.
in elementary and secondary schools, and for other purposes.

S. 2266

At the request of Mr. MILLER, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 2266, a bill to amend the Act establishing the Department of Commerce to protect manufacturers and sellers in the firearms and ammunition industry from restrictions on interstate or foreign commerce.

S. 2489

At the request of Mrs. CLINTON, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 2489, a bill to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, and for other purposes.

S. 2512

At the request of Mr. BUNNING, his name was added as a cosponsor of S. 2512, a bill to provide grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 2528

At the request of Mr. DOMENICI, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 2528, a bill to establish a National Drought Council within the Federal Emergency Management Agency, to improve national drought preparedness, mitigation, and response efforts, and for other purposes.

S. 2570

At the request of Ms. COLLINS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2570, a bill to temporarily increase the Federal medical assistance percentage for the medical program, and for other purposes.

S. 2602

At the request of Mrs. CLINTON, the name of the Senator from Nebraska (Mr. NELSON) 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. 2626

At the request of Mr. KENNEDY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2626, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 2674

At the request of Mr. BROWNBACK, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2674, a bill to improve access to health care medically underserved areas.

S. 2800

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 2800, a bill to provide emergency disaster assistance to agricultural producers.

At the request of Mr. BAUCUS, the names of the Senator from North Dakota (Mr. CONRAD), the Senator from Minnesota (Mr. DAYTON), the Senator from Michigan, Mr. WARNER, the Senator from Michigan (Ms. STABENOW) and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 2800, supra.

S. J. Res. 40

At the request of Mrs. LINCOLN, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from North Carolina (Mr. EDWARDS), the Senator from Oregon (Mr. WYDEN), the Senator from North Dakota (Mr. DORGAN) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. J. Res. 40, a joint resolution designating August as "National Missing Adult Awareness Month."

S. J. Res. 41

At the request of Mr. SPECTER, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. J. Res. 41 calling for Congress to consider and vote on a resolution for the use of force by the United States Armed Forces against Iraq before such force is deployed.

S. Res. 239

At the request of Mr. ALLEN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. Res. 239, a resolution recognizing the lack of historical recognition of the gallant exploits of the officers and crew of the S.S. Henry Bacon, a Liberty ship that was sunk February 23, 1945, in the waning days of World War II.

S. Res. 306

At the request of Mr. BROWNBACK, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. Res. 306, a resolution expressing the sense of the Senate concerning the continuous repression of freedoms within Iran and of individual human rights abuses, particularly with regard to women.

S. 2804

A bill to amend the National Maritime Heritage Act of 1994 to reauthorize and revise the designation of America's National Maritime Museums, and for other purposes; to the Committee on Environment and Public Works.

Mr. CORZINE, Mr. President, today I am introducing legislation to address the serious national problem of drunk driving. The bill, entitled "John's Law or 'Out of Control,'" would help ensure that when drunken drivers are arrested, they cannot simply get back into the car and put the lives of others in jeopardy.

On July 22, 2000, Navy Ensign John Elliott was driving home from the United States Naval Academy at Annapolis for his mother's birthday when his car was struck by another car. Both Ensign Elliott and the driver of that car were killed. The driver of the car that caused the collision had a blood alcohol level that exceeded twice the legal limit.

What makes this tragedy especially distressing is that this same driver had...
been arrested and charged with driving under the influence of alcohol. DUI, just three hours before the crash. After being processed for that offense, he had been released into the custody of a friend who drove him back to his car and allowed him to get behind the wheel, with tragic results.

We need to ensure that drunken drivers do not get back behind the wheel before they sober up. New Jersey took steps to do this when they enacted John’s Law at the State level. I am pleased to offer a Federal version of this legislation today.

This bill would require States to impound the vehicle of an offender for a period of at least 12 hours after the offense. This would ensure that the arrestee cannot get back behind the wheel of his car until he is sober.

Further, the bill would require States to ensure that if a DUI offender arrestee is released into the custody of another, that person must be provided with notice of his or her potential civil or criminal liability for permitting the arrestee’s operation of a motor vehicle while intoxicated. While this bill does not create new liability under Federal law, notifying such individuals of their potential liability should encourage them to act responsibly.

John’s Law of 2002 is structured in a manner similar to other Federal laws designed to promote highway safety, such as laws that encourage states to enact tough drunk driving standards. Under the legislation, a portion of Federal highway funds would be withheld from States that do not comply. Initially, this funding could be restored if States move into compliance. Later, the highway funding forfeited by one State would be distributed to other States that are in compliance. Experience has shown that the threat of losing highway funding is very effective in encouraging States to comply. I believe that this legislation would help make our roads safer and save many lives. I hope my colleagues will support it, and 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. 2005

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 “John’s Law of 2002.”

SEC. 2. LIABILITY FOR PERMITTING AN INTOXICATED ARRESTEE TO OPERATE A MOTOR VEHICLE.
(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"(a) DEFINITION OF MOTOR VEHICLE.—In this section, the term ‘motor vehicle’ means a vehicle driven or drawn by mechanical power and primarily for use on public highways, but does not include a vehicle operated only on a rail.

"(b) WITHHOLDING OF APPOINTMENTS FOR NONCOMPLIANCE.—
"(1) FISCAL YEAR 2005.—The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 2004, if the State does not meet the requirements of paragraph (3) on that date.

"(2) SUBSEQUENT FISCAL YEARS.—The Secretary shall withhold 10 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 2005, and on October 1 of each fiscal year thereafter, if the State does not meet the requirements of paragraph (3) on that date.

"(3) REQUIREMENTS.—A State meets the requirements of this paragraph if the State has enacted and is enforcing a law that is substantially as follows:

"(A) WRITTEN STATEMENT.—If a person is summoned by or on behalf of a person who has been arrested for public intoxication in order to transport or accompany the arrestee from the premises of a law enforcement agency, the law enforcement agency shall provide that person with a written statement advising him of his potential criminal and civil liability for permitting or facilitating the arrestee’s operation of a motor vehicle while intoxicated. The person to whom the statement is issued shall acknowledge, in writing, receipt of the statement, or the law enforcement agency shall provide that person with a written statement and acknowledgment to be used by law enforcement agencies throughout the State and may issue directives to ensure the uniform implementation of this subparagraph. Nothing in this subparagraph shall impose any obligation on a physician or other health care provider involved in the treatment or evaluation of the arrestee.

"(B) IMPOUNDMENT OF VEHICLE OPERATED BY ARRESTEE; CONDITIONS OF RELEASE; PER FOR TOWING, STORAGE.—
"(I) If a person has been arrested for public intoxication, the arresting law enforcement agency shall impound the vehicle that the person was operating at the time of arrest.

"(ii) A vehicle impounded pursuant to this subparagraph shall be impounded for a period of at least 12 hours after the time of arrest or until the time at which the arrestee claiming the vehicle meets the conditions for release in clause (iv).

"(iii) A vehicle impounded pursuant to this subparagraph may be released to a person other than the arrestee prior to the end of the impoundment period only if—

"(I) the vehicle is not owned or leased by the person to whom it is released;

"(II) the vehicle is owned or leased by the arrestee, the arrestee gives permission to another person, who has acknowledged in writing receipt of the statement to operate the vehicle and the conditions for release in clause (iv);

"(IV) A vehicle impounded pursuant to this subparagraph shall not be released unless the person claiming the vehicle—

"(I) presents a valid operator’s license, proof of ownership or lawful authority to operate the vehicle, and proof of valid motor vehicle insurance for that vehicle;

"(II) is able to operate the vehicle in a safe manner and would not be in violation of driving while intoxicated laws; and

"(III) has provided any instructions for release established by the law enforcement agency.

"(c) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

"(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—Any funds withheld under subsection (b) from apportionment to any State shall remain available until the end of the fourth fiscal year following the fiscal year for which the funds are authorized to be appropriated.

"(2) APPOINTMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under subsection (b) from apportionment to any State shall remain available for apportionment to a State under paragraph (1), the State meets the requirements of subsection (a)(3), the Secretary, on the date on which the State meets the requirements, apportion to the State the funds withheld under subsection (b) that remain available for apportionment to the State.

"(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPOINTED FUNDS.—

"(A) IN GENERAL.—Any funds apportioned under paragraph (2) that are not obligated at the end of the period referred to in subparagraph (A) shall be allocated equally among the States that meet the requirements of subsection (a)(3).

"(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (b) from apportionment to any State are available for apportionment to a State under paragraph (1), the State does not meet the requirements of subsection (a)(3), the funds shall be allocated equally among the States that meet the requirements of subsection (a)(3).

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"165. Liability for permitting an intoxicated arrestee to operate a motor vehicle.”.

By Ms. LANDRIEU:
S. 2006. A bill to provide that members of the Armed Forces performing services on the Island of Diego Garcia shall be entitled to tax benefits in the same manner as if such services were performed in a combat zone, and for other purposes; to the Committee on Finance.

By Ms. LANDRIEU:
S. 2007. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of dependent care assistance programs sponsored by the Department of Defense for members of the Armed Forces of the United States; to the Committee on Finance.
the coast of India, in the middle of the Indian Ocean. The island is 40 miles around and encompasses an area of 6,720 acres, most of it dominated by a large lagoon. The land mass is actually very small. It is home to a joint British-United States Naval Support Facility, and while there are only a small handful of British Royal Navy personnel on the island, there is a larger, tight-knit team of American Air Force, Navy, and Army personnel on the island. Men and women serving on Diego Garcia are supporting B-52 bombing missions and other operations over Afghanistan. Many of them are from the 2nd Bomb Wing and the 917th Wing. Both units call Barksdale Air Force Base in Louisiana their home.

As a Nation, we provide members of our armed forces with a variety of benefits, all of them deserve. They receive hardship duty pay of $150 per month for serving in austere regions of the world. They get imminent danger pay of $150 per month as compensation for being in physical danger. One of the most generous benefits for those serving in the war on terrorism is the combat zone tax exclusion. Members of the armed services do not pay Federal tax on compensation they for any month of service inside a combat zone. They only have to serve on day in the combat zone to get this benefit. The exclusion only applies to personnel who receive imminent danger pay.

On Diego Garcia, the pilots and flight crews who fly the missions over Afghanistan are eligible for the income tax exclusion because they receive imminent danger pay. But the men and women who load the bombers, fuel them, and maintain them are not eligible because they do not enter the combat zone. My office was contacted by the officers who fly the bombing missions about this discrepancy. They asked me to help out their support crews, a gesture of selflessness that I want to honor.

I recognize that the support crews may be at great danger, but their situation is not too different from Naval personnel performing the same tasks on ships in the Arabian Sea. Naval support crews receive imminent danger pay and are eligible for the tax exclusion, but they do not enter Afghanistan.

Diego Garcia is a beautiful place, but it is a long way from home. The least we could do is treat everyone who has served on the island the same. That is what my bill will do. My second bill will correct an omission in the Tax Reform Act of 1986. That Act contained a provision consolidating the laws regarding the tax treatment of military benefits. The Conference Report to that Act contains a long list of benefits to be excluded from gross income of military personnel. According to the report, this list was to be exhaustive. The problem is the child care benefits were not on that list.

I do not know if this omission was intentional. Perhaps at that time, child care benefits were relatively unknown in the military. The Conference Report gives the Treasury Secretary the authority to expand the list of eligible benefits, but so far the Secretary has not provided any guidance to the Department of Defense. If these benefits should be treated for tax purposes. While military families are not currently being taxed for child care benefits, the Department of Defense has indicated that it would like Congress to clarify that certain benefits are not subject to tax. My bill will give our military families and the Department of Defense a greater degree of certainty.

Throughout our history, in time of war we have worked to make sure that our armed forces have everything they need and we have spared no expense in meeting that need. But the men and women on the ground often have families back at home. We should make sure that we support them as well. I urge my colleagues to support this legislation.

STATEMENTS ON SUBMITTED RESOLUTIONS


Mr. TORRICElli submitted the following resolution: which was referred to the Committee on the Judiciary:

S. Res. 307

Whereas, in 1948, in the shadow of the Holocaust, the international community responded to the horrifically orchestrated acts of genocide by approving the Convention on the Prevention and Punishment of the Crime of Genocide;

Whereas the Convention on the Prevention and Punishment of the Crime of Genocide confirms that genocide is a crime under international law, defines genocide as certain acts with intent to destroy a national, ethnic, racial or religious group, and provides that parties to the Convention undertake to enact domestic legislation to provide effective penalties for persons who are guilty of genocide;

Whereas the United States, under President Harry Truman, stood as the first nation to sign the Convention on the Prevention and Punishment of the Crime of Genocide;

Whereas the United States Senate ratified the Convention on the Prevention and Punishment of the Crime of Genocide on February 19, 1986;

Whereas the Genocide Convention Implementation Act of 1987 (the Proxmire Act) (Public Law 100-192) was passed in 1987 and provided that genocide is a crime under United States law; and

Whereas the enactment of the Genocide Convention Implementation Act marked a principled stand by the United States against the crime of genocide and an important step toward ensuring that the lessons of the Holocaust, the Armenian Genocide, the genocides in Cambodia and Rwanda, among others, will be used to help prevent future genocides;

Whereas, despite the international community's consensus against genocide, as demonstrated by the fact that 131 nations are party to the Convention on the Prevention and Punishment of the Crime of Genocide and through other instruments and institutions, the denial of past instances of genocide continues and many thousands of innocent people continue to be victims of genocide; and

Whereas November 4, 2003 is the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act); Now, therefore, be it

Resolved, That the Senate:

(1) reaffirms its support of the Convention on the Prevention and Punishment of the Crime of Genocide;

(2) anticipates the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003; and

(3) encourages the people and Government of the United States to rededicate themselves to the cause of bringing an end to the crime of genocide.

SENATE RESOLUTION 308—EXPRESSING THE SENSE OF THE SENATE REGARDING THE ‘‘ONCE-A-DAY’’ PROGRAM TO PROMOTE LOCAL FARM PRODUCTS

Mrs. CLINTON submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. Res. 308

Whereas agriculture is a major industry in the United States, contributing $82,000,000,000 to the gross domestic product of the United States in 2000;

Whereas the farmers in every State produce a wide variety of locally produced goods;

Whereas locally-grown, seasonal foods are fresh and wholesome, with superior taste and nutrition;

Whereas eating fresh foods in season is vital to a healthy diet, promotes health, and supports an active lifestyle;

Whereas reduced time from field to table allows farmers to harvest fully-ripened produce;

Whereas this flavorful produce can be prepared with less fat, sugar, and salt;

Whereas during the months of June, July, August, September, and October there is a tremendous selection of fresh, locally-grown produce;

Whereas local farms provide jobs, attract tourists, and recirculate dollars into the local economy of our Nation;

Whereas local produce can be found at many locations such as farmers’ markets, community-supported agriculture farms, farm stands, local stores, and restaurants;

Whereas if citizens of the United States would eat 1 item of local produce each day, every dollar spent on the produce would support independent family farms that contribute to the economic health of the United States; and

Whereas Dutchess County, New York, has already begun a “Once-a-Day” program to encourage local residents to buy local produce in support of their local farmers and their own health.

Now, therefore, be it

Resolved, That it is the sense of the Senate that...
(1) all Americans are encouraged to buy local farm products; and
(2) anyone selling local agricultural products is encouraged to promote the products as “Greener-a-Day” to support the local economy and the health of our Nation.

SENATE RESOLUTION 309—EXPRESSION OF SENSE OF THE SENATE THAT BOSNIA AND HERZEGOVINA SHOULD BE CONGRATULATED ON THE 10TH ANNIVERSARY OF ITS RECOGNITION BY THE UNITED STATES

Mr. BIDEN (for himself, Mr. MCCAIN, and Mrs. FEINSTEIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 309

Whereas the United States reaffirms its support for the sovereignty, legal continuity, and territorial integrity of Bosnia and Herzegovina within its internationally recognized borders and also reaffirms its support for the equality of the three constituent peoples and others in Bosnia and Herzegovina in a united multiethnic country, according to the General Framework Agreement for Peace in Bosnia and Herzegovina;

Whereas, during the 10 years since its recognition, Bosnia and Herzegovina has made significant progress in overcoming the legacy of the internecine conflict of 1992-1995 instigated by ultranationalist forces hostile to a multiethnic society and has persevered in building a multiethnic democracy based on the rule of law, respect for human rights, and a free market economy, as shown by the results of the elections held in November 2000;

Whereas most citizens and the national authorities of Bosnia and Herzegovina share the democratic values of the international community and feel the responsibility to uphold them;

Whereas the Government of Bosnia and Herzegovina is committed to international security and democratic stability and in that spirit has begun the process of qualifying for membership in the Partnership for Peace; and

Whereas, after the attacks of September 11, 2001 on the United States, Bosnia and Herzegovina, as a reliable friend of the United States, immediately positioned itself within the anti-terrorism coalition of nations, sharing the common interests and values of the free and democratic world. Now, therefore, be it

Resolved, That the Senate—
(1) commends Bosnia and Herzegovina for the significant progress it has made during the past decade on the implementation of the Dayton Peace Agreement and on the implementation of the Constituent Peoples’ Decision of the Constitutional Court of Bosnia and Herzegovina;

(2) applauds the democratic orientation of Bosnia and Herzegovina and urges the further strengthening by its government and people of respect for human rights, of the rule of law, and of its free market economy;

(3) urges Bosnia and Herzegovina as rapidly as possible to make fully operational all national institutions and state-level governmental bodies mandated by the Dayton Peace Agreement;

(4) welcomes and supports the aspiration of Bosnia and Herzegovina to become a member of the Partnership for Peace and, pursuant thereto, recognizes the importance of creating a joint military command as soon as possible;

(5) urges the Government of Bosnia and Herzegovina to accelerate the return of refugees and displaced persons and to intensify its cooperation with the International Criminal Tribunal for the former Yugoslavia at The Hague, in particular with regard to surrendering to the Court individuals indicted for war crimes;

(6) reaffirms the importance for the future of Bosnia and Herzegovina of that country’s participation in the European integration process and, in that context, welcomes the notable improvement in mutual cooperation among the successor states of the former Yugoslavia and the strengthening of cooperation within the region as a whole, developed by the European Union for long-lasting peace and stability in Southeastern Europe; and

(7) recognizes the important role of the Bosnian-Herzegovinan-American community in the further improving of bilateral relations between the United States and Bosnia and Herzegovina.

Mr. BIDEN, Mr. President, I rise today to submit a Resolution congratulating Bosnia and Herzegovina on the tenth anniversary of its recognition by the United States.

During this decade since its recognition, Bosnia and Herzegovina has made significant progress in overcoming the legacy of the bloody conflict of 1992-95, which was instigated by ultranationalist forces and claimed more than two hundred thousand lives and made millions more homeless.

The NATO-led peacekeeping force, known originally as SFOR, now as IFOR, has provided the security umbrella that has allowed the slow, difficult process of reconciliation and democracy-building to take place.

The international community under the direction of a resident High Representative, the United Nations, the Organization for Security and Cooperation in Europe, the European Union, and many individual countries have joined the United States in providing and delivering economic and technical assistance to the citizens of Bosnia and Herzegovina.

Last year for the first time democratic, non-nationalist parties gained control of the national and Federation governments, and the government of the Republika Srpska is considerably more democratic than it was under the infamous Radovan Karadzic.

Elections will be held this coming October, which will determine whether the country will continue on a democratic, multi-ethnic, and free market path. Obviously, it is in the interest of the United States that Bosnia and Herzegovina become a normal, peaceful, democratic country.

My Resolution commends Bosnia and Herzegovina for the progress it has made and urges it to take several steps to continue the process. They include: further strengthening of respect for human rights, of the rule of law, and of its free market economy; as rapidly as possible making fully operational all national institutions and state-level governmental bodies mandated by the Dayton Peace Agreement; creating a joint military command as soon as possible; accelerating the return of refugees and displaced persons; and intensifying its cooperation with the International Criminal Tribunal for the former Yugoslavia at The Hague, in particular with regard to surrendering to the Court individuals indicted for war crimes.

The stability of the Balkans is essential for European stability. And stability in Europe is of fundamental importance to the United States of America.

The peace, peaceful, democratic multi-ethnic Bosnia and Herzegovina can be an important element in the new Balkans.

I urge my colleagues to vote for this Resolution, which makes clear our support for just such a Bosnia and Herzegovina.

SENATE RESOLUTION 310—HONORING JUSTIN W. DART, JR., AS A CHAMPION OF THE RIGHTS OF INDIVIDUALS WITH DISABILITIES

Mr. HARKIN (for himself, Mr. KENNEDY, Mr. HATCH, and Mr. GREGG) submitted the following resolution; which was considered and agreed to:

S. Res. 310

Whereas Justin W. Dart, Jr. was born in Chicago, Illinois in 1940; Whereas Justin Dart, Jr. has been recognized as a pioneer and leader in the disability rights movement;

Whereas Justin Dart, Jr. operated successful businesses in the United States and Japan;

Whereas 5 Presidents, 5 Governors, and Congress have seen fit to appoint Justin Dart, Jr. to leadership positions within the area of disability policy, including Vice Chairman of the National Council on Disability, Commissioner of the Rehabilitation Services Administration, Chairperson of the President’s Committee on Employment of People with Disabilities, and Chairperson of the Presidential Task Force on the Rights and Empowerment of Americans with Disabilities;

Whereas Justin Dart, Jr. was a civil rights activist for individuals with disabilities since he was stricken with polio in 1948 and played a leadership role in numerous civil rights marches across the country;

Whereas Justin Dart, Jr. has worked tirelessly to secure passage of the Americans with Disabilities Act of 1990, which was signed into law by President Bush, and is often recognized as a major driving force behind the disability rights movement and that landmark legislation;

Whereas on January 15, 1998, President Clinton awarded the President’s Medal of Freedom, our Nation’s highest civilian award, to Justin Dart, Jr.;

Whereas Justin Dart, Jr. has left a powerful legacy as a civil rights advocate and his actions have benefited the people of the United States;

Whereas Justin Dart, Jr. is not only remembered for his advocacy of individuals with disabilities, but also for his energetic spirit and for the formal and informal independent living skills programs for individuals with disabilities that he supported; and

Whereas Justin Dart, Jr. passed away at his home on June 22, 2002, and is survived by his wife Yoshiko, his daughter, 11 grandchildren, and 2 great-grandchildren: Now, therefore, be it

Resolved, that the Senate—
(1) commends Mr. Dart for his advocacy of individuals with disabilities;

(2) recognizes the important role that Mr. Dart has played in securing passage of the Americans with Disabilities Act of 1990, which was signed into law by President Bush.

(3) recognizes the important role that Mr. Dart has played in securing passage of the Americans with Disabilities Act of 1990, which was signed into law by President Bush;

(4) acknowledges that Mr. Dart was a civil rights advocate, an advocate for individuals with disabilities, and an advocate for individuals with disabilities;

(5) recognizes the important role that Mr. Dart has played in securing passage of the Americans with Disabilities Act of 1990, which was signed into law by President Bush;

(6) recognizes the important role that Mr. Dart has played in securing passage of the Americans with Disabilities Act of 1990, which was signed into law by President Bush; and

(7) recognizes the important role that Mr. Dart has played in securing passage of the Americans with Disabilities Act of 1990, which was signed into law by President Bush.

NOW, THEREFORE, BE IT RESOLVED, that the Senate of the United States, by the authority vested in it by the Constitution and the laws of the United States, do hereby express the highest appreciation of the Senate of the United States for the outstanding contributions and service rendered to the United States by Mr. Justin W. Dart, Jr., as a tireless advocate for individuals with disabilities, as a tireless advocate for individuals with disabilities, and as a tireless advocate for individuals with disabilities.

(Signed) Mr. BIDEN (for himself, Mr. McCAIN, and Mrs. FEINSTEIN)
Resolved, That the Senate—
(1) recognizes Justin W. Dart, Jr. as one of the true champions of the rights of individuals with disabilities and for his many contributions to the Nation throughout his lifetime;
(2) honors Justin W. Dart, Jr. for his tireless efforts to improve the lives of individuals with disabilities; and
(3) recognizes that the achievements of Justin W. Dart, Jr. have inspired and encouraged millions of individuals with disabilities in the United States to overcome obstacles and barriers so that the individuals can lead more independent and successful lives.

SENATE CONCURRENT RESOLUTION 132—PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND A CONDITIONAL ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES

Mr. DASCHLE submitted the following concurrent resolution; which was considered and agreed to.

S. CON. RES. 132

Resolved by the Senate (the House of Representatives concurring), That, in consonance with article III, section one of the Legislative Reorganization Act of 1946, when the Senate recesses or adjourns at the close of business on Thursday, August 1, 2002, Friday, August 2, 2002, or Saturday, August 3, 2002, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until 12:00 noon on Tuesday, September 3, 2002, or until such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Friday, July 26, 2002, on a motion offered by its Majority Leader or his designee pursuant to this concurrent resolution, it stand adjourned until 2:30 p.m. on Wednesday, September 4, 2002, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

Sect. 2. The Majority Leader of the Senate and the Speaker of the House, or their respective designees, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4326. Mr. MCCONNELL (for himself and Mr. FRIST) proposed an amendment to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN) (for himself, Mr. WELSTON, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN), to the bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

TEXT OF AMENDMENTS

SA 4326. Mr. MCCONNELL (for himself and Mr. FRIST) proposed an amendment to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN) (for himself, Mr. WELSTON, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN), to the bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; as follows:

TITLE —HEALTH CARE LIABILITY REFORM

SEC. 1. SHORT TITLE.
This title may be cited as the “Health Care Liability Reform and Quality Assurance Act of 2002”.

Subtitle A—Health Care Liability Reform

SEC. 11. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) EFFECT ON HEALTH CARE ACCESS AND COSTS.—The civil justice system of the United States is a costly and inefficient mechanism for resolving claims of health care liability and compensating injured patients and the problems associated with the current system are having an adverse impact on the availability of, and access to, health care services and the cost of health care in the United States.

(2) EFFECT ON INTERSTATE COMMERCE.—The health care and insurance industries are industries affecting interstate commerce and the health care liability litigation systems existing throughout the United States affect interstate commerce by contributing to the high cost of health care and premiums for health care liability insurance purchased by participants in the health care system.

(3) EFFECT ON FEDERAL SPENDING.—The health care liability litigation systems existing throughout the United States have a significant effect on the amount, distribution, and use of Federal funds because of—

(A) the large number of individuals who receive health care benefits under programs operated or financed by the Federal Government;

(B) the large number of individuals who benefit because of the exclusion from Federal taxes of the personal and corporate taxes of those who purchase such individuals with health insurance benefits; and

(C) the large number of health care providers who provide items or services for which the Federal Government makes payments.

(b) PURPOSE.—It is the purpose of this title to implement reasonable, comprehensive, and effective health care liability reform that is designed to—

(1) ensure that individuals with meritorious health care injury claims receive fair and adequate compensation;

(2) improve the availability of health care services in cases in which the health care liability actions have been shown to be a factor in the decreased availability of services; and

(3) improve the fairness and cost-effectiveness of the current health care liability systems, in keeping with the United States’ resolve to reduce the cost of health care and reduce the unpredictability in health care cost shifting for persons injured as a result of the provision of, or failure to provide or pay for, health care services.

SEC. 12. DEFINITIONS.
In this subtitle—

(1) CLAIMANT.—The term “claimant” means any person who commences a health care liability action, and any person on whose behalf such an action is commenced, including the decedent in the case of an action brought through or on behalf of an estate.

(2) CLEAR AND CONVINCING EVIDENCE.—The term “clear and convincing evidence” means that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction that the allegations sought to be established, except that such measure or degree of proof is more than that required under preponderance of the evidence but less than that required for proof beyond a reasonable doubt.

(3) COLLATERAL SOURCE RULE.—The term “collateral source rule” means a rule, other than one established at common law, that prevents the introduction of evidence regarding collateral source benefits or that prohibits the deduction of collateral source benefits from an award of damages in a health care liability action.

(4) ECONOMIC LOSSES.—The term “economic losses” means objectively verifiable monetary losses incurred as a result of the provision of (or failure to provide or pay for) health care services or the use of a medical product, including past and future medical expenses, loss of past and future earnings, cost of obtaining replacement services in the home (including child care, transportation, food preparation, and household care), cost of making reasonable accommodations to a person’s residence, loss of a business, and loss of business or employment opportunities.

Economic losses are neither non-economic losses nor punitive damages.

(5) HEALTH CARE LIABILITY ACTION.—The term “health care liability action” means a civil action against a health care provider, health care professional, health plan, or other defendant, including a person acting with the knowledge or consent of a defendant, who is responsible for or administers any health care items or services in interstate commerce.

(6) HEALTH PLAN.—The term “health plan” means any person or entity which is obligated to provide or pay for health benefits under any health insurance contract, including any person or entity acting under a contract or arrangement to provide, arrange for, or administer any health benefit.

