



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 107<sup>th</sup> CONGRESS, SECOND SESSION

Vol. 148

WASHINGTON, MONDAY, JULY 29, 2002

No. 105

## House of Representatives

The House was not in session today. Its next meeting will be held on Wednesday, September 4, 2002, at 2 p.m.

## Senate

MONDAY, JULY 29, 2002

The Senate met at 4 p.m. and was called to order by the Honorable MARK DAYTON, a Senator from the State of Minnesota.

### PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, righteous, holy Judge of us all, every word we speak and action we take is heard and seen by You. Remind us that You bless those who humble themselves and put their trust in You completely. There is no limit to what You will do for a nation and its leaders if You are glorified as Sovereign.

May the knowledge of Your blessings to our Nation bring us to a deeper commitment to You. We want our motto: "In God we trust" to be more than a familiar phrase. You have told us,

*Where there is no vision, the people perish.—(Proverbs 29:18).*

And we remember Thomas Jefferson's warning: "God who gave us life, gave us liberty. Can the liberties of a Nation be secure when we have removed a conviction that these liberties are gifts of God?" With these words ringing in our souls, grant the Senators and all of us who work with them the courage to reaffirm You as Lord to whom we are responsible for the moral, spiritual, and cultural life of America.

Thank You for the miraculous recovery of the nine miners at Quecreek, Pennsylvania. Thank You for being on time and in time for all our needs. You are our Lord and Saviour. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable MARK DAYTON led the Pledge of Allegiance, as follows:

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

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, July 29, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK DAYTON, a Senator from the State of Minnesota, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. DAYTON thereupon assumed the Chair as Acting President pro tempore.

### RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

### SCHEDULE

Mr. REID. Mr. President, the Chair will announce, very shortly, that the Senate will be in a period of morning business that will extend until 5:30 p.m. today. The time will be divided between the two leaders or their designees.

At 5:30, we are going to have three votes: Julia Smith Gibbons to be United States Circuit Judge for the Sixth Circuit, 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.

Mr. President, we have a busy week before the August break. The House, as the Presiding Officer knows, is out of session. We hope to complete consideration of the prescription drug bill, DOD appropriations, which by order we must take up by Wednesday, the fast track conference report, and we have a lot of executive nominations. And, of course, we also hope to begin consideration of the homeland defense legislation. We have a lot to do with a little bit of time to do it.

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 5:30 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the time to be equally divided and controlled by the two leaders.

The Senator from Nevada.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



Printed on recycled paper.

S7445

Mr. REID. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, we are in morning business, so I yield myself such time as I may consume.

The ACTING PRESIDENT pro tempore. The Senator, under the order, has up to 10 minutes.

#### PRESCRIPTION DRUG COVERAGE

Mr. GRASSLEY. Mr. President, for the third time in as many weeks, Senator GRAHAM and some of his Democrat colleagues have announced a mostly partisan Medicare prescription drug plan.

When it comes to prescription drug plans, it seems like Senator GRAHAM and his friends have tried everything.

They tried sunsets. They tried fixed copayments. They even tried limiting coverage for many brand name drugs seniors rely on. They tried spending \$800 billion. They tried spending \$600 billion. Each time they tried, they failed.

Today, to the tune of \$400 billion, they're trying something else entirely.

Despite their earlier calls for a universal, comprehensive benefit, Senator GRAHAM and his Democrat colleagues are trying to cut out the bulk of seniors altogether by covering only those with low incomes and extremely high drug costs.

This proposal is the same as the first two from Senator GRAHAM, except that it eliminates the prescription drug benefit for the 75 percent of Medicare beneficiaries with average incomes who will have spending less than \$4,000 in 2005.

This means that the average senior, who will spend \$3,059 on prescription drugs in 2005, according to CBO, gets nothing, no coverage at all.

That's quite a coverage gap. Or, to use a phrase that's become commonplace around here, that's quite a "donut." In fact, that lack of coverage—from \$0 to \$4,000 for most beneficiaries—is the biggest "donut" of them all.

I find this last fact especially ironic since it was these very same Democrats who last week said they wanted a comprehensive, universal prescription drug benefit in Medicare without any coverage gaps.

Besides having the biggest gap of them all, today's plan from Senator GRAHAM will still cost the taxpayers more than \$400 billion, even though it

provides no basic coverage at all for the average senior.

And the latest try from Senator GRAHAM still requires the government to decide which medicines to make available to the few seniors who qualify for coverage.

It is often said that the third try's a charm. I'm sorry to say that in this case, it isn't. It isn't even close.

Now, you might wonder whether there is another alternative that can get affordable coverage to all seniors, regardless of income.

I am happy to report that there is.

For \$30 billion less than the latest plan from Senator GRAHAM, it is possible to have a far better drug benefit that helps all seniors based on the tripartisan approach.

The tripartisan proposal costs only \$370 billion, including improvements to Medicare besides a meaningful drug benefit.

The tripartisan proposal lowers prices for all drug purchases due to negotiated discounts, and provides 50% coinsurance after a \$250 deductible, up to \$3,450 in drug spending.

It also provides catastrophic protection above \$3,700 in spending—better protection than in the more expensive Democrat plan before us today. All this is possible while spending billions less.

The tripartisan proposal also strengthens and improves Medicare by adding a voluntary, enhanced fee-for-service option. The new option provides protection against serious illness costs—something missing from Medicare today.

The new option also provides better protection against hospitalization costs and free preventive benefits. And seniors who want to keep the same basic Medicare they have today can do so if they wish. Everyone has access to affordable prescription drug coverage.

The bottom line is, the tripartisan proposal, at an official cost of \$370 billion, provides more generous prescription drug coverage for all seniors at a lower cost to taxpayers than the current Democrat plan, which leaves half of seniors with nothing at all at a cost of \$400 billion.

I will close by saying against that none of these attempts would have been necessary, had the Finance Committee been given the right to work its bipartisan will on a prescription drug proposal of its own.

If the committee process had been followed, we could have built bipartisan consensus and presented the Senate with a compromise proposal that could get 60 votes.

Instead, Senator GRAHAM, along with some of the Democrat caucus, has come to the floor time and time again this month with partisan proposals that get worse by the minute and that stand no chance of attracting bipartisan support.

In that regard, today's proposal is not different from the others. It's another partisan poison pill.

This pill, however, is more dangerous than those before it. It leaves most of

our seniors out in the cold, does nothing to contain increasing drug costs, and carries an all too expensive pricetag. I urge my colleagues to reject it.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

#### UNITED NATIONS POPULATION FUND

Mr. BINGAMAN. Mr. President, on June 25, a little over a month ago, I spoke on the Senate floor about the issue of the United Nations Population Fund. At that time, I called on the President to release the funding for this organization. This is funding we had appropriated in the Congress last December.

I was extremely disappointed to learn that the Bush administration has now decided to eliminate the funding for the U.N. Population Fund. Once again, the administration has chosen to approach an issue unilaterally instead of to cooperate internationally with our allies. Once again, the administration has chosen domestic politics over the health and safety of women around the world.

The administration's decision is contrary to the finding of the administration's own expert panel. The administration did set up a panel and asked them to look into the issue to determine whether or not there was a problem that should prevent them from making this funding available.

That panel determined not only that the UNFPA, the United Nations Population Fund, does not condone or support in any way the violations of human rights or internationally agreed upon standards for family planning, it further found that the Fund is a force for progress, and that is a sentiment with which Secretary Powell himself publicly and wholeheartedly agreed when the panel came out with their announcement.

The United Nations Population Fund works in over 150 countries. They help to give women around the world access to reproductive health care and family planning services, as well as services to ensure safe pregnancy and delivery.

The U.N. Population Fund has been working in China and around the world to encourage nations to expand the availability of voluntary family planning information and services so that people everywhere have the right to decide freely and responsibly the number and the spacing of their children. The Fund is also a leader in the global effort to prevent the spread of HIV/AIDS.

From everything I have been able to read, it is clear that the U.N. Population Fund does not perform or support performing abortions in any way. Anyone who says that Fund does support that activity just has not looked into the issue as this expert panel has.

The U.N. Population Fund is a United Nations organization governed by the governments that make up the United

Nations. Many of these governments fundamentally oppose abortion, and they would never let the United Nations Population Fund be involved in supplying abortions. The UNFPA is simply a tool of the member nations that is designed to implement their will, and that will is to help the most desperate women and their families in some of the poorest countries in the world who are suffering every day in very terrible ways.

The \$34 million we are discussing that has been denied by the administration to be used as the Congress intended would directly contribute to effective modern contraception for over 1 million couples. This \$34 million would prevent over 100,000 unwanted pregnancies. It would prevent a quarter of a million unwanted births. It would help women avoid over 200,000 abortions and prevent thousands of maternal and child deaths in the same effort.

Further, the Fund's policies of constructive engagement in China have been shown to result in much-needed progress and a reduction in some of the worst violations of human rights in that country.

The administration's decision is another affront to the world's women. It follows on the administration's decision to impose the global gag rule on family planning providers, and also it follows upon the administration's unwillingness to champion the international treaty on the rights of women.

I hope that the Senate, when we consider the foreign operations appropriations bill—and I assume we will either this week or shortly, when we return in September—will have broad support for the \$50 million that hopefully will be included for the United Nations Population Fund in this upcoming fiscal year.

Mr. REID. Mr. President, will the Senator yield for a question?

Mr. BINGAMAN. I am glad to yield to my colleague.

Mr. REID. Senator BYRD has given a number of speeches in recent days on and off the floor about separation of powers; that we, the legislative branch, do something and the power is taken away by the executive branch of the Government. This is a perfect example; would the Senator agree?

Mr. BINGAMAN. Mr. President, I do agree this is a perfect example. This is a case where the Congress made a very clear decision to provide assistance to this United Nations Population Fund. It did give the administration discretion to look into the question of whether there were human rights problems, and the administration looked into it, and its own panel determined there were not. Yet in spite of that, the administration made a decision to withhold the funds. So I agree entirely with the statement of the Senator from Nevada that this is a case where the administration is acting contrary to the clear intent of the Congress.

Mr. REID. I so appreciate the statement of the Senator from New Mexico

for a number of reasons, not the least of which is that it seems those who oppose abortion the most are those who fight against us for these moneys; is that not a fair statement?

Mr. BINGAMAN. Mr. President, again, let me respond by saying that is my clear impression as well. The estimates which I have given in my floor statement are that there will be in the range of 200,000 abortions performed as a result of our Government, our administration, withholding this money.

I think those who are opposed to abortion are finding an odd way to pursue that goal by trying to keep these funds from being expended.

Mr. REID. Mr. President, I ask my friend, it is also true, is it not, that the 200,000 abortions are for a year's period of time? Over the years when we have been prevented, as we have on other occasions by Republican administrations, from letting this money go forward, hundreds of thousands of abortions each year are performed that would not have to be performed but for our not having this money; is that right?

Mr. BINGAMAN. Mr. President, in response, I say that is right. Obviously, the work of an organization such as this United Nations Population Fund can only be effective if they can put in place programs they can then sustain over a period of years and actually do some educational efforts in these underdeveloped countries. That is what is so unfortunate about the decision of the administration to withhold funds this year. We will have a chance, once again, to appropriate additional funds for the new fiscal year, but this year has been lost, and unfortunately there are other years, previous years, where our opportunity to help solve these problems has been squandered.

Mr. REID. I also ask my friend: It is true, is it not, that these programs are voluntary in nature, educational in nature, people are learning how to prevent pregnancies? Is that one of the programs that is involved?

Mr. BINGAMAN. In response to my friend's question, that is clearly the main thrust of this funding. It is to provide much-needed information to desperately poor women in these countries so they can make voluntary decisions about what they want to do, how many children they want to have, and what their options are as they move ahead. These are all voluntary programs by definition.

Mr. REID. Would my friend also acknowledge that these programs involve in various places well-baby programs to teach women how to take care of babies, and also prenatal care, which is such an important part, to countries outside the United States where these monies could go? Is that true?

Mr. BINGAMAN. Again, let me respond by saying that is very true. The thrust of these efforts is to reduce the incidents of mothers dying while giving birth, reduce the incidents of child deaths, infant deaths. Clearly, that is the main thrust of what we are trying to accomplish with these funds.

Mr. REID. Finally, I ask my friend, so I understand the numbers, as a result of this political ideology, just for this year alone, there are going to be 500,000 unwanted pregnancies; there will be 250,000 unwanted births, for lack of a better way to describe it, and some 200,000 abortions; is that a fair summary of the numbers?

Mr. BINGAMAN. In response, those are the right numbers. I will go through them once more. The estimate we have is that this \$34 million the Congress appropriated last December, it was intended to provide effective, modern contraception for over a million couples to prevent over 500,000 unwanted pregnancies, to prevent a quarter of a million unwanted births and to help women avoid over 200,000 abortions. So that is what we estimate that funding would be able to accomplish. Now, obviously, none of that will be accomplished during this fiscal year.

Mr. REID. I said I had one last question, and this will be the last question: One of the programs involved, by virtue of what they are doing, would also prevent the spread of HIV; is that true?

Mr. BINGAMAN. In response to my friend from Nevada, that is the major thrust of this effort. As good information is given to parents, to mothers, about these issues, good education and information can also be provided about how to prevent the spread of HIV/AIDS, which is an enormous problem, a terrible tragedy afflicting many of the underdeveloped countries in the world.

Mr. REID. Which is costing American taxpayers money; is that also true?

Mr. BINGAMAN. That is exactly right. We are spending a very substantial amount in trying to deal with the problem of HIV/AIDS in the world. We are being called upon by many of the world's leaders to spend substantially more, and, frankly, I think the drumbeat for us to spend more and more to prevent the spread of HIV/AIDS will continue to grow.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. I appreciate very much the statement of the Senator from New Mexico. He is right on point with the critical issue facing the world, and it is a relatively small amount of money we are talking about with all the other monies being spent. This is one that will bring back dividends to our country. And even if it did not—which it will—it is the right thing to do.

As I have said, for political ideology, for the people who cry out against abortion, they are the ones who are opposing what we are trying to do to prevent abortions. This is hard for me to comprehend. It is wrong, and I hope people in the administration will weigh in.

I was very disappointed in Secretary of State Powell for making this announcement when in the past he had said what a great program this was we had going, and then, because of others, I guess, who have more power than he, he came out and gave this wishy-washy

statement about this program money being cut. I do not think his heart was in it, and I am certain his head was not, but I guess there are certain things one has to do. I hope he will not be doing other things like this that appear on the surface so wrong and something he apparently disagrees with so vehemently.

Mr. President, I ask unanimous consent that during the call of the quorum, which I would suggest, the time be charged equally against both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### MEDICAL MALPRACTICE

Mr. THOMAS. Mr. President, I will visit for a few minutes about medical malpractice, which we will deal with tomorrow. Part of the bill originally had to do with pharmaceuticals. We have had a hard time focusing on pharmaceuticals. The amendment I will discuss expands health care access and has to do with the additional cost brought about by the difficulty arising with lawsuits and medical liability. We need some reform in this area.

In my State of Wyoming, the Wyoming Medical Society has been very concerned. Insurers have been pulling out of the markets or increasing premiums that are above affordable levels. It is a substantial problem. The crisis is now in Casper, WY. Of course, it is all over the country as well. We are beginning to lose some of the practitioners. That is difficult, particularly in an underserved area.

I rise today to support the McConnell amendment on medical malpractice tort reform. The Senate passed this exact language in 1995. There is little reason we should not pass it again. Physicians alone spent \$6.3 billion in malpractice insurance premiums last year. This does not include what other providers such as hospitals have paid. This amendment is a good step in the right direction to reduce or limit the cost of health care to all persons.

The McConnell amendment does a number of things, all of which are very important and necessary. It limits punitive damages to two times the sum of compensatory damages. The amendment only allows punitive damages in cases where the award has been by clear and convincing evidence. It also places limits on attorney's fees, limiting lawyers to collecting a third of the first \$150,000 of an award and 25 per-

cent of the award for amounts above \$150,000. It requires lawsuits be filed within 2 years of the claimant's discovery of the injury. It encourages States to develop alternative dispute resolution mechanisms to help resolve issues before the court.

It seems to me it is a step in the right direction in doing something about these costs. Some of the premiums that physicians are required to pay to practice are amazing. The result is many retreat from practice are particularly those in Medicare where relatively low fees are being paid.

Median malpractice awards increased by 43 percent in 2002 to \$1 million; 52 percent of all jury awards are now over \$1 million. These excessive awards only contribute to the overall costs of health care for all Americans. Since awards drive up malpractice premiums and physicians must pass that on to their consumers, health insurance premiums for everyone continue to go up.

Many Americans are not now able to afford health insurance. They are currently 40 million uninsured Americans.

Recent reports show that medical malpractice is responsible for 7 percent or \$5 billion of the overall increases in health care costs. Last year, one of the largest physician insurers in the Nation stopped its medical malpractice business. As a direct result, some doctors and hospitals see their premiums rising 20 to 100 percent. Some specialists are paying over \$100,000 a year in premiums. Obstetrics is a particular problem. Hospitals in two rural counties in West Virginia have stopped delivering babies; half of 93 obstetricians in Clark County no longer accept new patients. One Nevada obstetrician closed her 10-year practice after her malpractice premiums went from \$37,000 to \$150,000. All of this, of course, must come from the patients.

It is clear something needs to be done to address this growing crisis. According to the American Medical Association, 12 States are in crisis now; 30 are showing signs of being in crisis; 8 are currently OK.