(7) HEALTH CARE PROVIDER.—The term “health care professional” means any individual who provides health care services in a State who is required by Federal or State laws or regulations to be licensed, registered, or certified to provide such services or who is certified to provide health care services pursuant to a program of education, training and examination by an accredited institution, professional board, or professional organization.

(8) HEALTH CARE PROVIDER.—The term “health care provider” means any organization or institution that is engaged in the delivery of health care services or any organization or institution that is providing health care services in a State and that is required by Federal or State laws or regulations to be licensed, registered, or certified to provide such health care services.

(9) HEALTH CARE SERVICES.—The term “health care services” means health care services provided by a health care professional, health care provider, or health plan or any individual working under the supervision of a health care professional, who is responsible for or administers any health care items or services provided in the course of the diagnosis, prevention, or treatment of any disease or impairment, or the assessment of the health of a human being.

(10) HEALTH CARE LIABILITY ACTION.—The term “health care liability action” means an action brought through or on behalf of a health care liability action.
economic losses are neither economic losses
are brought. Non-

an individual with respect to which a health
ship (other than loss of domestic services),

of consortium, loss of society or companion-

and emotional pain, suffering, inconven-

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Punitive damages are neither

ability action. Punitive damages are neither

health care liability action may be

and emotional pain, suffering, inconven-


(11) MEDICAL PRODUCT.—The term “medical

product” means a drug (as defined in section
201(g)(1) of the Federal Food, Drug, and Cos-
metic Act (21 U.S.C. 321(g)(1))) or a medical
device (as defined in section 201(h) of such Act
(21 U.S.C. 321(h)), including any component
or raw material used therein, but excluding health
care services, as defined in paragraph

(12) NONECONOMIC LOSSES.—The term “non-
economic losses” means losses for physical
and emotional pain, suffering, inconven-

ce, including physical impairment, mental anguish
or disfigurement, loss of enjoyment of life, loss
of consortium, loss of society or companion-

ship (other than loss of domestic services), and

only or personality, expressed or implied, of an
individual with respect to which a health

care liability action is brought. Non-
economic losses are neither economic losses
nor punitive damages.

(13) PUNITIVE DAMAGES.—The term “puni-
tive damages” means damages awarded, for
the purpose of punishment or deterrence, and
not for compensatory purposes, against a

health care professional, health care pro-

vider, or other defendant in a health care li-

ability action. Punitive damages are neither eco-

conomic losses, nor punitive damages.

(14) SECRETARY.—The term “Secretary” means
the Secretary of Health and Human Services.

(15) STATE.—The term “State” means each of
the several States of the United States,
the District of Columbia, and the Common-
wealth of Puerto Rico.

SEC. 10. APPLICABILITY.

(a) IN GENERAL.—Except as provided in

subparagraph (b) of this subsection, the

subparagraph shall apply with respect to any
health care liability action brought in any Federal or State court, ex-

cept that this subparagraph shall not apply to an action arising from a vaccine-

related injury or death to the extent that

section 2XX of the Public Health Service Act

applies to the action.

(b) PREEMPTION.—

(1) IN GENERAL.—The provisions of this sub-

section shall preempt State law only to the ex-

tent that such law is inconsistent with the

limitations contained in such provisions and
shall not preempt State law to the extent that

such law—

(A) places greater restrictions on the amount of or standards for awarding non-

economic damages;

(B) places greater limitations on the

awarding of attorneys fees for awards in ex-

cess of $150,000;

(C) permits a lower threshold for the per-

odic payment of future damages;

(D) establishes a shorter period during

which a health care liability action may be

initiated; or

(E) implements collateral source rule re-

form that either permits the introduction of
evidence of collateral source benefits or pro-

vides for the mandatory offset of collateral

source benefits from damage awards.

(b) RULES OF CONSTRUCTION.—The provi-

sions of this subsection shall not be construed

to preempt any State law that—

(A) permits State officials to commence

health care liability actions as a representa-

tive of an individual;

(B) permits provider-based dispute reso-

lution;

(C) places a maximum limit on the total
damages in a health care liability action;

(D) places a maximum limit on the time in

which a health care liability action may be

initiated; or

(E) provides for defenses in addition to

those contained in this title.

(c) EFFECT ON SOVEREIGN IMMUNITY AND

CHOICE OF LAW OR VENUE.—Nothing in this

subsection shall be construed to—

(1) waive or affect any defense of sovereign

immunity asserted by any State under any

province of law;

(2) waive or affect any defense of sovereign

immunity asserted by the United States;

(3) affect the availability of any provision of

the Foreign Sovereign Immunities Act of

1976;

(4) preempt State choice-of-law rules with

respect to actions that are brought by a foreign

nation or a citizen of a foreign nation;

(5) affect the right of any court to transfer

venue or to apply the law of a foreign nation

or state to a determination of whether a claim-

ant of a foreign nation on the ground of

inconvenient forum; or

(6) supersede any provision of Federal law.

(d) ESTABLISHED ON FEDERAL QUESTION

—Nothing in this subsection shall be construed

to preempt any State law that

establish any jurisdiction in the district
courts of the United States over health care
liability actions on the basis of section 1331 or

1337 of title 28, United States Code.

SEC. 11. STATUTE OF LIMITATIONS.

A health care liability action that is sub-

ject to this title may not be initiated unless

the claimant, when offered by the defendant.

restrictive rule with respect to the time at which the period of limi-

tations begins to run; or

(E) implements collateral source rule re-

form that either permits the introduction of
evidence of collateral source benefits or pro-

vides for the mandatory offset of collateral

source benefits from damage awards.

(b) RULES OF CONSTRUCTION.—The provi-

sions of this subsection shall not be construed

to preempt any State law that—

(A) permits State officials to commence

health care liability actions as a representa-

tive of an individual;

(B) permits provider-based dispute reso-

lution;

(C) places a maximum limit on the total
damages in a health care liability action;

(D) places a maximum limit on the time in

which a health care liability action may be

initiated; or

(E) provides for defenses in addition to

those contained in this title.

(c) EFFECT ON SOVEREIGN IMMUNITY AND

CHOICE OF LAW OR VENUE.—Nothing in this

subsection shall be construed to—

(1) waive or affect any defense of sovereign

immunity asserted by any State under any

province of law;

(2) waive or affect any defense of sovereign

immunity asserted by the United States;

(3) affect the availability of any provision of

the Foreign Sovereign Immunities Act of

1976;

(4) preempt State choice-of-law rules with

respect to actions that are brought by a foreign

nation or a citizen of a foreign nation;

(5) affect the right of any court to transfer

venue or to apply the law of a foreign nation

or state to a determination of whether a claim-

ant of a foreign nation on the ground of

inconvenient forum; or

(6) supersede any provision of Federal law.

(d) ESTABLISHED ON FEDERAL QUESTION

—Nothing in this subsection shall be construed

to preempt any State law that

establish any jurisdiction in the district
courts of the United States over health care
liability actions on the basis of section 1331 or

1337 of title 28, United States Code.

SEC. 12. REFORM OF PUNITIVE DAMAGES.

(a) LIMITATION.—With respect to a health care

liability action, an award for punitive

damage may not be awarded if it is proven by

clear and convincing evidence that the defen-

dant—

(1) intended to injure the claimant for a

reason unrelated to the provision of health

care services;

(2) understood the claimant was substan-

tially certain to suffer unnecessary injury,

and in providing or failing to provide health

care services, the defendant deliberately

failed to avoid such injury; or

(3) acted with a conscious, flagrant dis-

regard of a substantial and unjustifiable risk

of undue harm to persons similarly situated to

the claimant, when offered by the defendant.

(b) DETERMINATION OF PERCENTAGE OF

LIABILITY.—At the request of any de-

fendant, the trier of fact shall consider in a separate

proceeding an amount of punitive damages to

persons similarly situated to the claimant.

(c) EFFECT ON SOVEREIGN IMMUNITY AND

CHOICE OF LAW OR VENUE.—Nothing in this

subsection shall be construed to imply a right

to seek punitive damages where none exists under Federal or State law.

SEC. 13. SCOPE OF LIABILITY.

(A) WHETHER PUNITIVE DAMAGES ARE TO BE

AWARDED.—If a judgment or jury verdict

referred to a health care liability action

shall be several only and may not be

attributed to the claimant, when offered by the

defendant.

(B) LIMITATION AMOUNT.—The amount of damages that may be awarded as punitive damages in any health care liability action shall not exceed 2 times the sum of—

(1) the amount awarded to the claimant for the economic loss; and

(2) the amount awarded to the claimant for noneconomic loss.

SEC. 14. APPLICATION BY COURT.

(a) IN GENERAL.—The provisions of this sub-

section shall apply by the court and the applica-

tion of this subsection shall not be disclosed
to the jury.

(b) RESTRICTIONS PERMITTED.—Nothing in

this title shall be construed to imply a right

to seek punitive damages where none exists under Federal or State law.

SEC. 15. PERIODIC PAYMENTS.

With respect to a health care liability ac-

tion, if the award of future damages exceeds
$500,000, the adjudicating body shall, at the request of either party, enter a judgment or-

dering that future damages be paid on a per-

odic basis in accordance with the guidelines

contained in the Uniform Periodic Payments

Act, as promulgated by the National Conference of Commissioners on Uniform State Laws in July of 1990.

The adjudicating body may waive the requirements of subsection (b) if such body determines that such a waiver is in the interests of justice.

SEC. 16. MANDATORY OFFSETS FOR DAMAGES.

(a) IN GENERAL.—With respect to punitive and noneconomic damages, the liability of each defendant in a health care liability action shall be several only and may not be joined with a defense against the defendant for compensatory damages, including nominal damages (under $500), rendered against the defendant.

(b) DETERMINATION OF PERCENTAGE OF LI-

ABILITY.—In determining the amount of punitive damages, the trier of fact in a health care liability action shall determine the extent of each party’s fault or responsi-

bility for the injury suffered by the claimant, and shall assign a percentage of responsi-

bility for such injury to each such party.

SEC. 17. DELAYED PAYMENTS FOR DAMAGES.

(a) IN GENERAL.—With respect to any health care liability action, the total amount of
FEES.

SEC. 19. TREATMENT OF ATTORNEYS’ FEES AND OTHER COSTS. 

(a) LIMITATION ON AMOUNT OF CONTINGENCY FEES. —

(1) IN GENERAL. —An attorney who represents, on a contingency fee basis, a claimant in a health care liability action may not charge, demand, receive, or collect for services rendered in connection with such action in excess of the following amount recovered by judgment or settlement under such action:

(A) 33 1/3 percent of the first $150,000 (or portion thereof) recovered, based on after-tax recovery, plus

(B) 25 percent of any amount in excess of $150,000 recovered, based on after-tax recovery. 

(2) CALCULATION OF PERIODIC PAYMENTS. —In the event that a judgment or settlement includes periodic or future payments of damages, the claimant’s medical expenses and lost income have been or will be paid by a collateral source or third party; and

(b) FURTHER REDRESS. —The extent to which any party may seek further redress (subsequent to a decision of an alternative dispute resolution method) concerning a health care liability action in a Federal or State court shall be dependent upon the methods of alternative dispute resolution adopted by the State.

(d) TECHNICAL ASSISTANCE AND EVALUATIONS. —

(1) TECHNICAL ASSISTANCE. —The Attorney General may provide States with technical assistance in establishing or maintaining alternative dispute resolution mechanisms under this section.

(2) EVALUATIONS. —The Attorney General, in consultation with the Secretary and the Administrative Conference of the United States, shall monitor and evaluate the effectiveness of State alternative dispute resolution mechanisms established or maintained under this section.

SEC. 21. APPLICABILITY. 

This title shall apply to all civil actions covered by this title that are commenced on or after the date of enactment of this title, including any such action with respect to which the harm asserted in the action or the conduct that caused the injury occurred before the date of enactment of this title.
of their testimony to the Committee on Energy and Natural Resources, United States Senate, 312 Dirksen Senate Office Building, Washington, DC 20510, or to Senator Bingaman’s office in Albuquerque, Suite 130, 625 Silver SW, Albuquerque, NM 87102.

For further information please contact Jake Kotek at 202-224-6385, Jonathan Epstein at 202-224-3357, or Amanda Goldman at 202-224-6836.

AUTHORITY FOR COMMITTEES TO MEET
COMMITTEE ON ARMED FORCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on July 26, 2002, at 9:30 a.m., in both open and executive sessions to consider the nominations of Lieutenant General James T. Hill, USA for appointment to the grade of General and assignment as Commander in Chief, United States Southern Command; and Vice Admiral Edmund P. Giambastiani, Jr., USN for appointment to the grade of Admiral and assignment as Commander in Chief, United States Joint Forces Command.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Children and Families, be authorized to meet for a hearing on Birth Defects: Strategies for Prevention and Ensuring Quality of Life during the session of the Senate on Friday, July 26, 2002, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—H.R. 4965

Mr. REID. Mr. President, it is my understanding that H.R. 4965 is at the desk and due for its second reading.

The PRESIDING OFFICER. As in legislative session, the clerk will read the bill by title for the second time.

The legislative clerk read as follows:
A bill (H.R. 4965) to prohibit the procedure commonly known as partial-birth abortion.

Mr. REID. I object to any further proceedings at this time.

The PRESIDING OFFICER. The objection having been heard, the bill will be placed on the calendar.

MEETING OF CONGRESS IN NEW YORK, NEW YORK, ON FRIDAY, SEPTEMBER 6, 2002

Mr. REID. I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 448, received from the House and now at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:
A resolution (H. Con. Res. 448) providing for a special meeting for the Congress in New York, New York, on Friday, September 6, 2002, in remembrance of the victims and the heroes of September 11, 2001, in recognition of the courage and spirit of the City of New York, and for other purposes.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. I ask unanimous consent the resolution and preamble be agreed to en bloc and the motion to reconsider be laid upon the table without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 448) was agreed to.

The preamble was agreed to.

PROVIDING REPRESENTATION BY CONGRESS AT MEETING IN NEW YORK, NEW YORK

Mr. REID. I ask unanimous consent the Senate now proceed to the consideration of H. Con. Res. 449, received from the House and now at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:
A bill (H. Con. Res. 449) providing for representation by Congress at a special meeting in New York, New York on Friday, September 6, 2002.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of S. Res. 310, submitted earlier today by Senators HARKIN, HATCH, KENNEDY, and GREGG.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 449) was agreed to.

HONORING JUSTIN W. DART, JR.

Mr. REID. I ask unanimous consent the Senate now proceed to the consideration of S. Res. 310, submitted earlier today by Senators HARKIN, HATCH, KENNEDY, and GREGG.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:
A bill (S. Res. 310) honoring Justin W. Dart, Jr., as a champion of the rights of individuals with disabilities.

There being no objection, the Senate proceeded to consider the resolution.

Mr. HARKIN. Mr. President, on Saturday, June 22, New Hampshire lost one of its great heroes: My good friend, Justin Dart, Jr. Today, my colleagues Senator KENNEDY, Senator HATCH, and Senator GREGG, and I are introducing a bipartisan resolution to honor Justin Dart. His memory of service will occur tomorrow, July 23, the 12th anniversary of the Americans with Disabilities Act. Justin Dart was the godfather of the disability rights movement. For 30 years he fought to end prejudice against people with disabilities, to strengthen the disabilities right movement, to protect the rights of people with disabilities. Millions of Americans with disabilities never knew his name but they owe him so much.

Justin was instrumental to the passage of the ADA and many other policies of interest to individuals with disabilities. When President Bush signed the Americans With Disabilities Act, he gave the first pen to Justin Dart. He told him he was the one who brought us together and give the inspiration and guidance to get this wonderful, magnificent bill through. I was proud to be at his side when he received the Medal of Freedom from President Clinton. Today we are proud to introduce this resolution to honor him and commemorate his tremendous contribution to the lives of Americans with disabilities across this country.

Mr. REID. Mr. President, I ask unanimous consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements related thereto be printed in the RECORD at the appropriate place.

The PRESIDING OFFICER. The resolution (S. Res. 310) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

WHEREAS Justin W. Dart, Jr. was born in Chicago, Illinois in 1939;

WHEREAS Justin Dart, Jr. has been recognized as a pioneer and leader in the disability rights movement;

WHEREAS Justin Dart, Jr. operated successful businesses in the United States and Japan;

WHEREAS 5 Presidents, 5 Governors, and Congress have seen fit to appoint Justin Dart, Jr. to leadership positions within the area of disability policy, including Vice Chairman of the National Council on Disability, Commissioner of the Rehabilitation Services Administration, Chairperson of the President’s Committee on Employment of People with Disabilities, and Chairperson of the Congressional Task Force on the Rights and Empowerment of Americans with Disabilities;

WHEREAS Justin Dart, Jr. was a civil rights activist for individuals with disabilities since he was stricken with polio in 1948 and played a leadership role in numerous civil rights marches across the country;

WHEREAS Justin Dart, Jr. worked tirelessly to secure passage of the Americans with Disabilities Act of 1990, which was signed into law by President Bush, and is often recognized as a major driving force behind the disability rights movement and that landmark legislation;

WHEREAS on January 15, 1998, President Clinton awarded the Presidential Medal of Freedom, our Nation’s highest civilian award, to Justin Dart, Jr.; and

WHEREAS Justin Dart, Jr. has left a powerful legacy as a civil rights advocate and his actions have benefited the people of the United States;

WHEREAS Justin Dart, Jr. is not only remembered for his advocacy efforts on the behalf of individuals with disabilities, but also...
TO AMEND THE COMMUNICATIONS SATELLITE ACT OF 1962

Mr. REID. I ask unanimous consent that the Senate proceed to the consideration of S. 2810 submitted earlier by Senators HOLLINGS, MCCAIN, BURNS, and ENSIGN.

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 2810) to amend the Communications Satellite Act of 1962 to extend the deadline for INTELSAT initial public offering required of it by the ORBIT satellite privatization law.

Under ORBIT, INTELSAT must conduct an IPO by December 31, 2002. INTELSAT has made substantial preparations to do just that. But last summer’s disasters in the telecommunications market, however, now make this statutory deadline unrealistic and potentially contrary to the policy objectives of ORBIT. This bill would therefore give INTELSAT another year in which to conduct its IPO and also provides the FCC authority to allow an additional extension of time if warranted by market conditions.

The goal of ORBIT’s IPO requirement was to substantially dilute the ownership of the privatized INTELSAT by its former owners, many of which are foreign governments. I continue to support this goal. The Commerce Committee has been provided with significant evidence that this goal is already in the process of being achieved. For example:

July 18, 2001: INTELSAT privatized in a transaction that resulted in 14 percent of the new entity being held by non-signatory investing entities.

April 20, 2002: INTELSAT filed its IPO registration statement with the SEC.

May 2002: Natural dilution of INTELSAT signatories continued as foreign governments privatized their telecom operations: INTELSAT non-signatory ownership increased to 22 percent.

June 14, 2002: The FCC issued its ORBIT Act report, finding that, “On the whole, we believe that U.S. policy goals regarding the promotion of a fully competitive global market for satellite communications services are being met in accordance with the Act.”

June 21, 2002: INTELSAT received clearance from the New York Stock Exchange to file a listing application to trade its ordinary shares on that exchange. This is a good start. More remains to be done, but it appears that INTELSAT has been proceeding in a manner consistent with launching its IPO prior to the December 31, 2002 ORBIT deadline. Recently, however, uncontrollable external events took over all of us. WorldCom’s bankruptcy is but the latest financial debate in the telecommunications industry, which has been unstable. Capital markets are extremely sensitive to any additional investment at this time. There arguably could not be a worse time for a satellite communications company to consider an IPO.

If forced to move ahead with an IPO before the end of 2002, INTELSAT will probably receive a reduced price for its shares offered. Foreign entities that still own significant portions of INTELSAT are aware of this likelihood and would therefore be discouraged from offering their ownership interests for sale. Instead of the substantial dilution of prior owners contemplated by the ORBIT Act, a year—2002—IP0 might not achieve much dilution whatsoever. In that instance, INTELSAT would have complied with the procedural requirement of ORBIT without the substantive result that we in Congress sought: dilution of previous owners.

Given the current adverse conditions in the stock market in general and the telecommunications sector in particular, the only way to ensure the dilution result sought by ORBIT may be to allow INTELSAT to further delay its IPO. That result is good public policy that is also good for the long-term health of the satellite communications industry.

Mr. President, this bill needs to be enacted this year. I thank my colleagues for their support and I urge the prompt passage of this legislation.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid on the table, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 132) was agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That, no conformance with section 132(a) of the Legislative Reorganization Act of 1946, when the Senate recesses or adjourns at the close of business on Thursday, August 1, 2002, Friday, August 2, 2002, or Saturday, August 3, 2002, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until 12:00 noon on Tuesday, September 3, 2002, or until such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first; and that when the House adjourns on the legislative day of Friday, July 26, 2002, on a motion offered by its Majority Leader or his designee pursuant to this concurrent resolution, it stand adjourned until 2:00 p.m. on Wednesday, September 4, 2002, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

Sect. 2. The Majority Leader of the Senate and the Speaker of the House, or their respective designees, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

Resolved by the Senate (the House of Representatives concurring), That, no conformance with section 132(a) of the Legislative Reorganization Act of 1946, when the Senate recesses or adjourns at the close of business on Thursday, August 1, 2002, Friday, August 2, 2002, or Saturday, August 3, 2002, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until 12:00 noon on Tuesday, September 3, 2002, or until such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first; and that when the House adjourns on the legislative day of Friday, July 26, 2002, on a motion offered by its Majority Leader or his designee pursuant to this concurrent resolution, it stand adjourned until 2:00 p.m. on Wednesday, September 4, 2002, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

Sect. 2. The Majority Leader of the Senate and the Speaker of the House, or their respective designees, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.
WORK OF THE SENATE

Mr. DASCHLE. Mr. President, in just a few minutes, the Republican leader will be joining me on the Senate floor.

Before he gets here, I rise to thank my colleagues for the good work we have been able to complete this week. It has been a productive week. We were able to pass unanimously the new Corporate Accountability Act after a great deal of effort on all sides. I complimented the distinguished Senator from Maryland, the chairman of the Banking Committee, Mr. SARBAVES, on a number of occasions, but I want to complete our week this week by recognizing again his contribution.

The Appropriations Committee deserves commendation. They have reported out all the appropriations bills now.

In many ways, they are actually ahead of schedule, even though we have had somewhat of a late start.

We have finished the military construction appropriations bill this week. We also finished the legislative branch appropriations bill and set up an opportunity to complete our work on the DOD appropriations bill next week. There may be other appropriation bills that may be ready for consideration next week as well. On the appropriations front, secondly, I thought we had quite a good week.

At last, we were able to move to conference on terrorism insurance. I am hopeful in the not too distant future we will complete our work on that measure, as we did the Corporate Accountability Act. We have done a number of nominations. We are now on track with regard to nominations. We confirmed a circuit court judge today, filed cloture Wednesday and got cloture today on second one. That vote will occur on Monday night. It is currently our plan to move forward additional appropriations bills that may be ready for consideration next week as well. On the appropriations front, secondly, I thought we had quite a good week.

In addition to the judicial nominees, we were able to complete our work on nominations on some very important commissions. The SEC, for example, had four outstanding vacancies. As a result of our work this week, we were able to complete work on the SEC nominations. There is now a full complement of SEC Commissioners. That, too, was an important aspect of the work of the Senate.

Off the floor, there were a couple of other important matters that we addressed. The bankruptcy reform conference report is soon to be filed. It was completed, the work was completed, as was the trade promotion authority—not only trade promotion authority but the Andean Trade Promotion Act, as well as the Trade Adjustment Assistance Act, the package of bills, late last week. We passed conference report to that package of bills was agreed to.

We are in a very good position now to move into the final week of this work period. Senator LOTT and I have had a number of constructive discussions about next week. Our purpose in coming to the floor is to outline for our colleagues what our expectations are, and I will do that when he arrives.

I will also say, the confirmation of the district judge this morning brings to a total of 61 the number of confirmations since we took the majority a little over a year ago. That includes 49 district judges and 12 circuit judges.

On Monday, as noted, we intend to take up at least 1 more, if not additional judges, and that would bring to a total anywhere from 62 to 64 judges in the time that we have had the majority.

We are making progress on judicial nominations. We are determined to attempt to clear the calendar with regard to those judicial nominations over the next few days, if it is at all possible.

Whether we clear the calendar, I must say, depends on whether we get all the other work done as well. There has to be an understanding that we do not have the luxury of focus only on nominations, as much as that would be a good thing to do. We have to complete our work on the prescription drug benefit and generic drug benefit legislation. We want to call up the fast-track conference report and file cloture. We want to complete our work on the Defense appropriations bill, if that is possible. We want to work to proceed to the homeland security legislation and file cloture on the motion to proceed to that bill.

We have a lot of work we need to complete before the end of next week. Given the fact we will get a late start on Monday afternoon, Senators should be aware that we could be involved in late nights, and we will certainly be here a week from this coming Friday.

I wanted to be sure my colleagues were made aware of our expectations for the schedule of periods of time. I yield the floor and suggest the absence of a quorum until the arrival of the distinguished Republican leader.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the Senate recess subject to the call of the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. REID. I ask unanimous consent that the Senate recess subject to the call of the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

NEXT WEEK’S SCHEDULE

Mr. DASCHLE. Mr. President, the distinguished Republican leader and I have been discussing the schedule for next week, as I noted a few moments ago. We know there are many obstacles and many challenges we will have to face next week. I believe it is important we come to the floor to share with our colleagues at least what our intentions are and indicate that, on a bipartisan basis, it is our desire to work through each of these priorities in an effort to get as much done as we can and complete this work period as successfully as possible.

We are keeping with that spirit, let me say it was our intention to attempt to complete our work on the prescription drug benefit Tuesday night. We, of course, will take up additional nominations on Monday, three judges, and additional Executive Calendar nominees. We will chip away at that each day. We will be doing another block of nominations today. As we noted earlier this week, we are working under a unanimous consent agreement to take up the Defense appropriations bill other than Wednesday. Now, it does not, of course, stipulate when on Wednesday, so in keeping with that request and that consent, we are obligated to bring it up.

It is my expectation that certainly if the prescription drug benefit bill has been completed, we will be able to come to the DOD bill and stay on it until it has been finished. We recognize there are those who are in opposition to both the trade promotion authority and Homeland Security. Yet it is our desire to complete work on the trade promotion authority bill, the conference report, next week. So we will file cloture on the motion to proceed to the conference report in an effort to complete our work.

We also have a need to begin work on the homeland security legislation. It was reported out of committee on a bipartisan basis, out of the Governmental Affairs Committee this week, file cloture on it. We think that there will be a need to do so. We will file cloture on the homeland defense bill and have a vote on the motion to proceed to that bill prior to the end of the week.

So that clearly will require cooperation and a good deal of effort on everyone’s part. I think there is a mutual interest in getting this work done. Many of the issues that we will be taking up next week are high priorities for the administration, as they are for us. So I appreciate very much the distinguished Republican leader’s interest in working together to accommodate that schedule. I thank him for coming to the floor.

I yield the floor at this time for whatever remarks he may want to make.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. LOTT. Mr. President, I thank the distinguished majority leader for his comments and for the effort that he has put into a number of these issues this week. For every small agreement
that is entered into on the floor it quite often represents hours of effort on our part, many times having had to go to Members repeatedly and work through concerns and legitimate disagreements. Then we finally get an agreement on the floor, and it moves quickly like it was a piece of cake, but it was not that way at all, as the distinguished Senator in the chair knows because he is here on the floor working these issues day in and day out.

As is always the case, this next week has the potential to be a very productive week. One of the two busiest weeks and most productive weeks each year is the one right before the August recess and the one right before we go out at the end of the year. I remember one day, the last day of a session, we moved over 50 bills at the last half of the day when most Members had gone. But we had worked through a number of agreements.

We have a chance to do a lot. I want to look back, though, just a moment, to this week because there were some significant achievements this week. It looked as if at times we were not reaching agreement—we weren’t—but sometimes before you reach an agreement you have to be clearly in disagreement. Maybe that is where we were this week.

But we did finally start to break the deadlock and had a thaw on nominations. We have almost a record high of 90-something nominations pending on the calendar. But efforts were made to work through that. Senator DASCHLE and I had worked through it twice, only to be met with a hold. But the White House worked out concerns with Senator MCCAIN and we started moving nominations, including, I think, some 15 last night. We are beginning to make a little progress on the judges.

We have nominations still pending in committees, but if everything goes according to normal practice around here, a lot of those nominations will be coming out next week and we will be moving them, hopefully, as fast as we can once we get them cleared.

We are doing some judges. It is difficult, but we are going to get action on one more circuit judge completed on Monday. We moved one other district judge last night and voted on that, I believe—this morning, actually. We are going to do two more, I believe Senator DASCHLE said. So we are beginning to thaw that issue, and that is good.

On the accounting reform, I want to emphasize once again we not only get an agreement on the conference, we got the conference done and sent to the President, and I believe that was a positive factor in beginning to restore confidence in our corporate world and accounting procedures.