I hope as we talk about this tomorrow, we can do some things that start us moving in the right direction. The cost of health care is certainly an important issue to all of us. We have to deal with it in pharmaceutical costs. We have sought to deal with it by getting physicians into underserved areas by various means. But one of the ways that is important and has changed is the matter of the cost of medical malpractice tort reform. I hope we can deal with it tomorrow.

I yield the floor.

The ACTING President pro tempore. The Senator from Pennsylvania.

#### THE MINERS AND SOMERSET COUNTY

Mr. SPECTER. Mr. President, I have sought recognition to speak about the gallant men, nine miners from Somerset County in my State of Pennsyl-

vania, who went through a most extraordinary ordeal—77 hours trapped in a mine. The eyes and ears of the world were on Somerset County, people wondering if it was possible for men in an underground mine shaft, immersed in water reportedly 4 feet to 5 feet high, no food, no communication with the outside world—people wondered whether those men could survive. Almost in a miraculous way, finally, through the extraordinary efforts of Federal, State, and local rescuers, those nine men were rescued at 2:44 a.m. on Sunday, just yesterday. Their ordeal started on Wednesday, July 24, at 9 p.m., and ended on Sunday morning, July 28 at 2:44 a.m.

People are in amazement around the world, at their successful rescues. It is very unusual, very odd to say the least, that a small county in western Pennsylvania, more than 50 miles southeast of Pittsburgh, would be the focus of so much international attention.

Last September 11, as we all know, a flight crashed into Somerset, one of the four hijacked by terrorists on September 11, the flight widely believed to be headed to this building, the Capitol of the United States. No one can be sure—some have speculated it might have been headed to the White House—but the speculation was that the plane which crashed into the Pentagon was headed to the White House.

In any event, Somerset County was the site of an international tragedy less than a year ago. It is more than lightning, but to have lightning, so to speak, strike twice in such a small county in western Pennsylvania is unusual. But this time, instead of tragedy, instead of the loss of lives, these men were rescued.

In an era where there is so much bad news around the world, so much difficulty with terrorism around the world, the problems with the Palestinian terrorists against Israel, the grave difficulties between India and Pakistan over Kashmir, the differences and fighting between the North Koreans and South Koreans and all the problems of Africa—and that litany could be the subject of a lengthy conversation—to find a bright spot, find a success, find a rescue, is certainly more than a breath of fresh air for the entire world but especially, of course, for the miners who were involved: Mr. Randy Fogle, Mr. Harry Blaine Mayhugh, Mr. Thomas Foy, Mr. John Unger, Mr. John Phillippi, Mr. Ronald Hileman, Mr. Dennis Hall, Jr., Mr. Robert Pugh, and Mr. Mark Popernack.

Representing Pennsylvania, as I have for some 22 years now, I have obviously been intimately connected with the issue of the coal miners, with some 30 billion tons of bituminous in western Pennsylvania and 7 billion tons of anthracite in northeastern Pennsylvania and the mining industries being struggling industries, this industry has taken up a great deal of time—not only of mine, but of the entire Pennsylvania delegation, really beyond the Pennsylvania delegation.

I have had occasion to go underground. I must say it is an eerie, desolate feeling to take one of those elevators down about 20 stories and then hunch over, in the miner's gear with a little light on your cap, and lean backwards in a rail car which moves several miles underground because you can't sit up straight, there isn't sufficient room. I have marveled at the courage and the tenacity of the miners who go into those deep mines, day after day after day, risking life and limb.

There was a time not too long ago when a thousand miners a year were killed there. Fortunately, with mine safety, that situation has improved materially, but it is still a very risky line of work.

I got through today to Mr. Ron Hileman who lives in Gray, PA, and talked to him about his experiences. As you might imagine, he is a real hero. When I said to Mr. Hileman that he was a hero, he dissented, but that is the way heroes are. They do not acknowledge being heroes.

We talked about being in that enclosed area with 60 million gallons of water pouring in. A miner of 27 years with a wife and two children, of course, the joy in the Hileman family was overwhelming. Mr. Hileman expressed his own very deep gratitude.

I asked him what had happened. I asked him if the maps might have foretold the problem.

He said no because the maps did the best they could. But when other miners came in adjacent, as Mr. Hileman put it, some of the miners would snatch a little extra coal—go a little extra distance and go beyond the line which they had and into another area. Then, when the miners went down there last week, they ran into an old mine shaft. The old mine shaft had caused the enormous problem with the flooding.

I want to pay tribute to Pennsylvania's Governor, Mark Schweiker, an international figure, a hero in his own right—and for good cause—on the job, persevering, leading Federal, State, and local officials, meeting with the families. I talked to him over the weekend and he was there, on the job, and certainly deserves the commendation, not only of Pennsylvania but the commendation of the Nation, the commendation of the world.

This accident points up the need for greater concern for miners' safety as they are performing very important work, providing energy, providing coal, providing a resource in our effort to try to free ourselves from the dominance of OPEC oil. With progress in clean coal technology, as I have said on this floor on many occasions, the coal industry across America, Pennsylvania, West Virginia to Wyoming and beyond, could provide that alternative source of energy.

When I look over what we have done on the subcommittee for the Department of Labor appropriations going back to September of 1981, there were efforts to reduce the mine surface in-

spection from twice a year to once a year. Many of us resisted, and that was stopped.

We had a mining hearing August 1991 where there were operators who were tampering with coal mine dust devices. Then there have been efforts made to cut the Mine Safety and Health Administration repeatedly.

This body, the U.S. Senate, and Senator HARKIN, as ranking member in 1995 when I took over the chairmanship, and now Senator HARKIN as chairman, on a bipartisan approach has maintained the safety funding so that where there have been efforts to cut, we have resisted. We maintain the black lung clinics.

I believe that this is a good day for the United States and the U.S. Senate to pay tribute to the coal miners of America for what they are doing for the Nation by providing needed energy for domestic purposes and also for national security.

Especially thanks for the rescue of the nine mine workers; and we pay tribute to those men and their families and to the heroic rescuers led by Governor Schweiker that brought them to safety.

I thank the Chair. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. ENZI. Mr. President, how much time remains on our side?

The ACTING PRESIDENT pro tempore. Seven minutes 43 seconds remaining.

Mr. ENZI. Thank you. I have a more extensive speech, but I will limit my remarks so that the Senator from North Dakota will have his full time.

#### FOREST MANAGEMENT

Mr. ENZI. Mr. President, I just returned from a normal weekend. On Fridays, my wife and I usually go to Wyoming, and we come back on Sunday night, which actually turns out to be Monday morning by the time we make the trip. This time I was able to concentrate a little bit of time in the area just outside Yellowstone Park, on the east side of Yellowstone Park between Cody and the park. I was there last year.

There was a fire inside Yellowstone Park. I wanted to see how the new fire plan was working. I got a very extensive and excellent tour. It was educational, but it pointed out some problems that need to be taken care of in the West.

Of course, those problems wouldn't be quite as extensive except for the drought we are having. This is the third year of the drought in Wyoming. One of our lakes in the northern part of the State that drains up into Montana is dropping almost 2 feet a week. It is down 125 feet from its normal level. Most lakes in the Nation would be dry if they were down 125 feet. This one still has some water, but it doesn't have boating anymore. That not only affects recreation in the area; it affects

the communities in the area because they do not get the revenues they would normally get from tourism and visitors.

Ranchers are having to sell off their herds. They don't have any grazing because of the drought. This is the third year they have had to diminish their herds. Most of them are completely wiped out from that aspect.

We have another little problem. That is the way the Tax Code is arranged. The Tax Code says if you have to do an emergency sale and you have some revenue in the next 2 years you can apply that so you don't have to pay taxes. They have been wiped out with the herds, and they are going to have to pay taxes because there is no revenue to take it against.

There are many peripheral issues that happen with the drought.

We need to concentrate in this body on fire prevention in our forests. This is what some of the forests look like right now—just tremendous blazes. You can see the way the tinder lays up in layers. It forms a chimney, and it goes to the top of really big trees. When it gets to the top of the trees, the fire itself creates a wind. The wind will sway the trees, and the trees throw the crown a half mile away to start another fire. Once a fire starts, it can be very extensive.

We have a new plan that says put it out as soon as you can. That is helping tremendously. We used to let it burn. We tried to do some of what they call natural foresting. When natural foresting was actually natural foresting, there weren't people inhabiting those areas.

In this particular area near Yellowstone, there is a huge pine needle forest because of pine bores. They bore into the trees when they are young. They eat a circle around the tree, and it kills the tree. Then the tree looks rusty. The next year and the year after, all the needles are gone, and it is just a standing dead pine tree.

Of course, the best time for it to burn is when it is all rusty. When the needles are dried out and they burn, they form a chimney effect, going up to the top of the tree. That is how huge parts of the forests are between Yellowstone Park and Cody, WY, right now.

Those trees need to be taken out. If they are not taken out, a Boy Scout camp, 12 lodges, and 68 homes will go up in smoke.

Last year, when there was a fire in the park, they pointed out the pine needle forest and the need to get those trees taken out. I have been working on that since then. We haven't been able to get it done. There are a few very easy court actions that can prohibit that sort of thing from happening. But it is absolutely essential.

Those lodges have post-evacuation plans. As the fire starts, they have to call all their guests in and explain how they are going to be able to get out of this valley to keep from being trapped by the fires, fires such as these where

you can see the animals are having a little bit of concern about how they could be trapped by the fire.

That cuts into the tourism. People don't go home and tell about the great experience they had. They go home and tell about the extreme pressure they were under with fires. Consequently, they spread the advertising in a very negative way. We want it to be in a positive way.

There are things that can be done and that should be done. I will be taking some more time to explain what they are and steps that are being taken by the Forest Service at the moment. But more extensive steps need to be taken.

Senator DASCHLE has an amendment on a supplemental spending bill to take care of some of the problems bordering Wyoming in the Black Hills. It very explicitly allows them to go in and cut down those trees, which will reduce the amount of tinder. There are some ways that we can do that.

I introduced a bill, S. 2811, the Emergency Forest Rescue Act of 2002. That gives the Secretaries of Agriculture and Interior the ability to recognize emergency conditions that exist in the forests and allows the land managers to act to protect them from the extreme threat of fire, specifically those suffering from drought and high tree mortality. Those two circumstances have to be present. It also requires the approval of the Council on Environmental Quality.

I have some protections built in and some ability to move forward quickly so we don't burn up huge valleys and extend the fire into Yellowstone Park, which is one of our great natural treasures. In fact, all of our forests should be national treasures. Present conditions do not make them as usable as they could be or as pretty as they could be.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

Mr. DORGAN. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. The Senator has 20 minutes under the order.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I believe the Senator from Alaska would like to use the last 5 minutes. I ask unanimous consent that he be recognized for the final 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### THE TRADE AGREEMENT

Mr. DORGAN. Mr. President, in the coming days I assume there will be a lot of suspender-snapping, back-thumping, chortling, and crowing about the

new fast track trade agreement that was announced in the weekend press.

There was a conference in the House and Senate. They came out with a new trade agreement. The moniker is trade promotion authority. It is a fancy way of saying fast-track trade authority for President Bush.

I didn't support fast track trade authority for President Clinton, and I don't support it for President Bush. This is not a victory for our country.

I assume, this week, because the conference report has passed the House, it will come to the Senate. We will have speeches by people wearing dark suits who talk about how wonderful this is for our country, what a wonderful thing it is that we now have fast-track trade authority. So some of our trade negotiators can go overseas somewhere, go into a room, close the door, lock it, keep the public out, and negotiate in secret a new trade agreement, and then come back to the Congress and say: Here it is. Take it or leave it. No amendments. Up or down. No changes.

The people who apparently believe in this do not believe in the first law of holes; that is, when you find yourself in a hole, stop digging. They believe, if you find yourself in a hole, keep digging, look for more shovels.

Let me talk for a moment about where we are with our trade deficits. This chart shows the record trade deficits we have seen over the past decade. When the year 2002 figures are posted, they will be way off the chart up here: about a \$480 billion trade deficit in goods. That is money we owe to others, money we owe to people outside this country. They will have a future claim on America's income. This is very serious for our country. Yet we have people walking around here saying: We just need to do more of the same.

One of the more recent trade agreements we did was NAFTA. They promised us hundreds of thousands of new jobs, if we melded the economies of the United States and Mexico, for trade purposes. I have a chart that shows what has happened as a result of NAFTA: 700,000 jobs lost.

Incidentally, prior to NAFTA, we had a very small trade surplus with Mexico. After NAFTA, we turned that small surplus into a huge deficit. We had a modest trade deficit with Canada. It turned into a very large deficit. So we have this very large trade deficit now with Canada and Mexico, and people say: Gosh, that is wonderful; isn't it? No, it is not wonderful. It is moving in the wrong direction.

It is not that I don't believe in the global economy and the ability of nations and businesses to exchange goods and services back and forth. I studied economics, taught economics for a while, and understand the doctrine of comparative advantage: Doing that which you do best, and trading with others who do what they do best. All of that makes sense to me.

But I also think the rules have to be fair, and open markets have to be

opened. The rules have to be transparent and fair. And they are not.

If I might just give some examples of these rules and the problems with the rules.

I use, often, the example of automobile trade with Korea. Korea is a good friend of the United States. South Korea has been an ally of ours for some long while. We have a trading relationship with Korea. But let me show you what has happened between the United States and Korea in one area of trade.

Last year, the Koreans shipped 618,000 cars into the United States—Hyundais, Daewoos—Korean cars. So 618,000 Korean cars came here from Korea, and we were able to ship Korea 2,800 cars; in other words, 217 to 1. Is it because our cars are bad cars? No, that is not it. It is because if you try to ship a Ford Mustang to Korea, they will throw up all kinds of trade barriers. They just do not want United States cars shipped to Korea. They want only for Korean cars to access the American marketplace.

Is that fair? No, it is not fair. Does anybody in this country have the backbone and nerve to stand up to another country and say to them: Look, we like you a lot. You are allies of ours. We are good friends. But I will tell you what. In international trade, we have a notion of fairness. Open your markets to us, and we will open our markets to you. But if you close your markets to the United States, ship your cars to Nigeria or perhaps Iran, and see how quickly they sell.

Let's talk about beef exports to Europe. Go to Europe. The Presiding Officer has been in Europe. Pick up a newspaper in Europe—I have been there this year—and you read about European trade restrictions on U.S. beef, allegedly because of hormones. The way they picture it, it is as if we are shipping them beef that came from cows with two heads. That is the way it is portrayed in the European press. They keep United States beef out of Europe.

So our country actually tried to do something about that. We said: Look, you either allow United States beef into Europe or we are going to take action against you. So, finally, a little bit of backbone from our trade representatives, right? Finally, we have some nerve. Finally, we have the good old American spirit and we are going to stand up for our producers. We couldn't get beef into Europe, so we took action.

Our trade representatives filed a case at the WTO against the Europeans for their restrictions on our beef. The WTO actually ruled on it, which itself is a surprise. The WTO said: Europe, you are wrong. You must allow United States beef into Europe. Europe said: It doesn't matter. We are not going to do it. So our trade negotiators said: We are going to take action against the Europeans. Do you know what we are going to do? We are going to retaliate by imposing tariffs on European truffles, goose livers, and Roquefort cheese.

Now, that will strike fear in any country, won't it? They will not allow our beef in Europe, but we are going to make it tough for them. We are going to take action against truffles, goose livers, and Roquefort cheese. Good for us.

When, on Earth, will we have the nerve to say to other countries, we demand—we insist—on fair trade?

Twelve years ago we reached an agreement with Japan on beef. All the trade negotiators celebrated as if they just won the 100-yard dash in the Olympics, as if they were all wearing gold medals because we reached a trade agreement with Japan on beef. But 12 years later, every single pound of American beef going into Japan still bears a 38.5-percent tariff.

Try to send T-bones to Tokyo, a 37.5-percent tariff—every pound of beef. We have a \$60 to \$70 billion trade deficit with Japan, yet we cannot get beef into Japan without a tariff near 40 percent. It doesn't make any sense to me.

This issue goes on and on. In my part of the country, we face an avalanche of unfairly subsidized Canadian grain coming in from a monopoly called the Canadian Wheat Board. We can't do a thing about it because the last trade agreement that came through here limited our remedies under section 301. We don't do a thing about it, so this grain floods into our country from Canada. It is unfair.

Our Canadian friends, they are good friends of ours, but they are not playing fair with respect to trade and grain. So U.S. wheat producers, family farmers, put together the information to file a complaint. They won the complaint. The U.S. Trade Representative judged that the Canadians, through the Canadian Wheat Board, are engaged in unfair trade.

What is the remedy? Well, apparently, according to our trade ambassador, the remedy is just to say that the Canadians ought to really watch it. No tariffs. No effective actions. No sanctions. Just: You had better watch it. That is not the way to deal with international trade.

When this so-called fast-track authority agreement was reached in conference, the committee of jurisdiction issued a memorandum describing what they did in conference and what a terrific deal it is.

Trade adjustment assistance: They tripled it. That provides assistance with health insurance for displaced workers. So if you lose your job because of these trade agreements, guess what? We are going to exchange for your job some health insurance for you. Boy, that is quite a deal, isn't it?

We are going to expand coverage to secondary workers who are affected by a firm moving overseas. These trade agreements make it easier to move a firm overseas, so if you lose your job, and if you are not a primary worker but a secondary worker, we are going to cover you for the first time. That is going to make you feel really good as

you go home and tell your family: I have lost my job. But guess what. I am a secondary worker, and I think I am covered with some health insurance for a while. I think I am going to get a little health insurance here.

There is a pilot program for providing wage insurance for older workers, realizing the difficulty for older workers to change careers. Why would you to have change a career? Because your job just went to Sri Lanka or Bangladesh or Indonesia, where they are going to do for 20 cents an hour what you did for a living wage in this country.

There is a new benefit for farmers and ranchers who have been losing money hand over fist because of price collapses. If they lose money now because of these new trade agreements, there is a little help for them. Somebody takes their market away, we give them just a little bit of help in trade adjustment assistance. Lose your job? Lose your farm? Lose your ranch? Guess what. We will help you out a little.

The issue, according to these folks, is not about fair trade. The fight is about how can we provide assistance to Americans who are going to lose their jobs.

For me, the question is this: What are the elements of fair trade? What is price for admission to the American marketplace? We fought for a century about fair labor standards, about not having children go down in coal mines, and not having children work in factories, about requiring safe workplaces, about a minimum wage, about the right to organize. Then some companies decided: We can skip all of that. We can pole vault over all those things. We can hire someone in Indonesia and pay them 24 cents an hour to make shoes. We don't have to worry about all those things we had to worry about in the United States.

When we in the Senate were debating the current fast track bill in May, the Presiding Officer offered an amendment which I cosponsored, the Dayton-Craig amendment. It said: If in the next negotiation, there is any attempt to weaken the remedies for American producers, countervailing duties, any number of remedies to take action against unfair trade, if that is the case, there is going to be a separate vote in the Congress on that. The amendment passed in the Senate by a wide, bipartisan vote. Sixty one Senators voted for it. But when the bill got to conference, the provision got dropped, just got dropped. Instead, we got the right to do a sense-of-the-Senate vote. Well, thank you very much. You could do that before, and the new provision does nothing to defend our trade laws. It doesn't mean anything. If you just like to be here and put your suit and necktie on to vote for the heck of it, be our guest, come and do it, but this doesn't mean anything. They dropped an effective provision from the Senate version of the trade bill, one that would have helped producers in this country.

They also dropped my amendment that said on investor dispute resolutions in NAFTA, proceedings must be open, they must be transparent. The door must be open. The public must see it. Now it is done in secrecy.

They dropped my amendment. They dropped anything that was good. Then they put a sort of chocolate coating on things that were bad, sent it out here, and said: Hope that tastes good. Well, it doesn't taste good. This doesn't make any sense to us.

It is interesting, there is only one view of trade that you can embrace these days. We have the largest trade deficit in history; last month over \$41 billion—last month alone. A lot of major papers won't run a piece on the trade deficit on their op-ed page because there is only one view on their op-ed pages: You are either for global trade or you are against it. If you are against it, you are some sort of xenophobic isolationist stooge who just doesn't get it. Everybody else sees over the horizon. Those who oppose fast track don't.

That is one of the most thoughtless approaches to a trade debate I can imagine. We will have a lengthier discussion on this, this week. I will have much more to say.

Let me say again, I believe expanded trade is helpful to this country provided expanded trade is fair trade. We have been victimized in so many ways by so many trade agreements—recently, NAFTA and the WTO. You name it, I will show you the trade agreement that has expanded our trade deficit, hurt our producers, moved our jobs overseas, and nobody seems to care very much. Do you hear one peep on the floor of the Senate about the largest trade deficit in history? Just one? I don't hear a thing. Yet it hurts this country. It is going to cause this country serious economic problems in the future.

I have so much more to say today, and so little time to say it. I want the Senator from Alaska to have the opportunity to speak for the last 5 minutes. So when this legislation comes to the floor of the Senate, I will speak at greater length later in the week. In the meantime, suffice it to say, some of us don't celebrate as much as others when they talk about the ingredients of this conference report on fast track. This is not advancing our country's interest. It is not fair to producers and to workers.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. I thank Senator DORGAN for his courtesy.

#### COMMEMORATING THE 50TH ANNIVERSARY OF THE UNITED STATES EUROPEAN COMMAND HEADQUARTERS

Mr. STEVENS. Mr. President, I, along with General Joe Ralston, the Supreme Allied Commander Europe,



commend the past success and continued contributions of those men and women of our Armed Services who comprise the United States European Command.

This Thursday, August 1, the U.S. European Command will celebrate its 50th anniversary. Over the last 50 years the European Command has played a critical part in the successful preservation of peace and stability in and around Europe, and they continue to do so today.

For more than 35 years during the cold war, the primary mission of the European Command Headquarters, established in Frankfurt, Germany in 1952, was to fulfill United States treaty obligations to NATO by providing combat ready forces to counter the Soviet threat and ensure peace in Europe, Africa and portions of the Middle East.

With the collapse of the Soviet empire, the responsibilities of the European Command changed dramatically. Since that time, it has engaged in a wide spectrum of security cooperation activities that have helped ensure stability and promote Democratic and market-oriented governments in countries emerging from Communism and other authoritarian regimes.

Simultaneously, it has conducted numerous operations to end regional wars, reduce ethnic conflict and limit the suffering caused by man-made and natural disasters.

Our European Command continues to make valuable contributions today. To conduct security cooperation activities and respond to regional threats to our national interests, The Command typically has approximately 117,000 service members, or about eight percent of the U.S. active duty military. This is a small investment by any measure for such a vast range of responsibilities across Europe, the Middle East and two-thirds of Africa.

As I speak, the European Command is involved in five on-going combat operations. Its forces are patrolling the skies over the northern no-fly zone to enforce United Nations Security Council Resolutions against Iraq as part of Operation Northern Watch.

In Bosnia and Kosovo, the European Command contributes with our NATO allies in Operations Joint Forge and Joint Guardian respectively, to ensure security, promote stability and allow those fragmented societies to rebuild their civil institutions and restore the rule of law.

In the former Yugoslav Republic of Macedonia, it is providing on-call support to the international community's monitors working there as part of Operation Amber Fox. And, U.S. European Command is making substantial contributions to Operation Enduring Freedom and to the global war on terrorism in general. Most recently, it deployed a small force to the Republic of Georgia to train and equip their forces to more effectively protect their own territorial integrity.

The invaluable contributions of our military men and women working at

the Headquarters—today located in Stuttgart, Germany—have continued without interruption.

The legacy of their service, dedication and accomplishments is to be highly commended, and the importance of their continued contributions to future regional peace and to the preservation of our national interests cannot be overstated.

On the 50th anniversary of the establishment of the U.S. European Command, it is fitting that we honor the millions of dedicated American men and women who have served, and continue to serve our Nation overseas.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). 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.

Mr. REID. Mr. President, has 5:30 p.m. arrived?

The PRESIDING OFFICER. It has.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### EXECUTIVE SESSION

##### NOMINATION OF JULIA SMITH GIBBONS TO BE UNITED STATES CIRCUIT JUDGE—Resumed

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and proceed to vote on Executive Calendar No. 810, which the clerk will report.

The legislative clerk read the nomination of Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit.

##### CONFIRMATION OF JUDGE JULIA SMITH GIBBONS

Mr. LEAHY. Mr. President, with today's vote, the Senate will confirm the 12th judge to our Federal courts of appeals and our 61st judicial nominee since the change in Senate majority last summer. In little more than 1 year, the Senate Judiciary Committee has already voted on 75 of this President's judicial nominees, including 15 nominees to the courts of appeals. This is more circuit and district court nominees than in any of the previous 6½ years of Republican control. In fact, we have given votes to more judicial nominees than in 1996 and 1997 combined, as well as in 1999 and 2000 combined.

Despite the partisan din about blockades and stalls and inaction as well as

absurd claims that judicial nominees are being held "hostage"—the fact is that since the change in majority last summer the Senate, and in particular the Judiciary Committee, has been working at a much faster rate than in the 6½ years of Republican control. With respect to courts of appeals nominees, we confirmed the first of President Bush's nominees last July 20 and today we confirm the 12th. That is a confirmation rate of approximately one circuit court nominee confirmed per month. By contrast, in the 76 months in which Republicans were in charge, only 46 courts of appeals judges were confirmed, at a rate closer to one every two months. Thus, despite the additional obstacles and roadblocks that the partisan practices of the new administration have created and the partisan rhetoric of our critics, we are actually achieving almost twice as much as our Republican counterparts did. With a little cooperation from the administration and the nomination of more moderate, mainstream candidates, we would be even further along.

During the 76 months under the Republican control before the Judiciary Committee was allowed to reorganize, vacancies on the Federal courts rose from 63 to 110. Vacancies on the Courts of Appeals more than doubled from 16 to 33. That is the situation created by Republican inaction and that is the situation we inherited. Since the change in majority, confirmations have gone up and vacancies have been going down.

Courts of Appeals vacancies are being decreased rather than continuing to increase, despite the high level of attrition since the shift in Senate majority last summer.

Indeed, in the last year the Judiciary Committee held the first hearing on a Fifth Circuit nominee in 7 years, the first hearing on a Tenth Circuit nominee in 6 years, the first hearing on a Sixth Circuit nominee in almost 5 years, the first hearing on a Fourth Circuit nominee in 3 years, the first hearing on a Ninth Circuit nominee in 2 years. This week we held hearings on a third nominee to the Fifth Circuit in less than a year. This contrasts with the lack of any confirmation hearing on any of President Clinton's nominees to the Fifth Circuit in the last 5½ years of Republican control of the confirmation process, despite three qualified nominees to vacancies there.

The nominee being considered today is the first nominee to the Sixth Circuit to be given a vote by the Senate since 1997.

After that, the Republican majority locked the gates and despite a number of well-qualified nominees sent to the Senate by President Clinton between 1995 and 2001, none were allowed to receive a hearing or a vote for all of 1998, 1999, 2000 and the first 3 months of 2001. Most of the vacancies that exist on the Sixth Circuit arose during the Clinton administration and before the change in majority last summer.



Yet not one of the Clinton nominees to those current vacancies on the Sixth Circuit received a hearing by the Judiciary Committee under Republican leadership.

The Sixth Circuit vacancies are a prime and unfortunate legacy of the past partisan obstructionist practices under Republican leadership and one of a number of examples of circuits in which the vacancies were preserved rather than filled by the former Republican majority in the Senate.

That is what created the problem that we are now trying to correct. Vacancies on the Sixth Circuit were perpetuated during the last several years of the Clinton administration when the Republican majority refused to hold hearings on the nominations of Judge Helene White, Kathleen McCree Lewis, and Professor Kent Markus to those vacancies in the Sixth Circuit.

One of those seats has been vacant since 1995, the first term of President Clinton. Judge Helene White of the Michigan Courts of appeals was nominated in January 1997 and did not receive a hearing on her nomination during the more than 1,500 days before her nomination was withdrawn by President Bush in March of last year.

Judge White's nomination may have set one or a number of unfortunate records for obstruction established during the years 1996–2001. Her nomination was pending without a hearing before this committee for over 4 years 51 months.

She was first nominated in January 1997 and renominated and renominated through March of last year when President Bush chose to withdraw her nomination.

This was at a time when the committee averaged hearings on only nine courts of appeals nominees a year and, in 2000, held only five hearings on courts of appeals nominees all year. In contrast, Judge Gibbons was the 11th courts of appeals nominees voted on by the committee during the first 10 months of a Democratic majority.

As of today, the Democratic-led Judiciary Committee has held hearings for 17 of President Bush's courts of appeals nominees in less than 13 months, and we will hold our 18th hearing for a courts of appeals nominee this week.

Kathleen McCree Lewis, a distinguished lawyer from a prestigious Michigan law firm, also did not receive a hearing on her 1999 nomination to the Sixth Circuit during the years it was pending before it was withdrawn by President Bush in March 2001. She is the daughter of Wade McCree, a former Solicitor General of the United States and former Sixth Circuit judge.

Professor Kent Markus, another outstanding nominee to a vacancy on the Sixth Circuit that arose in 1999, never received a hearing on his nomination before his nomination was returned to President Clinton without action in December 2000.

While Professor Markus' nomination was pending, his confirmation was sup-

ported by individuals of every political stripe, including: 14 past presidents of the Ohio State Bar Association; more than 80 Ohio law school deans and professors; prominent Ohio Republicans, including Ohio Supreme Court Chief Justice Thomas Moyer, Ohio Supreme Court Justice Evelyn Stratton, Congresswoman DEBORAH PRYCE, and Congressman DAVID HOBSON; the National District Attorneys Association; and virtually every major newspaper in the State.

Professor Markus summarized his experience as a Federal judicial nominee in testimony this May in a hearing before Senator SCHUMER. Here are some of things he said:

On February 9, 2000, I was the President's first judicial nominee in that calendar year. And then the waiting began. . . . At the time my nomination was pending, despite lower vacancy rates than the 6th Circuit, in calendar year 2000, the Senate confirmed circuit nominees to the 3rd, 9th and Federal Circuits. . . . No 6th circuit nominee had been afforded a hearing in the prior two years. Of the nominees awaiting a Judiciary Committee hearing, there was no circuit with more nominees than the 6th Circuit.

With high vacancies already impacting the 6th Circuit's performance, and more vacancies on the way, why, then, did my nomination expire without even a hearing? To their credit, Senator DEWINE and his staff and Senator HATCH's staff and others close to him were straight with me.

Over and over again they told me two things: No. (1) There will be no more confirmations to the 6th Circuit during the Clinton Administration, and No. (2) This has nothing to do with you; don't take it personally it doesn't matter who the nominee is, what credentials they may have or what support they may have—see item number 1. . . .

The fact was, a decision had been made to hold the vacancies and see who won the presidential election. With a Bush win, all those seats could go to Bush rather than Clinton nominees.

As Professor Markus identified, some on the other side of the aisle held these seats open for years for another President to fill, instead of proceeding fairly on the consensus nominees pending before the Senate. Republicans were unwilling to move forward, even knowing that retirements and attrition would create four additional seats that would arise naturally for the next President. That is why there are now eight vacancies on the Sixth Circuit and why it is half empty.

Long before some of the recent voices of concern were raised about the vacancies on that court, Democratic Senators in 1997, 1998, 1999, and 2000 implored the Republican majority to give the Sixth Circuit nominees hearings. Those requests, made not just for the sake of the nominees but for the sake of the public's business before the court, were ignored. Numerous articles and editorials urged the Republican leadership to act on those nominations, to no avail.

Fourteen former presidents of the Michigan State Bar pleaded for hearings on those nominations.

The former chief judge of the Sixth Circuit, Judge Gilbert Merritt, wrote

to the Judiciary Committee chairman years ago to ask that the nominees get hearings and that the vacancies be filled.

The chief judge noted that, with four vacancies—the four vacancies that arose in the Clinton administration—the Sixth Circuit “is hurting badly and will not be able to keep up with its work load due to the fact that the Senate Judiciary Committee has acted on none of the nominations to our Court.”

He predicted: “By the time the next President is inaugurated, there will be 6 vacancies on the Courts of appeals. Almost half of the Court will be vacant and will remain so for most of 2001 due to the exigencies of the nomination process. Although the President has nominated candidates, the Senate has refused to take a vote on any of them.” Nonetheless, no Sixth Circuit hearings were held in the last 3 years of the Clinton administration, despite these pleas. Not one. Since the shift in majority last summer, the situation has been exacerbated further as two additional vacancies have arisen.

The committee's April 25th hearing on the nomination of Judge Gibbons to the Sixth Circuit was the first hearing on a Sixth Circuit nomination in almost 5 years, even though three outstanding, fair-minded individuals were nominated to the Sixth Circuit by President Clinton and were pending before the committee for anywhere from 1 year to over 4 years. We have not stopped there but have proceeded to hold a hearing on a second Sixth Circuit nominee, Professor John Rogers of Kentucky, and the Judiciary Committee has acted on that nomination, as well.

Large numbers of vacancies continue to exist on many courts of appeals, in large measure because the recent Republican majority was not willing to hold hearings or vote on more than half—56 percent—of President Clinton's courts of appeals nominees in 1999 and 2000 and was not willing to confirm a single judge to the courts of appeals during the entire 1996 session. As I have noted, from the time the Republicans took over majority control of the Senate in 1995 until the reorganization of the committee last July, circuit vacancies increased from 16 to 33, more than doubling.

Democrats have broken with the Republican majority's history of inaction. I certainly understand the frustration of Senator LEVIN and Senator STABENOW. I know first hand the efforts they have made to solve the problems in their circuit. I know that many of us have suggested ways to the White House to break through and resolve the impasse. As the chairman of the Judiciary Committee, despite my personal doubts and reservations about this nominee due to some of her decisions as a Federal district court judge, I will vote to confirm her, due to her overall record, her testimony before the committee and the strong support of Senator THOMPSON.

I respect the effort and views of Senator THOMPSON and want to send what help we can to the Sixth Circuit. Far from payback for Republican actions in the recent past, this action is being taken in spite of those wrongs and to begin solving the problems that they have created.

Mr. HATCH. Mr. President, I rise in support of the nominations of three excellent Federal court judges, Judge Julia Smith Gibbons, Joy Flowers Conti, and John E. Jones.

Judge Gibbons, nominated to the Sixth Circuit Court of Appeals last fall, is a jurist with a fine legal mind, a strong work ethic, and a widely admired judicial temperament. I have reviewed few records of public service and personal accomplishment more outstanding than hers. It seems to me that it was for good reason that in 2000 she received a recognition called Heroine for Women in the Law Award.