The bankruptcy reform, process, or has by now completed homeland security legislation. The Senate committee completed markup and we are ready to go forward. That was a very big achievement by the committee. Even though you disagree with some of what was done, they did get their work completed and they reported it to the Senate, and we did the legislative appropriations bill and we got an agreement to do the Department of Defense appropriations bill.

For our colleagues on my side of the aisle, they have been calling for this. In fact, we are going to get it done, we are going to call it up next Wednesday, and we will complete it if it takes 2 hours a day or 2 days, as Senator DASCHLE said. So those things we did, after a lot of work, seeing some agreement reached.

On prescription drugs, we don’t have agreement. It is obvious we had concerns about the way it was brought to the floor and about some of the legislation that was offered. But efforts are still underway to see if we can find common ground. We will continue to try to do that.

There is pending an amendment on medical malpractice. That is an issue that is very important to a lot of people of my State. There has developed a real problem with tort reform and with doctors losing their ability to get insurance or leaving the State because there is no limit on punitive damages. No matter how this turns out in this debate, this is a debate that we and the States of America are going to have to deal with in some way.

We will have an opportunity late Monday afternoon and Tuesday to see what can be done on prescription drugs. I know there are conversations going on today between Members of the Senate and House, Republican and Democrat, and also with the administration to see maybe what can be done there. Senator DASCHLE has indicated that he would begin action to get a vote on at least cloture on a motion to proceed, on hold-up territory. I had hoped and he had hoped, and had stated, that we would do our best to get homeland security completed before the August recess. But there is a physical limit to what we can do in a limited period of time, especially if we have Senators who are going to exercise to their fullest their rights to have debate.

The trade conference report, I think the whole city was shocked this morning when they found out that there had basically been an agreement on the trade conference report. As I look at it, it sounds as if they have done a good job. I would probably change parts of it, and so would Senator DASCHLE, but I do think they probably have made a very wise move. Instead of subjecting themselves to 6 weeks of pressures and counterpressures, they went ahead and addressed the issue and had the bill ready.

We are going to work together next week to take the early action necessary to get cloture on fast track and complete action on that bill. This is a very important bill for the economy of our country and for our ability to be involved in trade promotion and trade, fair trade and open trade, all over the world. We have kind of fallen behind in that area with some other countries. The bankruptcy reform effort finally worked out, too. I would like to see us even try to deal with that. If we cannot get that done next week, we will be ready to go to it shortly after we return.

I do want to say to Senator DASCHLE and to others, I am working to try—I discussed concerns about getting agreement to go ahead with the energy and water appropriations bill. If we could add that to our list next week, that would be very big. I don’t find a lot of resistance to it, but we have had to clear it with some people who did have some potential amendments. There is one other concern related to that bill that I am trying to work through.

We have just given a litany of bills. It will not be easy to get all that done. We may not get it all done next week. But by working together and by asking our colleagues to cooperate with us, I think we can produce a lot of good legislation next week. I would like to be able to have a press conference next week as we go home and say: The Senate has done well. I haven’t said that a lot lately, but I am prepared to do so when it is merited. I think there is a chance for that to occur next week. We could have a really important legislative achievement next week with a little extra work and a little extra input from all of our colleagues.

I thank Senator DASCHLE for working with us to move these nominations. There are a lot of people who try to view every bill, every nomination, as leveragable on some other issue. At some point we have to stop that and move them forward in order to do what the American people expect us to do. I am going to be involved next week to try to help in every way I can.

Quite often, Senator DASCHLE and I get accused of being on both sides of the same issue, by many different forces. It amazes me sometimes what I am supposed to have done. In fact, I saw yesterday where somebody had put out that there was a Daschle-Lott agreement on prescription drugs. It came as a shock to Senator DASCHLE and me, but it was actually something in writing. Somebody downtown had a brilliant idea. Maybe we ought to look at it actually, if.

I am thankful for the comments of Senator DASCHLE, and I will work with him next week to do everything we can to produce a good result. I yield the floor to Senator DASCHLE.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I compliment the distinguished Republican leader for the spirit of his comments, and indicate that he is so correct. There are so many times when there are rumors and there are allegations of all kinds, sometimes positive and
sometimes negative, about things that he and I are doing, which is why I thought having a colloquy at the end of the week might be helpful.

With regard to the schedule, with regard to our intentions, let me be clear. It is my hope, based on the cooperative spirit that we both have attempted to articulate this afternoon, that we can get a lot done.

I have indicated to the President this week that it is my hope we can clear the calendar of all of the noncontroversial nominations, both judicial as well as executive appointments. That is what we will continue to try to chip away at. I don’t see any reason why, at the end of the week, all noncontroversial nominations could not have been successfully addressed. We will do that.

I appreciate very much Senator Lott’s willingness to come to the floor to restate our intentions to try to achieve this ambitious agenda.

THE CALENDAR

Mr. DASCHLE. Mr. President, I have a number of matters to address prior to the time we adjourn for the day.

All of these matters have been reviewed by the distinguished Republican leader. He is here, and he is now in a position to express himself if he has any additional comments. But I will begin.

UNANIMOUS CONSENT AGREEMENT—THE EXECUTIVE CALENDAR

Mr. REID. Mr. President, as if in executive session, I ask unanimous consent that the Senate proceed to vote on confirmation of the nominations; and at the end of the nominations, the Senate remain in executive session to consider the following nominations, that there be 2 minutes of debate equally divided and controlled in the usual form between the votes; that the Senate proceed to vote on confirmation of the nominations; that the President be immediately notified of the Senate’s action; and that the Senate resume legislative session without further intervening action or debate: Executive Calendar No. 827, the nomination of Joy Flowers Conti, of Pennsylvania to be U.S. District Judge for the Western District of Pennsylvania; Executive Calendar No. 828, John E. Jones, III, of Pennsylvania to be U.S. District Judge for the Middle District of Pennsylvania.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

JOHN F. KENNEDY CENTER PLAZA AUTHORIZATION ACT OF 2002

Mr. DASCHLE. Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 524, S. 2771. The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2771) to amend the John F. Kennedy Center Plaza Authorization Act of 2002 to authorize the Secretary of Transportation to carry out a project for construction of a plaza adjacent to the John F. Kennedy Center for the Performing Arts, and for other purposes.

There being no objection, the bill proceeded to consider the bill.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the bill be read a third time and passed, as follows:

S. 2771

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

SEC. 1. SHORT TITLE.

This Act may be cited as the “John F. Kennedy Center Plaza Authorization Act of 2002”.

SEC. 2. JOHN F. KENNEDY CENTER PLAZA.

The John F. Kennedy Center Act (20 U.S.C. 76h et seq.) is amended—

(a) by redesignating sections 12 and 13 as sections 13 and 14, respectively; and

(b) by inserting after section 11 the following:

SEC. 12. JOHN F. KENNEDY CENTER PLAZA.

The term ‘Plaza’—

(i) means an area within the boundaries of the Project affected by the Project that is covered by green space, or other vegetation; and

(ii) includes transportation elements (including landscaping, green space, open public space, and water, sewer, and utility connections).

(C) PROJECT.—

(A) In general.—The term ‘Project’ means the Plaza project, as described in the TREA-21 report, providing for—

(1) construction of a plaza; and

(2) improved bicycle, pedestrian, and vehicular access to and around the Center.

(B) INCLUSIONS.—The term ‘Project’ includes—

(1) planning, design, engineering, and construction of the Plaza; and

(II) related transportation improvements; and

(III) includes any other element of the Project identified in the TREA-21 report.

(6) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.
(b) ADMINISTRATION.—Section 6(d) of the John F. Kennedy Center Act (20 U.S.C. 76j(d)) is amended by striking the first sentence by striking "section 12" and inserting "section 14".

(c) JOHN F. KENNEDY CENTER PLAZA.—Section 12 of the John F. Kennedy Center Act (as redesignated by section 2) is amended by adding at the end the following: "Upon completion of the project for the Kennedy Center Plaza authorized by section 12, the Board, in consultation with the Secretary of Transportation, shall amend the map that is on file and available for public inspection under the preceding sentence.".

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 852, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, and 883; that the nominations be confirmed; that the consideration be the upholding of the nominations on the table; that any statements relating thereto be printed in the Record; that the President be immediately notified of the Senate's action; and that the Senate then return to legislative session, with the preceding all occurring without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed, as follows:

DEPARTMENT OF ENERGY

Guy F. Caruso, of Virginia, to be Administrator of the Energy Information Administration.

DEPARTMENT OF JUSTICE

Gregory Robert Miller, of Florida, to be United States Attorney for the Northern District of Florida for the term of four years.

Kevin Vincent Ryan, of California, to be United States Attorney for the Northern District of California, for the term of four years.

Randall Dean Anderson, of Utah, to be United States Marshall for the District of Utah for the term of four years.

Ray Elmer Carnahan, of Arkansas, to be United States Attorney for the Eastern District of Arkansas, for the term of four years.

David Scott Carpenter, of North Dakota, to be United States Marshal for the District of North Dakota for the term of four years.

Theresa A. Merrow, of Georgia, to be United States Marshal for the Middle District of Georgia for the term of four years.

Ruben Monzon, of Texas, to be United States Marshal for the Southern District of Texas for the term of four years.

James Michael Wahlrab, of Ohio, to be United States Marshal for the Southern District of Ohio for the term of four years.

DEPARTMENT OF LABOR

Kathleen P. Ugolkov, of Virginia, to be Commissioner of Labor Statistics, United States Department of Labor, for a term of four years.

W. Roy Grizzard, of Virginia, to be Assistant Secretary of Labor.

NATIONAL COUNCIL ON DISABILITY

Lex Frieden, of Texas, to be a Member of the National Council On Disability for a term expiring September 17, 2003.

Young Kim, of Indiana, to be a Member of the National Council On Disability for a term expiring September 17, 2003.

Kathleen Martinez, of California, to be a Member of the National Council On Disability for a term expiring September 17, 2003.

CAROL HUGHES NOVAK, OF GEORGIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES POSTAL SERVICE

Patricia Pound, of Texas, to be a Member of the National Council On Disability for a term expiring September 17, 2002.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR MONDAY, JULY 29, 2002

Mr. DASCHLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 4 p.m. on Monday, July 29; that following the prayer and pledge, the morning hour be devoted, if expedient, to the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business until 5:30 p.m., with Senators permitted to speak for up to 10 minutes each, with the time equally divided between the two leaders or their designees; and that at 5:30 p.m. the Senate proceed to executive session under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

MONDAY, JULY 29, 2002

Mr. DASCHLE. Mr. President, the next rollcall vote will occur at approximately 5:30 p.m. on Monday, July 29, on the confirmation of Julia S. Gibbons to be U.S. Circuit Judge for the Sixth Circuit.

ADJOURNMENT UNTIL 4 P.M.

MONDAY, JULY 29, 2002

Mr. DASCHLE. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 3:54 p.m., adjourned until Monday, July 29, 2002, at 4 p.m.

NOMINATIONS

Executive nominations received by the Senate July 26, 2002:

DEPARTMENT OF DEFENSE


DEPARTMENT OF TRANSPORTATION

MAISON C. BLAKELY OF MISSISSIPPI, TO BE ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION FOR A TERM OF FIVE YEARS. VICE JANE GARVEY. TERM EXPIRING.

UNITED STATES POSTAL SERVICE

JAMES C. MILLER III, OF VIRGINIA, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR THE
CONFIRMATIONS

Executive nominations confirmed by the Senate July 26, 2002:

DEPARTMENT OF ENERGY

GUY F. CARUSO, OF VIRGINIA, TO BE ADMINISTRATOR OF THE ENERGY INFORMATION ADMINISTRATION.

KATHLEEN P. UTOFF, OF VIRGINIA, TO BE COMMISSIONER OF LABOR STATISTICS, UNITED STATES DEPARTMENT OF LABOR FOR A TERM OF FOUR YEARS.

W. ROY GRIZZARD, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF LABOR.

NATIONAL COUNCIL ON DISABILITY


YOUNG WOO KANG, OF INDIANA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2003.

KATHLEEN MARTINEZ, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2002.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DUTY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

CHRISTOPHER C. CONNER, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF PENNSYLVANIA.

GREGORY ROBERT MILLER, OF FLORIDA, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF FLORIDA FOR THE TERM OF FOUR YEARS.

KEVIN VINCENT RYAN, OF CALIFORNIA, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF CALIFORNIA FOR THE TERM OF FOUR YEARS.

RANDALL DEAN ANDERSON, OF UTAH, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF UTAH FOR THE TERM OF FOUR YEARS.

RAY ELMER CARNAHAN, OF ARKANSAS, TO BE UNITED STATES MARSHALL FOR THE EASTERN DISTRICT OF ARKANSAS FOR THE TERM OF FOUR YEARS.

DAVID SCOTT CARPENTER, OF NORTH DAKOTA, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF NORTH DAKOTA FOR THE TERM OF FOUR YEARS.

THERESA A. MERROW, OF GEORGIA, TO BE UNITED STATES MARSHAL FOR THE MIDDLE DISTRICT OF GEORGIA FOR THE TERM OF FOUR YEARS.

RUBEN MONZON, OF TEXAS, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF TEXAS FOR THE TERM OF FOUR YEARS.

JAMES MICHAEL WAHLRAB, OF OHIO, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF OHIO FOR THE TERM OF FOUR YEARS.
Mr. HOLT. Mr. Speaker, today I am both pleased and saddened to be in a position to present these remarks about TONY HALL. Please because I have had the opportunity to serve with TONY for the past four years, and please because I know he will do so much to help the hungry and the less fortunate in his new job; yet saddened because his guiding hand and steadfast effort on behalf of those less fortunate will be missed when he leaves Congress.

Because TONY’s reputation precedes him, TONY was one Member I was especially looking forward to knowing when I arrived in the House. Three times nominated for the Nobel Peace Prize, Congressman TONY P. HALL has been the leading advocate in Congress for hunger relief programs and improving international human rights conditions. Over the last twenty-four years, there is not a single Member of this great body who has contributed more to those who cannot stand up for themselves. Without TONY here, we will all need to pull together to make sure that those less fortunate are not left behind.

TONY has worked actively to improve human rights conditions around the world, especially in the Philippines, East Timor, Paraguay, South Korea, Romania, and the former Soviet Union. In 2000, he introduced legislation to stop importing “conflict diamonds” that are mined in regions of Sierra Leone under rebel control. In 1999, he was the leader in Congress to fight hunger-related international human rights conditions. Over the last twenty-four years, there is not a single Member of this great body who has contributed more to those who cannot stand up for themselves. Without TONY here, we will all need to pull together to make sure that those less fortunate are not left behind.

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A CELEBRATION OF THE LIFE OF DR. JAMES DAVISON FORD

Mr. HORN. Mr. Speaker, Chaplain Jim Ford had a positive influence on every member of the House of Representatives, and I was privileged to know him and grateful to have his friendship for nine years. As Chaplain, Jim had the rare quality of being able to relate to everyone regardless of religious affiliation or background. As a friend, he was there for anyone needing help through life’s inevitable ups and downs. As a family man, his loving and accomplished wife and children are a testament as well.

As a human being, he had an exuberant zest for living and caring, for adventure, for knowledge, and for jokes.

When I had surgery for prostate cancer, Jim visited me in the hospital. He was a survivor himself, and his humor and his irrepressible positive attitude filled the room. My wife and I were fortunate to have traveled with Jim and Marcy in the Middle East and in Europe, where we had the benefit of Jim’s companionship and his vast store of historical anecdotes. He had an impressive understanding of the world’s great religions centered in Jerusalem. Although Jim was modest about his eloquent daily prayers in the House of Representatives, it is the wish of his many colleagues and friends that they should be published. Chaplain Ford’s prayers covering 21 years are a powerful commentary on the spirit of the people’s House through times of tranquility and turmoil. They are prayers for all people in all seasons and form a rich legacy for generations to come.

PRELUDE:

Mrs. Judy Snopek, Pianist.

INVOCATION:

The Reverend Daniel P. Coughlin, Chaplain, United States House of Representatives.

REVEREND COUGHLIN: Members and staff and friends, today we gather to remember, memorialize and celebrate the life and service of Dr. James Davison Ford, the Chaplain to the House of Representatives for over 21 years. I wish also to acknowledge the Parliamentarian, Charlie Johnson, and Reverend Ron Christian, both very close friends to Dr. Ford, for their efforts to assure this event would happen after the cancellation of the memorial service first planned for September 11. That tragic event affected all of us and only deepened the pain of our loss of Jim Ford when terrorism robbed us even of the freedom to assemble and grieve as well as honor God for this gifted pastor, counselor and friend of so many here in the House which he loved so much and which was honored by his years of high-filled service. We are indebted also to the Honorable Jeff Trandahl and the Clerk’s office for their detailed arrangements for today.

As the first Lutheran Chaplain to serve in the House as Chaplain, Dr. Ford was rooted in the Word, and so I thought it only fitting to begin with a short reading from Saint Paul:

Romans 8:37-39

But in all these things we are more than conquerors through him that loved us. For I am persuaded, that neither death nor life, nor angels nor principalities, nor powers, nor height nor depth, nor any other creature, shall be able to separate us from the love of God in Christ Jesus our Lord.

* * *

PRELUDE:

This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.
Last year around this time, my beloved predecessor, Bill Brown, passed away. There was a Quaker gathering for Bill in Lincoln, Virginia. It was a beautiful service. Jim used to come as a prayer friend to Quaker House on occasion, not publicly, but there were long periods of silence and then I felt so inspired. Bill’s public, and I said, Bill never lobbied for anything, except for one resolution, and that was on January 15, 1979, the opening of the 96th Congress. Bill had been elected and the new Chaplain was going to be the first full-time Chaplain and he had five children and the word came down, although Bill and I had not met newly elected Chaplain, that he needed a pay raise. So the Parliamentarian took it upon himself to make sure the floor was clear of all potential objec tors and at the appropriate time. I recall it was 7 came up, called up by Jim Wright on January 15 and, boom, the Chaplain’s salary was tripled. I mentioned that at Bill’s Quaker meeting. And some further period of quiet intervened and Chaplain Ford, retired, was in the congregation. He stood up and said, “I was at the Chappel, a series of ‘there were’ clauses of it. It was not orchestrated. I don’t think he can orchestrate Quaker meetings, at least for that event, but there he was in 1979 and the new Chaplain.”

He had his own separate chaplaincy right at the rostrum of the House. I will allude to certain events as I go along. But come 1985, 6 years into his chaplaincy, it was his 53rd birthday. Tip O’Neill was proud to sponsor a resolution, we called it House Res. 7, I think. He handed it to him for the rostrum. The resolution would have amended rule VII to read as follows. Rule VII is now somewhere else as a result of recodification, but do yourself. The resolution would have said, “The Chaplain shall attend at the commencement of each day’s sitting of the House and shall open the same with prayers. He shall be the primary attender and may be used as a substitute of guest Chaplain, at the adjournment of each day’s sitting of the House, including all special orders, and close the same with a benediction.”

Here is a photograph of two people a lot younger. Jim Ford, this is H. Res. 33, there is a preamble, a series of younger. Jim Ford, this is H. Res. 53, there is Incuding all special orders, and close the same with a benediction. It was the spontaneity of Bill Brown and I and our wives would go out and do a flyover of Bill’s farm on New Year’s Day. I said, “Jim, why don’t you fly over, and I’ll just kind of tell people that you’re going to do a flyover of Bill’s farm on New Year’s Day.” He said, “All right.” So we went out. I said, “Let’s go out for a walk.” It’s New Year’s morning, we are out there, I don’t know how far, but at least 40 miles of Januy. Someone said, “Charlie, forget it. He’s not coming. The dream is over.” Just then this sound of an ultralight, he had to come across the street and take off. He had said he didn’t want to land because it would disturb the neighbors. Bill had 300 acres, he didn’t know how to land. But he showed up. He showed up and he dipped his wings as a token of friendship.

And then there were these civility retreats to which some of you Members, Ray and others, have attended. He would come in on a motorcycle or on horseback, and there was this one video that he showed of himself emerging from a clandestine hall, as if he were one of the statues, intoning the history of the House of Representatives. He showed me this video. He knew I thought that was very funny. He would come up and say, “Hey, Montignor!” He was Chaplain Ford. He said, “I never knew you were such a wacko.” Direct quote from Tip O’Neill. The microphone was on. So from that day on, he was Wacko to some of us.

And then his trans-Atlantic sail. You have all heard about his adventures to sail the Atlantic with the full confidentiality of it where he could say things to me that wouldn’t reveal a confidence but would give me a better perspective.

His notion of inclusiveness. He loved to have people from other faiths or from no particular faith be a part of a dialogue with himself. Not many people know this. I see a couple of you. He was the leading preacher on the House floor. He was a pretty popular among tourists. Every one of those honorarium checks as far as I know went to the Luther Place homeless shelter. Thousands of dollars. Thousands of dollars. Very generous. He never mentioned it.

In a very personal way, obviously you can tell we were friends, but on his behalf went to a place called Camp Dudley in Westport, New York, 13 summers to preach. It is the oldest boys camp in the country. He would fly up and do a flyover of young boys on the shores of Lake Champlain in an outdoor chapel. His recurring theme, he would talk about adventure and all this, was this: “What is the definition of an adventure?” He would say, “I remember the little saying that he would use, when I used it with young people it was especially impressive, but the fact that he went 13 years, and one time he came in on a motorcycle cross-country with Peter just to be there. He knew he had to be there. He started in Washington State, came across country, he was there, bearded and all. Just wonderful.”

And so let me just close by remembering his final days, days of obvious distress for those of you, but there was no news message. Bud Hastert arranged it. It was a hot day. It was about 96 degrees. His whole family was there. It was wonderful.

There was a little reception afterwards. Then I went away for a couple of weeks, and while we were away, we learned that he had died. I was the most beautiful letter of thanks from Jim Ford, and so on behalf of all the employees, rostrum, police force, the folks whom he counseled during that terrible shooting, I am here as a staffer to honor Jim and the way he brought this chaplency which lives to this day to the House of Representatives.

REMARKS:
The Honorable Martin Olav Sabo, United States House of Representatives

MR. SABO. Mr. Speaker, Mr. Leader, family and friends of Chaplain Ford, wasn’t that beautiful?

The rest of us, I think, should really sit down, because that really captured Jim Ford. We are thankful to God and to his family for the service they have rendered.

I came here as a freshman in 1979. I immediately read someplace that there was a new Chaplain being appointed. He was from Minnesota; I don’t know where the name came from, or who it was. But everybody who Charlie said about him, that ski jump really does exist. The park is still there. I discovered he grew up in Northeast Minneapolis. His name, family name, originally was Anderson and sometime along the way it changed to Ford. He always told me if his ancestors would have kept Anderson, he would have been liberal or conservative. We came from Northeast. I always remembered him when he came from up the hill, not down in the valley where the real Democrats were.

But what this wonderful person, Charlie really captured that zest of life that he had. It was unique. I think that is what caught the attention of all of us. He was a Swedish background, he was rather easy and simple to do. On the other hand, I watched in amazement his relationship with the diversity of the House. He was there. From the minute he walked in he was probably the most beloved member around the House, and I think that is accurate. I think the membership just had tremendous respect for him as an individual, but also as a clergy and knowing that they could visit and talk about whatever might be bothering them in life and they knew that with this exuberant, zesty person, that whatever that relationship was, it was very professional. He was a pro who really enjoyed and for the most of us it simply came down to it, he was most fundamentally a friend.

So today, to the family, to everyone, I would like to remember Jim Ford. He was somebody who was the ultimate pro, somebody who had a life of public service, who thoroughly enjoyed life but ultimately, most important, was simply a friend to all of us.

REMARKS:
The Honorable Lois Capps, United States House of Representatives

Mrs. CAPP. Mr. Speaker, Mr. Leader, Peter, Sarah, family and friends, today as we celebrate the life of Chaplain Jim Ford, we are thinking of his family, the people he was sharing with him, with our beloved House, with a grateful Nation. There are many family connections that have made Chaplain Jim Ford a very special person to the Capps family and these connections go back to 1959. Reverend Sodergren, Marcy Ford’s father, was the pastor of a Lutheran church in Portland, Oregon. One September morning over 40 years ago, Walter and I arrived at his doorstep. The good reverend was exasperated because we were late even though the hour was very early, and we were tardy in picking up his son, Marcy’s brother Jack. He and Walter were to drive together across the country to Augastana Lutheran Seminary in Rock Island, Illinois. Then we explored the country. We had just that very morning, only a few minutes earlier, become engaged. Did Reverend Sodergren’s countenance soften into a congratulatory smile. And when my husband came to Washington with the 105th Congress and met Marcy’s husband, the two became fast friends.

Walter loved Jim, as I did and, as one does a brother or a lifelong friend. And when Sarah Ford called, on the news of Jim’s death, I confessed that my first thought was that he and Walter are now having a fine time telling Lars and Oley jokes. They are living lives much as just as they did they on the House floor. In fact, Jim told several of those corny jokes when he spoke at Walter’s memorial service in 1997. And so today I will take you on a trip following the death of my husband and then my daughter, Chaplain Ford ministered to me and to my family, to Walter’s and my staff with utmost compassion, strength and sensitivity. I learned in a very personal way the importance of the Chaplain to the House of Representatives, and thus I was honored to serve on the Speaker’s search committee with my colleagues who are here to find a new Chaplain and was reminded time and time again during that process of the incredible skills that Jim Ford brought.

On November 10, 1999, it was my privilege to help manage H.Res. 373 to appoint Reverend James David Ford as Chaplain Emeritus of the United States House of Representatives. I described him with these words: “He has infused this House with spiritual strength in times of triumph and in times of tragedy. He is a gifted, humble, compassionate and caring provider of pastoral care to Members and staff who desperately need his guidance. He has taught us to respect and to nurture the diversity in our lives, and in doing so has reminded us that one of our Nation’s greatest strengths is our religious pluralism.”

Looking back, it is somewhat unsettling to realize that I intended to use this quotation on September 11, the original date of that service. Oh, well. I know how we all wished that we had Jim Ford to shepherd us through that horrible day and its aftermath. He would have calmed our fears, he would have made us strong so that we could confront our Nation’s challenges, and he would have ensured that our justifiable rage did not turn into hatred and intolerance.

I will also never forget what Jim said at Walter’s memorial service. He quoted Martin Luther who said, “Send your good men into the ministry but send your best men into politics and in that connection, I will never forget what our beloved Chaplain said to Members of Congress; I didn’t quite expect what we got from the Parliamentarian, but I enjoyed all of the speeches; they were wonderful. I expected good speeches from Members of Congress; I didn’t quite expect what we got from the Parliamentarian.” And when he did it, I never heard him speak in public, other than “say this, do that.” It has been a while since I have been able to get that from him, but we are working on it. But I thought he captured the essence of Reverend Ford as well as it can be done. I would note, Charlie, that that speech is well over 5 minutes; but nobody objected and there was no Parliamentarian to call you into order.

We are here today as the family of the House of Representatives. We have not only illustrious former Speakers of the House who are here, and lots of others who have a myriad of connections with this place, I have been here a quarter of a century now. Time flies when you are having fun. And I must tell you, I am more in awe of the institution every day than the first day I got here, and I am here with every Member of Congress in the same way. This is a place where the hopes and dreams, expectations, grievances of 260 million or so people get channeled on a daily basis, and you gain a heart of wisdom. We are in, and he used it as well as I have ever seen anyone do. It is not just to tell us that we all got elected by half a million or so people, but that we
are just people, the same kind of people you would find anywhere in the United States; the same problems, the same difficulties, the same failures, the same high moments that anybody else has. And that we need special help and guidance and counseling and to have a friend as much as anybody else. He provided that friendship, that advice, that council about human caring. Members often desperately need. He may have had a book, Charlie, and he may have even had names in it; but he did this for 21 years. I don’t know of a time, even of any of the information that he was entrusted with got out anywhere. He was totally in your confidence. He was there to help you, not to judge you.

Finally, he, in every day of his life, I think exuded what I have come to believe day by day as the most important power in life, and that is simple human love. He really cared about other people and, in truth, loved people, all people. He exuded that and demonstrated that every day.

Probably the most important thing any of us leave behind are our children, and probably there is no greater reflection of who we are and how our lives than the way our children live their lives. In the last years, we in the House, a lot of us, got to know Peter Ford because as part of the diplomatic service, he would come along with some of our trips to foreign countries providing security as we went into sometimes difficult places. He was there on a number of other things, like General McChrystal’s trip to take together, and we both got to know him pretty well. And if our children are a guide to how we lived our lives, Jim Ford lived his life as well as it can be done, because Peter Ford, in my view, exemplifies all of the values that Jim Ford was really about.

We were going to do this on September 11. I am glad we got to do it, and if we face grave difficulties since September 11, and we do, then it is right for us to remember Jim Ford, because it is going to take the kind of behavior and the kind of values that he represented for us to meet the challenges for America that are represented by September 11. We are sorry. We celebrate his life with you, and we thank God that we were given Jim Ford for such a long time.