But that is just one of her accomplishments. Judge Gibbons graduated magna cum laude and Phi Beta Kappa from Vanderbilt University and then with honors from the University of Virginia School of Law, where she was an editor for the Law Review. She went on to clerk for the late Honorable William E. Miller on the Sixth Circuit Court of Appeals, where we now hope she will soon return after a distinguished career which has included service as deputy counsel for Governor Lamar Alexander and Tennessee State court judge. Since 1983 she has served as U.S. District Court Judge for the Western District of Tennessee, sitting with the Sixth Circuit Court of Appeals several times. Notably she was the first female Federal judge in Tennessee and one of the youngest Federal judges in history.

Judge Gibbons exemplifies the qualities of the nominees the President has sent us—superbly accomplished, fully devoted to public service, and well prepared for the Federal bench. Judge Gibbons enjoys the support of Democrats and Republicans and everyone who knows her work. She is backed by her home State legislators. Senator THOMPSON says she is “an outstanding person and jurist . . . [who will] serve the court with dignity and distinction.” Senator FRIST has described her a “trailblazer for women in the legal profession [who] exemplifies in both her professional and personal life the character that makes us a great Nation.” Democratic Congressman HAROLD FORD, JR., has noted that Judge Gibbons has “earned a solid reputation of applying the law in a manner consistent with our nation’s commitment to equal protection under the law.”

Judge Gilbert S. Merritt, whose seat on the Sixth Circuit Judge Gibbons will occupy, calls her a “very able and distinguished Federal judge” and adds that he would be “very happy to be replaced by her on our court.”

Members of the Memphis, TN, legal community have added their own high praise. For example, Pat Arnoult, president of the Memphis Bar Association, cites her “keen mind” and “good work ethic.” Charles Burson, former

chief of staff and legal counsel to former Vice President Gore and Tennessee attorney general, cites with first hand experience her intellect, knowledge, evenhandedness, and exceptional judicial temperament. Judge Gibbons has won the respect and bipartisan support of legislators, attorneys, Federal judges, and Tennessee citizens.

Judiciary Committee unanimously approved Judge Gibbons’s nomination on May 2 after a hearing that raised no issues of concern. We have waited too long to act on her nomination on the Senate floor. With a 50 percent vacancy rate in the Sixth Circuit, we cannot afford to delay any longer.

The two Pennsylvania district court nominees currently on the floor also deserve our full support. Joy Flowers Conti, nominated to the Western District of Pennsylvania, possesses years of civil litigation experience and years of meaningful service and leadership in her community. After graduation from Duquesne University School of Law, where she graduated summa cum laude and finished first in her class, Ms. Conti clerked for Justice Louis Manderino of the Supreme Court of Pennsylvania.

For the following two years, Ms. Conti worked with the Pittsburgh firm of Kirkpatrick & Lockhart, where she focused on business bankruptcy, commercial finance, and other corporate law matters. She then joined the faculty of Duquesne School of Law as a professor, teaching classes on civil procedure, corporate finance, corporate readjustments and reorganizations, corporations and creditors’ and debtors’ rights.

In 1982, Ms. Conti returned to her former firm, Kirkpatrick & Lockhart, and was named a partner in 1983. She again concentrated her practice in business bankruptcy. She remained with the firm until 1996, when she joined her current firm, Buchanan Ingersoll, to handle business bankruptcy cases, health care matters, and non-profit corporation issues.

While serving as cochair of the Pennsylvania Bar Association’s Task Force for the Poor, she has helped with efforts to improve access to legal services for indigent residents. She also initiated a program providing employment for disadvantaged high school students in local legal offices, donating approximately 200 ours to the cause.

John E. Jones, our nominee to the U.S. District Court for the Eastern District of Pennsylvania, is similarly distinguished jurist. Mr. Jones earned his undergraduate and law degrees from Dickinson College. After graduation, he joined the Pottsville law firm of Dolbin & Cori as an associated and worked part time as a clerk for Judge Guy A. Bowe of the Schuylkill County Court of Common Pleas. After 2 years, Mr. Jones became a partner at Dolbin & Cori.

In 1984, Mr. Jones began an 11-year association as a part-time assistant public defender with the Schuylkill County Public Defender’s Office. His caseload included defending capital

murder and criminal homicide cases. Mr. Jones now works for his own firm, concentrating on bankruptcy, personal injury, family, real estate, and corporate law.

In 1995, Mr. Jones was appointed and confirmed to the office of chairman of the Pennsylvania Liquor Control Board. The Control Board is responsible for the sale and regulation of all alcohol products in Pennsylvania. The Control Board also runs the State’s Alcohol Education Program. As chairman, Mr. Jones has utilized his skills and experience as a practicing attorney to change the State’s liquor licensing procedures. As head of the State’s Alcohol Education Program, he has been a tireless advocate against drunk driving and underage drinking. In November 2000, Mr. Jones received the Government Leadership Award from the National commission Against Drunk Driving in Washington, DC. In May 1999, he was renominated and confirmed for a second 4-year term as Control Board’s Chairman.

I am confident that these three Federal court nominees—Julia Smith Gibbons, Joy F. Conti, and John E. Jones—will each make fine additions to the Federal judiciary. They deserve our swift confirmation.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit? The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. REID. I announce that the Senator from Florida (Mr. NELSON), is necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Ohio (Mr. DEWINE), the Senator from Arkansas (Mr. HUTCHINSON), and the Senator from Kentucky (Mr. MCCONNELL), are necessarily absent.

The PRESIDING OFFICER (Mr. CARPER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 194 Ex.]

#### YEAS—95

Akaka	Burns	Craig
Allard	Byrd	Crapo
Allen	Campbell	Daschle
Baucus	Cantwell	Dayton
Bayh	Carnahan	Dodd
Bennett	Carper	Domenici
Biden	Chafee	Dorgan
Bingaman	Cleland	Durbin
Bond	Clinton	Edwards
Boxer	Cochran	Ensign
Breaux	Collins	Enzi
Brownback	Conrad	Feingold
Bunning	Corzine	Feinstein

Fitzgerald	Landrieu	Sarbanes
Frist	Leahy	Schumer
Graham	Levin	Sessions
Gramm	Lieberman	Shelby
Grassley	Lincoln	Smith (NH)
Gregg	Lott	Smith (OR)
Hagel	Lugar	Snowe
Harkin	McCain	Specter
Hatch	Mikulski	Stabenow
Hollings	Miller	Stevens
Hutchison	Murkowski	Thomas
Inhofe	Murray	Thompson
Inouye	Nelson (NE)	Thurmond
Jeffords	Nickles	Torricelli
Johnson	Reed	Voinovich
Kennedy	Reid	Warner
Kerry	Roberts	Wellstone
Kohl	Rockefeller	Wyden
Kyl	Santorum	

## NOT VOTING—5

DeWine	Hutchinson	Nelson (FL)
Helms	McConnell	

Mr. FRIST. Mr. President, I rise today to thank my colleagues for the confirmation of Julia Smith Gibbons to the U.S. Court of Appeals for the Sixth Circuit. I am also grateful to President Bush for his nomination of this outstanding judge whose distinguished life is an example of the American dream.

Raised in Pulaski, TN, Judge Gibbons has been a trailblazer for women in the legal profession, and exemplifies in both her professional and personal life the character that makes us a great nation—active in her church and community, a supportive and loving wife to her husband, Bill, for 29 years, and a proud mother of two wonderful children, Carey and Will. A product of small town America and the solid values that her family instilled in her, as valedictorian of her senior class at Giles County High School, Julia was obviously poised to accomplish great things.

With an outstanding record of achievement at Vanderbilt University and the University of Virginia Law School, Judge Gibbons headed home to Tennessee to begin her legal career. She served then-Governor Lamar Alexander as his legal advisor, and in 1981, she became the first female trial judge of a court of record in Tennessee. President Reagan recognized her talent and skill, and just 2 years later, in 1983, she was confirmed by the Senate as a U.S. District Judge in the Western District of Tennessee. At that time, Julia became the first female Federal judge in Tennessee, and was the youngest person on the Federal bench in the country, and the second youngest in the Nation's history ever appointed to a district court judgeship. Despite her tender years, her legal acumen and human touch soon made her one of the brightest stars in our Federal judicial system.

Judge Gibbons is known for being bright, industrious, thorough, evenhanded and someone who truly loves the law. She is everything anyone could want in a judge, and will continue to serve our country with distinction on the Sixth Circuit.

# NOMINATION OF JOY FLOWERS CONTI, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes for debate equally divided prior to the vote on Executive Calendar No. 827, which the clerk will report.

The legislative clerk read the nomination of Joy Flowers Conti, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, with today's votes on these judicial nominations to the Federal district courts in Pennsylvania, the Democratic-led Senate will have confirmed 63 judicial nominees since the change in Senate majority a little more than 1 year ago. I commend Majority Leader DASCHLE for having worked through the problems created by the White House's refusal to proceed in a bipartisan way with nominations to bipartisan boards and commissions and for having worked with Senator MCCAIN to get to this point.

I understand Senator MCCAIN's frustration with the White House and how it is treating nominations but thank him for allowing us to proceed with these judicial nominations at this time. In fact, this majority leader has worked hard to bring these nominations to the floor and his efforts have included having to proceed by way of cloture on three nominees in the last few weeks. He has gone the extra mile and that should be acknowledged.

Similarly, the Judiciary Committee continues to make efforts that were not made by the Republican leadership.

We have held hearings on a record number of nominees and reported a record number of nominees. Seventy-five judicial nominees have been voted on by the Judiciary Committee since the change in majority last summer. This week we will hold a hearing for the 82nd, 83rd, 84th and 85th judicial nominees, including our 18th circuit court nominee. We have proceeded with nominees to fill vacancies even though Republicans held up moderate nominees by President Clinton to those same vacancies. We have confirmed new judges for the Fourth, Fifth, and Sixth Circuit courts of appeals for the first time in three, six and five years, respectively. So much for the partisan critics who scream about a blockage of President Bush's nominees by Democrats in the Senate. The facts are that we have been fairer to President Bush's nominees than the Republicans were to President Clinton's.

Today is another example. The Senate has acted quickly on these nominations to the district courts in Pennsylvania. Joy Flowers Conti participated in a hearing in May, within weeks of her paperwork being complete. I know that Senator SPECTER strongly sup-

ports Ms. Conti's nomination, as well as Mr. JONES, and he specifically requested that she be accorded a hearing as soon as possible. Likewise John Jones received a hearing in May, shortly after his paperwork was completed.

With today's votes on two Pennsylvania nominees, the Judiciary Committee will have held hearings for 10 district court nominees from that State, including Judge Davis, Judge Baylson, and Judge Rufe, who were confirmed in April, and Judge Conner, who was just confirmed last Friday. 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 confirmations, there is no State in the Union that has had more Federal judicial nominees confirmed by this Senate than Pennsylvania. I think that the Senate Judiciary Committee and the Senate as a whole have done well by Pennsylvania. Contrast this with the way vacancies in Pennsylvania were left unfilled during Republican control of the Senate, particularly regarding nominees in the western half of the State.

Despite the best efforts and diligence of my good friend from Pennsylvania, Senator SPECTER, to secure confirmation of all of the judicial nominees from every part of his home State, there were seven nominees by President Clinton to Pennsylvania vacancies that never got a hearing or a vote.

A good example of the contrast is the nomination of Judge Legrome Davis. He 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 hold a hearing for Judge Davis and his nomination was returned after 2 more years.

Under Republican leadership, Judge Davis' nomination languished before the committee for 868 days without a hearing. Unfortunately, Judge Davis was subjected to the kind of inappropriate partisan rancor that befell so many other nominees to the district courts in Pennsylvania during the Republican control of the Senate.

The lack of Senate action on Judge Davis's initial nominations is in no way attributable to a lack of support from the senior Senator from Pennsylvania. Far from it. In fact, I give Senator SPECTER full credit for getting President Bush to renominate 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 in just 84 days.

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.

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 President Clinton's qualified nominees. No nominee to the Western District of Pennsylvania received a hearing during the entire period that Republicans controlled the Senate in the Clinton administration.

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. Today's confirmation vote on Ms. Conti will be the first on a nominee to the Western District of Pennsylvania in almost 8 years, since Judge McLaughlin and Judge Cindrich were confirmed in October of 1994. Despite this history of poor treatment of President Clinton's nominees, we continue to move forward fairly and expeditiously.

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 Democrats who have broken with that history of inaction from the Republican era of control, delay, and obstruction.

With today's confirmations of Judge Conti and Judge Jones to the Federal district courts in Pennsylvania, the Senate will have confirmed 51 district court nominees and 63 judges overall since the change in majority last summer. Contrast this with the Republican average, during their past 6½ years on control, of 31 district court judges a year and 38 judges a year overall. I congratulate the nominees and their families on their confirmations today and commend Senator SPECTER and Majority Leader DASCHLE for all they have done to bring us to this day.

Mr. HATCH. Mr. President, I had no intention of bringing up the topic of judicial nominations today, but I feel I must respond to the comments made just now.

Currently there are 92 empty seats in the Federal judiciary, a 10.7 percent vacancy rate—one of the highest in modern times. This means that 10.7 percent of all Federal courtrooms are presided over by an empty chair.

There are currently 22 nominees pending who are slated to fill positions which have been declared judicial emergencies by the Administrative Office of the Courts. Of those, 13 are courts of appeals nominees.

During President Clinton's second year in office, the Senate confirmed 100

of his judicial nominees. I would expect the Senate Democrats to do the same for President Bush. But they are not doing so.

Only 4 of President Bush's first 11 nominees—nominated on May 9, 2001—have had hearings. In other words, the Judiciary Committee has taken no action whatsoever on nearly two-thirds of the circuit court nominations that have been pending for over 14 months. There is no reason for this other than stall tactics. All of these nominees received qualified or well-qualified ratings from the American Bar Association.

There were 31 vacancies in the Federal courts of appeals on May 9, 2001, and there are 30 today. The Senate Democrats are trying to create an illusion of movement by creating great media attention and controversy concerning a small handful of nominees in order to make it look like progress. But we are hardly making any progress in filling circuit vacancies.

President Bush has responded to the vacancy crisis in the appellate courts by nominating a total of 31 top-notch men and women to these posts—but the Senate is simply stalling them. Over the past year, the Senate has confirmed only nine. There are still 22 circuit court nominees pending in committee. By comparison, at the end of President Clinton's second year in office, we had confirmed 19 circuit judges and had 15 circuit court vacancies.

Mr. President, the comparison does not end there. There were only two Circuit Court nominees left pending in Committee at the end of President Clinton's first year in office. In contrast, there were 23 of President Bush's circuit court nominees pending in committee at the end of last year.

Mr. President, some try to blame the Republicans for the vacancy crisis, but that is bunk. At the end of the 106th Congress when I was chairman, we had 67 vacancies in the Federal judiciary. During the past 9 months, the vacancy rate has been hovering right around 100. Today it is at 92.

The real story here, Mr. President, is that the Senate's Democratic leadership is treating President Bush unfairly when it comes to judicial nominees. Some would justify this unfair treatment of President Bush as tit for tat, or business as usual, but the American people should not accept such a smokescreen. What the Senate leadership is doing is unprecedented.

Historically, a President can count on seeing all of his first 11 circuit court nominees confirmed. Presidents Reagan, Bush and Clinton all enjoyed a 100 percent confirmation rate on their first 11 circuit court nominees. In stark contrast, 8 of President Bush's first 11 nominations are still pending now for over 1 whole year.

History also shows that Presidents can expect almost all of their first 100 nominees to be confirmed swiftly. Presidents Reagan, Bush, and Clinton got 97, 95 and 97, respectively, of their

first 100 judicial nominations confirmed. But the Senate has confirmed only 57 of President Bush's first 100 nominees.

In sum, Mr. President, I think that the American people deserve better, President Bush deserves better, and the Judicial Branch of our Government deserves better. I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, it is a proud moment for me to speak on behalf of Joy Flowers Conti. I had the privilege of practicing with her as a lawyer in Pittsburgh. She is an outstanding litigator and outstanding person in the community, and I am very grateful that her nomination is coming to the Senate floor.

The next vote will be on John E. Jones for the Middle District, another outstanding litigator and someone who is going to be a credit to the court. We still have six district court judges in Pennsylvania who have yet to be confirmed in the Senate and two third circuit—Pennsylvania positions that need to be filled. I am hopeful those nominations will also make their way to the floor quickly.

The PRESIDING OFFICER. Who yields time?

Mr. SANTORUM. I yield the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on the confirmation of the nomination.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Joy Flowers Conti, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania.

The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Ohio (Mr. DEWINE), the Senator from Arkansas (Mr. HUTCHINSON), and the Senator from Kentucky (Mr. MCCONNELL), are necessarily absent.

The PRESIDING OFFICER (Ms. CANTWELL). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 195 Ex.]

YEAS—96

Akaka	Campbell	Dodd
Allard	Cantwell	Domenici
Allen	Carnahan	Dorgan
Baucus	Carper	Durbin
Bayh	Chafee	Edwards
Bennett	Cleland	Ensign
Biden	Clinton	Enzi
Bingaman	Cochran	Feingold
Bond	Collins	Feinstein
Boxer	Conrad	Fitzgerald
Breaux	Corzine	Frist
Brownback	Craig	Graham
Bunning	Crapo	Gramm
Burns	Daschle	Grassley
Byrd	Dayton	Gregg

Hagel	Lincoln	Schumer
Harkin	Lott	Sessions
Hatch	Lugar	Shelby
Hollings	McCain	Smith (NH)
Hutchison	Mikulski	Smith (OR)
Inhofe	Miller	Snowe
Inouye	Murkowski	Specter
Jeffords	Murray	Stabenow
Johnson	Nelson (FL)	Stevens
Kennedy	Nelson (NE)	Thomas
Kerry	Nickles	Thompson
Kohl	Reed	Thurmond
Kyl	Reid	Torricelli
Landrieu	Roberts	Voinovich
Leahy	Rockefeller	Warner
Levin	Santorum	Wellstone
Lieberman	Sarbanes	Wyden

## NOT VOTING—4

DeWine	Hutchinson
Helms	McConnell

The nomination was confirmed.