REMARKS:
The Honorable J. Dennis Hastert, Speaker, United States House of Representatives
Mr. HASTERT: Well, you learn a lot of things when you are the memory committee. In fact, I didn’t know that the Parliaments and the Chaplain assessed people’s 1-minute every day, Mr. Leader. I think it is probably—what were they saying about the leadership’s antics on both sides of the aisle? So I am sure that they had a great detail of enjoyment with that.

You know, Reverend Ford opened the House every day with a prayer. He was a man that you would find in the hallways telling a story, a story with a lot of Members, staff, more staff than I thought. But anyway, every day you would see him on the House floor at all hours of the day and night when we were there. And I saw him every day. I saw him every day morning in the prayer breakfast that the Congress has. He was a participant. That is where I probably got to know him best, because he had a lot of stories about the Fox Valley and being in Illinois in my district, and he knew the places and some of the people; and he even knew my old uncle who was a Lutheran minister in rural Illinois. But he was always telling those stories, too, stories about Norwegians and Swedes, and the Norwegian never won. I am not sure why.

He would also love to talk about Minnesota; and he talked about West Point, a place that he loved and the men and women who served there and the people that he got to know, and the young chaplains that came up underneath him and who he brought along the way. And they have churches and ministries of their own.

But I remember his prayers on the House floor. His prayers were like poetry. They were lyrical. They touched the soul. His prayers were like poetry. They were lyrical. They touched the soul. And they made all of us think about what our duties were and responsibilities as citizens and as leaders.

When I told him that he was going to retire, I knew that the opening of each session wouldn’t be quite the same. Jim Ford was an institution in an institution. He was part of this family and he was an important part of that family.

We all know about Jim Ford’s sense of adventure, of sailing and flying and motorcycling and all of those things that, as a matter of fact, he entranced a lot of Members in his stories about these things; and he actually did them. We know about his love of sailing and motorcycling riding, and we also know that Jim was also a compassionate soul who worked hard to minister to the Capitol Hill family. Really, when it comes down to it, his business was his antics and the things that he did and the stories that he told endeared himself to Members of this Congress. He was a talker. He was a grinder every day. He broke down those barriers that sometimes you find in these political places, sometimes the things that stop us from really talking about how we really feel about things and our real appreciation for people.

Through his many years of service, he touched many lives, providing spiritual guidance to Members and staff of all religions and political persuasions. I remember first as a Speaker and in leadership, one thing that happens, you get to go to a lot of funerals; and Jim Ford, he always had a kind word and a special story. He knew every Member of this Congress. He knew their strengths, and he knew their weaknesses.

Jim Ford was a Lutheran minister, and he had an amazing gift of delivering a positive message that resonated with people of all faiths. He often told me the story over and over again of how Tip O’Neill used to call him Monsignor just because he wore the collar, and he thought that maybe Tip really didn’t know. I think maybe Tip really did know.

We will always remember Jim Ford as a charming and honest man who dedicated himself to serving God and this Congress and its work with people. He served this body with the utmost distinction. His loving spirit will live in the hearts of all of our lives that he touched. I think it is fitting and, Peter, I would like to ask you to come up here for a second, and I would like to present to you a flag that was flown over this Capitol in honor of your father. I know that it would be quite the same. Jim Ford was an equal of MacArthur coming up; and at the beginning, and talk about the rancor of this place and how many obvious reasons. But two of the family, direct family members, are Peter and Sarah; and I know you carry with you the thoughts, the spirit in your hearts of your sisters, spouses, grandchildren, and certainly your mother who is visiting one of those children and grandchildren this very day in Brussels.

So they thank you; and on behalf of them, I wish to bring those thanks to you. Peter is here and Peter did receive the honor of the flag. The letter; and I think it is really wonderful that anything you would like to add or just say to the group?

MR. PETER FORD: Yes. I do want to say thank you all for coming here today. It is my father, and he loved you all. My father was a giver. He loved a couple of things about this place. He loved religion, of course. You were here on time. He didn’t have a church. He always talked to Pastor Steinbrook, because he had a church. He said he was always down there for churches. He felt like he was in a command post here. You were his flock, and also the fact that he loved democracy. When he would go out and speak, I would try to come along with him as often as possible, because he knew he needed that support. He loved the fact that he could walk up to him when he talked about religion, and then afterward he would talk about democracy and talk about the rancor of this place and the debate, and he would talk about loudness, and he thought this was a very honorable profession to be up here.

If you are ever up at West Point, Rear Admiral Carrigan up at West Point, and he is buried 30 feet, 30 yards—the many people he buried in the 1960s during the Vietnam War. So it was sort of interesting to see that. If you are ever up there, that is MacArthur coming up; and at the beginning, they showed his father’s face, and they go into the West Point cemetery, and they go into plot 34. So if you are ever up there, that is interesting.
He loved you all. Thank you for being very nice to him. This is closure, and we do appreciate it as a family. After September 11, we didn’t feel that it was appropriate, so we are glad that we did learn something about ourselves today. My father always told me he didn’t want to print his prayers because he wanted to save taxpayer money. But I wish he would have written them, because now they are going through the whole house, and my mother saved every prayer. Every day he would bring home the Congressional Record and he would tear it out, and we would put them all in one place. I wish he would have printed them.

I want to say to you very much. You were his friend. If my father came back right now, my family, we are a totally loving family, and we wouldn’t have one question for him. He would be happy that he was back, but we will see him some day. So thank you from him.

MRS. SARAH FORD STRIKE: I am Sarah Ford Strike, and I just got married just 4 weeks ago, so I am still getting used to my last name. But I am the youngest of the five kids, and again I want to say thank you very much for your words. This is very special to us. For my dad in our own special way; and you all are very nice to continue this, and we appreciate that.

My mom is in Brussels visiting our sister Marie and her family, so she is not here today. But I want to say that we are his family; but you are also his family, because you made his past 21 years here so happy. He didn’t tell us about his counseling and his times of need with people, but he did tell us about the friendships; and that is what made us happy. He would come home, and it was just great.

Being five kids, almost all of us working in the District, we were able to come and visit Dad from time to time, and we would just laugh because you could not get five feet in the hallway without him stopping and talking to somebody. It didn’t matter who you were or what you did. He knew everybody by name, and that is what I just hope that I have that gift, because he would just say, just walk in and talk about that person; and it just was so special and such an intimate conversation, and then we would walk five more feet and we would get stopped again to talk to another person.

We miss his bad jokes and we miss his stories. The waves tossed the small boat in the New York harbor, and three volunteer cadets from West Point were working with people under stress. The stars. The waves tossed the small boat in the North Atlantic Ocean. It was a great experience.

Jim was a person-when colleagues had medical operations at the Walter Reed Army Medical Center, Jim would come out to see us. He brought us cheer. His humor was delightful. He will not be forgotten. Our condolences to Marie, his wife, and Peter his eldest son, and the Ford family.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2003

SPEECH OF HON. DANNY K. DAVIS
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES Wednesday, July 24, 2002

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3126) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies (except the independent counsel) for the fiscal year ending September 30, 2003, and for other purposes:

Mr. DAVIS of Illinois. Mr. Speaker, I join my colleagues today in support the Treasury and General Government Appropriations Act of 2003, H.R. 5120.

This has been an extraordinary year for our nation, and our civil servants have responded with professionalism to the threats against our borders and assaults against our values. They certainly should be counted among our heroes. It is, therefore, most appropriate that all Federal employees, both civilians and military, who receive the same 4.1% pay raise in FY 2003.

I am also pleased with the Postal Service Appropriations Act of 2003 for it reaffirms some of the basic principles of our universal postal service—6-day mail delivery, rural delivery, and maintenance of post offices in rural areas.

Since 1912, 6-day delivery of mail has been an essential service that the American public has relied upon, particularly working families that depend on the Postal Service for the timely delivery of paychecks. Ending Saturday mail deliveries would not only cause delays in the delivery of mail, but would also cause higher postal costs, due to the additional over-time that would be required to handle the resulting backlog of mail.

Another great efficiency in our country is the ability to send a letter from rural Arkansas to downtown Chicago—and have confidence in knowing it will get there. Whether you live or work in rural or urban America, the satisfaction of knowing that you can communicate provides peace of mind. Many of our communities have limited methods of communication and rely on the post office to provide the glue that binds people together. By maintaining rural post offices, we will continue to bind together our citizenry.

I urge my colleagues to join me in support of this appropriations bill.

FUTURE INFRASTRUCTURE

HON. DON YOUNG
OF ALASKA
IN THE HOUSE OF REPRESENTATIVES
Friday, July 26, 2002

Mr. YOUNG. Mr. YOUNG (of Alaska). Mr. Speaker, I join my colleagues in the Transportation and Infrastructure Committee, which I chair, in conducting a series of fact finding hearings as we prepare to reauthorize the Nation’s highway and mass transit programs next year.

Surface transportation and the immense infrastructure that supports our Nation’s transportation system extends to every corner of this country and every Member’s district. That is why we are now examining the effectiveness and funding needs of existing programs, as well as the need for any new direction that the infrastructure of our country may need into the future.

I have said many times that I am concerned about the state of the Nation’s infrastructure. This concern is shared by many members of my committee.

The hearings underway in the Transportation and Infrastructure Committee are serving to highlight the need for a modern, effective transportation infrastructure. Our economic health depends upon our roadways and transportation infrastructure. To ignore the physical state of these systems is to invite disruption that could have enormous economic consequences to this country.
While we examine our highway programs, we will also review mass transit programs and other programs to address and avoid congestion as well as new technology that might enable us to become more efficient and to improve the transport of people and goods.

During the process of reviewing the infrastructure needs of the Nation and the role of highway and mass transit programs, it is my intention to invite comments on the future benefits and needs for the hydrogen option in our transportation system.

We are very far away from actually employing fleets of vehicles fueled by hydrogen but we owe it to ourselves to determine how this important new fuel source can be integrated along our transportation infrastructure. Just think of the different dynamic we would face in the Middle East if our transportation system were equipped with hydrogen vehicles and refueling stations based upon hydrogen.

Nearly fifty years ago, during the Presidency of Dwight Eisenhower, the Nation embarked upon the construction of the federal interstate highway system. Today, after thousands of miles of highway have been constructed at billions of dollars expended, we have an interstate highway system that is the envy of the world.

We have a transportation network, five decades in the making, that is the lifeline upon which commerce flows. That system required enormous and sustained federal support as well as cooperation with state and local governments and agencies and the ideas, innovation and hard work of hundreds of thousands of people from the private sector.

Many of the improvements we take for granted today took decades to design, improve, and construct. I believe it is time to begin work on an effort that may become as important as that of President Eisenhower, an effort to use hydrogen as a key component of our transportation base. I believe it is time for us to realize that our future surface transportation system may well be fueled using hydrogen, so we must begin the planning and thinking now.

We are at the question stage of this process. We know that we are ready to see a final course of action to install hydrogen fuel infrastructure, I do believe that hydrogen can become the key part of the nation’s future transportation system. As Chairman of the Transportation and Infrastructure Committee, I believe that we should undertake a process, in the reauthorization of our highway programs, to study the feasibility of hydrogen infrastructure in the future.

This process will allow us to question timing and to ask if such a transformation is feasible, is realistic, is efficient and is in the Nation’s best interest. Because our bill will authorize the highway program for at least six years, it is important that we not miss this window of opportunity to ask these questions and possibly, to initiate actions that will expedite any transformation process.

The automobile industry and President Bush have announced an initiative known as Freedom Car, an industry and government research and development program to develop fuel cell vehicles as well as needed R&D relating to the hydrogen fuel that will power these vehicles.

We already know a great deal about fuel cells and we already know a great deal about the production of hydrogen. But, we clearly do not know enough. The effort of the private industry and the Administration to develop these sources of fuel can be assisted by the review and development of a meaningful infrastructure system to refuel these vehicles.

Industry and government researchers alike have asserted that a focused infrastructure development program likely will garner the confidence needed to produce the vehicles. As we develop the confidence to proceed it also will be necessary to commit to the production of a sufficient number of vehicles for widespread use and to position to move forward towards the manufacture of thousands and then millions of such vehicles.

During each of these stages, a meaningful and effective refueling hydrogen infrastructure will be needed. We should avoid a chicken and egg problem: What comes first the vehicle or the fueling infrastructure? Will the vehicles be produced if the infrastructure is not readily available? Will the infrastructure be made available if they are not forthcoming? The infrastructure should be developed in parallel with the vehicles. Consumers are unlikely to buy fuel cell vehicles over traditional vehicles unless the hydrogen fuel is available. We may never see the mass production of fuel cell vehicles, even after they are technically proven, unless the fueling infrastructure is in place.

We are fighting a war on terrorism that is precipitated, in part, by our country’s dependency upon foreign sources of crude oil. The lives of our military personnel are at risk every day. As long as we continue dependence upon foreign sources of oil we will face war and an enormous human and economic toll that is placed upon our society and economy. If we do nothing, our dependency on foreign oil is projected to grow from fifty percent today to more than 60 percent by 2020. That dependency has grown already from 35 percent in the mid-1970’s when we first confronted war over oil in the Middle East.

Congress is faced with a question that will partially ease the dependence on foreign oil sources as it conferences the energy bill. In the House, we say we should allow exploration and development of a fringe area of the Arctic National Wildlife Refuge in my state. I passionately believe that this is vital right now. The answer to oil dependency is a sensible U.S. domestic oil production in ANWR, as well as looking for other solutions that will ease the problem in years to come.

We need to develop all possible sources of energy to assure that our country has a diversity of energy sources available. Hydrogen, the most abundant element in the universe is a source of energy that should be developed for application in the long term. It can be derived from natural gas, methanol, nuclear, hydrogen, even water. Someday, like electricity today, hydrogen could become a type of energy used in daily transportation and as a source of fuel for electricity generation to power homes, businesses and industry.

Now is the time to begin a serious investigation that looks beyond a successful research and development program. We need to consider the need to begin our public and private efforts now to create an infrastructure to serve and fuel a transportation system based in part upon fuel cell vehicles and the need for hydrogen.

I do not know if there will be success or failure of these efforts to perfect the technology but I think wise to consider those actions we can take. Our design should be to encourage and maintain momentum towards adoption of a new form of transportation based not entirely upon fossil fuels from other lands. We need to begin a process to determine government’s proper role in this effort that may be as technology diverging as the Apollo program and as important as the Interstate Highway System.

Regardless of the energy source that propels our vehicles, now or in the future, we must also ensure that it pays its fair share to the Highway Trust Fund. Thereafter we may use a user fee based system to invest in our transportation infrastructure.

The reauthorization effort should examine where we are, what needs to be done, what resources will be required, and what partnerships need to be encouraged if we are to add hydrogen as a cornerstone of our transportation sector in a timely manner. The Subcommittee Chairman, Mr. PETRI, and Ranking Member, Mr. BORSKIE, can get the perspectives of all relevant sectors and in this report. I look forward to a productive and active involvement in this effort as well.

CONFERENCE REPORT ON H.R. 3763, SARBANES-OXLEY ACT OF 2002

SPEECH OF

HON. DIANA DEGETTE
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 2002

Ms. DeGETTE. Mr. Speaker, I rise in support of the conference report to H.R. 3763, the “Public Company Accounting Reform and Investor Protection Act.” This agreement accepts almost every Democratic proposal contained in the “Sarbanes” bill and has only been altered by adding increased penalties for corporate crimes. I am pleased that the Republicans in Congress agreed to the much stronger Democratic proposals that will reach to the very roots of the problems in corporate America that caused the collapse of companies like Enron, WorldCom, and Adelphia. Unfortunately, the country will most likely continue to see companies fall due to accounting improprieties and, while I believe this is a strong bill, more must certainly be done. However, the changes in our nation’s financial accounting structure contained in this agreement will strengthen the confidence and trust of investors and will increase the transparency and accountability of financial statements.

The agreement today is almost identical to the Democratic proposals contained in the “Sarbanes” legislation that passed the Senate 97-0. The fact that the Republicans accepted the Democrats’ position certainly shows that the Republicans in Congress are feeling the heat over corporate crime. Unfortunately, the American public trusts Democrats to fix the problems in corporate America and to increase investor confidence in the markets.

The proposal offered by Republicans to deal with corporate abuse was to increase penalties for corporate crime, coupled with weak, industry-controlled standard-setting bodies. They wanted to deal only with the “bad apples” instead of getting to the heart of the
Central New Jersey Recognizes and Honors Ground Zero Volunteer Suzan Vitti

HON. RUSH D. HOLT
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Friday, July 26, 2002

Mr. HOLT. Mr. Speaker, I rise today to recognize and honor the selflessness, volun-
teering spirit and patriotism of Americans. One such American is Ground Zero Volunteer Suzan Vitti.

On September 11, 2001, Suzan Vitti, a nursing student and trained emergency service volunteer, saw the attacks on the World Trade Center. She immediately put on her uniform and reported to the Kendall Park First Aid building in Central New Jersey. Although the shock and enormity of that tragedy might have overwhelmed and incapacitated some, for Suzan that day, Suzan was determined to act. Almost the minute Suzan Vitti heard reports that food and emergency supplies were needed she began calling businesses to solicit donations. Within 48 hours of the attacks, she was on her way to Ground Zero in her own car, loaded with baked goods from Entemann’s of Edison that she had to drive below the speed limit with her hazard lights flashing. She had a sign in the back window of her car that said “Going to Ground Zero;” eventually a police officer spotted the “Entemann’s Lady” just entered the site.

From that day until recovery efforts were suspended at Ground Zero at the end of May, Suzan Vitti worked tirelessly and with no thought of her own health or safety to assist those at Ground Zero. Food was being delivered to the site for the workers, but it was being dropped off several blocks from the site. The workers refused to leave their posts to feed themselves, so Suzan Vitti brought the food to them. She bailed out their wounds, put drops in their eyes to clear the dust, and distributed aspirin, gloves and goggles. When the winter months arrived, Suzan drove herself around the outskirts of the site in the middle of the night, seeking out the groups of New York City Police Officers who had over the years lit bonfires and barrel fires to keep warm at their posts, delivering donuts, bagels, cakes, pies and cookies. Suzan Vitti became such a welcome sight at Ground Zero, that rescue and recovery personnel would announce her presence over the radio when she arrived at the site—“America just entered the Zone!”—and wave her in with their flashlight. Reliably, two or three days a week from September to May, Suzan Vitti arrived at Ground Zero with donations of food, pastries, and medical supplies and distributed them as needed.

For her efforts, she has received countless honors, including commendations and recognition from several units of the Police and Fire Departments of the City of New York, the Port Authority Police Department, emergency services providers, the Salvation Army and other relief organizations, the Department of Design and Construction, the Army National Guard, the Mayor of South Brunswick and the Governor of New Jersey. One of her most prized possessions is a sweatshirt, upon which she has pinned the more than 150 pieces of collar brass donated to her by grateful rescue and recovery personnel to whom she tended at Ground Zero. As to her volunteering spirit, Suzan has said, simply, “I’m an American. It’s my duty.” It is an honor to represent Suzan Vitti in Congress.

Once again, I rise to commend Suzan Vitti for her selfless and tireless efforts on behalf of the rescue and recovery personnel at Ground Zero and for her volunteering and patriotic spirit. I wish her much success in her future endeavors, and I ask my colleagues to join me in recognizing her accomplishments.

Honor Mark Green of Wisconsin

Honorable Representative Green of Wisconsin today recognizes one of the heroes of the tragedy of September 11. Are you prepared to recognize the excellent work that Mark Green is doing?

Mr. Speaker, for his service, Commander Farr served as a naval submarine officer aboard the distinguished USS Guitarrro throughout World War II. During his service, Commander Farr helped see the Guitarrro safely through five treacherous war patrols in the Pacific, a tenure that yielded four battle stars and the Navy Unit Commendation. The achievements of Commander Farr and the Guitarrro are truly deserving of our highest recognition and most earnest thanks.

To equip our forces with the vessels essential for victory during World War II, the citizens of Manitowoc and its neighboring communities rallied to fill posts in the shipyard, often at incredible sacrifice. Farmers milked their cows by day and welded submarines by night. It was the tireless efforts of these citizens that fueled the production of superior vessels, like the Guitarrro, and ensured naval success and eventual victory for the allies.

The dedication and often unrecognized contributions of Americans like Past Chief Commander Farr and the citizens of Manitowoc are a true testament to the strength and excellence of this great nation.

Honoring Town of Glen Ellen and Glen Ellen Post Office on 130th Anniversary

Honorable Representative Woolsey of California today recognizes one of the heroes of the tragedy of September 11. Are you prepared to recognize the excellent work that Ms. Woolsey is doing?

Ms. WOOLSEY. Mr. Speaker, I rise today to honor the town of Glen Ellen and the Glen Ellen Post Office on the occasion of its 130th anniversary.

Located six miles north of Sonoma and established on July 19, 1872, Glen Ellen and its Post Office enjoy an interesting history. In the beginning, the small settlement was to be named Cedar town by early pioneer John Gibson. A document dated June 4, 1872 indicates he was also first to apply to the postmaster general in Washington, DC, for the creation of a post office. However, for reasons unknown, the application was never answered. Fortunately, another was filed on July 19, 1872 allowing the town to establish the community post office, which was named Glen Ellen after the wife of Colonel Charles Stuart, Ellen Mary Stuart. These early residents had built their
home and ranch at the base of the Mayacamas, just east of what is now Hwy. 12.

Over the past 130 years the Glen Ellen Post Office has been guided by the experienced hands of a long list of postmasters. The first being the highly respected steamboat captain from Sonoma County, Charles Justis. He served as postmaster for nine years until the reigns were passed to John Gibson, the original peti-
tioner for what was almost the Lebanon Post Office. Gibson served for three years until his partner, Charles Crofoot succeeded him on November 28, 1888. Crofoot, who served for
nearly four years, was followed by a long se-
i
ties of esteemed guardians of Glen Ellen’s treasured institution. Today, located in the pic-
turesque vineyards of Jack London country, the Glen Ellen post office is presided over by
postmaster Kip Fogarty.

Even during the 1880’s Glen Ellen was a tourist destination. During its heyday many people came and stayed at the Glen Ellen Hotel. The area, now known as the Valley of the Moon, was already becoming known for vineyards when winemaker Kate Warfield, daughter of Post Master Mary Overton, won national awards for her Glen Ellen wines pro-
duced at Ten Oaks Vineyard on Dunbar Road.

Mr. Speaker, I am pleased to congratulate Glen San Miguel de-Allende, and other
humanitarian efforts in Moffat City Rotary his-
nation. As the organizer of one of the largest
organizations spanning the
ber of the Moffat County Rotary International
(Mexico) and greatly improved the living situa-
tion in the region. This is why he is deserv-
ing of our praise today.

Bill Muldoon is an outstanding individual
actively involved in his community. As a mem-
er of the Moffat County Rotary International
Association, Bill’s prominence is noticeable amongst the many organizations spanning the
nation. As the organizer of one of the largest humanitarin efforts in Moffat City Rotary
history, Bill was known to spearhead and person-
ally drive 3,000 miles to organize and collect
materials for the city of San Miguel, and other
Rotarian projects.

Bill supervised the progress and completion
of the San Miguel de Allende project. He
raised support and funding totaling 6,400 dol-
lars, and captured the hearts and attention of
his community by making the journey alone. His adventurous journey towards San Miguel
drew many needed sup-
plies and modern technology. His thoughtful
spirit lifted morale and provided hope to this
area.

Mr. Speaker, it is with much admiration I
take this moment to honor Bill Muldoon for
his charitable deeds. I would like to personally ap-
plaud his hard work and determination before
this body of Congress and this nation for his
efforts will serve to inspire many future gen-
erations. Thank you again for your hard work
in every humanitarian endeavor.

TRIBUTE TO MR. JAMES B. HUNT, JR.

HON. JAMES C. ELYBURN
OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES
Friday, July 26, 2002

Mr. CLYBURN. Mr. Speaker, I rise today to
pay tribute to Mr. James B. Hunt a gifted mu-
sician and native of Greenville, S.C. Mr.
Hunt’s first experience with music came at the
age of six when his parents taught him to
sing. In the 8th grade, unable to buy an instru-
ment, he bought a toy clarinet from Kress “five
and dime” Store. Mr. M.C. Lewis, Sterling
High School Band Director, and some mem-
bers of the band heard him playing Sousa
marches on his toy instrument. They gave him
an alto tuba, a fingering chart, and a “march
book”. On Tuesday and Fridays he marched with the
band at halftime.

Upon graduating Salutatorian from Sterling
High School, Mr. Hunt entered South Carolina State College, now S.C. State University, in
1942 where he won a band scholarship and
had the rare honor of being chosen as a
freshman to play in the dance band known as
the “State College Collegians.” At S.C. State
College, he studied the trumpet. He earned a
B.S. Degree in Mechanical Engineering in
1946, and a Master’s Degree in Education in
1958.

Mr. Hunt is often called the “First Band Di-
rector” because of his many “first” achieve-
ments. He was the first band director at
Wilkinson High School in Orangeburg, a posi-
tion he held for 25 years. He was the first
band director at Shaw University, Junior High
School, Brookdale Middle School and Bellville
Junior High. With the merger of Orangeburg
High and Wilkinson High Schools in 1971, he
organized and became the first director of the
Orangeburg-Wilkinson High School Band. He
was the first director of an integrated band to
march in the Railroad Daze Festival in Branchville, S.C., and in 1972 this band par-
ticipated in the Shrine Bowl Parade and half-
time show in Charlotte, NC.

Mr. Hunt has placed more than 250 stu-
dents in South Carolina All-State Bands spon-
sored by the South Carolina Band Directors Association. He served as president of the Band Masters
Association for three years and was selected
“Band Director of the Year” in 1962. His peers
recognized him for his significant contributions
to music education in South Carolina at the
S.C. State College Second Annual Band Con-
cert in 1976. In 1987 he was inducted into the
S.C. State College Jazz Hall of Fame. Mr.
Hunt is most proud of the accomplishments of
his former students who include Johnny Wil-
liams, member of the Count Basic Band since
1970; SHELLIE THOMAS, a retired music teacher
and currently a member of the Original Honey Dippers Band; Horace Ott, Broadway composer and arranger and some-
times conductor for the Queen of Soul, Aretha
Franklin; three of the famous Javis Brothers and Javis Sister, Priscilla; and 2000 Hall of
Fame inductee Dwight McMillan.

Mr. Hunt has been married for more than 50
years to the former Lerion Hilton. They have
two daughters: Mrs. Deborah Hunt Woods, a
1995 Teacher of the Year in Lithonia, Georgia,
and Dr. Marilyn Hunt Amant, analy-
yst at NASA/Marshall Space Flight Center in
Huntsville, Alabama. They have eight grand-
children and four great-grandchildren.

Mr. Hunt is a member of Mt. Pisgah Baptist
Church where he serves on the Deacon Board
and teaches the Meritus Sunday School Class.
He is a member of Epsilon Omega Chapter of
Omega Psi Phi fraternity.

Mr. Speaker, I ask you and my col-
leagues join me in honoring an outstanding
South Carolina whose dedication to his pro-
fession and family is unparalleled. I wish him
good luck and Godspeed.

TRIBUTE TO RAY M. BOWEN

HON. KEVIN BRADY
OF TEXAS

IN THE HOUSE OF REPRESENTATIVES
Friday, July 26, 2002

Mr. BRADY of Texas. Mr. Speaker, I rise
today to pay tribute to Dr. Ray M. Bowen,
President of Texas A&M University, America’s
5th largest university. At the end of this month,
Dr. Bowen will be stepping down as the uni-
versity’s 21st President, a position in which
he has been served with distinction since he took

Under Dr. Bowen’s leadership, Texas A&M
has become one of the finest universities in
our nation. Academic programs have been en-
hanced and recognized for excellence. Most
recently, Texas A&M was invited to join the
prestigious American Association of Univer-
sities.

Additionally, during Dr. Bowen’s tenure, the
George Bush Presidential Library and Mu-
seum Center was opened and formally dedi-
cated. Dr. Bowen seized this opportunity to in-
crease the stature of the university throughout
the world. And, he has initiated an ambitious
program, “Vision 2020,” which is designed to
propel Texas A&M into the ranks as one of the
top-ten best public universities in the na-
tion by the year 2020. Mr. Speaker, Dr. Bowen
has also successfully completed a major cap-
tal campaign exceeding its $500 million goal
by more than $137 million and has already
gained a second campaign entitled “One Spirit,
One Vision.”

Dr. Bowen’s extensive educational back-
ground began when he received a Bachelor of
Science and Doctoral degrees from Texas A&M
in the field of Engineering. He earned a
Master’s degree at the California Institute of
Technology and served with distinction as a
faculty member at Louisiana State University,
Rice University, and the University of Ken-
tucky.

Immediately before joining Texas A&M, Dr.
Bowen served as interim President and Pro-
vost and Vice President for Academic Affairs
at Oklahoma State University. Additionally, Dr.
Bowen served as a staff member on two occa-
sions at the National Science Foundation,
where he most recently served as Deputy As-
sistant Director for Engineering and Acting As-
sistant Director for Engineering and earlier as
Director of the Division of Mechanical Engineering and Applied Mechanics.

Along with carrying the title as educator, Dr. Bowen served his nation serving in the United States Air Force, where he functioned as a faculty member of the Air Force Institute of Technology.

Mr. Speaker, to express their profound appreciation for the work of Dr. Bowen, the Board of Regents at Texas A&M University has conferred upon him the title of President Emeritus, to be effective on the day after his departure from the role of President.

For my part, having the privilege of representing the Aggies for the past six years in Congress, I fall to find adequate words to express my appreciation and deep respect for this unique gentleman.

Dr. Bowen is quiet and intelligent, wonderfully organized and highly disciplined. He has a commanding presence, yet he is as much at home mingling with students and watching an Aggie baseball game as he is discussing education policy with Texas and America’s political leaders and advanced technologies with the nation’s brightest scientific minds.

As you would imagine, he has surrounded himself with an outstanding and dedicated staff and faculty which reflect his innate leadership as well as his desire to bring out the best in those around him.

I will not forget the tragic Bonfire collapse in November 1999, nor Dr. Bowen’s calm, compassionate and reassuring leadership during those terribly difficult days and months. Through it all, in public and private, he remained steadfastly focused on the families of those injured and the Aggie family that leaned upon him so heavily.

It is the times that future generations elect to recall are not those of ease and prosperity, but of adversity bravely borne. Dr. Bowen and his team bore this unimaginable adversity with dignity and purpose.

I am proud to call him my friend. This university and this nation are better for his service.

Mr. Speaker, on behalf of all the students, faculty, former students, and friends of Texas A&M University, I am proud to recognize Dr. Bowen for his service and contributions bestowed not only upon Texas A&M University, but also great nation.

RECOGNIZING THE SERVICE OF TONY HALL

HON. EVA M. CLAYTON
OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Friday, July 26, 2002

Mrs. CLAYTON. Mr. Speaker, I rise today to honor my dear friend and colleague TONY HALL as he prepares to accept the nomination as the ambassador to the Food and Agriculture Organization of the United Nations. Although I extend my very best wishes to TONY HALL, I rise on this occasion with great sadness at the realization that this Congress will soon be losing one of its finest members.

TONY HALL is a man who shows courage in the face of adversity, integrity when there is little to commend him, and compassion when the prevailing winds blow with malice.

Throughout his career, TONY HALL has served as the moral conscience of Congress on issues of hunger and poverty. Where there is hardship and injustice TONY HALL is the first to enter the fray and the last to leave. During his career in Congress, TONY HALL has often traveled into the heart of distress. When Ethiopia was in the grips of a massive famine in 1984-85, TONY HALL was there experiencing first-hand the grim reality that most of us viewed at a distance on our televisions. When reports started trickling out about the growing deprivation in North Korea, TONY HALL was the first to travel there and he later traveled there 5 more times and kept his colleagues here in Congress appraised of the situation. When no one else had the courage to do so, it was TONY HALL who traveled to Iraq, against the advice of many, to assess the suffering of the innocent.

I am certain that you are familiar with the proverb “Ease and honor are seldom bedfellows.” This proverb applies to no one more than TONY HALL. It should come as a surprise to no one that TONY HALL has been nominated for the Nobel Peace Prize and I imagine that, as TONY HALL embarks upon his journey to the Ambassador to the United Nations Food and Agriculture Program, we may well hear his name again mentioned in connection with the Nobel Peace Prize.

The departure of TONY HALL from this Congress will leave a void of leadership on the issue of hunger. There are many here who have worked with TONY HALL and supported his efforts in world hunger but there are none who have so relentlessly and single-mindedly reminded this Congress and this country of our obligation to the hungry and hungry world. As we honor TONY HALL’s effort on the eve of his departure, I want to urge my colleagues to step into the space left by TONY’s departure and take up the reins of leadership in combating world hunger.

Not only is TONY HALL a man of conviction and compassion, but he is also a man of deep and abiding faith. All of us who know TONY HALL know that his convictions are grounded, first and foremost, in his faith in a God who has given him grace in the face of adversity and his firm conviction that he will stand alone.

Mr. Speaker, there is a passage from the book of Isaiah that I love and that I think speaks to TONY HALL’s steadfast efforts to raise the voices of the struggles of the poor and hungry around the world. I would like to recite it now in honor of TONY’s efforts.

And if you give yourself to the hungry
And satisfy your desire in scorched places,
And feed the hungry with the bread of your mouth;
And give satisfaction to your soul;
And cover yourself with a consummation
And be filled with the abundance of the sun;
And you will eat the harvest of your labor;
And there will be abundance for all your acts.

The restorer of the streets in which to dwell,
And the breaches and the restorer of streets in which to dwell,
And for this Mr. Speaker, I rise to thank and honor our friend and colleague TONY HALL and wish him God’s blessings as he departs for Rome to continue his work to erase the blight of world hunger.

RECENT VIOLENCE IN NORTHERN IRELAND

HON. FRANK PALLONE, JR.
of New Jersey
IN THE HOUSE OF REPRESENTATIVES
Friday, July 26, 2002

Mr. PALLONE. Mr. Speaker, I rise this evening to condemn the recent sectarian violence, that has occurred in Northern Ireland over the past several weeks. It is quite obvious to me that the parties who are organizing these attacks are hoping the they can derail the 1998 Good Friday Peace Accord.

Mr. Speaker, as you may know, for the first time since January, an individual was killed in Belfast due to sectarian violence. This murder was one of several coordinated acts of violence which occurred Monday evening. At different points throughout the night, several young men were shot at Catholic neighborhoods. All acts were credited to the Ulster Defense Association, also known as the Red Hand Defenders.

Late Monday evening, Gerald Lawler, a Catholic teenager walking home from a local Belfast pub, was shot dead in cold blood in a drive-by attack. His crime: he was a 19-year-old Catholic walking home from a predominately Catholic bar, in a predominately Catholic neighborhood. He was killed solely because of his religion. According to news reports he wasn’t even active politically.

This attack occurred only days after the Irish Republic Army (IRA) issued an unprecedented public apology for civilian deaths which occurred over the more than 30 year conflict. This surprise gesture was an obvious sign that the IRA and other Catholic groups want to work to ensure the survival of the new government in Northern Ireland. By apologizing the IRA takes a significant step in showing the world that they are ready to obey the guidelines of the ‘98 accords. Unfortunately, extremist groups on the other side of the conflict do not feel the same way.

The murder of Gerald Lawler Monday night by the IRA confirms that loyalist groups refuse to give up equal rights to Catholics, called for in the Good Friday Accords. These extremist groups feel that by once again escalating the conflict they can destroy the accords and the power-sharing government thus reverting back to sectarian Protestant control.

Yesterday (Wednesday), Prime Minister Blair called for an end of the violence in Northern Ireland and vowed to toughen its enforcement of paramilitary cease-fires. To enforce these cease-fires, Blair plans to deploy hundreds of extra police and soldiers to spearhead a campaign to keep the peace.

While I am encouraged by Prime Minister Blair’s comments, I am worried that an increase in British police and military personnel will do little to stem the violence. In the past, when the offenders of cease-fires which are loyal to the crown, the police frequently turned a blind eye to the violence, refusing to arrest and prosecute offenses
against Catholics. This only caused the conflict to escalate rather than encourage peace.

I call on Prime Minister Blair and First Minister David Trimble, the Protestant government leader, to take real steps to stop the violence. They need to find all the perpetrators of the violence in the North, especially those which occurred most recently, and take appropriate legal action against them. For the Good Friday accord to be successful all parties in Northern Ireland must stop the sectarian violence.

The conflict in Ireland between Catholic and Protestants is centuries old. However, for the first time a real solution, which is equitable to all sides, has been reached and is in the early stages of working. Now both sides need to come together and stop any and all sectarian violence and allow for true democracy to work.

PAYING TRIBUTE TO: KELLER HAYES

HON. SCOTT McINNIS
OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

July 26, 2002

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Keller Hayes of Colorado, a remarkable individual who has assisted in building economic prosperity and equality in the Denver business market. It is my honor to applaud an individual who demonstrates determination and perseverance despite the obstacles, and a privilege to pay tribute to such a deserving Coloradan who has donated countless hours towards the betterment of the Denver community.

Keller Hayes was raised on a rural Nebraska ranch, where her grandmother instilled in her ethics and morals that she fervently displays today. Keller overcame hurdle after hurdle throughout her life, and after graduating from college with a minor in women’s studies, she embarked on her mission to bring equality to women in the workplace. Keller is a beacon she embarked on her mission to bring equality to women in the workplace. She serves on numerous boards and panels working to ensure the rights of working women nationwide. She is an active member of the Colorado Women’s Chamber of Commerce, the largest women’s chamber in the country. Her assistance in training, mentoring, counseling, and advising women of all ages, has helped build a strong community. Because of Keller’s diligence and perseverance, she received the prestigious award of ‘Women Business Advocate of the Year’.

Mr. Speaker, it is my sincere honor to pay tribute to Keller Hayes before this body of Congress and this nation. Thank you Keller for providing integrity and dignity to our society, and selflessly donating countless volunteer hours to your community. Congratulations on your award, and good luck in all your future endeavors.

TRIBUTE TO FATHER JOHN GLAROS

HON. MICHAEL BILIRAKIS
OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. BILIRAKIS. Mr. Speaker, I would like to honor Father John Glaros, a valued member of the community in Florida’s ninth district, who passed away June 22, 2002. Father Glaros had a lifelong history of service to his community and country by fulfilling religious and government roles alike.

Father Glaros was born in 1920 in Plant City, Florida, although he was raised and educated in Greece for the first eighteen years of his life. He returned to America to enlist in the U.S. Army where he was trained in special operations and served as a member of the Office of Strategic Services in World War II.

After his honorable discharge, he returned to Plant City and, one day, decided to open a lunch counter and operate the Dixie Restaurant. In the late 1950’s, he became a Plant City commissioner and was subsequently elected Plant City mayor. Dedicated to remain active in his community, Father Glaros sat on the Hillsborough County Commission from 1967 to 1971. He began his commitment to the Greek Orthodox Church in 1976 when he was ordained as a priest. For twenty-one years he assisted churches in the Winter Haven, Naples, and Port Charlotte communities on an as-needed basis until his retirement. He had a lifetime dedication for his devotion and the tireless effort he contributed to these communities.

Father Glaros was preceded in death by his wife, Dorothy Cribbs Glaros. He leaves two sons, Steve and Jim of Jacksonville and Plant City, respectively; one daughter, Linda Konstantinidis of Clearwater, six grandchildren, and two great-grandchildren.

Mr. Speaker, I pay tribute to the life of Father John Glaros and thank him for the contributions he made. I give my condolences to his family. Father Glaros will be sadly missed throughout our community but will be fondly remembered.

HON. SHELLEY BERKLEY
OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Ms. BERKLEY. Mr. Speaker, due to a family medical emergency, I missed Roll Call votes No. 320, No. 321, No. 322, and No. 323. Had I been present, I would have voted “yea” on No. 320, “yea” on No. 321, “nay” on No. 322, and “nay” on No. 323.

HONORING OFFICERS ROBERT ETTER AND STEPHANIE MARKINS

HON. MARK GREEN
OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. GREEN of Wisconsin. Mr. Speaker, I am profoundly dismayed today to share a piece of dreadful news from my district with this House and with our entire Nation.

On Monday, in an act of terrifying evil, a man deliberately crashed his truck into a police squad car in the Town of Hobart, Wisconsin. The two police officers in the car, Robert Etter and Stephanie Markins, were killed. Officer Markins, who had far more than character, their courage, and their dedication to their fellow citizens.

I offer today these few brief remarks to honor the memories of Officers Etter and Markins, to ensure that they are remembered in the annals of our nation’s history, to recognize these families’ incredible loss, and to remind all of us of the sacrifices made every day by law enforcement officers and their loved ones.

INRODUCTION OF THE DEFENSE OF FREEDOM EDUCATION ACT

HON. THOMAS E. PETRI
OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. PETRI. Mr. Speaker, today I have introduced the Defense of Freedom Education Act, legislation which is designed to create new, and strengthen existing, post-secondary education programs which teach the nature, history, and philosophy of free institutions, Western Civilization, and the threats to freedom from totalitarianism and fascism.

In order to sustain freedom and civilization, it is imperative that every generation be taught to understand their full significance and value, and the threats with which they are faced. However, in almost all of our institutions of higher education today, the study of American history and Western Civilization has been systematically de-emphasized. For a variety of reasons, these subject areas have fallen into disfavor on college campuses, to the point that it is possible at many leading universities to get a liberal arts degree without having taken the course in history or Western Civilization. This perpetuation of ignorance about the philosophical underpinnings of our nation can only have baleful consequences for the future.

To see that this de-emphasis is already having an effect, one must only examine the startling ignorance about basic facts of American history among recent college graduates, as detailed in a 2000 study conducted by the American Council of Trustees and Alumni. To cite just one of the many horrifying examples...
from that report, while 99 percent of the 556 college seniors tested at 55 leading colleges and universities (including Harvard and Princeton) correctly identified Beavis and Butthead as popular cartoon characters, just 23 percent had any idea who James Madison was. The questionnaire used in this study appeared in the CONGRESSIONAL RECORD for July 10, 2000 (page H5662–H5663). These multiple-choice questions, which, in truth, a well-educated ninth-grader should be able to breeze through, are increasingly over the heads of college graduates (the average score in the study was 53 percent).

Two years ago, I was very involved in a congressional effort to highlight this appalling situation. This effort led to the unanimous, bicameral passage of a concurrent resolution (S. Con. Res. 129) which stated, in part, that

"The nonbinding resolution urged colleges and universities to review their curriculum and add requirements for American history courses. However, perhaps it is time for Congress to take a more active role in trying to reverse this continuing loss of our collective civic memory.

To that end, the Defense of Freedom Education Act would offer grants to institutions of higher education, specific centers within such an institution, or associated nonprofit foundations. These grants would be used to establish courses at both the undergraduate and graduate levels which teach any or all of the following concepts, which bear both on American history directly and the ideas that serve as America’s foundation:

- The concepts, personalities and major events surrounding the founding of America.
- The philosophical background behind the Declaration of Independence, the Constitution, and the free institutions which we take for granted today. Earlier generations were taught these subjects as a matter of course, but we are increasingly moving towards a time where Americans will think of the 4th of July as simply a day when we shop or hold picnics.

Western Civilization and the defining features of human progress which it embodies. These include democracy, universalism, individual freedom, advanced science, and efficient technology. Programs of study funded under this bill can also examine the impact of the West on other civilizations, the Western debt to other civilizations, the comparative study of high civilization, and the process by which Western and other civilizations may be graduated from this progressive world civilization.

Threats to free institutions. Some of these threats emerge from philosophical systems such as Fascism, Nazism, Totalitarianism, and totalitarian thinking in all its guises. Others emerge from widespread human predilections subversive of tolerance, individual rights, and civil society, such as racism, caste consciousness, and zealotry. Some are the products of perverse ambition such as autocracy, despotism and militarism. All threaten freedom, provoke war, and induce terrorism. While we who lived through the 20th Century are painfully aware of the depredations caused by ideologies such as Communism, future generations will not have the benefit of such first-hand experience.

Projects supported under this program could include the design and implementation of components of curricula devoted to the ends of this bill, research and publication costs of relevant readers and other course materials, and other clearly related activities. Support will also be given to professional development projects designed to help improve the content and quality of education about the founding and the history of free government at the K-12 level. (After all, a huge part of the problem is the awful quality of American history instruction proffered by many school systems. A student really shouldn’t have to reach the university level before finding out who James Madison was and why he was important to our country.) While I don’t always see the creation of a new government program as the best way to solve pressing societal problems, there are several precedents in the area of civil society. It seems to me that it is a worthy use of government funds to try and arrest the progressive deterioration of America’s collective memory which is now occurring. I encourage my colleagues to join in cosponsoring this bill and advancing this effort.

PAYING TRIBUTE TO JAMES SUCKLA

HON. SCOTT McINNIS
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Friday, July 26, 2002

Mr. McInnis. Mr. Speaker, it is with a solemn heart that I take this opportunity to pay respect to the passing of James Suckla, who recently passed away at the age of 82 in Cortez, Colorado. James, known as Jack to his family and friends, will always be remembered as a generous, wise, cattleman. His voice was heard at many a rodeo, his auctioneering at many a livestock sale, and his advice was sought by many in his community. Jack’s wise management of his ranches and his wisdom and wit on committees earned him a respect that many only dream of and his love and care for his family and friends should be a guide for all to live by.

Jack Suckla was born in Frederick, Colorado on July 25th, 1919, to Anthony and Dorothy Suckla. The eldest of seven children, Jack learned many important lessons in his childhood, which served him well throughout his life. He married Helen Bradford in Aztec, New Mexico on July 29, 1941 and remained with her for the following sixty years in which they were blessed with children and eight grandchildren. Jack joined the Navy during World War II, and after being wounded, returned to Cortez and followed the rodeo circuit as an announcer for twenty years. Jack awed the crowd during his rodeo career as a saddle bronco rider. He purchased the Cortez sale barn in 1953, and operated it with two of his sons, Larry and Jimmy. Jack went on to serve on numerous committees, including the NCA, SWCLA, BLM advisory board, the Forest Service, Vectra Bank Board of Directors, and the American Legion. His service stands as a testament to his family and friends. Jack’s long love of ranching but to his community and country.

Mr. Speaker, Jack Suckla was a remarkable man whose leadership and goodwill towards people have inspired so many and whose kindness and wisdom will be sorely missed by his family, friends, and community.

Mr. Speaker, Jack Suckla’s wisdom and leadership will be sorely missed by his family, friends, and community.
A SPECIAL TRIBUTE TO NORMAN M. WALKER IN RECOGNITION OF HIS 25 YEARS OF SERVICE WITH THE DEFANCE POLICE DEPARTMENT

HON. PAUL E. GILLMOR
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Friday, July 26, 2002

Mr. GILLMOR. Mr. Speaker, it is with great pride that I rise today to pay a special tribute to an outstanding gentleman from Ohio's Fifth Congressional District. Norm Walker of Defiance, Ohio, will celebrate twenty-five years of dedicated service with the Defiance Police Department on August 15, 2002.

Mr. Speaker, Norm began work with the Defiance Police Department in 1977, and, over the years, has risen through the ranks to his current position serving as Chief of Police. On his way to becoming Chief of Police, he served as a Patrolman, Sergeant, Detective, Lieutenant, and as the Assistant Chief of Police.

Norm has proven his skills as an effective leader and organizational manager. In 1993 he assumed control of the city's law enforcement branch, and since then the Defiance Police Department has become a model after which other local police departments can pattern themselves.

During Norm's tenure as Chief of Police he has led the effort to modernize the department's resources, including the upgrading of all computer and communication equipment. These upgrades also include the installation of Mobile Data Terminals, which are in-car computers that provide real time data to the patrolmen on duty. He has also increased the overall size of the department, and mandated leadership training for all newly promoted officers. Restructuring the department's organizational methodology to a more pro-active approach through the introduction of community oriented policing strategies has been one of Norm's largest accomplishments since taking over as Chief of Police.

Norm has been recognized for his diligent service and unselfish commitment to establishing a modern and pro-active law enforcement agency. Among his numerous awards and recognition, he has received a Certificate of Exemplary Service by the Domestic Violence Task Force for the development and implementation of a countywide response protocol. Norm has also been honored by the Gang Resistance Education and Training (G.R.E.A.T.) Program for his instrumental role in implementing the program within the local school system.

Mr. Speaker, I would ask my colleagues to join me in paying special tribute to Norm Walker. Our local public service agencies and the American people are better served through the diligence and determination of public servants, like Norm, who dedicate their lives to serving the needs of others. I am confident that Norm will continue to serve his community and positively influence others around him. We wish him the very best on this special occasion.

A SPECIAL TRIBUTE TO NORMAN M. WALKER IN RECOGNITION OF HIS 25 YEARS OF SERVICE WITH THE DEFANCE POLICE DEPARTMENT

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TRIBUTE TO RYAN NOEL

HON. JAMES E. CLYBURN
OF SOUTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Friday, July 26, 2002

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to a good friend and public servant who is working diligently on behalf of our nation's natural resources. Mr. Ryan Noel was recently named the recipient of the South Carolina Waterfall Association Public Waterfall Management Award. This award was given in recognition of excellence in public waterfall management.

Mr. Noel is leaving his position as manager of the Santee National Wildlife Refuge to take a new job in Denver, and will be sorely missed. Mr. Noel is a consummate team player. His successful leadership of quality staff and local volunteers has resulted in tremendous improvements for waterfowl and wildlife habitat at the Santee National Wildlife Refuge.

Mr. Noel is committed to improving wildlife habitat and sharing this resource with the general public. He and his dedicated staff have successfully increased public use at the Santee National Wildlife Refuge. He has demonstrated that the role of the National Wildlife Refuge System is not only to conserve and enhance wildlife habitat but also to provide quality outdoor recreational opportunities and natural resource education to the general public. Mr. Noel and his staff have added greatly to the quality of life for people within and beyond the Sixth Congressional District of South Carolina.

Mr. Speaker, I ask you and my colleagues to join me and my fellow South Carolinians honoring Mr. Ryan Noel. He is a wonderful example of commitment to career and community alike and is well deserving of public recognition. We wish him Godspeed in his new endeavor.

CELEBRATING THE ANNIVERSARY OF MALCOLM AND CAROLYN REGER

HON. MIKE PENCE
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES
Friday, July 26, 2002

Mr. PENCE. Mr. Speaker, I rise today to pay tribute to two of my constituents, Malcolm and Carolyn Reger. August 13, 2002 marks their 30th wedding anniversary. Today, it's rare to see this accomplishment, but I submit that there is a reason for their success. You see, Mr. Speaker, 30 years ago, Malcolm and Carolyn, entered into the holy union of marriage with Jesus Christ and God's Word as their foundation. A building block as good as its foundation. A marriage based on God's Word will withstand the rain, floods, and winds that blow against it. Troubles will come, but a house built upon the rock will stand.

AMENDING THE INTERNAL REVENUE CODE OF 1986 TO ENCOURAGE THE GRANTING OF EMPLOYEE STOCK OPTIONS

HON. AMO HOUGHTON
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Friday, July 26, 2002

Mr. Speaker, I am pleased to join my colleague from Ohio, Mr. HOUGHTON, in introducing our bill, the Workplace Employee Stock Option Act of 2002, that would benefit working men and women who would receive a new type of stock option under new section 423(d) of the Internal Revenue Code. This bill is an updated and improved version of bills I introduced in the 105th and 106th Congresses. We have been through difficult times in the past year. The financial downturn has resulted from a variety of questionable accounting
thanks to GlaxoSmithKline, a drug that is being used to

Paying Tribute to Willie Travnick

GlaxoSmithKline has its U.S. headquarters in my state, where it employs close to 6,000

A Tribute to Kim Granholm

Mr. BALLENGER. Mr. Speaker, last month, the pharmaceutical company GlaxoSmithKline

Mr. OBERSTAR. Mr. Speaker, I rise today to honor a fallen hero, Captain Kim Granholm, a member of the Esko, Minnesota Volunteer Fire Department, was tragically killed in the line of duty while fighting a car fire on Interstate 35 near Duluth on July 1, 2002.

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to congratulate an outstanding individual from Colorado whose hard work and dedication have earned him the Colorado Division of Wildlife Officer of the Year Award. Willie Travnick, 59 years of age, has been kicked by deer and poked by horns, he has trapped dangerous bears and looked death in the eye in an upside down kayak. Throughout his obstacles and exciting situations, Willie prevailed and today we applaud his 32 superb years with the Colorado Division of Wildlife. Willie’s efforts and achievements deserve the recognition before this body of Congress and this nation.

Willie, of Salida, Colorado, began his career in 1970 as a technician at Hot Sulphur Springs in Northern Colorado. For numerous years, he helped round up and relocate herds of deer and elk. Never one to shy away from danger, Willie worked closely with Ron Dobson and became one of the first wildlife managers in the state to use a kayak for fishing-law enforcement purposes. During his thirty-year career and many years living in Salida, Willie has built a memorable reputation as a biologist, education specialist, and law enforcement officer.

Mr. Speaker, it is clear that Willie Travnick is a man of great dedication and commitment to his profession and to the people of Colorado. His efforts have greatly added to the protection of Colorado’s wildlife and I am honored to bring forth his accomplishments before this body of Congress today. He is a remarkable man and it is my privilege to extend to him my congratulations on his selection as the Colorado Division of Wildlife Officer of the Year. Willie, congratulations and all the best to you in your future endeavors.
and Alyssa above all else. Captain Granholm’s caring and compassionate spirit guided him throughout his short life and his kindnesses are lasting tributes to all he touched. Kim Granholm died doing what he loved to do, serving his community. He was a father, a husband, a friend and a firefighter. Most of all, he was a hero to all of us.

Most troubling of all is the brutal reality that Kim Granholm was killed when a motorist failed to slow his vehicle at the fire scene. I am encouraged that Esko Fire Chief Jeff Juntunen and his Minnesota fire fighter colleagues are working with the Minnesota State Legislature to enact legislation that will impose severe penalties on drivers who speed through an emergency scene. I commend Chief Juntunen for this important initiative which, when enacted, will serve as a lasting tribute to Captain Kim Granholm.

Since September 11, we have witnessed throughout the land a heightened awareness of the public service and dedication of those first responders who answer the call. All Americans should go further and demonstrate our gratitude to these brave men and women by exercising caution at emergency scenes to enable these fire, police and emergency workers to do their job in a less hazardous environment.

TRIBUTE TO MRS. VICTORIA WRIGHT HAMILTON

HON. JAMES E. CLYBURN OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to Mrs. Victoria Wright Hamilton, who will celebrate her 100th Birthday on September 12, 2002. Mrs. Hamilton, or “Grandma Vic,” as many affectionately know her, is a very remarkable woman in many ways. Born on September 12, 1902, in Alvin, S.C., Mrs. Hamilton has lived as an intricate part of the community for a century. Although she only attended school up to the third grade, as did many women of color in that era, she is a very intelligent woman who’s knowledge cannot begin to be measured.

In 1920, Mrs. Hamilton married Henry Hamilton and their union produced nine children: Williemena, Christine, Julius, Rayford, Leroy, Nathaniel, Henry Jr., Rosa Mae, and an infant who died shortly after birth. Mrs. Hamilton also raised her husband’s half brother Edward Hamilton, as if he were her own son, always filling their lives with love and affection.

Mrs. Hamilton is a very strong woman—in both mind and body. She has been a faithful member of Bethlehem Baptist Church throughout her life. In addition, she is also a dedicated member of the Christian Aid Society, and has been a member of the Laurel Hill Chapter #257, Order of the Eastern Star, for more than 41 years. As a young woman, Mrs. Hamilton worked long days in the fields of South Carolina picking cotton and plowing with oxen teams and mules. Even today, at the age of 100, she is still able to work in her garden to produce delicious fruits and vegetables. And, she always has an opportunity to visit or help her friends or family pass her by.

In her spare time, Mrs. Hamilton makes beautiful hand-sewn quilts that can be found in many homes from Jamestown, S.C. to various communities along Interstate 95 from Florida, to Maryland. Having made over 100 of these quilts as gifts to her many family members and friends, “Grandma Vic”, who is a Mother, Grandmother, Great-Grandmother, and Great-Great-Grandmother, has spread love and affection to everyone with whom she comes in contact.

Mr. Speaker, I ask that you and my colleagues join me in honoring an outstanding South Carolinian whose dedication to her family, and love for her fellow man are legendary. I wish her long life, good health, and a very Happy 100th Birthday.

RECOGNIZING THE LIFE OF THE LATE PRESIDENT JOAQUIN BALAGUER

HON. CHARLES B. RANGEL OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. RANGEL. Mr. Speaker, I rise today to recognize the late President of the Dominican Republic, Mr. Joaquin Balaguer. President Balaguer passed away on July 14th in the northern town of Santo Domingo in the Dominican Republic. Mr. Balaguer was a long time friend of the United States. He held the presidency of the Dominican Republic from 1966 to 1978 and again from 1986 to 1996.

Mr. Balaguer was born in Navarette in the Dominican Republic. He is the son of a Puerto Rican father of Castilian descent and Dominican mother of Spanish blood. He wrote books, including volumes of poetry and political science. At the age of 14, he wrote a collection of poems called, “Pagan Psalms.”

After graduating from law school in Santo Domingo, he became a member of the foreign service, where he served in Madrid and Paris in the 1930s.

He earned his doctorate of law from the Sorbonne in Paris. He also taught law at the University of Santo Domingo before becoming vice president in 1957 and president in 1960.