#### NOMINATION OF JOHN E. JONES III, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to the vote on Executive Calendar No. 828, which the clerk will report.

The assistant legislative clerk read as follows:

John E. Jones, III, of Pennsylvania to be United States District Judge for the Middle District of Pennsylvania.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I will yield time on this side, if the distinguished Republican leader wants to yield the time on his side.

Madam President, I withhold that.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, John E. Jones III is a very distinguished lawyer. I have known him personally for 15 years. He comes from Pottsville, PA. He had an outstanding practice. He has an exemplary academic record. He served as chairman of a very important agency, the Liquor Control Board of Pennsylvania, which has quasi-judicial functions.

Joy Flowers Conti was just voted on.

I thank the chairman, Senator LEAHY, for moving these two judges. I urge him to follow the calendar, which has next in line D. Brooks Smith, who is the present judge of the Western District of Pennsylvania and who has been approved by the committee for the Court of Appeals for the Third Circuit.

We are taking up another judge tomorrow.

I trust that Judge Smith will be up for confirmation.

I yield the remainder of my time.

Mr. LEAHY. Madam President, in my earlier statement, I praised the distinguished senior Senator from Pennsylvania for working hard to get through the judges on the Western District of Pennsylvania.

For year, after year, after year, after year, after year, a Republican hold blocked any consideration of the nominations by President Clinton

for those same seats. But thanks to the distinguished senior Senator from Pennsylvania, we have been able to move forward quickly.

This, incidentally, will be the 63rd judge confirmed by the Senate since the change in majority about this time last year.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of John E. Jones III, of Pennsylvania, to be United States District Judge for the Middle District of Pennsylvania?

Mr. LEAHY. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Arizona (Mr. HUTCHINSON), the Senator from Ohio (Mr. DEWINE), and the Senator from Kentucky (Mr. MCCONNELL) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 196 Ex.]

## YEAS—96

Akaka	Dorgan	Lugar
Allard	Durbin	McCain
Allen	Edwards	Mikulski
Baucus	Ensign	Miller
Bayh	Enzi	Murkowski
Bennett	Feingold	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Fitzgerald	Nelson (NE)
Bond	Frist	Nickles
Boxer	Graham	Reed
Breaux	Gramm	Reid
Brownback	Grassley	Roberts
Bunning	Gregg	Rockefeller
Burns	Hagel	Santorum
Byrd	Harkin	Sarbanes
Campbell	Hatch	Schumer
Cantwell	Hollings	Sessions
Carnahan	Hutchison	Shelby
Carper	Inhofe	Smith (NH)
Chafee	Inouye	Smith (OR)
Cleland	Jeffords	Snowe
Clinton	Johnson	Specter
Cochran	Kennedy	Stabenow
Collins	Kerry	Stevens
Conrad	Kohl	Thomas
Corzine	Kyl	Thompson
Craig	Landrieu	Thurmond
Crapo	Leahy	Torricelli
Daschle	Levin	Voinovich
Dayton	Lieberman	Warner
Dodd	Lincoln	Wellstone
Domenici	Lott	Wyden

## NOT VOTING—4

DeWine	Hutchinson
Helms	McConnell

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President will be notified of the Senate's action.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

#### GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001

The PRESIDING OFFICER. Under the previous order, the Senate will now resume 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.

McConnell amendment No. 4326 (to amendment No. 4299), to provide for health care liability reform.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I ask unanimous consent that the Senator from Arizona be recognized for up to 30 minutes to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ARMS CONTROL

Mr. KYL. Madam President, I thank the distinguished assistant majority leader and would note that Senator SPECTER also wanted to address the Senate, but since he is not here, I will go ahead with my remarks.

Mr. KYL. Madam President, on June 13 the United States officially withdrew from the 1972 Anti-Ballistic Missile, ABM, Treaty, closing a chapter in U.S.-Soviet relations, and beginning another with Russia. The lapsing of the ABM Treaty, combined with the Senate's defeat of the Comprehensive Test Ban Treaty in 1999 and the signing of a new type of nuclear reduction treaty with Russia in May, represent a fundamental shift in the way the United States approaches strategic security. We have moved away from reliance on traditional arms control treaties toward a reliance on our own capabilities—namely missile defenses and a credible nuclear deterrent.

Proponents of the ABM Treaty were convinced that it was the "cornerstone of strategic stability," and that U.S. withdrawal would damage the improving U.S.-Russia relationship, spark a new arms race, and even lead, as one of my colleagues remarked, to "Cold War II." Those predictions were wrong. Yet some still cling to the notion that arms control is the key elements in U.S. national security.

Over the past 6 months, I have addressed the Senate on the strategic justification for U.S. withdrawal from the ABM Treaty, the question of how much a missile defense system will cost, and the President's constitutional authority to exercise the right of withdrawal without legislative consent. And, today, in response to those who continue to believe in the utopian aims of traditional arms control agreements, I rise to address the President's decision to abrogate the ABM Treaty, this time

in the broader context of the utility of such measures as a means to protect U.S. security interests.

The past 10 years have completely changes the Cold War strategic environment that gave rise to the ABM Treaty and other traditional arms limitation and arms reduction agreements. First, the United States and Russia have moved beyond enmity toward a more cooperative relationship. Second, the threats we face today are far more numerous and complex than those we faced during the Cold War.

The proliferation of weapons of mass destruction has become one of our most pressing national security challenges. As many as three dozen countries now have or are developing ballistic missiles. Used by once between 1945 and 1980, such weapons have become an increasingly common component in regional conflicts. In fact, thousands of shorter range missiles have been used in at least six conflicts since 1980. And, as a recent National Intelligence Estimate NIE, on foreign ballistic missile developments warned, "The probability that a missile with a weapon of mass destruction will be used against U.S. forces or U.S. interests is higher today than during most of the Cold War, and it will continue to grow as the capabilities of potential adversaries mature."

Iran, for example, continues to place much emphasis on its missile activities. According to the recent NIE, that country's "longstanding commitment to its ballistic missile program . . . is unlikely to diminish." In early May, Tehran conducted a successful test of its 1,300 km-range Shahab-3 missile—capable of reaching Israel, as well as U.S. troops deployed in the Middle East and South Asia—and some press reports indicate that Iran is now set to begin domestic production of the missile. Additionally, on May 7, the Associated Press, citing an administration official, reported that Iran is continuing development of a longer-range missile, the Shahab-4. With an estimated range of 2,000 km, the Shahab-4 will be able to reach well into Europe.

North Korea's missile programs are also of great concern. That country has extended its moratorium of testing its intercontinental-range Taepo Dong missiles until 2003; however, its surprise August 1998 test flight over Japan of the Taepo Dong 1 missile should serve as a clear indication of its intent to develop missiles with intercontinental ranges. Indeed, Pyongyang is continuing its development of the longer-range Taepo Dong 2 missile, capable of reaching parts of the United States with a nuclear weapon-sized payload. According to the NIE:

The Taepo Dong 2 in a two-stage ballistic missile configuration could deliver a several-hundred kg payload up to 10,000 km—sufficient to strike Alaska, Hawaii, and parts of the continental United States. If the North uses a third stage similar to the one used on the Taepo Dong 1 in 1998 in a ballistic missile configuration, then the Taepo Dong 2 could deliver a several hundred kg payload up to

15,000 km—sufficient to strike all of North America.

In Iraq, Saddam Hussein continues to obstruct the international verification of commitments made to the United Nations, and still fails to comply with arms control agreements he accepted at the end of the gulf war. The recent NIE concluded that, "Despite U.N. resolutions limiting the range of Iraq's missiles to 150 km, Baghdad has been able to maintain the infrastructure and expertise to develop longer range missile systems." And Iraq's ability to surprise us in the past with the scale of its missile, nuclear, chemical, and biological programs should serve as a warning. Secretary of Defense Rumsfeld recently discussed Baghdad's weapons of mass destruction capabilities, stating:

They have them, and they continue to develop them, and they have weaponized chemical weapons. They've had an active program to develop nuclear weapons. It's also clear that they are actively developing biological weapons. I don't know what other kinds of weapons fall under the rubric of weapons of mass destruction, but if there are more, I suspect they're working on them, as well.

China presents an even more complex case. While not a member of the axis of evil, that country's exceedingly belligerent attitude toward the United States and our longstanding, democratic ally Taiwan requires a clear-eyed approach to our relationship with the communist government in Beijing. China currently has about 20 intercontinental ballistic missiles capable of reaching the United States, and is in the midst of a long-running modernization program to expand the size of its strategic nuclear arsenal and to develop road-mobile and submarine-launched ICBMs. According to the NIE, by 2015, "Chinese ballistic missile forces will increase several-fold." Additionally, by that time, "Most of China's strategic missile force will be mobile." As Secretary Rumsfeld stated on September 6 in reference to China's strategic missile modernization and buildup, "It is a long pattern that reflects a seriousness of purpose about the People's Republic of China with respect to their defense establishment."

President Bush's fresh approach to strategic security with Russia—called the "New Strategic Framework"—takes into account these changed circumstances. The President's framework entails unilateral reductions in offensive nuclear weapons and the development and deployment of defensive systems to deter and protect against missile attacks. President Bush outlined this approach before his election, and upon taking office, immediately began to develop a plan for action.

The central component of that framework is the development of missile defenses, critical to which is U.S. withdrawal from the ABM Treaty which totally prohibits deployment of a national missile defense. Indeed, our withdrawal represents a fundamental shift away from reliance on consensual vulnerability, perpetuated by arms control treaties, and a move toward prudent defensive measures.

The ABM Treaty was a classic example of arms control—promising much more than it was ever able to deliver. The theory was that by ensuring mutual vulnerability to nuclear missile attack, the incentive to build increasing numbers of offensive forces would be removed. History proved that theory wrong. Between the treaty's signing in 1972 and 1987, the Soviet Union's inventory of strategic nuclear warheads grew from around 2,000 to about 10,000; and the U.S. arsenal grew from around 3,700 to 8,000. In fact, strategic nuclear forces expanded not just quantitatively, but also qualitatively. The decade following the ABM Treaty's signing witnessed the introduction into the Soviet arsenal of entire generations of new long-range missiles, not just in contradiction of the intent of the ABM Treaty, but in contravention of the accompanying SALT I accord as well. Clearly, deliberate vulnerability did not promote arms control; rather, it fueled the arms race.

It is important to reiterate the history of the ABM Treaty because those who purport that it was the "cornerstone of strategic stability" seem to misunderstand the original impetus for it. The truth is that the United States gave up the right to field defensive systems because the Nixon administration was faced, in 1971, with a Congress that refused to fund more than two of the original 12 sites that the Administration had proposed in 1969. This, in addition to a rapid Soviet offensive buildup, caused the Nixon administration to acquiesce in the negotiation of the ABM Treaty, to be coupled with the SALT agreement. And I should note that, two years after the ABM Treaty was negotiated, it was amended to limit to one the number of sites allowed because Congress did not even continue to fund the second site.

Thus, making necessity a virtue, political theorists embraced the notion that, in order to deter a nuclear attack, the threatened response had to be the murder of millions of innocent civilians. President Reagan once referred to this philosophy, named Mutual Assured Destruction, as "a sad commentary on the human condition." And, in my view, its acronym "M-A-D" describes it well.

It is debatable whether that theory explains the absence of a nuclear exchange in the second half of the 20th century. Whatever the case, this idea certainly seems mad today, when we have friendly relations with Russia, and are confronted with an entirely different set of threats. It simply does not make sense to remain deliberately vulnerable to the increasing threat of a ballistic missile attack, especially when alternatives, such as missile defenses, now exist.

Surely a sign of the changed times, President Bush returned from Russia in May having signed a new treaty under which both sides intend to reduce strategic warheads to 1,700–2,200. Just three pages long, this treaty



merely states what both sides intend to do. There are no interim limits, no sub-limits, or verification schemes. More importantly, the treaty simply affirms what the United States had already decided were its strategic requirements—President Bush announced that we were unilaterally going to this level of warheads last November. This is important enough to repeat: this treaty memorialized what President Bush determined were our strategic requirements. Thus, this treaty is a complete break with the arms control orthodoxy of the past, which made each side's limitations or reductions dependent on the other, required difficult verification and enforcement provisions, and artificially pre-determined our strategic levels.

Recognizing that we no longer live in a bipolar world, we must shift our attention to the threat to our security from a number of rogue states that already have, or are seeking to obtain, weapons of mass destruction capabilities. Despite the existence of a plethora of multilateral arms control agreements, the threat to the United States and its allies from chemical, biological, and nuclear weapons has not been limited. The fundamental flaw of such measures lies in the fact that they focus on weapons, rather than on the real problem: the dangerous regimes that possess them. And whether they've signed these treaties or not, the rogue regimes cannot be trusted to comply.

Historians have traced that flawed approach back to the Catholic Church's attempt to ban the crossbow—the terrible new weapon of the 1100s—in 1139. That endeavor proved as ineffective as the arms control efforts that followed in later centuries. Perhaps there is no better example of this futility than the attempts after World War I to outlaw war altogether. The 1928 Kellogg-Briand Pact, to which the Senate provided its advice and consent on January 25, 1929 by a vote of 85 to 1, was signed by all of the major countries. It renounced war as “an instrument of national policy.” It also paved the way for other arms control treaties and negotiations that left the Western democracies unprepared to fight and unable to deter World War II, a mere decade later.

Indeed, in looking back at the arms control efforts of the 1920s and 1930s, Walter Lippman, the celebrated historian who championed the agreements when they were signed, wrote that, “The disarmament movement was, as the event has shown, tragically successful in disarming the nations that believed in disarmament. The net effect was to dissolve the alliance among the victors of the first World War, and to reduce them to almost disastrous impotence on the eve of the second World War.”

Mr. Lippman's assessment offers an important lesson. Arms control works best where it is needed least—among honorable, morally upstanding nations. It does not work where it is needed

most—against rogue nations. Countries that act clandestinely and in bad faith will simply ignore the legal requirements of arms control agreements when it suits their interests. Moreover, morally-upstanding nations depending upon these agreements for security and stability have often lacked the will to respond forcefully to violations. Even when evidence is clear, there are almost always overriding diplomatic reasons for overlooking or treading lightly on the violating parties.

The international community's response to Iraq's use of chemical weapons is a prime example. When that country used chemical weapons against Iran in the 1980's in violation of the 1925 Geneva Protocol banning the use of such weapons, the U.N. Security Council passed a resolution calling for both sides in the conflict to exercise restraint. After Saddam Hussein again used chemical weapons—this time against his own Kurdish population—the Security Council again passed a resolution of condemnation that failed even to mention the use of chemical weapons. International resolve was so weak that when the United States proposed a resolution at the U.N. Human Rights Commission in 1989 condemning Iraq's use of those weapons against the Kurds, the initiative was defeated by a vote of 17 to 13.

Unwilling to enforce the existing Geneva Protocol when Iraq had, without dispute, violated its terms, the international community, in an effort to demonstrate its commitment to arms control, agreed upon a new ban on the possession of chemical weapons. Yet possession is inherently harder to verify than already-banned use. This new ban—the Chemical Weapons Convention, CWC—unrealistically aims to control states that are confident that they can violate its terms without detection and without punishment. And while the United States is destroying its chemical deterrent under the requirements of the CWC, chemical weapons programs in other states that have signed the treaty—like Iran—have not been curbed. Still others, like Iraq, North Korea, Libya, and Syria have not even joined the convention.

There is no moral equivalence between Western democracies and rogue regimes like those in place in Iran, Iraq, and North Korea. Yet arms control treaties like the Biological Weapons Convention BWC and the CWC assume that all participants operate with the same objectives in mind. They place under one umbrella—under a unitary set of constraints—states that are certain to comply and those that are certain to cheat. And therein lies their failure to serve any meaningful purpose. As Richard Perle, former Assistant Secretary of Defense, stated in a 1999 speech, “The failure to distinguish guns in the hands of cops and guns in the hands of robbers is not just a practical absurdity, it is a profound moral failure.”

Other arms control efforts like the Nuclear Nonproliferation Treaty NPT,

while more realistic in terms of their objectives, have also had questionable success. Under the terms of the NPT, the five declared nuclear weapons states—the United States, the United Kingdom, Russia, France, and China—agreed “not in any way to assist” any nonweapons state to acquire nuclear weapons. Other parties to the treaty agree not to develop nuclear weapons and to allow the International Atomic Energy Agency, IAEA to inspect their nuclear facilities.

Just a brief examination of the records of parties to the treaty illustrates that its objectives are not supported equally by all.

The United States intelligence community suspects that Russia and China, despite their NPT obligations, may be providing assistance to the nuclear weapons programs of certain states.

North Korea—despite the optimism of some that the 1994 Agreed Framework would curb that country's nuclear weapons program—continues to evade certain IAEA inspections needed to ensure that country is in full compliance with the NPT and the Framework. And yet, the United States continues to support the Agreed Framework with U.S. taxpayer dollars.

The U.S. intelligence community suspects that Russian nuclear-related assistance to Iran—ostensibly for Tehran's civilian nuclear program may, indeed, be contributing to Iran's nuclear ambitions.

And the full extent of Iraq's covert nuclear programs, after years without inspections, is not fully known. In fact, even when inspectors were in the country, Saddam made use of information provided by Iraqi IAEA inspectors to evade detection.

It is clear that multilateral arms control agreements have not delivered on their promise to make the world a safer place. As such, prudence demands that we take steps to ensure the safety of the American people—this will involve a combination of defense and deterrence.

Though the ABM Treaty was bilateral agreement between the United States and the Soviet Union, President Bush's decision to withdraw the United States was, in fact, necessitated by our need to deal with other states that are developing ballistic missiles. Deterrence is simply inadequate in dealing with rogue dictators. To depend on nuclear deterrence alone with a dictator like Saddam Hussein, for instance—a man who used chemical weapons against his own people—would be to place American lives in the hands of a madman. As Winston Churchill warned in his 1955 “Balance of Terror” speech, “The deterrent does not cover the case of lunatics or dictators in the mood of Hitler when he found himself in his final dugout.”

The alternative—which will be permitted now that we have withdrawn from the ABM Treaty—is to develop and deploy missile defenses. A missile



defense system will give us more flexible options in a crisis. First, defenses against missiles will help the United States to avoid nuclear blackmail, intended to freeze us into inaction by the very threat of a missile attack. Imagine the impact on our decision to go to war against Saddam Hussein in 1991 had he been able to threaten the United States or our allies with nuclear missiles. Additionally, missile defense will reduce the incentive for ballistic missile proliferation by devaluing offensive missiles. Finally, missile defenses, in a worst-case scenario, will save American lives.

The development of missile defenses and the end of the superpower rivalry does not obviate the need for traditional deterrence, however. As the world's remaining superpower, we need to maintain maximum flexibility and the ability to play the ultimate trump card if need be. Deterrence and defenses—with neither, of course, being 100 percent fail-safe—will be mutually reinforcing. The prudence of maintaining a nuclear deterrent was shown during the Gulf War when we hinted that we might draw on that capability if Iraq attacked allied troops with chemical or biological agents. As then-Secretary of Defense Dick Cheney warned during a visit to the Middle East on December 23, 1991: “Were Saddam Hussein foolish enough to use weapons of mass destruction, the U.S. response would be absolutely overwhelming, and it would be devastating.” Iraqi Foreign Minister Tariq Aziz acknowledged several years later that Iraq did not attack the forces of the U.S.-led coalition with chemical weapons because such warnings were interpreted as meaning nuclear retaliation.

Of course, with the end of the U.S.-Soviet standoff, we can maintain our deterrent at lower levels—thus President Bush's decision to unilaterally reduce our arsenal. But lower levels require greater attention to the safety and reliability of our remaining arsenal. This will, I believe, require renewed testing of that arsenal at some point.

Thankfully, this body defeated the Comprehensive Test Ban Treaty, CTBT—which would have obligated the United States to give up for all time the option of testing our nuclear weapons—in October 1999. The Bush administration has made it clear that it strongly opposes the treaty. While it has no plans to do so, the administration has retained the option of nuclear testing to assure the safety and reliability of our nuclear arsenal. It is also moving to improve the test readiness posture. As Assistant Secretary of Defense J.D. Crouch stated during a briefing on the Nuclear Posture Review, NPR, the “NPR does state . . . that we need to improve our readiness posture to test from its current two to three year period to something substantially better.” I am pleased that the House version of the Defense authorization bill contains a provision that requires

the Department of Energy to reduce to one year the time between the Presidential decision to conduct a nuclear test and the test itself, and I hope that the Senate will ultimately choose to include such a provision, as well.

The threats to the United States today are more complex and difficult to predict than those we faced during the cold war. Recognizing their inherent limitations, it is therefore time to move beyond traditional arms control treaties as a means to protect American lives from these threats. President Bush has committed to do just that. He has set the United States on a course that unequivocally places faith not in traditional arms control, but in the time-honored philosophy that led to the West's victory without war over the Soviet Empire: Peace through strength. As a result, we will be able to pursue the development of missile defenses and maintain a credible nuclear deterrent. These demonstrations of strength, coupled, of course, with the maintenance of robust conventional capabilities—not more pieces of paper—are what will keep this nation secure.

President Bush's overall security strategy rightly focuses on the root of the problem—the dangerous regimes that possess the weapons. As Margaret Thatcher once stated, “. . . the fundamental risk to peace is not the existence of weapons of particular types. It is the disposition on the part of some states to impose change on others by resorting to force.” The heart of the matter is that our strategy should seek to change the regimes themselves, whether through military, diplomatic, or economic means. The United States has made clear its intention to pursue that objective, and I have no doubt that our efforts will lead to success.

The PRESIDING OFFICER (Mr. MILLER). The Senator from Utah.

#### FTC REPORT

Mr. HATCH. Mr. President, my staff just attended a non-embargoed briefing conducted by the Federal Trade Commission. It is our understanding that tomorrow the FTC will transmit to the Congress and the American people a copy of its comprehensive study of the pharmaceutical industry with respect to litigation involving the two major components of the pending legislation: first, the report examined the use and abuses of the statutory 30-month stay. Second, the report examines how the 180-day marketing exclusivity rule has been the source of collusive arrangements between pioneer and generic firms.

I will be very interested to study the full report when it released tomorrow morning.

Let me say this tonight. First, I want to commend Chairman Muris and the other FTC Commissioners for undertaking this important study. I would also like to acknowledge the efforts of the FTC staff including, Maryann

Kane, Mike Wroblenski and Sarah Browers for their work on this report.

It is my understanding that the key recommendations contained in the report are somewhat at odds with the legislation on the floor.

It is my understanding the first FTC recommendation, consistent with the position that I took at the Health Committee hearing May 8 and my floor statements the past two weeks, will basically say that there should only be one automatic 30-month stay per drug product per ANDA to resolve challenges to patents listed in the FDA Orange Book prior to the filing date of the generic drug application.

Senator GREGG took this position in the HELP Committee and I commend him for his work to strengthen the bill.

Clearly, as I have laid out in some detail in earlier speeches, the Edwards-Collins substitute delves into areas way beyond this recommendation.

I also understand the second FTC recommendation, which touches upon the so-called reverse payment agreements whereby generic firms are paid not to market generic drugs, will suggest that the Congress pass legislation to require brand-name companies and first generic applicants to provide copies of certain agreements to the FTC.

This is exactly what Senator LEAHY's bill, S. 754, the Drug Competition Act, requires. As I discussed in my previous statements, I voted for Senator LEAHY's bill in the Judiciary Committee and worked with him to refine the final language. In my view, S. 754 contains a much more measured—and certainly more comprehensible—approach than does the Edwards-Collins substitute.

Because the staff briefing just occurred and the full report will be issued tomorrow, I am not prepared tonight to give you my full evaluation of the FTC report. But I can say that the major recommendations of the FTC appear to be somewhat at odds with key provisions of the legislation that is pending on the floor, the Edwards-Collins substitute to S. 812.

I look forward to examining the data collected by the FTC and analyzing the report's two major recommendations and its several subsidiary recommendations.

Frankly, I think that it would be appropriate for the relevant committees, the Judiciary Committee, the Commerce Committee, and HELP Committee, to have the opportunity to examine this comprehensive study before we adopt legislation in this area.

I will be interested to learn if the sponsors of the bill on the floor would be open to a process that will allow a careful evaluation of what the FTC study reveals and will not just act to ram this legislation through in the last week before August recess.

I have lodged my concerns about the way this bill so hastily was adopted by the committee and appeared on the floor, and urged that we take the time necessary to get this legislation right.

The Hatch-Waxman Act is an important consumer bill that has helped save about \$8 billion to \$10 billion each year since 1984. So we should not be playing around with this bill, especially without the benefit of carefully studying this this soon-to-be-released FTC report.

Once again, I urge my colleagues to do the right thing and give us an adequate opportunity to factor in this FTC study.

It would be advisable to spend the time before the recess to adopt trade promotion authority rather than to continue to struggle with the hastily crafted and not fully vetted Edward-Collins substitute.

In that regard, I pay specific tribute to our colleague, Senator BAUCUS, who represented the Senate so well in the trade conference that occurred Thursday evening and early Friday morning. I was a member of the conference committee. Senator BAUCUS did himself proud, did our body proud, did a very good job, as did Chairman THOMAS. Those two worked very well together to come up with what is landmark legislation to help our economy move forward. It is one of the reasons I think the stock market turned around today. It is not the only reason. I think we would have another reason if we would treat the Hatch-Waxman language with the care and treatment it deserves before we go off half cocked to enact a bill before we examine the FTC study and its recommendations.

I am grateful I serve on the Finance Committee with Senator BAUCUS and Senator GRASSLEY, both of whom did a good job in this last conference on trade promotion authority. I also am very pleased one of my long-term friends in the Congress has been Chairman BILL THOMAS in the House. It is a tough job being chairman of the Ways and Means Committee. It is a very divided committee in many respects; yet it works very well. There is no one in this Congress who does a better job on health care issues than Chairman THOMAS.

All of them deserve credit, as do the ranking members, CHARLIE RANGEL, without whom this agreement probably could not have come to pass, a man for whom I have tremendous respect; and, of course, Senator GRASSLEY in our body who has worked so well with Senator BAUCUS on so many pieces of legislation that mean so much to our economy and our country.

These are important issues. I have given some rather lengthy speeches on the Hatch-Waxman issue and even some lengthy speeches on the trade promotion authority. I was one of those in the Finance Committee who pushed very hard to get the trade promotion bill on the floor and get us to conference. I express my regard for all concerned. I hope we can resolve this matter on the floor this week, but I believe trade promotion authority deserves even greater precedence than what we are trying to do in the under-

lying bill S. 812. If we act on the underlying bill, it ought to be done in a thoughtful fashion. It should not be done just politically. We ought to pay attention to the experts at FTC and elsewhere who have spent so much time on the issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

#### JUDICIAL NOMINATIONS

Mr. SPECTER. Mr. President, I have sought recognition to speak about three nominees from Pennsylvania who have been confirmed by the Senate. It is a very happy day, indeed. We will have a judge to the western district of Pennsylvania and two judges to the middle district of Pennsylvania, both districts being in dire need of assistance. These three individuals were recommended by a bipartisan nominating commission which Senator SANTORUM and I have established, where there is independent review in each of the districts. These individuals were recommended to Senator SANTORUM and myself and then, in turn, we recommended them to the President. They have passed the examinations of the American Bar Association with flying colors, the FBI check, the Judiciary Committee hearing, and finally have been voted upon by the Senate.

Earlier today, the Senate confirmed Ms. Joy Flowers Conti for the United States District Court for the Western District of Pennsylvania. Ms. Conti brings an outstanding academic record to the bench: Her bachelor of arts degree from Duquesne University in 1970; her law degree also from Duquesne in 1973; summa cum laude, the highest honors; and she was the first woman to serve as editor in chief of the Duquesne Law Journal. She has had an outstanding career in private practice. She has been associated with the distinguished Pittsburgh law firm, Buchanan, Ingersoll, from 1974 until the present time; served as a professor of law at Duquesne from 1976 to 1982; has worked as a judicial officer, hearing examiner for the Commonwealth of Pennsylvania in the Department of State Bureau of Occupational and Professional Affairs.

She received a "well qualified" rating by the American Bar Association's Standing Committee on the Federal Judiciary, has served in the House of Delegates of the American Bar Association, and is currently serving in the Pennsylvania Bar Association's House of Delegates.

She received the Pennsylvania Bar Association's Anne X. Alpern Award, a very distinguished award named for the first woman supreme court justice in the Commonwealth of Pennsylvania—Justice Alpern, whom I knew and practiced before many years ago when I was chief of the appeals division in Philadelphia's Attorney General's office. Mrs. Conti brings the highest credentials to the western district, a court

very much in need of additional judicial manpower, or in this case woman power.

Also confirmed earlier today was a distinguished lawyer from Pottsville, PA, John E. Jones. Mr. Jones has an outstanding academic record from Dickinson College, 1977, and the Dickinson School of Law in 1980. He has been engaged in the active practice of law in Pottsville for the past 21 years.

I have personally known Mr. Jones for 15 years. Just earlier today I was talking to the former Governor of Pennsylvania, Tom Ridge, now serving as President Bush's homeland security adviser, and we compared notes on Mr. Jones and agree that he has outstanding credentials.

His background includes being the assistant public defender in Schuylkill County from 1985 until 1985. That is a part-time job. But the defender's office will give him a good background and balance, looking at the defense side of the bar. He served as Pennsylvania's State attorney general for the Drug Abuse Resistance Education Program, and more recently has been chairman of the Pennsylvania Liquor Control Board, having been appointed there in May of 1995.

In Pennsylvania, that is a major board, quasi-judicial, and serving as chairman gives one very extensive administrative responsibilities. In that capacity, he has simplified the procedures there in a context of some 20,000 licensees, so that he has a very extensive background to give diversity to the middle district.

On Friday, the Senate confirmed another distinguished lawyer, Christopher C. Conner, from Harrisburg, PA. Mr. Connor is chair of the litigation department of Mette, Evans and Woodside, one of the largest law firms in Pennsylvania.

He, too, brings excellent academic credentials, being a graduate of Cornell University in 1979 and the Dickinson Law School in 1982, where he was editor of the National Appellate Moot Court Team.

He has been active in bar association affairs, taking on the vice presidency of the Pennsylvania bar, coauthoring a Law Review article on "Partisan Elections, the Albatross of the Pennsylvania Appellate Judiciary."

Interestingly, with the Supreme Court of the United States recently declaring that candidates for judicial office are now free to campaign, that may be a great impetus to take judges out of elective office; something which I believe should have been done years ago in Pennsylvania and something I urged as long ago as 1968 when we were preparing Pennsylvania's constitution, which was adopted in 1969.

Mr. Connor has also served as adjunct professor at the Widner University School of Law on the Harrisburg campus where he taught pretrial procedure. So he brings a very diversified background and an excellent background to the middle district.

I am pleased to note that the majority leader is going to go right down the list on nominees and has stated earlier today that we would consider the nomination of Judge Brooks Smith, who is the chief judge of the Western District of Pennsylvania. The Third Circuit being in dire need of additional judicial manpower.

Chief Judge Edward R. Becker, one of the most distinguished judges in the United States, has commented about the serious state of affairs there, and I am anxious to see District Court Judge Brooks Smith receive his vote tomorrow. I am confident that he will be confirmed.

Judge Smith was reported out of the Judiciary Committee on a vote of 12 to 7, with three Democrats—Senator BIDEN, Senator KOHL, and Senator EDWARDS—voting for Judge Smith.

It is my hope that we will soon establish a protocol to eliminate the partisan differences which have plagued the Federal judicial nominating process for many years.

Now, with a Republican President, President Bush, and a Senate controlled by the Democrats, there have been delays which I believe are excessive. But I have to say at the same time that when President Clinton, a Democrat, was in the White House, and the Senate was controlled by Republicans, similarly the delays were excessive.

It is my view that the Federal judgeships are too important to be embroiled in partisan politics or payback or delay. I have proposed a protocol which would establish a timetable: So many days after a nominee is submitted by the President there ought to be a Judiciary Committee hearing. So many days later there ought to be action by the Judiciary Committee, voted up or down; and, if voted up, so many days later there ought to be floor consideration for confirmation by the entire Senate—with that not being an ironclad schedule. If cause is shown, at the discretion of the chairman of the committee on notification to the ranking member there could be a reasonable delay. Similarly, with the majority leader upon notice to the minority leader, there could be a reasonable delay on the vote before the Senate.

But I believe the American people generally are sick and tired of partisan politics. They want to see the Senate work together and nowhere is that more important than in the selection of Federal judges.

So I am pleased to speak about these three distinguished lawyers who have been confirmed by the Senate and will be sworn in soon. I am also looking forward to the addition of Judge Brooks Smith to the Court of Appeals of the Third Circuit, which is very much in need of his services.

I thank the Chair. In the absence of any other Senator seeking recognition, 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.

#### GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Continued

Mr. REID. Mr. President, it is my understanding that we are on the generic drug bill. Is that right?

The PRESIDING OFFICER. The Senator is correct.

#### CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Senator Dorgan's amendment No. 4299.

Byron L. Dorgan, Kent Conrad, Tim Johnson, James M. Jeffords, Ron Wyden, Paul Wellstone, Max Baucus, Ernest F. Hollings, Hillary Rodham Clinton, Zell Miller, Maria Cantwell, Jack Reed, Max Cleland, Patrick J. Leahy, Richard J. Durbin, Christopher J. Dodd, Harry Reid.

#### CLOTURE MOTION

Mr. REID. Mr. President, I send another cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on Calendar No. 491, S. 812, the Greater Access to Affordable Pharmaceuticals Act of 2001.

Harry Reid, Jon S. Corzine, Byron L. Dorgan, Ron Wyden, Maria Cantwell, Paul S. Sarbanes, Debbie Stabenow, Richard J. Durbin, Tom Daschle, Daniel K. Akaka, Jack Reed, Kent Conrad, Zell Miller, Charles E. Schumer, Ernest F. Hollings, Hillary Rodham Clinton.

#### VOTE EXPLANATION

Mr. NELSON of Florida. Mr. President, I support the nomination of Julia Smith Gibbons and would have voted aye to confirm her nomination to the 6th Circuit Court of Appeals.