Mr. Balaguer served under dictator Rafael Trujillo as cabinet member, diplomat, vice president and President for over three decades beginning in the late 1930s. After General Trujillo was assassinated in 1961, Mr. Balaguer was thrust into the leadership of the Dominican Republic. He quickly changed the name of the capital from Ciudad Trujillo back to Santo Domingo, the city’s original name.

He fled to exile in New York City after riots and political turmoil erupted in 1962. While living in New York City, he formed his lasting right-wing political party.

He returned to the Dominican Republic only after U.S. President Lyndon B. Johnson sent 20,000 U.S. Marines to the island nation to put down a leftist mutiny within the army in April 1965.

With the support of the U.S., he was elected president in 1966 in one of the Dominican Republic’s first freely contested elections.

He established in just a few years of his election victory, the first solid middle class by implementing massive public work projects and economic reform, even though he was elected at a time when 60% of the nation was unemployed and two-thirds of its population was illiterate and its streets and towns were in ruins.

His first term was viewed as “pseudo” dictatorial in that he led with a firm grip and used the country’s military force at the same time he made weekly visits through the nations small villages, visiting residents and passing out medicine to the sick and toys to children and listening to the desires of all.

Mr. Balaguer was defeated in presidential elections in 1978 after riots in Santo Domingo. He had been hospitalized since July 4 for bleeding ulcers. He served briefly as president in the early 1960s, then held the office again from 1966 to 1978 and a third time from 1986 to 1996.

President Balaguer, who has been called one of Latin America’s caudillos, hardly projected an image of a strongman. An award-winning poet, he had been a career diplomat and law professor before entering the political arena. He was a little over five feet tall, was lame and nearly deaf, and wore thick glasses before going blind with glaucoma in the 1980s.

His mentor was the notorious military dictator Rafael Trujillo, who ruled the country with an iron hand from 1930 to 1961. The future president held a variety of posts under Trujillo, dealing largely with education, foreign affairs and administration before being elected vice president on a ticket headed by Trujillo’s brother, Hector, in 1956. In 1960, the brother stepped down, and President Balaguer took office.

Real power remained with Rafael Trujillo until his assassination in 1961. After that, President Balaguer began liberalizing the government with such changes as legalizing political activities, promoting health and education improvements and instituting modern labor reforms. But without the army backing of Trujillo, President Balaguer was too closely identified with the late dictator’s unpopular actions to continue in office.

He was forced into exile in New York. Juan Bosch, a leftist, became president until overthrown by a military coup. In 1965, Bosch’s supporters took to the streets to restore him to power. Chaos seemed to erupt in the nation of 8 million people, which shares its Caribbean island with Haiti.

The United States, fearing that a left-leaning Bosch might help to bring up into another Cuba, dispatched U.S. Marines to the Dominican Republic, supposedly to protect U.S. lives. Those who had begun protesting U.S. intervention added this action to the list of mistakes made by the Johnson administration.

[From the Washington Post, NewsBank NewsFile Collection, July 15, 2002]
The Marines were replaced by an Organization of American States presence, order was restored and President Balaguer returned to his native land. He and his Social Christian Reform Party won the 1966 presidential race, despite charges of fraud, and went on to win two more consecutive terms.

Newspapers, which characterized President Balaguer as “sly, ascetic and sad-eyed,” reported in 1965 that he was “neither an orator, nor a schemer,” adding that many Dominicans considered him “an honest, kindly reformer.”

President Balaguer lost the 1978 and 1982 presidential races, then was again victorious in 1986 and 1991, won reelection in 1996 (defeating Bosch) and in 1994. Two years later, after increasing criticism for vote fraud in the 1994 election, he resigned. He was unsuccessful in a 2000 bid to return to the presidency.

President Balaguer received mixed marks as head of his country. Soon after he took office the first time, critics were stilled, many going into exile while others were imprisoned or disappeared. Vote fraud and corruption seemed constants in the Dominican Republic, and the 1966 presidential campaign was dominated by elections scandals. Bosch lost the 1966 presidential race; his victory was questioned by Bosch and his Social Christian Reform Party, and young voters abided by Bosch’s “youngblood” philosophy.

Balaguer, who added a lot of personal charisma and a good deal of humor to the presidential campaign, won the 1966 presidential race, and he continued tobroker political deals and to counsel his political party until his death, continuing to write poetry and political science.

Theodore Monod, a former ambassador and diplomat, lived in the United States for the rest of his life. He wrote books, including volumes of poetry and political science. He was fluent in English and French as well as Spanish.

But politics became his life. He was head of his political party until his death, continuing to broker political deals and to counsel not only his party colleagues but other high figures, including presidents, as well.

In the 1980s, when foes tried to use his blindness against him during a presidential run, he said, “I have been asked to thread needles when in office.”

Joaquin Balaguer Ricardo was born in the small town of Villa Bisono, the only son of a small-town doctor and his wife, Felicita. His father was from Puerto Rico of Castilian descent. His mother was a Dominican of Spanish blood.

Theodore Monod, who won a poetry award as a teenager, graduated with a degree in philosophy and letters from the Normal School in Santiago and was a 1929 graduate of the University of Santo Domingo law school. He was a state attorney in the land court before entering the foreign service in 1932. He served in Madrid and then in Paris, where he received a doctorate in law and political economy from the University of Paris in 1934.

In 1936, he was named undersecretary of state for the presidency. In the 1940s, he served as ambassador to Colombia and Venezuela. He entered the cabinet as secretary of education and culture in 1949 and became secretary of foreign affairs in 1954. He also taught law at the University of Santo Domingo before becoming vice president in 1957 and president in 1962.

He defended the Trujillo years as a time when a strong hand was needed to rule a backward nation not yet ready for democracy.

Yet in his 1988 autobiography, President Balaguer admitted that his first presidency, when he was the figurehead chief of state for the brutal Trujillo, was “the saddest and most humiliating” time in his political life.

President Balaguer also had at times deployed the “unavoidable excesses” of his own security forces and deployed corruption, though staunchly maintaining that corruption stopped at his door.

IN HONOR OF THE 75TH ANNIVERSARY OF LA-Z-BOY, INC.

HON. JOHN D. DINGELL
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. DINGELL. Mr. Speaker, I rise today to recognize and pay tribute to La-Z-Boy, Incorporated, which was founded and remains headquartered in my Congressional District in Monroe, Michigan. La-Z-Boy is celebrating 75 years of bringing comfort, quality and style into homes and offices worldwide through its extensive selection of furniture.

The La-Z-Boy story is the story of the American dream. On March 24, 1927, in Monroe, Michigan, two entrepreneurs and cousins, Edward M. Knabusch and Edwin J. Shoemaker, left the security of their jobs to take a leap of faith and begin manufacturing a unique and innovative product. A porch chair wrapped in fabric was the prototype for the La-Z-Boy recliner, a moniker that has become a worldwide household term. Using money from Edwin’s mortgaged family farm and donations from relatives, the cousins built their first factory by hand, brick by brick. After introducing the revolutionary chair that both rocked and reclined, La-Z-Boy evolved from a small business to having a place on the New York Stock Exchange.

La-Z-Boy has grown immensely in its 75 years of operation. The company has added many new products and features over the years, which have enabled it to remain competitive in the furniture industry since its founding. La-Z-Boy has grown from “two guys in a garage” to nearly 19,000 employees worldwide. Today, La-Z-Boy generates annual sales in excess of $2 billion, making it the largest leading producer of reclining chairs.

La-Z-Boy is a great success and consistently shares its good fortune with the community of Monroe. Its philanthropy is rooted in the community of Monroe and has been recognized and awarded for its charitable efforts. From the support of educational institutions to the support of local businesses and individuals, La-Z-Boy has made a lasting contribution in the containment of today’s readiness and shape of tomorrow’s Marine Corps. Particularly noteworthy have been its efforts in directing, organizing, and escorting Members of Congress and their staffs around the world. His attention to detail in making these important trips logistically successful is yet another indication of this Marine’s talent and professionalism.

Master Gunnery Sergeant Fletcher has served our Nation with distinction for over three decades in the United States Marine Corps, rising from Private to Master Gunnery Sergeant. He has served in times of both war and peace and has gone from patrolling the jungles of Vietnam to walking the halls of Congress. During the Vietnam War, he was awarded the Combat Action Ribbon; the Vietnam Service Medal with one star; the Republic of Vietnam Campaign Medal; and the Republic of Vietnam Meritorious Unit Citation of the Gallantry Cross. His personal awards have included two Navy/Marine Corps Achievement Medals, a Navy/Marine Corps Commendation Medal, and he has been recently recommended for the Legion of Merit.

During Master Gunnery Sergeant Fletcher’s last six years of service, he has been the Administration Chief in the United States Marine Corps’ Office of Legislative Affairs. That office supports Members of Congress and Congressional committees in matters of legislation, protocol, and logistics for Congressional travel. Master Gunnery Sergeant Fletcher brought a wealth of managerial expertise and leadership to this office and contributed significantly to the successful accomplishment of its mission. During these six years, Master Gunnery Sergeant Fletcher has helped carry the Corps’ message to the Congress. He has enabled the Marine Corps’ Office of Legislative Affairs to provide consistent and timely responses to the United States Congress, and in doing so, has made a lasting contribution in the containment of today’s readiness and shape of tomorrow’s Marine Corps. Particularly noteworthy have been his efforts in directing, organizing, and escorting Members of Congress and their staffs around the world. His attention to detail in making these important trips logistically successful is yet another indication of this Marine’s talent and professionalism.

Master Gunnery Sergeant Fletcher has been designated as the Marine Corps’ Official Marshal of the 21st Century. His superior performance of dutles highlights the culmination of more than 30 years of honorable and dedicated Marine Corps service. By his exemplary competence, sound judgment, and total dedication to duty, he has served well this body, the United States Marine Corps, and our Nation. Please join me in wishing Master Gunnery Sergeant Fletcher, his wife, Barbara, and their sons, Joel and Gary, all the best as he begins this new chapter in life.
TRIBUTE TO THE 13-COUNTY MUTUAL ASSISTANCE ASSOCIATION OF NORTH ALABAMA

HON. ROBERT E. (BUD) CRAMER OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES
Friday, July 26, 2002

Mr. CRAMER. Mr. Speaker, I rise today to recognize the North Alabama 13-County Emergency Management/Defense Mutual Assistance Association as it celebrates over three decades of dedicated service to the North Alabama community. The association, which was established with a purpose of working together among the thirteen counties across North Alabama to help each other protect lives and property in a coordinated, efficient, reliable and effective way during times of emergencies that exceed the capabilities of any single affected local government. The association works closely with the State of Alabama Emergency Management Agency to better facilitate effective response to critical situations.

The EMAs from these thirteen counties had the foresight over three decades ago to recognize a concept that is today strongly advocated by all levels of government, that being, just how critical it is to cooperate across artificial jurisdictional boundaries in order to respond to emergencies. And now, when securing our homeland and preparing for emergency response is of utmost importance, the rest of the country has begun to realize the value of this kind of cross-district cooperation by strongly promoting and requiring mutual aid and regional response capabilities. I want to commend the North Alabama EMAs in the 13-County Mutual Assistance Association who have worked so hard to protect the livelihood of North Alabama citizens.

The 13-County Mutual Assistance Association serves as a standard for EMAs across our nation. In today’s uncertain world, our first responders have to be ready to react quickly and effectively to large-scale emergency situations that cross city and county lines. Mr. Speaker, on behalf of the citizens of North Alabama, I am pleased to recognize and thank the 13-County Mutual Assistance Association of North Alabama for leading the nation with their innovative outlook on cooperative emergency response developed over thirty years ago.

PAYING TRIBUTE TO WARREN BYSTEDT

HON. SCOTT McINNIS
OF COLORADO

IN THE HOUSE OF REPRESENTATIVES
Friday, July 26, 2002

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize an outstanding individual from Grand Junction, Colorado. Over the years, Warren Bystedt has grown to love cross-country running and he continues to run competitively today at the age of 72. It is a great pleasure today, to honor Warren Bystedt for his numerous achievements and accomplishments before this body of Congress and this nation.

Earlier in Warren’s life when he was an amateur boxer, he trained consistently, but avoided running because he disliked that element of conditioning. Today the Grand Junction resident has a different view, and can be seen pounding the pavement diligently every morning. Warren’s passion for running has motivated him to train everyday for fifty or so yearly races. Gus said, “If I didn’t start my morning with that, (run) I wouldn’t know what to do.” Warren provides the same determination and thoroughness to his daily activities and events.

Warren consistently finishes among the top in the sixty or seventy and older of age divisions in races throughout the country. His competitive nature comes from his earlier days as an amateur boxer when he lost only seven of seventy bouts fighting in the flyweight division. A long time educator and administrator in Minnesota, Illinois, and Iowa, he took up running after taking a hard look at his family history noting that his brothers and father all died of heart attacks and not wanting to suffer the same fate, he began running around his neighborhood in Davenport, Iowa, in 1979. Grand Junction, Colorado, has given Warren the optimum climate in which to run on a year-round basis and he is an active member the Mesa Monument Striders.

Mr. Speaker, I rise to acknowledge the work and contributions of Warren Bystedt, a distinguished citizen and role model for our community. His achievements are impressive, and it is my honor to recognize his accomplishments today. Best wishes to Warren, and good luck on all your future races.

HONORING ANDREA FOX

HON. LYNN C. WOOLSEY
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES
Friday, July 26, 2002

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

Andrea Fox lost her tenacious battle against breast cancer on July 2, at the age of 35, leaving her devoted fiancé, mother, brother, and a grieving community.

We are all more fortunate to have been graced by the presence of Andrea Fox, her wisdom, and strength. Her love, resolve and remarkable will are the cornerstones of the legacy of courage she has left so that we might continue the fight. While Annie is gone, the spirit of this “angel” of our community will forever be with us.

STATEMENT ON THE ELI HOME CARINO WALK-IN CENTER

HON. LORETTA SANCHEZ
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES
Friday, July 26, 2002

Ms. SANCHEZ. Mr. Speaker, I rise today to congratulate The Eli Home Carino Walk-In Center in Anaheim which opened its doors on July 13 to families throughout my district.

Many families in my district do not have a place to go to get support, find information, or just ask questions. The Center will help these families, many of whom are dealing with economic crises and other stress creating situations.

The Eli Home is dedicated to providing free, bilingual services to Spanish-speaking families. The center offers parenting classes, weekly forums, case management, counseling, and child-abuse prevention.

The City of Anaheim has recognized this organization and has welcomed it into the community. I would like to do the same.

I would like to personally thank The Eli Home Carino Walk-In Center staff for their hard work and dedication to the community and for creating a positive environment for my district.

A beautiful young woman with incredible grace and dignity, “Annie” Fox was dedicated to finding a cure for breast cancer. Diagnosed with a particularly aggressive cancer in 1998, the former triathlete, who ate organically and exercised regularly, had none of the traditional risk factors for cancer. Undergoing a lumpectomy, she continued her athletic training and the stage IV cancer seemed to disappear. But, in April 2000, cancer came back and, pursuing every treatment she could find, including non-western, untraditional methods, Annie appeared to have beaten it back again.

Andrea focused her considerable energies on increasing public awareness and getting national attention for the serious epidemic of breast cancer in Marin County, joining the board of Marin Breast Cancer Watch. “Annie was our angel,” said Board President Roni Peskin Mentzer.

Whether lobbying in Sacramento for breast cancer research or educating the community about the dangerously high rates of cancer in Marin, Annie made a difference, she made history. Never daunted, she participated in athletic events such as the renowned Dipsea Race and the Human Race, and was organizing new events, like the July 25, 2002 foot race from Mill Valley to the Mountain Theater on Mt. Tamalpais to increase public knowledge and raise much needed funds for research.

In October 2001, only two months after her engagement to longtime partner and soul mate, Chris Stewart, the cancer reappeared and Annie mounted still another heroic campaign. Not one to seek sympathy, she was driven to passionately lead the fight for all women to find a cause to this insidious disease. Despite increasing pain, she continued her work at the Marin Civic Center. “Annie was a special person ...” Stewart said, “bringing a wonderful happiness to all those who knew her ... She was passionate about her work and about preserving the environment.”
SCOTT DETROW: REACHING TO AMERICA'S FUTURE

HON. THOMAS M. BARRETT
OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. BARRETT. Mr. Speaker, I wish to recognize Scott M. Detrow from my district, a talented young man who recently won the 2002 Voice of Democracy Broadcast Scriptwriting Contest sponsored by the Veterans of Foreign Wars (VFW), this competition provides an opportunity for high school students to voice their opinion on their responsibility to our country. More than 85,000 secondary school students participated this year, with only 58 winning a national scholarship.

Mr. Detrow’s essay on the American response to the September 11 terrorist attacks captured the contest’s theme of “Reaching to America’s Future.” He channeled his feelings and emotions to create an inspirational piece upon which everyone can reflect. I ask my colleagues to join me in recognizing Scott M. Detrow for his special achievement, and I submit to the CONGRESSIONAL RECORD the complete text of Mr. Detrow’s piece:

A hush fell over the students as they entered the plaza. Their joking and fidgeting suddenly stopped as they eyes came upon the massive sculpture before them. It was a sunny and cool autumn day in lower Manhattan, perfect for a field trip to the World Trade Center Monument. The high-schoolers found it hard to believe that some fifty years before, two of the tallest buildings in the world had stood there, and that they had been destroyed in a matter of minutes.

“How did the country react?” piped up one of the more outgoing students. “Excellent question,” replied the tour guide. “From the ashes of the Trade Center and the Pentagon rose the Phoenix of Patriotism, of courage, of will. Americans rushed to blood centers, waiting for hours to give the gift of life. Hundreds of millions of dollars were raised to help the victims. Millions more prayers were offered, as men and women who stood on the very spot where they were now, working non-stop for months on end sorting through the rubble, hoping against all odds to find survivors. As a distant clock struck twelve, the sun shone directly upon the monument. The students saw the memorial in its full splendor, a massive sculpture before them. It was a sunny and cool autumn day in lower Manhattan, perfect for a field trip to the World Trade Center Monument. The high-schoolers found it hard to believe that some fifty years before, two of the tallest buildings in the world had stood there, and that they had been destroyed in a matter of minutes.

“It was a sunny and cool autumn day in lower Manhattan, perfect for a field trip to the World Trade Center Monument. The high-schoolers found it hard to believe that some fifty years before, two of the tallest buildings in the world had stood there, and that they had been destroyed in a matter of minutes. “Imagine the terror New Yorkers and Americans must have felt that day,” the tour guide began, “no one knew what to expect, who had done it, or why. For the first time since the War of 1812, mainland America had been attacked; for the first time since Pearl Harbor, flung headlong by surprise into war.”

“How did the country react?” piped up one of the more outgoing students. “Excellent question,” replied the tour guide. “From the ashes of the Trade Center and the Pentagon rose the Phoenix of Patriotism, of courage, of will. Americans rushed to blood centers, waiting for hours to give the gift of life. Hundreds of millions of dollars were raised to help the victims. Millions more prayers were offered, as men and women who stood on the very spot where they were now, working non-stop for months on end sorting through the rubble, hoping against all odds to find survivors. As a distant clock struck twelve, the sun shone directly upon the monument. The students saw the memorial in its full splendor, a firefighter, a police officer, old man, and young girl, all gazing and pointing off into the distance. The reflecting pool cast a glimmer of hope in the statues’ faces: the promise of a new tomorrow.

HUMAN RIGHTS ISSUES

HON. CONSTANCE A. MORELLA
OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mrs. MORELLA. Mr. Speaker, while our nation recovers from the tragedy of September 11 and turns its focus toward hemispheric defense, we should also realize that crucial human rights issues are in jeopardy in our own backyard. Unbeknownst to many in this country, the situation in Guatemala is worsening by the day. During the Cold War, a 36-year-old civil war raged in this Central American nation, resulting in an estimated 200,000 civil deaths. Now, the infamous architect of Guatemala’s most intense period of genocide against the Maya indigenous population, ex-director General Efrain Rios Montt, has staged a political renaissance thanks to a climate of intimidation and violence produced by the military’s death squads.

Andrew Blandford, Research Associate at the Washington-based Council on Hemispheric Affairs (COHA), has recently authored a press memorandum entitled “Ríos Montt’s Political Resurgence in Guatemala Coincides with Increase in Violence with Impunity.” This important analysis, which was released on July 26, will shortly appear in a revised form in the upcoming issue of that organization’s estimable bimonthly publication, The Washington Report on the Hemisphere. Blandford’s research findings spotlight the developing Guatemalan human rights tragedy and examine the role played by that nation’s government and military in violently covering up its sanguinary past.

The inauguration of a second cycle of death squad activity in Guatemala was brought to the world’s attention in 1998 when Bishop Juan Gerardi was bludgeoned to death in his garage just two days after delivering his report itemizing the army’s responsibility for thousands of massacres during the 1980s. This year, human rights activist Guillermo Ovalle de Leen was shot at least 25 times while eating lunch at a restaurant in Guatemala City, and a June 7 fax signed by Los Guatemaltecos de Verdad labeled 11 prominent Guatemalan human rights activists as doomed enemies of the state because of their cooperation with UN Special Representative Hina Jilani during her May visit. Clearly, Mr. Speaker, Guatemala’s militant regime is willing to commit whatever atrocity is necessary to shield its murderous past from the eyes of the international community.

COHA researcher Blandford calls for the renewal of the 12-year U.S. ban on International Military Education and Training (IMET) to Guatemala. This resolution would illustrate the desire of the United States to attain peace and justice, as well as security, in Central America. By denying funds to the Guatemalan military, the U.S. would inherently be guarding civilians from political intimidation and violence. Consequently, the article is of great relevance since the need to constructively engage Guatemala is likely to grow in intensity in the coming months, given the nation’s mushrooming trend of death squad killings.

PAYING TRIBUTE TO PARKVIEW HOSPITAL

HON. SCOTT McINNIS
OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. McINNIS. Mr. Speaker, I stand before you, this body of Congress, and our nation to recognize Parkview Medical Center of Pueblo, Colorado. For the past eighty years, Parkview Hospital has provided medical care to the community in a kind, friendly, and dedicated manner. It is hard to match the kind of integrit and honesty provided by the staff of Parkview, and I thank the staff for their extraordinary contributions.

Parkview Hospital first emerged because of the influence of six prominent physicians in 1921 after a disastrous flood in 1921. Parkview was officially established in 1921 and had great success from its inception, which required the facility to expand and renovate every ten years. Today, several additional wings have been added to create what is today a state-of-the-art medical center in Southern Colorado. Parkview offers the citizens of Pueblo and surrounding communities a radiological cancer treatment department, obstetrical floor, surgical section, Psychiatric and Chemical Dependency Unit, Neurological Intensive Care Unit, Computer Axial Tomography Whole Body Scanner, Same-Day Surgery Wing, and Kidsview Pediatric Unit. Moreover, Parkview fulfilled requirements to classify their Emergency Room as a Level II Trauma Center.

Mr. Speaker, I am proud to honor the hard work and determination of the staff of Parkview Medical Center. The compassion illustrated by staff members will be reflected in the hearts of patients for years to come. I would especially like to recognize Chief Executive Officer C.W. Smith and former Chief of
In 1989 Robert Haas had the idea of organizing a parade of dogs and their people in Worthington, Ohio. He envisioned an event that would draw thousands, provide a fun time for all, and be a great vehicle for increasing public awareness of homeless pets and pet overpopulation.

In 2000, that idea became the Pooch Parade. In April of that year, approximately 800 dogs and 5,000 people participated in the Parade. Rescue groups were there with dogs looking for a "forever home." There were vendors with an assortment of dog-related items. People and dogs had a great time and an annual event was born. In 2001, the Pooch Parade attracted approximately 2,500 dogs and 8,000 people as well as more rescue groups and vendors. The 2002 Pooch Parade was attended by over 3,800 dogs, 9,000 dog-lovers and 50 rescue groups making the Worthington Pooch Parade the largest official Pooch Parade in the country.

The theme for the 2002 Parade, held in April, was "America's Best Friend." Ohio search and rescue dogs that worked in New York after the 9/11 terrorist attacks were honored.

I congratulate all of those involved with the Pooch Parade for their dedication to the issues of homeless pets, pet overpopulation and rescue dogs, and wish the Parade many more years of success.

Mr. TIBERI of Ohio. Mr. Speaker, I rise today to honor and pay tribute to Takira Gaston of Hartford, Connecticut. On July 4, 2001, Takira was shot in her family’s Fourth of July cookout like any 7 years old would be on hot summer afternoon. However, this typical American scene was shattered in an instant by the sound of gunshots. Two drug dealers were exchanging gunfire when one of the bullets struck Takira in the face.

Takira survived and has faced numerous surgeries, with more to come. She has handled the pain and fear with courage that is rare in such a young person. Her brave fight was chronicled by Tina Brown of the Hartford Courant on the one-year anniversary of the shooting. This moving story describe Takira’s perseverance and I wish to submit it for the RECORD.

Mr. Speaker, I wish to extend my heartfelt congratulations to Bill Laird of Franklin for his accomplishments. In 2001, the Pooch Parade attracted approximately 2,500 dogs and 8,000 people as well as more rescue groups and vendors. The 2002 Pooch Parade was attended by over 3,800 dogs, 9,000 dog-lovers and 50 rescue groups making the Worthington Pooch Parade the largest official Pooch Parade in the country.

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healing simply because she happens to be dark-skinned.

She is prone to keloids, an excessive growth of scar tissue common among African Americans. A lathe of that is on the root, shiny scar tissue in the areas where the bullet cut through her cheek and where surgeons cut under her chin to piece her face back together.

She has returned to surgery to have the keloids removed, a gamble that her doctors and Gaston-Walters believe is worth taking. If the surgery is successful, Dr. James C. Alex, director of the division of facial plastic and reconstructive surgery at the Yale School of Medicine, is hopeful that the remaining scars left on Takira’s face will gradually blend in with her otherwise perfect skin tone. But there’s a 50 to 80 percent chance the keloids will return, just as bad or worse.

Takira has drifted into drug-induced sleep just before 3 p.m., as she is rolled through the double doors, draped in a cornflower blue paper sheet.

The sheet covers her up to the lower half of her chin, which is facing up toward the satellite TV. As the clock ticks, Alex sits on Takira’s left side and Dr. Bruce Schneider sits at her right.

Alex begins the delicate process of cutting out the scars and sewing Takira’s face back together, much like a master quilter. Nurse John Brelin hands him a scalpel to cut around the scar under Takira’s chin. Schneider swabs the blood where Alex has cut, and applies medicine to limit the bleeding.

The scar, thick and wide, is in the same spot that Alex and Schneider cut open last July, when they pulled up the skin over her lip to expose, her shattered jawbone, broken teeth and bullet fragments. The area was cleaned and rebuilt and a metal plate has been serving as her temporary jawbone while the bone grows back.

With methodical movements, Schneider, an oral surgeon and formerly chief resident at the Hospital of St. Raphael in New Haven, uses a small metal tool with two prongs to grasp the outer skin tissue. Alex examines the inner tissue and tests the area for nerve activity. Together, for another 25 minutes, they work on both sides of Takira’s chin, slowly cutting around the inner tissue of the worst scar.

Alex begins sewing together the inner skin using blue sutures, which look like dental floss, though fine as hair. The goal is to sew the tissue together without gripping it too hard, Alex instructs. “We are trying not to create tension on the skin. This will give you a more favorable scar. You will always have a scar.

Another 30 minutes pass. Alex and Schneider pull up the outer skin, and prepare for another “close.” Again, they start sewing from opposite sides. A local pain reliever is applied to the scar tissue, now sewn together and shaved to a corndog-like mound. Rather than sew in a straight line, they create a ridge-like skin overlap, so that if Takira’s new scar expands, it will push down flat rather than bubble up into a keloid, Alex says.

At 5:11 p.m., two hours after they opened it, the first scar under Takira’s chin is nearly done. Their work is covered with antibiotics and an oily liquid that makes the bandages stick like glue.

Once the chin is finished, they move on to smaller scars on her neck, where incisions were cut to make way for a breathing tube in her throat. Next, they cut out the scars on her cheek, a process of sowing up the inner tissue and the outer skin, covering them with antibiotics and lotion.

Surgery is over at 6:58 p.m., three hours and 47 minutes after it began.

**Nightmares return**

Takira, her mother and the surgeons won’t know for several months whether the keloids will return. But it was a risk they took because Takira didn’t want the scars to continue giving ammunition to the misanthropic children who call her father’s dutiful parent, wants to protect Takira from those kinds of mental scars.

But on this night, the pain and fear associated with the surgery make it hard to envision the outcome.

“Come on, Missy, be nice,” Gaston-Walters tells Takira for surgery, “It’s time for the stitches to come out.”

Takira is trying to hit Dr. Alex, who wants to remove the stitches from her chin, cheek and neck at a record pace to prevent new scars from forming. But first he has to endure the fight of the tough-spirited little girl. Gaston-Walters grasps Takira’s hands, assure her, and Takira is promised a trip to Chuck E. Cheese’s if she behaves. But she continues to cry, scream and fight.