Mr. THOMPSON. Mr. President, I am very pleased to be here today as the Senate takes up for consideration the nomination of Judge Julia Smith Gibbons to be a U.S. Circuit Judge for the Sixth Circuit. I am grateful to my colleagues for their unanimous vote on Friday in support of cloture on this nomination to allow it to come to a vote today.

I support this nomination, and I am confident my colleagues will do so as well when they learn of Judge Gibbons's background and qualifications. Judge Gibbons will be a welcome addition to the Sixth Circuit. Before I address Judge Gibbons's qualifications, I want to let my colleagues know of the problems confronting the Sixth Circuit.

Today, 29 of the 179 U.S. Circuit Court judgeships remain unfilled. Eight of those 29 vacancies are in the Sixth Circuit. Let me put that into perspective: 28 percent of all of the vacant circuit judgeships in the country occur in just one of the 13 Circuits.

These 8 vacancies constitute one-half of the 16 judgeships allocated to the Sixth Circuit, which is twice the number of vacancies in any other circuit. Meanwhile, the court's caseload continues to rise.

Not surprisingly, the Sixth Circuit is also the slowest appellate court in the Federal system. According to the Chief Judge of the Sixth Circuit, the average time from filing to decision is 2 years, some 6 months slower than the next slowest circuit.

We must also recognize that the vacancy rate does not only affect the Sixth Circuit and litigants before that court. In order to fill its annual need for over 160 three-judge panels to hear cases, the Sixth Circuit must bring in visiting judges from other circuits or from district courts. Last fiscal year, visiting judge handled almost 20 percent of the Sixth Circuit's workload, and the Court relied on visiting judges twice as often as any other circuit.

While some of these visiting judges are senior judges, many are active circuit and district judges. These judges maintain a full docket themselves, in addition to pitching in to assist the Sixth Circuit. As district judges spend more time handling appellate cases, they must put off acting on their own dockets. The ripple effect caused by the vacancy rate on the Sixth Circuit is therefore much broader than we might suppose. According to a recent witness before the Judiciary Committee, the demands being made on district judges within the Sixth Circuit to fill seats on three-judge panels are so burdensome, that many district judges are now refusing what had been considered a prestigious assignment.

The vacancy rate on the Sixth Circuit is placing a significant burden on the entire Federal judiciary, which would be overburdened even if every vacancy were filled.

Some of the adverse impacts of the vacancy rate on the Sixth Circuit are not so readily discernible or can be quantified. For instance, visiting judges from outside the circuit or from the district courts may not be as familiar with Sixth Circuit law as the judges of the Sixth Circuit themselves. The court's reliance on such a large contingent of visiting judges increases the risk of intra-circuit conflict among different panels of the court, making en

banc review by the full Sixth Circuit more frequent. And en banc review places greater burdens on the court by requiring that all active judges, rather than just a portion of them, give the case their attention.

I am not seeking to lay blame. I am just pointing out that we must overcome the differences that have led us to the quagmire in which we find ourselves. And I believe it is fair for me to do so. During President Clinton's administration, I did all I could to get the President's nominees to the district courts in Tennessee confirmed quickly. I also shepherded through the Senate the nomination of the last judge confirmed to the Sixth Circuit, Ronald Gilman.

I hope that the fact that the Senate is moving to take up the nomination of Judge Gibbons bodes well for our willingness to take up other nominations to the Sixth Circuit.

Let me turn now to the specific nomination before us. Despite her relative youth for such a position, Judge Julia Smith Gibbons been a judge for over 20 years. I am confident that the Senate will not consider any more highly qualified nominee this year.

Judge Gibbons was born and raised in Pulaski, TN, which is a small town in south-central Tennessee less than 20 miles from Lawrenceburg, where I grew up. She attended Vanderbilt University in Nashville, from which she received her B.A. magna cum laude in 1972 and where she was elected to membership in Phi Beta Kappa, the national honor society.

Judge Gibbons then left Tennessee to attend law school in our neighbor to the east at the University of Virginia Law School, where she was a member of the editorial board of the law review and was elected to the Order of the Coif, the national legal honor society.

Upon graduating from law school, she returned to Tennessee to clerk for Judge William Miller of the Sixth Circuit, the court to which Judge Gibbons has been nominated. In 1976, Judge Gibbons became an associate with a Memphis law firm.

After 3 years practicing law, Judge Gibbons joined the administration of Governor Lamar Alexander as the Governor's legal advisor in 1979. In 1981, Governor Alexander appointed Judge Gibbons to the Tennessee Circuit Court for the Fifteenth Judicial Circuit, which covers Memphis and Shelby County, and she was elected to a full term in 1982.

In 1983, Judge Gibbons was appointed United States District Judge for the Western District of Tennessee by President Reagan, the first woman to hold such a position in Tennessee. At the time, she was the youngest Federal judge in the Nation. From 1994 to 2000, she served as Chief Judge of the court.

She is very highly regarded by the bar as an exceptional trial judge. While she was being considered for this appointment and since her nomination, I have heard from many lawyers who

have practiced before her extolling her virtues as a trial judge.

Her reputation is national and has been recognized by the Chief Justice, who has appointed her to the Judicial Panel on Multidistrict Litigation, the Judicial Resources Committee of the Judicial Conference, and the Judicial Officer Resources Working Group.

Despite her heavy judicial workload, Judge Gibbons has remained active in her church and community, serving as an elder of the Idlewild Presbyterian Church and as a former president of the Memphis Rotary Club.

In sum, I am confident that Judge Gibbons will be an outstanding member of the Sixth Circuit, as she has been an outstanding trial judge.

Before I yield, let me thank Chairman LEAHY and his staff, and Senator HATCH and his staff for their cooperation and assistance in moving this nomination forward. I hope our action today on Judge Gibbons bodes well for getting the remaining Sixth Circuit vacancies filled expeditiously.

I urge my colleagues to join me in voting to support the nomination of Judge Julia Smith Gibbons.

#### MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators allowed to speak therein for a period not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### TRIBUTE TO ROY ESTESS

Mr. LOTT. Mr. President, I rise today to congratulate my dear friend Roy Estess on his well deserved retirement, to thank him for his many years of dedicated service to our nation, and to wish him the very best as he pursues other interests and enjoys what I hope will be many fine years of health and happiness with his family.

Roy S. Estess, a native of Tylertown, MS, is retiring as director of NASA's John C. Stennis Space Center in south Mississippi. As director of Stennis Space Center for more than 13 years, Roy has been responsible for accomplishing the center's current NASA missions, rocket propulsion testing and remote sensing applications. Other responsibilities have included managing the Space Shuttle Main Engine test program; planning and accomplishing advanced propulsion test activities for NASA, some Department of Defense projects, and certain industry propulsion development and launch vehicle development programs; conducting research and technology development in earth and environmental sciences; commercializing remote sensing technology in cooperation with industry and government; developing technology for use in propulsion test and launch operations; and managing the overall center. Roy's vision and leader-

ship have directly lead to Stennis Space Center becoming a unique Federal city that is home to more than 30 Federal, State, academic and private organizations.

Roy Estess graduated from Mississippi State University with a degree in aerospace engineering. He also has accomplished various graduate level studies, including completion of the advanced management program at the Harvard Graduate Business School. He is a registered professional engineer in the State of Mississippi and is a member and past chairman of the advisory committee to the College of Engineering at Mississippi State University. Roy is also a member of several professional societies, some of which include Tau Beta Pi; the American Institute of Aeronautics and Astronautics; the Mississippi Academy of Sciences; and the National Space Club.

Roy has held various engineering and management positions during his 42 years of service in the United States government. He began his career as a civilian employee in the United States Air Force at Brookley Field in Alabama, and later at Robbins Air Force Base in Georgia. Roy came to the NASA Stennis Space Center in 1966 as a propulsion test engineer, working on perhaps the greatest technological achievement of all time, the Apollo missions to the moon. Roy worked on testing the second stage of the Saturn V moon vehicle during those exciting times. Working his way up through the ranks, he later served as head of the Applications Engineering Office, deputy of the Earth Resources Laboratory and director of the Regional Applications Program. From 1980 through 1988, Roy served as deputy director of Stennis Space Center and was named director in January, 1989. From 1992 to 1993, he was temporarily assigned to NASA Headquarters in Washington, D.C. as a special assistant to two consecutive NASA Administrators. From February, 2001 to April, 2002, Roy was temporarily assigned as acting director of the Johnson Space Center in Houston, TX.

Roy Estess has been named the recipient of numerous awards and honors, some of which include: the Presidential Distinguished Service, twice, and Meritorious Senior Executive Awards; NASA's Distinguished Exceptional Service, Equal Opportunity and Outstanding Leadership Medals; the National Distinguished Executive Service Award for Public Service; and the Alumni Fellow of Mississippi State University; as well as Citizen of the Year in his home town.

Roy has served Mississippi and the nation in numerous ways outside of his professional career. In 1969, when south Mississippi was hit by the devastating hurricane Camille, Roy served on the Gulf coast disaster recovery team, making extraordinary efforts to help save lives and property in our state. An Eagle Scout himself, Roy has long been an active supporter of the Boy Scouts of America, including serving as Scout

Master of Troop 87 of Picayune from 1966 to 1978. Roy has also served as a Deacon at his church, the First Baptist Church in Picayune.

Roy and his wife, Zann, reside in Pearl River County, MS. They have two children, Andy and Mauri, and two grandchildren, Conner and Drew.

I know my colleagues will join me in appreciation of Roy Estess for his extraordinary career of service to the nation and his community and in wishing him and his family the very best in all of their plans for the future. I am proud to call Roy Estess my friend. God bless you, Roy.

#### 21ST CENTURY MEDICARE ACT

Mr. HATCH. Mr. President, our health care system has increased the lifespan and quality of life of our citizens. Our population is aging; people with chronic conditions are living longer. The number of Medicare beneficiaries is increasing and will continue to increase as baby boomers retire.

As I have listened to the debate over the last two weeks, I think we can all agree on one thing, the seniors in this Nation deserve the best possible health care, of which prescription drug coverage is a vital component. All of us want to provide Medicare beneficiaries with prescription drug coverage this year. Unfortunately we do not agree on how this coverage should be provided.

I support the Tripartisan bill for several simple reasons. The Tripartisan bill operates on the fundamental principles of efficiency, quality, and choice. It balances all of the issues and provides a permanent solution—all of which result in cost savings and affordability. Balance is a key point here.

We do not offer a plan that cannot be sustained, resulting in bigger problems down the road. We do not offer a plan that ends abruptly. We do not offer a plan offering everything to everyone, knowing full well that it cannot work, as the Graham-Kennedy bill does. We provide Medicare beneficiaries with four key elements: First; Choice. Giving seniors the right to choose a plan and the right to choose a particular medication is the greatest benefit we can offer Medicare beneficiaries. Under the Graham-Miller-Kennedy bill, seniors can only get a government run prescription drug plan. The Graham-Miller-Kennedy bill forces seniors and their physicians into government run formularies. This is not what we want for our seniors and their doctors; Second; Quality. I do not believe that the Graham-Miller-Kennedy bill has any incentive to improve quality—over and over, we have seen how government run programs have failed our health care system. Our Tripartisan bill makes a concerted effort to improve and modernize Medicare, by offering seniors choice not only in prescription drug coverage but for overall medical coverage as well; Third; Efficiency and Cost containment. The Tripartisan bill fosters competition, based on quality and cost. The Graham-Miller-Kennedy bill does not. The Graham-Miller-Ken-

nedy bill cannot deliver drugs efficiently by making the government the sole regulator of Medicare drug coverage. The Tripartisan bill guarantees that at least two plans will compete in each region, giving seniors the right and choice to pick the plans that best suit their needs; and Fourth; Balance. The Tripartisan bill balances the needs of seniors with benefits. We improve coverage for the sickest, poorest seniors by helping needy seniors meet their health care costs through generous subsidies. We use an assets test to determine who needs assistance. What is so wrong with this? All we are doing is applying asset testing criteria for prescription drug coverage. I do want to make a correction to my statement from 7/22/02, The Family Opportunity Act does not have an assets test as I indicated. Rather it has an income and disability test.

In conclusion, I believe the model of the Tripartisan bill is the only workable, long lasting, and fair plan for our seniors and taxpayers. The Tripartisan bill model is the only way to achieve a long-term solution to provide prescription drug coverage to Medicare beneficiaries and, at the same time, give seniors, their families, and doctors choice. It is not a quick fix to get immediate support for something that is not going to last, like the Graham-Miller-Kennedy bill. I am hopeful that more of my colleagues will recognize this, and help us reach an acceptable agreement.

#### THE FEDERAL EMPLOYEES HEALTH INSURANCE PREMIUM CONVERSION ACT

Mr. BURNS. Mr. President, today I am pleased to join my colleagues in the Senate in cosponsoring S. 1022, the Federal Employees Health Insurance Premium Conversion Act. This legislation will enable Federal and military retirees to take advantage of premium conversion, which would allow individual retirees to pay their health insurance premiums with pre-tax dollars. In 2000, this tax benefit was extended to current Federal employees under a Presidential directive, and it is a benefit available to many private sector employees, and State and local government employees. It only makes sense to bring equity to the Federal Employees Health Benefits Program.

Furthermore, this legislation will allow uniformed services retiree beneficiaries, their family members and survivors to pay the TRICARE Prime enrollment fees and TRICARE Standard supplemental insurance premiums with pre-tax dollars.

I am happy to join my colleagues by supporting this critical legislation and to show my continued support of these Federal civilian and military retirees for their dedicated service.

#### LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes

legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred July 24, 1994 in New York, NY. Two gay men were assaulted by four men who made anti-gay remarks. The assailants, John Gorman and Kevin Shout, both 22, Michael Higgins, 21, and James Shout 27, were charged with assault and aggravated harassment in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

#### ADDITIONAL STATEMENTS

##### MISCARRIAGE OF JUSTICE IN EGYPT

• Mr. McCONNELL. Mr. President, the news from Egypt this morning is both disappointing and disheartening. Egyptian democracy activist and academic Saad Eddin Ibrahim was sentenced to 7 years in jail following a retrial for charges, according to the BBC, "of tarnishing the country's image abroad and other offenses."

Many believe that the case against Mr. Ibrahim, who is a dual Egyptian-American citizen, is politically motivated and a not-so-veiled effort to stifle political debate in that country. Unfortunately, today's verdict only underscores that the rule of law and democratic institutions continue to be weak and non-functioning in Egypt.

It is my hope and expectation that Secretary Powell will clearly, publicly and forcefully register the concerns of the United States with Mr. Ibrahim's case to senior Egyptian leaders. I would offer that it is not Mr. Ibrahim but the Egyptian government—and its weak judiciary, irresponsible and anti-Semitic media, and questionable ties with North Korean missile technicians—that consistently tarnishes the country's image abroad.

To put it simply, the United States must expect more from its ally in the Middle East.●

#### MADE IN THE U.S.A.

• Mr. BUNNING. Mr. President, I proudly rise today to celebrate a truly remarkable milestone in the American automobile industry. Today, Toyota Motor North America will produce its 10 millionth North American-built vehicle. This notable achievement will take place at the Toyota production facility located in Georgetown KY.

I am extremely pleased that the more than 8,000 employees at the Georgetown facility will have the unique and historical opportunity to produce the 10 millionth Toyota to say Made in America. On a personal note, I myself bought a Camry last November, born and bred at the Georgetown facility in the Commonwealth of Kentucky.

Today, Toyota's dedicated team members annually build over 900,000 Avalons, Camrys, Corollas, Sequoias, Seinnas, Tacomas, and Tundras in the United States; in fiscal year 2001, Toyota sold nearly 2 million vehicles in North America. This means that nearly all of the cars sold in America are made here as well. Nothing gives me more pride than to see a product stamped with made in the U.S.A. especially when that means made in Kentucky.

Toyota Motor Manufacturing, Kentucky began production in Georgetown in 1988. Today, the Georgetown production facility is Toyota's largest production plant in all of North America due largely to their selfless and committed workforce. With two vehicle production lines and a powertrain engine and axle facility, more than 8,000 team members build around 500,000 vehicles and nearly 400,000 engines each and every year. Kentucky's skilled production team has been the key to the facility's extraordinary success, and I can personally vouch for the quality of Kentucky craftsmanship.

To celebrate their many accomplishments, Toyota is donating 20 Sienna minivans in communities where facilities are located. In Georgetown, minivans will be donated to the Salvation Army and Senior Citizens of Georgetown/Scott County. Also, Toyota Motor Manufacturing North America has announced a \$1 million gift to the children of Toyota's manufacturing team members through a college scholarship fund.

I would like to congratulate everyone involved with Toyota for reaching such a prestigious mark in the auto industry. Specifically, I would like to thank the employees in Georgetown for all that they do for Toyota and the local business community. These hard-working men and women deserve praise for their dedication and commitment to excellence. They represent the spirit of capitalism and embody the American working man and woman.●

#### TRIBUTE TO LINDA JACKSON

● Mr. BURNS. Mr. President, it is my privilege to honor a very special lady for her years of work on behalf of the citizens of this country. Linda Jackson was an employee of the U.S. Government for 39 years. Since she was 18 years old, Linda has been offering a helping hand to Americans. She started her career in civil service with the U.S. Navy. She then moved on to the Air Force, working in Japan during the Vietnam war. After her return stateside, Linda worked for a time for the

U.S. Postal Service. For the last 29 years, she has been an employee of the Social Security Administration. I have personal knowledge of Linda's dedication and commitment not only to her profession but more importantly to the citizens she worked for. When Linda retired on June 3, 2002, this Nation lost a very dedicated and caring public servant. Thank you, Linda Jackson, for your service to our country.●

#### MESSAGE FROM THE HOUSE

At 4:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 132. Concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives.