She is in an anticipatory state. She is going to sleep. She appears at peace, but at home since the surgery, she wakes up at night frightened by her dreams. The nightmares had stopped eight months after the shooting and the family’s move to a quieter neighborhood, but the surgery has brought it all back again.

Takira is sitting on her side when she wakes up in the examining room. Alex has finished taking out the stitches on her cheek and chin and is working on her neck when she flinches. She returns to a fighting posture, but avoids a full-blown tantrum when Alex reassures her that the procedure is nearly over.

He applies the oily liquid that smells like evergreen to each scar before placing white strips of tape, which act like sutures, on her face.

Removing keloids through surgery is risky, according to experts who have used a number of techniques to remove the scar tissue, including surgery, radiation and herbal creams.

“The keloids are like cancer that gets bigger and bigger,” said Dr. Tom Geraghty, a plastic surgeon of Takira’s who has spent the past 24 years removing keloids from patients in Bolivia and the Dominican Republic.

Some patients develop the scarring from a bug bite, others from burns and other injuries that are untreated. Geraghty has seen a boy with burns on his chest develop a keloid “thick as armor” and plenty of girls with keloids “the size of a grapefruit” as a result of ear-piercing.

No one can say yet why people with darker complexions are more likely than lighter-skinned people to get keloids. When children and adults with African-American complexions are more likely than lighter-skinned children to develop a keloid, Alex said.

After the bandages are off, Gaston-Walters will apply an expensive over-the-counter herbal ointment to each of Takira’s wounds, hoping to prevent excessive scarring.

Alex prides himself on Takira’s mind as she waits for her turn to rinse off the gold-colored paper sheet. The game on this hot summer day, just three years before the anniversary of the shooting, is more about getting wet than washing cars.

“You wet me,” Takira yells to Takara, who hands her the hose. “You wet me too,” Takara says.

They yell this loud enough for Gaston-Walters to hear. She laughs aloud as Takira and Schneider sit at the front door of the small Cape-style house.

“We do so with pride, as we measure our progress,” Mr. HOYER said. “We do so with sadness, as we mourn the recent passing of Justin Dart Jr., the ADA’s “father” and an indefatigable soldier of justice. And we do so with deep concern, as the courts continue to issue decisions that limit the ADA’s scope and undermine its intent.

Twelve years ago today, the first President Bush signed the ADA into law, hailing it as the “world’s first comprehensive declaration of equality for people with disabilities.” As the House of Representatives on this historic law, I knew we would not topple centuries of prejudice overnight. But I knew that, over time, it could change attitudes and change hearts, and unleash the untapped abilities of our disabled brothers and sisters.

The ADA sent an unmistakable message: It is unacceptable to discriminate against the disabled simply because they have a disability. And it is illegal.

The ADA, which enjoyed overwhelming bipartisan support, prohibits discrimination against these millions of Americans—employment, in public accommodations, in transportation and in telecommunications. It recognizes that the disabled belong to the American family, and must share in all we have to offer: equality of opportunity, full participation, independent living and economic self-sufficiency.

Its first dozen years have ushered in significant change. Thousands of disabled Americans have joined the workforce, many for the first times in their lives. The ramps, curb cuts, braille signs and captioned television programs that were once novel are now ubiquitous.

However, despite such demonstrable progress, the ADA increasingly has become a tool by which administrations seek to limit growth and development of the ADA for our children and grandchildren. I believe the American people will defend the ADA from this assault. I will do my part to defend the ADA and will always do this with pride and with hope for the future.”
As we commemorate this 12th anniversary of the ADA today and pay tribute to a wonderful man who devoted his life to promoting justice and equality for others, let’s recognize that our work is far from finished. The series of Supreme Court decisions on the ADA remind us of that, and command us to begin discussing possible legislation.

We have come so far in the last dozen years. And we have poured a strong foundation for our house of equality, where Americans are judged by their ability and not their disability.

Yet, the promise of the ADA remains unfulfilled today but still is within reach. It falls to us now to carry on the fight and to realize Justin Dart’s vision of a revolution of empowerment. Let’s not rest until the work is done.

CONSTITUTIONAL LIBERTIES AND THE COSTS OF WAR AGAINST TERRORISM ACT

HON. CYNTHIA A. MCKINNEY
OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Ms. McKinney. Mr. Speaker, the attacks of September 11th, 2001 caused significant changes throughout our society. For our military services, this included increased force protection, greater security, and of course the deployment to and prosecution of the War on Terrorism in Afghanistan and elsewhere.

Sadly, one of the first acts of our President was to waive the high deployment overtime pay of our servicemen and women who are serving on the front lines of our new War. The Navy estimates that the first year costs of this pay would equal about 40 cruise missiles. The total cost of this overtime pay may only equal about 300 cruise missiles, yet this Administration said it would cost too much to pay our young men and women what the Congress and the previous Administration had promised them.

In another ironic twist, the War on Terrorism has the potential to bring the U.S. military into American life as never before. A Northern Command has been created to manage the military’s activity within the continental United States. Operation Noble Eagle saw combat aircraft patrolling the air above major metropolitan areas, and our airports are only now being relieved of National Guard security forces.

Further, this bill includes nearly $2 billion in military intelligence covertly operating a surveillance operation on military activity within our country. The documents further reveal that government authorities were conducting black activities that included targeting and entering private homes to collect information on individuals. FBI activities included “bad jacketing,” or falsely accusing individuals of collaboration with the authorities. It included the use of paid informants to set up non-existent targeted individuals and they were later acquitted of the murder of some individuals. Geronimo Pratt Ji Jaga spent 27 years in prison for a crime he did not commit. And in CONTELPRO program documents subsequently released, we learn that Fred Hampton was murdered in his bed while his pregnant wife slept next to him after a police informant slipped drugs in his drink.

Needless to say, such operations were well outside the bounds of what normal citizens would believe to be the role of the military, and the Senate investigations conducted by Senator Frank Church found that to be true. Though the United States was fighting the spread of communism in the face of the Cold War, the domestic use of intelligence and military assets against its own civilians was unfortunately reminiscent of the police state of its own. America must stand up and protect itself from being built up by the Communists we were fighting.

We must be certain that the War on Terrorism does not threaten our liberties again. Amendments to H.R. 4547, the Costs of War Against Terrorism Act, that would increase the role of drug interdiction task forces to include counter intelligence, and that would increase the military intelligence’s ability to conduct electronic and financial investigations, can be the first steps towards a return to the abuses of constitutional rights during the Cold War. The “war against terrorism” bill includes nearly $2 billion in additional funds for intelligence accounts. When taken into account with the extra-judicial incarceration of thousands of immigration violators, the transfer of prisoners from law enforcement custody to military custody, and the consideration of a “volunteer” terrorism tip program in America must stand up and protect itself from the threat not only of terrorism, but of a police state of its own.

There does exist a need to increase personnel pay accounts, replenish operations and maintenance accounts and replace lost equipment. The military has an appropriate role in protecting the United States from foreign threats, and should remain dedicated to preparing for those threats. Domestic uses of the
military have long been prohibited for good reason, and the same should continue to apply to all military functions, especially any and all military intelligence and surveillance. Congress and the Administration must be increasingly vigilant towards the protection of and adherence to our constitutional rights and privileges. If we win the war on terrorism, but create a police state in the process, what have we won?

INTRODUCTION OF THE CHILDREN’S DEVELOPMENT COMMISSION ACT

HON. CAROLYN B. MALONEY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Friday, July 26, 2002

Mrs. MALONEY of New York. Mr. Speaker, today I am reintroducing legislation (H.R. 1112, 106th Congress) that is intended to help solve the shortages of available, affordable child care facilities. In my congressional district in New York City, more than half of all women with pre-school children are in the workforce and the need for child care is enormous. This is not a local problem but one that is national in nature.

The “Children’s Development Commission Act” or “Kiddie Mac,” (H.R. 1112, 106th), will address this problem by authorizing HUD to issue guarantees to lenders who are willing to lend money to build or rehabilitate child care facilities. It also creates the Children’s Development Commission which will certify the loans and create federal child care standards. Kiddie Mac will also give “micro-loans” to facilities which need to make the necessary changes to come up to licensing standards, as well as provide them with lower cost fire and liability insurance. Through some of the pre-miems paid by the lenders, a non-profit foundation will be formed which would focus on research on child care and development, as well as create educational materials to guide potential providers through the certification process.

It is late in the session but I urge my colleagues to consider the proposal and join me in enacting it this year or in a future Congress.

IN HONOR OF TEXAS EQUUSEARCH MOUNTED SEARCH & RECOVERY TEAM AND ITS FOUNDER, TIMOTHY A. MILLER

HON. NICK LAMPSON
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Friday, July 26, 2002

Mr. LAMPSON. Mr. Speaker, I rise today to honor Tim Miller and the Texas EquuSearch Mounted Search and Recovery Team (TES). Since Tim had horses of his own, and given a rash of missing persons in his area, many people suggested that he should start a horse search and rescue team. Tim shared this idea with some friends and was amazed at all the positive interest and support received.

The first official meeting was held in August of 2000 and then the work started. Tim, and his faithful and incredibly supportive wife Georgeann Miller, never realized how difficult forming an organization like this could be; or that it would require giving up his business as a general contractor to devote himself full time to the founding and operation of TES. Two years later, I’m proud to say that Tim and his all-volunteer TES team are working harder than ever to help bring home loved ones who are missing.

Since Texas EquuSearch was formed, they have been on nearly one hundred searches in two short years. They have an admirable record of working constructively with our nation’s law enforcement agencies and the Federal Bureau of Investigation. As these words were being written Tim and TES are on still another search near TES’s headquarters in Dickinson, Texas.

TES was founded in loving memory of Laura Miller, Tim’s daughter. The success rate of TES in finding missing people and returning many of them home alive is truly impressive. It is a living tribute to the spirit of Laura Miller. That spirit is alive and well in every volunteer of TES. The following words are Tim’s own:

I know how important a search and rescue team can be. My daughter Laura Miller was abducted in September of 1984. I went to the police department to report her missing and file a missing persons report. Five months prior to Laura’s disappearance, the remains of a young lady named Heidi Villareal Fye, were found on some property at an abandoned oil field on Calder Road in League City, Texas. I told the police officer taking the report of my concerns, and would they please check the area where she had been found, or tell me where it was located so that I might visit it. Of course they said Laura is sixteen, she ran away and will be coming back home. We called and drove to all of Laura’s friends to see if anyone had seen her. Three days went by and I found out that Heidi had only lived 4 blocks from our house. So I went back to the police station to tell them my new worries about the close location of our houses and could they go and check the field where Heidi was or please take me to where it was located. Again they said Laura was sixteen and she had run away so we should go home and wait by the phone for her to call.

The days turned into weeks, weeks into months, and months into years. The Gulf Coast was still on semi-lockdown, and still no Laura. Seventeen months later, kids were riding dirt bikes on Calder Road when they smelled a foul odor. They felt as though it was a dead animal but walked over to the area of the odor to see anyway. The odor was not a dead animal; it was in fact the remains of a female who had been there approximately two months. The police were called out to investigate, and during the investigation stumbled across the remains of yet another female some sixty feet from the other. These remains of the other girl found were those of my daughter, Laura Miller. The remains of the other girl found there have not been identified to this day and still is only known as Jane Doe.

These were by far the most frustrating and lonely seventeen months of my life and there was some feeling of relief when Laura was found, at least now we know. I often think of what would have changed back in 1984 when Laura disappeared, if there had been a Texas EquuSearch. Would Laura have been found? Probably not. Probably would have been found and there probably would have been some evidence on the scene to help the police in the investigation. Would Jane Doe have been found murdered—probably not or at least not at that spot.

Mr. Speaker, the Texas EquuSearch Mounted Search & Recovery Team, was founded in loving memory of Laura Miller by her father Timothy A. Miller to search for our nation’s missing and abducted children and adults. It has received help from the citizens of Houston, the State of Texas and the United States to successfully search for and find the lost, abducted, and missing. On the 50th anniversary of the Federal Law Enforcement agencies, including the Federal Bureau of Investigation, have already recognized the significance and value of the Texas EquuSearch Mounted Search & Recovery. It is now appropriate that the People and the Congress of the United States of America applaud and urge on Texas EquuSearch to continue forward—assuring that “The lost are not alone”.

ANIMAL FIGHTING ENFORCEMENT ACT

HON. ROBERT E. ANDREWS
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Friday, July 26, 2002

Mr. ANDREWS. Mr. Speaker, today I am pleased to introduce the Animal Fighting Enforcement Act. This legislation targets the reprehensible and surprisingly widespread activities of dogfighting and cockfighting, in which animals are bred and trained to fight, often drugged to heighten their aggression, and placed in a pit to fight to the death—all for their amusement and illegal wagering of the animals’ handlers and the spectators.

These are indefensible activities, and our state laws reflect public disdain for these forms of animal cruelty. Dogfighting is banned in all 50 States, and it is a felony in 46 States. Cockfighting is banned in 47 states, and it is a felony in 26 states.

Even though there is a something verging on a national consensus that dogfighting and cockfighting should be treated as criminal conduct, the industries continue to thrive. According to The Humane Society of the United States, there are 11 underground dogfighting publications. There are numerous above-ground cockfighting magazines, including The Gamecock, The Feathered Warrior, and Grit & Steel that promote cockfights, rally cockfighters to defend the practice, and advertise and sell fighting birds and the accoutrements of animal fighting.

Earlier this year, the House and Senate passed legislation to close loopholes in Section 26 of the Animal Welfare Act and bar any interstate shipment or exports of dogs or birds for fighting. That was a much-needed and long-overdue action by the House, and I commend the leadership provided on that legislation by Representatives Earl Blumenauer, Tom Tancredo, and Collin Peterson. Senators WAYNE ALLARD and TOM HARKIN led the parallel effort in the other chamber. The legislation was designed to help the states enforce their laws and provide a strong federal state- ment and statute against dogfighting, and cockfighting. In states where cockfighting is illegal, cockfighters had been using the loophole in federal law as a smoke-screen to conceal their animal fighting activities; they claimed that they were merely raising and possessing birds to sell to legal cockfighting The States who did that. It was often occurring in illegal fights in their own states. It makes enforcement of state laws against cockfighting very difficult.
HON. DAN MILLER
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Friday, July 26, 2002
Mr. DAN MILLER of Florida. Mr. Speaker, I rise today to introduce legislation to convey Egmont Key, which is currently under the jurisdiction of the U.S. Fish and Wildlife Service to the Florida State Park Service. Egmont Key is located at the mouth of Tampa Bay within the Congressional Districts of Mr. BILL YOUNG, Mr. JIM DAVIS, and myself, both of which are greatly supportive of my efforts and are also original cosponsors of the bill. Egmont Key’s cultural history dates back to 1830’s, and the fact of the construction of Fort Dade in 1882 was to protect the city of Tampa during the outbreak of the Spanish-American War. Egmont Key even served as a site for the Union navy to operate their Gulf Coast blockade in the Civil War. Area residents, including my family and I, have enjoyed Egmont Key’s historical and recreational benefits for years, and the local support for conveying the ownership of this island to the Florida State Park Service is strong.

The bill will convey the title of Egmont Key, a small island, which is approximately 350 acres, to the Florida State Park Service. This bill will not only improve the management of the public facilities, historical remains and wildlife habitat on the island, but also save the federal government money in the long term by removing it from federal responsibility.

Transfer of this property to the State of Florida will prove to be highly beneficial to its visitors. Providing more efficient facilities and an all around atmosphere of family interaction. Egmont Key serves as a habitat for numerous species of birds, and its white sandy beaches are valuable to the lives of many turtles, animals, and plants. The State of Florida’s ownership of this picturesque island would improve the quality of life for its inhabitants and the quality of enjoyment for its enthusiasts.

Mr. Speaker, due to the limited amount of time left in the 107th Congress and my pending retirement this year, it is my hope that this bill will move quickly through the legislative process. I strongly believe that Egmont Key is best operated through the ownership of the Florida State Park Service, therefore I am requesting my colleagues join me today in cosponsoring this legislation. Egmont Key is a valuable resource to our area, and ownership by the State of Florida would simply provide the desired access to the community while also maintaining the ecosystem.

REMARKS ON SUSAN HIRSCHMANN
HON. ILEANA ROS-LEHTINEN
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Friday, July 26, 2002
Ms. ROS-LEHTINEN. Mr. Speaker, I rise today, not to bid farewell, but to extend my heartfelt wishes for a future of success and happiness, to Susan Hirschmann.

Susan has served as the Chief of Staff to our Majority Whip, Tom Delay, since 1997, managing the personal, district and Whip offices for our good friend from Texas.

Many of us have turned to her throughout the years for her political acumen and superb strategic skills.

Since moving to Washington, D.C. in 1987, she has been in the trenches promoting the Republican agenda—America’s agenda.

She is more than a colleague. She is a friend.

While she is leaving the Hill, her passion and commitment to priority issues will keep her nearby.

I will surely miss the dinners we shared, as well as the late-night discussions over Chinese food and fried chicken in the Whip’s office.

Godspeed Susan!
people aimed at annexing the island to Greece (Enosis). Turkish Cypriots resisted Greek attempts to “hellenize” Cyprus and, with the help of Turkey, engineered and staged a coup d’état on 15 July 1974, which was described as “an invasion of Cyprus by Greece” even by the then Greek Cypriot leader Makarios in his dramatic admission before the UN Security Council on 19 July 1974. Turkey exercised its right of intervention under these circumstances, in order to prevent the completion of the massacre of the Turkish Cypriots; stop the bloodshed on the island and prevent the colonization of Cyprus by Greeks. Turkey’s legitimate and justified intervention did not only achieve all these aims, but also led to the downfall of the military junta in Greece. The legitimacy of the Turkish intervention was confirmed by prominent outside sources, including the Standing Committee of the Consultative Assembly of the Council of Europe, which, in its decision dated 29 July 1974, stated the following: “Turkey exercised its right of intervention in accordance with Article IV of the Guarantee Treaty.”

Even the Athens Court of Appeal, in its decision of March 21, 1979, also held that the intervention of Turkey in Cyprus was legal: “...The Turkish military intervention in Cyprus which was carried out in accordance with the Zurich and London Agreements was legal. Turkey, as one of the Guarantor Powers, had the right to fulfill her obligations. The real culprits... are the Greek Officers who engineered and staged a coup and prepared the conditions for this intervention.” December 22, 1979, decision dated 21 March 1979.

The events of 1974 were followed by a population exchange between the North and the South, formally agreed between the two sides in August and implemented in September 1975, enabling the Turkish Cypriots to regroup and reorganize themselves in the North, and the Greek Cypriots in the South. This created the geographical basis for a permanent settlement of the Cyprus issue on a “bi-zonal” basis—a term that has since become the permanent feature of the UN’s Cyprus vocabulary.

Is this all history? Perhaps; but it is a history from which we must learn so as not to repeat the mistakes. The planning strategy of Cyprus must necessarily take into account the above background of events, the existing mistrust between the two peoples of the island and the realities of today, that is the two-state situation on the island evolved in the course of time. The possibility of a just, realistic settlement, aimed at ending the acknowledgement of these facts, not a rejection of them. The Turkish Cypriots deserve to have their own state and, what is more, they already have it, albeit without international recognition.

The current face-to-face negotiations, started at the initiative of the Turkish Cypriot side, could produce the desired result, if the Greek Cypriots were to accept the Turkish Cypriots as their true partners and equals. However, pampered by the European Union, they come to view the question largely from a Greek Cypriot perspective, treating them as the “Government of Cyprus”, the Greek Cypriots have little or no reason to settle their scores with their Turkish Cypriot neighbors for a shared future. In view of these realities, it is evident that for the current negotiations to have a real chance of success, third parties need to encourage the Greek Cypriot side to accept that there is no going back to the old days in Cyprus, and that the aim of the talks is the establishment of a viable settlement depending on the basis of the sovereign equality of the two parties.

Perhaps we could then reach an outcome in Cyprus that all can celebrate.

IN RECOGNITION OF JOURNALIST JESSICA LEE

HON. ELEANOR HOLMES NORTON
OF THE DISTRICT OF COLUMBIA
IN THE HOUSE OF REPRESENTATIVES
Friday, July 26, 2002

Ms. NORTON. Mr. Speaker, I rise to recognize Jessica Lee for her efforts and success in the field of journalism. Jessica Lee has had a long and illustrious career as a journalist. She was one of the first African American women to cover the White House for a major daily newspaper, and she was one of the first journalists to give a voice in print to those not normally covered by the news media. She has traveled all over the world as a White House correspondent for USA Today: from China to Russia, Europe and to South Africa where she covered the election of Nelson Mandela. She has witnessed many major current events and written about them in what has often been called the “first draft” of history.

Jessica joined USA Today in 1985 as a congressional correspondent. She was assigned to the White House in 1986 at the height of the Iran-contra scandal, reporting on President Reagan’s final two years and President Bush’s full term in office.

Jessica, a fluent Spanish speaker, has worked for Gannett Co., Inc., since 1978, when she was hired at the El Paso Times in Texas. She worked five years as a regional and congressional correspondent with Gannett News Service.

Jessica got her first taste of journalism at high school in Washington, D.C., where she grew up. She began her career with the Daily Journal, an English-language daily published in Caracas, Venezuela. She is a graduate of Western College for Women.

Due to her courage and tenacity as a trailblazer, she will remain a role model for many women now joining the ranks of journalists.

INTRODUCING THE SMALL BUSINESS DROUGHT RELIEF ACT

HON. ALCEE L. HASTINGS
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Friday, July 26, 2002

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to introduce the Small Business Drought Relief Act. This legislation provides small businesses who depend upon water supply as a means of income with the opportunity to qualify and apply for disaster assistance from the Small Business Administration when drought affects their ability to earn income. It serves as a companion bill to a similar bill introduced in the Senate.

Under current law, small businesses whose income depreciables as a result of diminishing water supply are unable to even apply for SBA loans. Often these businesses are family-owned and family-run recreational or commercial fishing firms. The majority of them are dependent upon water resources, whether lakes, streams, or rivers, for the ability to operate their businesses. When water levels drop to unbearable points, aside from the obvious water supply issues, boats are unable to make it into lakes and rivers, commercial fishing ceases to exist, and businesses often lay off workers and close their doors for good.

I became interested in drought relief last summer when Florida found itself in the most prolonged drought it had seen in nearly 20 years. The water level in our state’s 2nd largest fresh water lake, and located in my District, had decreased by nearly 25 percent.

Not only did the water shortage in the lake cause problems for agriculture and water management, but it also destroyed the economic well being of small businesses around the Lake who depend on it for income. Realize that the clear majority of these businesses are owned by minorities or families who struggle every day just to get by.

As I began to try and help the towns and businesses surrounding the Lake in locating temporary assistance, even if it was only low interest loans, I found that unless a firm was involved in agriculture, assistance is virtually impossible. When it is possible, the bureaucratic red tape applicants must cut through are so discouraging that they don’t even.

The issue at hand, Mr. Speaker, is that droughts are major natural disasters. The Stafford Act says it is, as well as the U.S. Department of Agriculture, Commerce, and Defense also say it is. Congress said it as recently as 1998. But for some reason, the Small Business Act does not include drought in its definition of disaster. Frankly, this oversight is a disaster of its own.

Today, Mr. Speaker, I am introducing a bill which will reconcile the oversight made by our body’s predecessors and ensure that businesses who suffer from drought will live to see another day. I urge my colleagues to support this bill, and I urge the leadership to bring it swiftly to the floor for a vote.
RECOGNIZING HALIE JACOBS FOR HER BRAVERY AND HEROISM

HON. VAN HILLEARY
OF TENNESSEE
IN THE HOUSE OF REPRESENTATIVES
Friday, July 26, 2002

Mr. HILLEARY. Mr. Speaker, I pay tribute today to a brave little girl who lives in Normandy, Tennessee, a small town in the congressional district I represent. Halie Jacobs is only seven years-old. Yet, when her mother’s life was in danger, Halie braved darkness, angry dogs and a broken foot to walk two miles to get help for her injured mother.

On July 10th, around midnight, Halie and her mother Crystal were on their way home, driving through fog and misting rain down the kind of narrow, twisting country road that is so common in rural Tennessee. Their car hydroplaned into a ditch, leaving Halie’s mother severely hurt and Halie with a cracked bone in her foot. Halie stayed by her mother’s side until, according to Halie, “I couldn’t talk to her.”

Not knowing for sure if her mother was living or dead, Halie did something uncommonly brave for a seven-year-old. In spite of her own injury, she set out on a pitch-black, lonely road toward home and help for her mother. Halie found her way home, got help and showed them the way to her mother.

I am happy to report Crystal is regaining her health. She still has a long way to go, but because of her daughter’s heroism, Crystal is on her way to recovery.

I know Crystal is proud of her extraordinary daughter. All of us in the Fourth Congressional District are. Bedford County, Halie’s home county, awarded her its first “911 Hero Award” for making the right call.

Though I haven’t met Halie myself, the Tullahoma News, one of the local newspapers at the award ceremony noted Halie “handled the attention and barrage of questions from television and newspaper reporters with quiet maturity.” The article went on to state, “It was the same maturity she exhibited two weeks ago when she walked barefoot more than two miles, in the middle of the night, to get help for her injured mother.”

Mr. Speaker, being in a car accident, seeing your mother gravely injured and then watching her pass out would be highly traumatic for anyone, let alone a seven-year-old. Yet Halie Jacobs kept her wits and did what she knew she had to do. I commend Halie for her uncommon courage and I wish her mother Crystal well as she recovers from her injuries.

For the record, I include an account of Halie’s heroism that appeared in Bedford County’s newspaper, the Shelbyville Times Gazette.

A BRAVE LITTLE GIRL: HALIE JACOBS, 7, DEFIES DARK, DOGS TO HELP MOM
(By ANN BULLARD)

Imagine riding down a narrow, dark country road in the mist and fog when the car runs off the road and noses down into a ditch. You’re the passenger in the front seat; the driver has fallen to your side and is bleeding heavily. You have no flashlight, no cell phone. You talk with the driver, your mama, until she can’t talk with you any longer.

And you’re only 7 years old.

That was the situation Halie Jacobs faced last Wednesday night, as she and her mother, Crystal, were driving on Roseville Road to their Normandy home. It was close to midnight, and, like most persons of any age, Halie was afraid. Unlike many, Halie took matters into her hands.

“I stayed with Mama until I couldn’t talk to her. [Then] I jumped into the back seat, opened the door and got out,” the petite second-grader said, explaining if she’d tried to exit on her side she’d have been in the creek.

Not knowing whether her mother was dead or alive, Halie started home. In spite of a sprained ankle and bare feet, the youngster ran and walked 2.1 miles from the accident scene, taking a reluctant Halie with her to Normandy Road to Dement Road and the family trailer.

The youngster passed only one house. The petite second-grader, said, explaining if she’d tried to exit on her side she’d have been in the creek.

Not knowing whether her mother was dead or alive, Halie started home. In spite of a sprained ankle and bare feet, the youngster ran and walked 2.1 miles from the accident scene, taking a reluctant Halie with her to Normandy Road to Dement Road and the family trailer.

The youngster passed only one house. The light was on but she didn’t know the people and was afraid to stop. As she ran down the middle of unlighted, tree-shrouded roads, she was chased by two dogs. “Then I walked so they wouldn’t come after me,” she said. And, finally, she reached home.

“I was on the phone with her dad when Halie came in covered with blood,” her grandmother, Teressia Jacobs, said. “She told me, ‘Me and Mama had a wreck at the end of the road. I talked to her until she could talk no more.'”

Only after reaching home, having family’s arms around her and knowing they were getting help for her mama did Halie cry. Teressia called 911 and then drove to the scene, taking a reluctant Halie with her to be sure she found the car.

“I didn’t want to look in case it was too bad,” Halie said, tearing up when she remembered her fear that her mother had been killed.

At a little more than 50 pounds and about 3 feet 9 inches tall, the blond-haired, blue-eyed rising second-grader at Cascade School seems an unlikely candidate to be a hero. The angel pin she now wears expresses her mother’s emotions.

When EMS workers arrived, they found Crystal on the passenger side of her 1996 Nissan Sentra in which both air bags had deployed. Neither Crystal nor Halie, who was beside her in the front seat, were wearing seat belts.

“It was rainy and foggy and I think I hydroplaned,” Crystal said. According to State Trooper Rhett Campbell, the newest officer serving this district, the car had gone off the road, down alongside Shipman’s Creek and came to rest on top of a pile of dirt.

How did Crystal get across the console? “I don’t know. I knew Halie was in the car and supposed I tried to protect her. When I regained consciousness, I was on the passenger side.”

“God and Granny were with her that night,” Teressia said of the child’s other grandmother who had died this spring.

Crystal was taken by ambulance to Bedford County Medical Center. It was too foggy for LifeFlight so the ambulance took her on to Vanderbilt University Medical Center in Nashville where she was treated. She was discharged until the facial swelling was reduced, then was admitted to Vanderbilt this morning for reconstruction of both sinus cavities and her cheek.

As for Halie, she is pretty matter-of-fact about it all. She is looking forward to entering Cascade School in the fall, and spends her vacation swimming, watching Rug Rats and Sponge Ball cartoons and playing on the computer.

To adults around her, the 7-year-old is a hero. Cathy Mathis, head of the Bedford County Communications Center and E-911, plans to present Halie with a “911 Hero Award” within the next few days.
Daily Digest

HIGHLIGHTS

Senate

Chamber Action
Routine Proceedings, pages S7391–S7442
Measures Introduced: Ten bills and five resolutions were introduced, as follows: S. 2802–2811, S. Res. 307–310, and S. Con. Res. 132. Measures Reported:
S. 2808, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2003. (S. Rept. No. 107–224)
S. 2809, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2003. (S. Rept. No. 107–225)
S. 1992, to amend the Employee Retirement Income Security Act of 1974 to improve diversification of plan assets for participants in individual account plans, to improve disclosure, account access, and accountability under individual account plans, with an amendment in the nature of a substitute. (S. Rept. No. 107–226)
S. 1115, to amend the Public Health Service Act with respect to making progress toward the goal of eliminating tuberculosis, with an amendment in the nature of a substitute. (S. Rept. No. 107–227)
S. 2771, to amend the John F. Kennedy Center Act to authorize the Secretary of Transportation to carry out a project for construction of a plaza adjacent to the John F. Kennedy Center for the Performing Arts.
Measures Passed:
Congressional Meeting of Remembrance: Senate agreed to H. Con. Res. 448, providing for a special meeting of the Congress in New York, New York, on Friday, September 6, 2002, in remembrance of the victims and the heroes of September 11, 2001, in recognition of the courage and spirit of the City of New York.
Congressional Representation: Senate agreed to H. Con. Res. 449, providing for representation by Congress at a special meeting in New York, New York on Friday, September 6, 2002.
Honoring Justin W. Dart, Jr.: Senate agreed to S. Res. 310, honoring Justin W. Dart, Jr., as a champion of the rights of individuals with disabilities.
Intelsat Extension: Senate passed S. 2810, to amend the Communications Satellite Act of 1962 to extend the deadline for the INTELSAT initial public offering.
Adjournment Resolution: Senate agreed to S. Con. Res. 132, providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives.
JFK Center Plaza Authorization: Senate passed S. 2771, to amend the John F. Kennedy Center Act to authorize the Secretary of Transportation to carry out a project for construction of a plaza adjacent to the John F. Kennedy Center for the Performing Arts.
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.
McConnell Amendment No. 4326 (to Amendment No. 4299), to provide for health care liability reform. Pages S7398–S7413

A unanimous-consent agreement was reached providing for further consideration of the bill on Monday, July 29, 2002.

National Defense Authorization Act: Senate disagreed to the amendment of the House to the Senate amendment to H.R. 4546, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, agreed to the House request for a conference, and the Chair was authorized to appoint the following conferees on the part of the Senate: Senators Levin, Kennedy, Byrd, Lieberman, Cleland, Landrieu, Reed, Akaka, Nelson (FL), Nelson (NB), Carnahan, Dayton, Bingaman, Warner, Thurmond, McCain, Smith (NH), Inhofe, Santorum, Roberts, Allard, Hutchinson, Sessions, Collins, and Bunning. Pages S7397–98

Nomination—Cloture Vote: By a unanimous vote of 89 yeas (Vote No. Ex. 193), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, Senate agreed to the motion to close debate on the nomination of Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit.

Pursuant to the order of July 25, 2002, a vote on confirmation of the nomination will occur at 5:30 p.m., on Monday, July 29, 2002.

Nominations—Agreement: A unanimous-consent agreement was reached providing for consideration of the nominations of Joy Flowers Conti, to be United States District Judge for the Western District of Pennsylvania, and John E. Jones III, to be United States District Judge for the Middle District of Pennsylvania, on Monday, July 29, 2002, with votes to occur thereon; following the disposition of the nomination of Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit. Pages S7391–96

Nominations Confirmed: Senate confirmed the following nominations: Guy F. Caruso, of Virginia, to be Administrator of the Energy Information Administration.

Christopher C. Conner, of Pennsylvania, to be United States District Judge for the Middle District of Pennsylvania.

W. Roy Grizzard, of Virginia, to be an Assistant Secretary of Labor.

Lex Frieden, of Texas, to be a Member of the National Council On Disability for a term expiring September 17, 2004.

Young Woo Kang, of Indiana, to be a Member of the National Council On Disability for a term expiring September 17, 2003.

Kathleen Martinez, of California, to be a Member of the National Council On Disability for a term expiring September 17, 2003.

Carol Hughes Novak, of Georgia, to be a Member of the National Council On Disability for a term expiring September 17, 2004.

Patricia Pound, of Texas, to be a Member of the National Council On Disability for a term expiring September 17, 2002.

Kathleen P. Utgoff, of Virginia, to be Commissioner of Labor Statistics, United States Department of Labor for a term of four years.

Ray Elmer Carnahan, of Arkansas, to be United States Marshal for the Eastern District of Arkansas for the term of four years.

Theresa A. Merrow, of Georgia, to be United States Marshal for the Middle District of Georgia for the term of four years.

Ruben Monzon, of Texas, to be United States Marshal for the Southern District of Texas for the term of four years.

Gregory Robert Miller, of Florida, to be United States Attorney for the Northern District of Florida for the term of four years.

Kevin Vincent Ryan, of California, to be United States Attorney for the Northern District of California, for the term of four years.

David Scott Carpenter, of North Dakota, to be United States Marshal for the District of North Dakota for the term of four years.

James Michael Wahlrab, of Ohio, to be United States Marshal for the Southern District of Ohio for the term of four years.

Randall Dean Anderson, of Utah, to be United States Marshal for the District of Utah for the term of four years. (Reappointment) Pages S7396–97, S7443, S7444

Nominations Received: Senate received the following nominations:

Oris Webb Brawley, Jr., of Georgia, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring June 20, 2003.

Marion C. Blakey, of Mississippi, to be Administrator of the Federal Aviation Administration for the term of five years.

James C. Miller III, of Virginia, to be a Governor of the United States Postal Service for the term expiring December 8, 2010. Page S7444

Messages From the House: Page S7429

Measures Placed on Calendar: Page S7429

Enrolled Bills Presented: Pages S7429–30
Additional Cosponsors: Pages S7430–31
Statements on Introduced Bills/Resolutions: Pages S7431–35
Additional Statements: Pages S7427–29
Amendments Submitted: Pages S7435–37
Notices of Hearings/Meetings: Pages S7437–38
Authority for Committees to Meet: Page S7438
Record Votes: One record vote was taken today. (Total—193) Page S7391
Adjournment: Senate met at 9:55 a.m., and adjourned at 3:54 p.m., until 4 p.m., on Monday, July 29, 2002. (For Senate’s program, see the remarks of the Majority Leader in today’s Record on page S7443.)

Committee Meetings

COMMITTEE ON ARMED SERVICES

Committee ordered favorably reported 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 Forces Command.

Prior to this action, committee concluded hearings, in open and closed sessions, on the aforementioned nominations, after the nominees testified and answered questions in their own behalf. Lt. Gen. Hill was introduced by Senator Graham, and Vice Adm. Giambastiani was introduced by Senator Warner.

BIRTH DEFECTS

Committee on Health, Education, Labor, and Pensions: Subcommittee on Children and Families concluded hearings to examine public health issues related to birth defects, focusing on strategies for prevention and ensuring quality of life, after receiving testimony from Jose F. Cordero, Director, National Center on Birth Defects and Developmental Disabilities, Centers for Disease Control and Prevention, Department of Health and Human Services; Hal Pote, J.P. Morgan Chase Manhattan, on behalf of the Spina Bifida Foundation and the Spina Bifida Association of America, and Nancy S. Green, Albert Einstein School of Medicine, on behalf of the March of Dimes Birth Defects Foundation, both of New York, New York; and Fred Liguori, Granby, Connecticut.

INDIAN MONEY ACCOUNTS

Committee on Indian Affairs: On Thursday, July 25, Committee concluded hearings to examine the July 2, 2002 Report of the Department of the Interior to Congress on historical accounting of Individual Indian Money Accounts, after receiving testimony from McCoy Williams, Director, Financial Management and Assurance, General Accounting Office; James Cason, Associate Deputy Secretary, Bert Edwards, Executive Director, Office of Historical Trust Accounting, and Tom Slonaker, Special Trustee for American Indians, all of the Department of the Interior; and William F. Causey, Nixon Peabody, Washington, D.C.

House of Representatives

CHAMBER ACTION


Reports Filed: Reports were filed today as follows:

H.R. 4883, to reauthorize the Hydrographic Services Improvement Act of 1998, amended (H. Rept. 107–621);

H.R. 5012, to amend the John F. Kennedy Center Act to authorize the Secretary of Transportation to carry out a project for construction of a plaza adjacent to the John F. Kennedy Center for the Performing Arts (H. Rept. 107–622);

H.R. 5263, making appropriations for agriculture, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2003, and for other purposes (H. Rept. 107–623);

Conference report on H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act (H. Rept. 107–624); and
H. Res. 509, waiving points of order against the conference report to accompany H.R. 3009, to extend the Andean Trade Preference Act and to grant additional trade benefits under that Act (H. Rept. 107–625).

Homeland Security Act: The House passed H.R. 5005, to establish the Department of Homeland Security by a recorded vote of 295 ayes to 132 noes, Roll No. 367. The bill was also debated on July 25.

Agreed to the DeLauro motion to recommit the bill to the Select Committee on Homeland Security with instructions to report it back forthwith with an amendment that prohibits contracting with corporate expatriates by a recorded vote of 318 ayes to 110 noes, Roll No. 366. Subsequently, Majority Leader Armey reported the bill back to the House with the amendment and the amendment was agreed to.

Agreed To:

Rogers of Kentucky Amendment No. 14 printed in H. Rept. 107–615, debated on July 25, that gives permissive authority to the Secretary to establish and operate a permanent Joint Interagency Homeland Security Task Force;

Shays Amendment No. 17 printed in H. Rept. 107–615 that protects the union rights of employees transferred into the Department of Homeland Security and allows the President to exempt applications where there would be a substantial adverse impact on the Department's ability to protect homeland security (agreed to by a recorded vote of 229 ayes to 201 noes, Roll No. 356);

Quinn amendment No. 19 printed in H. Rept. 107–615 that requires collaboration with employee representatives in the planning, development, and implementation of any human resources management system (agreed to by a recorded vote of 227 ayes to 202 noes, Roll No. 358);

Armey en bloc manager's amendment No. 21 printed in H. Rept. 107–615 that includes various technical amendments and amendments requested by the Committees on Energy and Commerce, Science, Transportation and Infrastructure, Agriculture, Appropriations, and Government Reform (agreed to by a recorded vote of 222 ayes to 204 noes, Roll No. 361); and

Chambliss amendment No. 26 printed in H. Rept. 107–615, as modified, that establishes the Homeland Security Information Sharing Act to facilitate the sharing of security information.

Rejected:

Waxman Amendment No. 3 printed in H. Rept. 107–615 that sought to codify and strengthen the White House Office of Homeland Security which was established in Executive Order 13228 (rejected by a recorded vote of 175 ayes to 248 noes, Roll No. 352);

Oberstar Amendment No. 1 printed in H. Rept. 107–615, debated on July 25, that sought to retain FEMA as an independent agency with responsibility for natural disaster preparedness, response, and recovery (rejected by a recorded vote of 165 ayes to 261 noes, Roll No. 353);

Cardin Amendment No. 8 printed in H. Rept. 107–615, debated on July 25, that sought to preserve the Customs Service as a distinct entity within the Department of Homeland Security (rejected by a recorded vote of 177 ayes to 245 noes, Roll No. 354);

Morella amendment No. 18 printed in H. Rept. 107–615 that sought to protect the rights of union employees who are transferred into the Department of Homeland Security with the same job responsibilities (rejected by a recorded vote of 208 ayes to 222 noes, Roll No. 357);

Turner amendment No. 22 printed in H. Rept. 107–615 that sought to indemnify companies who sell anti-terrorism technologies to Federal, state, and local governments (rejected by a recorded vote of 214 ayes to 215 noes, Roll No. 359);

Waxman amendment No. 20 printed in H. Rept. 107–615 that sought to strike section 761 which establishes a human resources management system and inserts various provisions including the authority for the Director to adjust pay schedules except that employees transferred to the Department of Homeland Security may not have their pay reduced, provides for suspension and removal of employees in the interests of national security; and provides remedies for retaliation against whistleblowers (rejected by a recorded vote of 208 ayes to 220 noes, Roll No. 360);

Oberstar amendment No. 23 printed in H. Rept. 107–615 that sought to strike section 409 which extends the deadline to fully utilize explosive detection systems to screen all checked baggage to December 31, 2003 (rejected by a recorded vote of 211 ayes to 217 noes, Roll No. 362);

Schakowsky amendment No. 24 printed in H. Rept. 107–615 that sought to strike subtitle C of title VII, the Critical Infrastructure Information Act, and to strike section 762, Advisory Committees, and to insert a new section dealing with remedies for retaliation against whistleblowers (rejected by a recorded vote of 188 ayes to 240 noes, Roll No. 363);

Tom Davis of Virginia amendment No. 25 printed in H. Rept. 107–615 that sought to define the...
term “covered Federal agency,” for purposes of exemption from disclosure under the Freedom of Information Act, to mean the Department of Homeland Security and agencies with which the Department shares critical infrastructure information (rejected by a recorded vote of 195 ayes to 233 noes, Roll No. 364); and

Weldon of Florida amendment No. 27 printed in H. Rept. 107-615 that sought to transfer the visa office of the Bureau of Consular Affairs of the Department of State to the Department of Homeland Security (rejected by a recorded vote of 118 ayes to 309 noes, Roll No. 365). Pages H5861–65, H5870–71

Rejected the Murtha motion that the Committee rise and strike the enacting clause by voice vote.

The Clerk was authorized to make technical corrections and conforming changes in the engrossment of the bill.

H. Res. 502, the rule that provided for consideration of the bill was agreed to on July 25.

Recess: the House recessed at 9:56 p.m. and reconvened at 11:15 p.m.

Terrorism Risk Protection Act—Go To Conference: The House disagreed with the Senate amendment to H.R. 3210, to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism, and agreed to a conference. Appointed as conferees: From the Committee on Financial Services, for consideration of the House bill and the Senate amendment thereto, and modifications committed to conference: Chairman Oxley and Representatives Baker, Ney, Kelly, Shays, Fossella, Ferguson, LaFalce, Kanjorski, Bentsen, Maloney of Connecticut, and Hooley. From the Committee on the Judiciary, for consideration of section 15 of the House bill and sections 10 and 11 of the Senate amendment thereto, and modifications committed to conference: Chairman Sensenbrenner and Representatives Goodlatte and Conyers (The Chair announced that Representative Goodlatte had replaced Representatives Goodlatte and Conyers (The Chair announced the Speaker wherein he appointed Majority Leader Armey, pursuant to section 2 of S. Con. Res. 132, to act jointly with the Majority Leader of the Senate or his designee, in the event of his death or inability to notify the Members of the House and the Senate, respectively. Pages H5986–87

Committee Election: The House agreed to H. Res. 510, electing Representative Gekas to the Committee on Agriculture.

Calendar Wednesday: Agreed to dispense with the Calendar Wednesday business of Wednesday, Sept. 4.

Resignations—Appointments: Agreed that notwithstanding any adjournment of the House until Wednesday, September 4, 2002, the Speaker, Majority Leader and Minority Leader be authorized to accept resignations and make appointments authorized by law or by the House.

Consideration of Motions to Suspend the Rules: Agreed that it be in order on Wednesday, September 4 for the Speaker to entertain motions to suspend the rules.

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Wolf or if he is not available to perform this duty Representative Gilchrest to act as Speaker pro tempore to sign enrolled bills and joint resolutions through September 4.

U.S. Group of the North Atlantic Assembly: Read a letter from Representative Borski wherein he announced his resignation from the NATO Parliamentary Assembly. Subsequently, the Chair announced the Speaker’s appointment of Representative Tanner to the United States Group of the North Atlantic Assembly to fill the existing vacancy thereon.

Additional Conferences to Bob Stump National Defense Authorization Act: The Chair announced additional conferences to H.R. 4546, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces: As additional conferees from the committee on Small Business, for
consideration of sections 243, 824, and 829 of the Senate amendment and modifications committed to conference: chairman Manzullo and Representatives Kelly and Velázquez.

**Senate Messages:** Message received from the Senate today appears on page H5845.

**Referrals:** S. 2771 was held at the desk.


**Adjournment:** The House met at 10 a.m. and at 3:40 a.m. on Saturday, July 27, pursuant to the provisions of S. Con. Res. 132, the House stands adjourned until 2 p.m. on Wednesday, September 4, 2002.

### Committee Meetings

**“OATH TAKING, TRUTH TELLING, AND REMEDIES IN THE BUSINESS WORLD”**

**Committee on Energy and Commerce:** Held a hearing entitled “Oath Taking, Truth Telling, and Remedies in the Business World.” Testimony was heard from public witnesses.

**OVERSIGHT REPORT**

**Committee on Government Reform:** Subcommittee on Criminal Justice, Drug Policy, and Human Resources approved for full Committee action an oversight report entitled: “Federal Law Enforcement at the Borders and Ports of Entry: Challenges and Solutions.”

**ANTI-DRUG MEDIA CAMPAIGN CONTRACTORS—IMPACT OF POTENTIAL RESTRICTIONS**

**Committee on Government Reform:** Subcommittee on Criminal Justice, Drug Policy, and Human Resources held a hearing on “Impact of Potential Restrictions on Anti-Drug Media Campaign Contractors.” Testimony was heard from Christopher Marston, Deputy Chief of Staff, Office of National Drug Control Policy; Michael Jaggar, Executive Director, Acquisition and Business Management, Office of the Assistant Secretary, Research, Development and Acquisition, Department of the Navy; and a public witness.

### TRADE ACT OF 2002—CONFERENCE REPORT

**Committee on Rules:** Granted, by voice vote, a rule waiving all points of order against the conference report and against it consideration. The rule provides that the conference report shall be considered as read.

### CONGRESSIONAL PROGRAM AHEAD

**Week of July 29 through August 3, 2002**

**Senate Chamber**

On **Monday,** at approximately 5:30 p.m., Senate will vote on confirmation of the nomination of Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit; following which, Senate will consider the nominations of Joy Flowers Conti, to be United States District Judge for the Western District of Pennsylvania, and John E. Jones III, to be United States District Judge for the Middle District of Pennsylvania, with votes to occur thereon; following which, Senate will resume consideration of S. 812, Greater Access to Affordable Pharmaceuticals Act.

On **Tuesday,** Senate will continue and expects to complete consideration of S. 812, Greater Access to Affordable Pharmaceuticals Act.

During the balance of the week, Senate will consider any other cleared legislative and executive business, including appropriations bills, and conference reports, when available.

**Senate Committees**

(Committee meetings are open unless otherwise indicated)

**Committee on Armed Services:** July 30, Subcommittee on Emerging Threats and Capabilities, to hold hearings to examine the report of the General Accounting Office on nuclear proliferation and efforts to help other countries combat nuclear smuggling, 2:30 p.m., SR–232A.

July 31, Full Committee, to hold hearings to examine the status of Operation Enduring Freedom, 3 p.m., SD–106.

August 1, Full Committee, to resume open and closed (in Room SR–222) hearings to examine the implications of the Strategic Offensive Reductions Treaty (Treaty Doc. 107–8), 9 a.m., SD–106.

**Committee on Banking, Housing, and Urban Affairs:** July 30, to hold hearings on the nominations of Ben S. Bernanke, of New Jersey, and Donald L. Kohn, of Virginia, each to be a Member of the Board of Governors of the Federal Reserve System, 10 a.m., SD–538.

August 1, Subcommittee on International Trade and Finance, to hold oversight hearings to examine the role of charities and non-governmental organizations in the financing of terrorist activities, 2:30 p.m., SD–538.
Committee on Commerce, Science, and Transportation: July 30, to hold hearings to examine finances in the telecommunications marketplace, focusing on maintaining the operations of essential communications facilities, 9:30 a.m., SR–253.

July 30, Subcommittee on Consumer Affairs, Foreign Commerce, and Tourism, to hold hearings to examine improvement in consumer choice with regard to automobile repair shops, 2:30 p.m., SR–253.

July 31, Full Committee, to hold hearings on the nomination of Rebecca Dye, of North Carolina, to be a Federal Maritime Commissioner, 9:30 a.m., SR–253.

July 31, Subcommittee on Surface Transportation and Merchant Marine, to hold hearings to examine railroad shipper issues, 9:45 a.m., SR–253.

Committee on Energy and Natural Resources: July 30, Subcommittee on Public Lands and Forests, to hold hearings on S. 2016, to authorize the exchange of lands between an Alaska Native Village Corporation and the Department of the Interior; S. 2565, to enhance ecosystem protection and the range of outdoor opportunities protected by statute in the Skykomish River valley of the State of Washington by designating certain lower-elevation Federal lands as wilderness; S. 2587, to establish the Joint Federal and State Navigable Waters Commission of Alaska; S. 2612, to establish wilderness areas, promote conservation, improve public land, and provide for high quality development in Clark County, Nevada; S. Con. Res. 107, 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 overabundance 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; and S. 2652, to authorize the Secretary of Agriculture to sell or exchange certain land in the State of Florida, 2:30 p.m., SD–366.

July 31, Full Committee, business meeting to consider pending calendar business, 9:30 a.m., SD–366.

July 31, Subcommittee on Water and Power, to hold hearings on 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. 934, to require the Secretary of the Interior to enter into an agreement with the Chippewa Cree Tribe to plan, design, construct, operate, maintain and replace 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 Cree 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. 2556, to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho; S. 2696, to clear title to certain real property in New Mexico associated with the Middle Rio Grande Project; S. 2773, to authorize the Secretary of the Interior to cooperate with the High Plains Aquifer States in conducting a hydrogeologic characterization, mapping, modeling and monitoring program for the high Plains Aquifer and for other purposes; and H.R. 2990, to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects under that Act, 2:30 p.m., SD–366.

Committee on Environment and Public Works: July 30, to hold hearings to examine the effectiveness of the current Congestion Mitigation and Air Quality (CMAQ) program, conformity, and the role of new technologies, 9:30 a.m., SD–406.

July 31, Subcommittee on Superfund, Toxics, Risk, and Waste Management, to hold oversight hearings to examine the Environmental Protection Agency Inspector General’s Report on the Superfund Program, 10 a.m., SD–406.

Committee on Finance: July 30, to hold hearings to examine the role of the Extraterritorial Income Exclusion Act (P.L. 106–519) in the international competitiveness of U.S. companies, 10 a.m., SD–215.

August 1, Full Committee, to hold hearings on the nominations of Pamela F. Olson, of Virginia, to be an Assistant Secretary of the Treasury, 10 a.m., SD–215.

Committee on Foreign Relations: July 30, business meeting to consider the Protocol Concerning Specially Protected Areas and Wildlife to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region, done at Kingston on January 18, 1990, with accompanying papers (Treaty Doc. 103–5); Protocol to Amend the 1949 Convention on the Establishment of an Inter-American Tropical Tuna Commission, done at Guayaquil, June 11, 1999, and signed by the United States, subject to ratification, in Guayaquil, Ecuador, on the same date (Treaty Doc. 107–02); 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); S. 1777, to authorize assistance for individuals with disabilities in foreign countries, including victims of landmines and other victims of civil strife and warfare; and pending nominations, 9:30 a.m., SD–419.

July 30, Full Committee, 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, 11 a.m., SD–419.

July 31, Full Committee, business meeting to consider pending calendar business, 9:30 a.m., SD–419.

July 31, Full Committee, to hold hearings to examine threats, responses, and regional considerations surrounding Iraq, 10:30 a.m., SD–419.

July 31, Full Committee, to continue hearings to examine threats, responses, and regional considerations surrounding Iraq, 2:30 p.m., SD–419.

August 1, Full Committee, business meeting to consider pending calendar business, 9:30 a.m., SD–419.

August 1, Full Committee, to hold hearings to examine national security perspectives regarding Iraq, 10 a.m., SD–419.
August 1, Full Committee, to continue hearings to examine national security perspectives regarding Iraq, 2 p.m., SD–419.

Committee on Governmental Affairs: July 29, Subcommittee on International Security, Proliferation, and Federal Services, to hold hearings to examine certain measures to strengthen multilateral nonproliferation regimes, 2:30 p.m., SD–342.

July 30, Permanent Subcommittee on Investigations, 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, 9:30 a.m., SD–342.

July 31, Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia, 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, 10 a.m., SD–342.

Committee on Health, Education, Labor, and Pensions: July 31, business meeting to consider S. 2328, to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to ensure a safe pregnancy for all women in the United States, to reduce the rate of maternal morbidity and mortality, to eliminate racial and ethnic disparities in maternal health outcomes, to reduce pre-term labor, to examine the impact of pregnancy on the short and long term health of women, to expand knowledge about the safety and dosing of drugs to treat pregnant women with chronic conditions and women who become sick during pregnancy, to expand public health prevention, education, and outreach, and to develop improved and more accurate data collection related to maternal morbidity and mortality; S. 2394, to amend the Federal Food, Drug, and Cosmetic Act to require labeling containing information applicable to pediatric patients; S. 2758, entitled “The Child Care and Development Block Grant Amendments Act”; S. 1998, to amend the Higher Education Act of 1965 with respect to the qualifications of foreign schools; S. 2054, to amend the Public Health Service Act to establish a Nationwide Health Tracking Network; S. 2053, to amend the Public Health Service Act to improve immunization rates by increasing the distribution of vaccines and improving and clarifying the vaccine injury compensation program; S. 2246, to improve access to printed instructional materials used by blind or other persons with print disabilities in elementary and secondary schools; S. 2549, to ensure that child employees of traveling sales crews are protected under the Fair Labor Standards Act of 1938; proposed legislation regarding the National Science Foundation Doubling Act; and the nominations of Edward J. Fitzmaurice, Jr., of Texas, and Harry R. Hoglander, of Massachusetts, each to be a Member of the National Mediation Board, 10 a.m., SD–430.

Committee on Indian Affairs: July 30, 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, 10 a.m., SD–106.

August 1, Full Committee, to hold oversight hearings to examine the Secretary of the Interior’s Report on the Hoopa Yurok Settlement Act, 10 a.m., SR–485.

August 1, Full Committee, to hold oversight hearings to examine problems facing Native youth, 2 p.m., SR–485.

August 2, Full Committee, to hold hearings on S. 958, to provide for the use and distribution of the funds awarded to the Western Shoshone identifiable group under Indian Claims Commission Docket Numbers 326–A–1, 326–A–3, 326–K, 2 p.m., SD–106.

Select Committee on Intelligence: July 31, to hold hearings to examine S. 2586, to exclude United States persons from the definition of “foreign power” under the Foreign Intelligence Surveillance Act of 1978 relating to international terrorism, and S. 2659, to amend the Foreign Intelligence Surveillance Act of 1978 to modify the standard of proof for issuance of orders regarding non-United States persons from probable cause to reasonable suspicion, 2:30 p.m., SDG–50.

Committee on the Judiciary: July 30, Subcommittee on Crime and Drugs, to hold hearings to examine criminal and civil enforcement of environmental laws, 10:30 a.m., SD–226.

July 31, Full Committee, to hold hearings to examine class action litigation issues, 10 a.m., SD–226.

July 31, Full Committee, to hold hearings on S. 2619, to provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape, 1:30 p.m., SD–226.

August 1, Full Committee, to hold hearings on pending judicial nominations, 2 p.m., SD–226.

House Chamber

The House is not in session. Pursuant to the provisions of S. Con. Res. 132, the House stands adjourned for the Summer District Work Period. It will reconvene at 2 p.m. on Wednesday, September 4.

House Committees

No committee meetings are scheduled.
Next Meeting of the SENATE

4 p.m., Monday, July 29

Senate Chamber

Program for Monday: After the transaction of any morning business (not to extend beyond 5:30 p.m.), Senate will vote on the confirmation of the nomination of Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit; following which, Senate will consider the nominations of Joy Flowers Conti, to be United States District Judge for the Western District of Pennsylvania, and John E. Jones III, to be United States District Judge for the Middle District of Pennsylvania, with votes to occur thereon; following which, Senate will resume consideration of S. 812, Greater Access to Affordable Pharmaceuticals Act.

Next Meeting of the HOUSE OF REPRESENTATIVES

2 p.m., Wednesday, September 4

House Chamber

Program for Wednesday: To be announced.