The message also announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House 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.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3210) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House:

From the Committee on Financial Services, for consideration of the House bill and the Senate Amendment thereto, and modifications committed to conference: Mr. OXLEY, Mr. BAKER, Mr. NEY, Mrs. KELLY, Mr. SHAYS, Mr. FOSSELLA, Mr. FERGUSON, Mr. LAFALCE, Mr. KANJORSKI, Mr. BENTSEN, Mr. 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: Mr. SENSENBRENNER, Mr. GOODLATTE, and Mr. CONYERS.

The message also announced that the Speaker appoints the following members as additional conferees in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4546) to authorize appropriations for fiscal year 2003 for military activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

As additional conferees from the Committee on Small Business, for consideration of sections 243, 824, and 829 of the Senate amendment and modi-

fications committed to conference: Mr. MANZULLO, Mrs. KELLY, and Ms. VELAZQUEZ.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-8161. A communication from the Director, Office of Integrated Analysis and Forecasting, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report entitled "Performance Profiles of Major Energy Producers 2000"; to the Committee on Energy and Natural Resources.

EC-8162. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the OMB Cost Estimate for Pay-As-You-Go for Report Number 581; to the Committee on the Budget.

EC-8163. A communication from the Chief, Regulations Branch, United States Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Manufacturing Substitution Drawback: Duty Apportionment" (RIN1512-AD02) received on July 18, 2002; to the Committee on the Judiciary.

EC-8164. A communication from the Acting Assistant Attorney General for Administration, Justice Management Division, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Exemption of Department of Justice Privacy Act System of Records: Controlled Substances Act Nonpublic Records" (JMD-002) received on July 23, 2002; to the Committee on the Judiciary.

EC-8165. A communication from the Director, Regulations and Forms Services Division, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Powers of the Attorney General to Authorize State of Local Law Enforcement Officers to Exercise Federal Immigration Enforcement Authority During a Mass Influx of Aliens" (RIN1115-AF20) received on July 24, 2002; to the Committee on the Judiciary.

EC-8166. A communication from the Acting Director, Office of Regulatory Law, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Increased Allowances for the Educational Assistance Test Program" (RIN2900-AL02) received on July 23, 2002; to the Committee on Veterans Affairs.

EC-8167. A communication from the Administrator, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, a report regarding Streamlining Seat Certification; to the Committee on Commerce, Science, and Transportation.

EC-8168. A communication from the Secretary of the Commission, Bureau of Consumer Protection, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Part 305—Rule Concerning Disclosure Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule")" received on July 18, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8169. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of



Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska—Amendment and Corrections to the Emergency Interim Rule Implementing Steller Sea Lion Protection Measures and 2002 Harvest Specifications for the Alaskan Groundfish Fisheries" (RIN0648-AP69) received on July 23, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8170. A communication from the Deputy Assistant Administrator for Operations, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska—Final Rule to Implement Amendment 54 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and Amendment 54 to the FMP For Groundfish of the Gulf of Alaska and An Amendment to the Pacific Halibut Commercial Fishery Regulations for Waters In and Off Alaska" (RIN0548-AK70) received on July 23, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8171. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Bifenthrin; Pesticide Tolerances for Emergency Exemptions" (FRL7187-8) received on July 24, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8172. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Research and Promotion Branch, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Mushroom Promotion, Research and Consumer Information Order: Reallocation of Mushroom Council Membership" (Doc. No. FV-02-706-IFR) received on July 23, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8173. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Raisins Produced from Grapes Grown in California; Final Free and Reserve Percentages for 2001-02 Crop Natural (sun-dried) Seedless and Other Seedless Raisins" (Doc. No. FV02-989-4FIR) received on July 23, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8174. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "1-Methylcyclopropene; Exemption from the Requirement of a Tolerance" (FRL7187-4) received on July 24, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8175. A communication from the Assistant Secretary, Office of Indian Education Programs, Department of Indian Affairs, transmitting, pursuant to law, the report of a rule entitled "Indian School Equalization Program" (RIN1076-AE14) received on July 23, 2002; to the Committee on Indian Affairs.

EC-8176. A communication from the Assistant General Counsel for Regulations, Office of the Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Loan Guarantee for Indian Housing; Direct Guarantee Processing" (RIN2577-AB78) received on July 23, 2002; to the Committee on Indian Affairs.

EC-8177. A communication from the Principal Deputy Director, Office of Hearing and Appeals, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Indian Affairs Hearings and Ap-

peals" (RIN1090-AA70) received on July 23, 2002; to the Committee on Indian Affairs.

EC-8178. A communication from the General Counsel, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary for Fair Housing and Equal Opportunity, received on July 16, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-8179. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the report on the operation of the Exchange Stabilization Fund (ESF) for Fiscal Year 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-8180. A communication from the Deputy Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Rescission of Exemption from Bank Secrecy Act Regulations for Sale of Variable Annuities" (RIN1506-AA30) received on July 18, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-8181. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility" (Doc. No. FEMA-7783) received on July 18, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-8182. A communication from the Deputy Secretary, Division of Investment Management, Office of Regulatory Policy, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Section 270.17a-8 Mergers of Affiliated Companies" (RIN3235-AH81) received on July 23, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-8183. A communication from the Director, Federal Emergency Management Agency, transmitting, pursuant to law, a report concerning funding for the State of New York as a result of the record/near record snow has exceeded \$5,000,000; to the Committee on Environment and Public Works.

EC-8184. A communication from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Planning and Research Program Administration" (RIN2125-AE84) received on July 18, 2002; to the Committee on Environment and Public Works.

EC-8185. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: Oregon Medford Carbon Monoxide Nonattainment Area" (FRL7240-9) received on July 24, 2002; to the Committee on Environment and Public Works.

EC-8186. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Minnesota Designation Areas for Air Quality Planning Purposes; Minnesota" (FRL7251-5) received on July 24, 2002; to the Committee on Environment and Public Works.

EC-8187. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Finding of Attainment; Portneuf Valley PM-10 Nonattainment Area; Ohio" (FRL7251-3) received on July 24, 2002; to the Committee on Environment and Public Works.

EC-8188. A communication from the Principal Deputy Associate Administrator of the

Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Finding of Failure to Attain; California-San Joaquin Valley Nonattainment Area; PM-10" (FRL7250-5) received on July 24, 2002; to the Committee on Environment and Public Works.

EC-8189. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "New York: Incorporation by Reference of State Hazardous Waste Management Program" (FRL7232-3) received on July 24, 2002; to the Committee on Environment and Public Works.

EC-8190. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "Letter Responding to American Wood Preservers Institute's (AWPI) Request for Clarification on the Scope and Applicability of the Federal RCRA Regulations at Wood Preserving Facilities" received on July 24, 2002; to the Committee on Environment and Public Works.

EC-8191. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "National Coastal Wetlands Conservation Grant Program" (RIN1018-AF51) received on July 24, 2002; to the Committee on Environment and Public Works.

EC-8192. A communication from the Director, Naval Reactors, transmitting, pursuant to law, a report on radiological waste disposal and environmental monitoring, worker radiation exposure, and occupational safety and health, as well as a report providing and overview of the Program; to the Committee on Armed Services.

EC-8193. A communication from the Director, Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Codification and Modification of Berry Amendment" (DFARS Case 2002-D002) received on July 23, 2002; to the Committee on Armed Services.

EC-8194. A communication from the Director, Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Changes to Profit Policy" (DFARS Case 2000-D018) received on July 23, 2002; to the Committee on Armed Services.

EC-8195. A communication from the Deputy Chief of Naval Operations, Fleet Readiness and Logistics, Department of the Navy, transmitting, pursuant to law, a report to convert to performance by the private sector the Mail and Travel Services functions at Space and Naval Warfare Systems Center San Diego, CA; to the Committee on Armed Services.

EC-8196. A communication from the Director, Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Acquisition of Commercial Items" (DFARS Case 95-D712) received on July 23, 2002; to the Committee on Armed Services.

EC-8197. A communication from the Deputy Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC-8198. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary of Defense (Reserve Affairs), received on July 23, 2002; to the Committee on Armed Services.

EC-8199. A communication from the Under Secretary of Defense, Acquisition and Technology, transmitting, pursuant to law, a report setting forth the proposed amount of



staff-years of technical effort (STEs) to be funded by the Department of Defense for each FFRDC for Fiscal Year 2003; to the Committee on Armed Services.

EC-8200. A communication from the Director of Defense Research and Engineering, Department of Defense, transmitting, pursuant to law, the Annual Report of the Strategic Environmental Research and Development Program for Fiscal Year 2001; to the Committee on Armed Services.

EC-8201. A communication from the Assistant to the Secretary of Defense, Nuclear and Chemical and Biological Defense Programs, transmitting, pursuant to law, the Report on the Technology Development Efforts, Concept-of-Operations, and Acquisition Plans to Use Unmanned Aerial Vehicles in Chemical and Biological Defense; to the Committee on Armed Services.

EC-8202. A communication from the Assistant Secretary of Defense, Force Management Policy, transmitting, pursuant to law, the Report of the Ninth Quadrennial Review of Military Compensation; to the Committee on Armed Services.

EC-8203. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on information on executive branch spending and programmatic initiatives for Fiscal Year 2001 through Fiscal Year 2003; to the Committee on Armed Services.

EC-8204. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer for the position of Assistant Secretary, Tax Policy, received on July 18, 2002; to the Committee on Finance.

EC-8205. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a nomination confirmed for the position of Deputy Under Secretary, Designated Assistant Secretary, International Affairs, received on July 18, 2002; to the Committee on Finance.

EC-8206. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary, Enforcement, received on July 18, 2002; to the Committee on Finance.

EC-8207. A communication from the Chief, Regulations Branch, United States Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Merchandise Processing Fee Eligible to be Claimed as Unused Merchandise Drawback" (RIN1515-AC67) received on July 23, 2002; to the Committee on Finance.

EC-8208. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Taxable Years of Partner and Partnership; Foreign Partners" (RIN1545-AY66) received on July 24, 2002; to the Committee on Finance.

EC-8209. A communication from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, the Aquatic Resources Trust Fund Annual Report for 2001 and the Oil Spill Liability Trust Fund Annual Report for 2001; to the Committee on Finance.

EC-8210. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Guidance Under Subpart F Relating to Partnerships" (RIN1545-AY45) received on July 23, 2002; to the Committee on Finance.

EC-8211. A communication from the Chief, Regulations Unit, Internal Revenue Service,

Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "TD 9005: Refund of Mistaken Contributions and Withdrawal Liability Payments" (RIN1545-BA87) received on July 23, 2002; to the Committee on Finance.

EC-8212. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Rev. Rul. 69-259, Modification of" (Rev. Rul. 2002-50) received on July 23, 2002; to the Committee on Finance.

EC-8213. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Notice to Interest Parties" (REG-129608) received on July 23, 2002; to the Committee on Finance.

EC-8214. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Compromise of Tax Liabilities" (RIN1545-AW87) received on July 23, 2002; to the Committee on Finance.

EC-8215. A communication from the Chief, Regulations Branch, United States Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Access to Customs Security Areas at Airports" (RIN1515-AD04) received on July 24, 2002; to the Committee on Finance.

EC-8216. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed manufacturing license agreement with Canada; to the Committee on Foreign Relations.

EC-8217. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of \$50,000,000 or more to Greece, Belgium, France, Israel, South Korea, the Netherlands and the United Kingdom; to the Committee on Foreign Relations.

EC-8218. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of \$50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC-8219. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC-8220. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to India and Pakistan; to the Committee on Foreign Relations.

EC-8221. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of \$50,000,000 or more to the United Kingdom; to the Committee on Foreign Relations.

EC-8222. A communication from the Assistant Secretary of Legislative Affairs, Depart-

ment of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC-8223. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification regarding the proposed transfer of major defense equipment valued (in terms of its original acquisition cost) at \$14,000,000 or more to The Government of Germany; to the Committee on Foreign Relations.

EC-8224. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC-8225. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC-8226. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC-8227. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC-8228. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC-8229. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC-8230. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC-8231. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC-8232. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of \$50,000,000 or more to Canada; to the Committee on Foreign Relations.

EC-8233. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC-8234. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the

Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC-8235. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC-8236. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC-8237. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC-8238. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC-8239. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC-8240. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of \$50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC-8241. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC-8242. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed manufacturing license agreement with Italy that also involves the export of defense articles and defense services in the amount of \$50,000,000 or more to Italy and Greece; to the Committee on Foreign Relations.

EC-8243. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of \$50,000,000 or more to Australia and Poland; to the Committee on Foreign Relations.

EC-8244. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC-8245. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles or defense services

sold commercially under a contract in the amount of \$50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC-8246. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC-8247. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC-8248. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC-8249. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC-8250. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed manufacturing license with Japan; to the Committee on Foreign Relations.

EC-8251. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC-8252. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC-8253. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC-8254. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of text and background statements of international agreements other than treaties; to the Committee on Foreign Relations.

EC-8255. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of \$50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC-8256. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of \$50,000,000 or more to the United Kingdom; to the Committee on Foreign Relations.

EC-8257. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the

Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC-8258. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense services or defense articles sold commercially under a contract in the amount of \$50,000,000 or more to South Korea; to the Committee on Foreign Relations.

EC-8259. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of \$50,000,000 or more with United Kingdom; to the Committee on Foreign Relations.

EC-8260. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed manufacturing license agreement (MLA) with Japan; to the Committee on Foreign Relations.

EC-8261. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of technical data and defense services to India; to the Committee on Foreign Relations.

EC-8262. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC-8263. A communication from the Chairman, Federal Labor Relations Authority, transmitting, pursuant to law, the report of a nomination for the position of General Counsel, received on July 16, 2002; to the Committee on Governmental Affairs.

EC-8264. A communication from the Secretary, Chief Administrative Officer, Postal Rate Commission, transmitting, pursuant to law, the report of a nomination for the position of Commissioner, received on July 16, 2002; to the Committee on Governmental Affairs.

EC-8265. A communication from the General Counsel, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary for Policy Development and Research, received on July 18, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-8266. A communication from the Chairman, Federal Accounting Standards Advisory Board, transmitting, pursuant to law, a report entitled "Eliminating the Category National Defense Property, Plant, and Equipment"; to the Committee on Governmental Affairs.

EC-8267. A communication from the Director, Workforce Compensation and Performance Service, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Cost-of-Living Allowances (Nonforeign Areas); Methodology Changes" (RIN3206-AJ40; RIN3206-AJ41) received on July 23, 2002; to the Committee on Governmental Affairs.

EC-8268. A communication from the District of Columbia Auditor, transmitting, a report entitled "Audit of Advisory Neighborhood Commission 7C for Fiscal Year 1999, 2000, 2001, and 2002 through December 31, 2001

(10/01/98 through 12/31/01)"; to the Committee on Governmental Affairs.

EC-8269. A communication from the District of Columbia Auditor, transmitting, a report entitled "Audit of Advisory Neighborhood Commission 6A for the Period July 1, 1998 through September 30, 2001"; to the Committee on Governmental Affairs.

EC-8270. A communication from the Assistant Secretary, Financial Markets, Department of the Treasury, transmitting, pursuant to law, a report concerning the public debt outstanding would exceed the statutory limit of \$5.95 trillion no later than May 16 and, as a result, a "debt issuance suspension period" would begin no later than May 16 and end on June 28, 2002; to the Committee on Governmental Affairs.

EC-8271. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-438, "Lead-Based Paint Abatement and Control Temporary Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC-8272. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-439, "Department of Human Services Mental Retardation and Developmental Disabilities Administration Funding Authorization Temporary Act of 2002"; to the Committee on Governmental Affairs.

EC-8273. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-437, "Abandoned and Vacant Properties Community Development Disposition, and Disapproval of Disposition of Certain Scattered Vacant and Abandoned Properties Temporary Act of 2002"; to the Committee on Governmental Affairs.

EC-8274. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-431, "Business Improvement Districts Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC-8275. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-432, "Civil Commitment of Citizens with Mental Retardation Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC-8276. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-436, "Disability Compensation Program Transfer Temporary Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC-8277. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-435, "Square 456 Payment in Lieu of Taxes Extension Temporary Act of 2002"; to the Committee on Governmental Affairs.

EC-8278. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-434, "Contract No. DCFRA 00-C-030B (Capital Improvements and Renovations to Various Metropolitan Police Department Facilities) Exemption Temporary Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC-8279. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-428, "Government Reports Electronic Publication Requirement Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC-8280. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report

on D.C. Act 14-429, "Free Clinic Assistance Program Extension Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC-8281. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-430, "Education and Examination Exemption for Respiratory Care Practitioners Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC-8282. A communication from the Acting General Counsel, National Endowment for the Arts, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer for the position of Chairman, received on July 18, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-8283. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "PBGC Benefit Payments" (RIN1212-AA82) received on July 23, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-8284. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the Community Services Block Grant Discretionary Activities: Community Economic Development Program (CEDP) Projects Funded During Fiscal Year 1997; to the Committee on Health, Education, Labor, and Pensions.

EC-8285. A communication from the Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the report of a rule entitled "Federal Sector Equal Employment Opportunity" (RIN3046-AA57) received on July 23, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-8286. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits" received on July 23, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-8287. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "State Certification of Mammography Facilities" (RIN0910-AB98) received on July 23, 2002; to the Committee on Health, Education, Labor, and Pensions.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JEFFORDS, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1961: A bill to improve financial and environmental sustainability of the water programs of the United States. (Rept. No. 107-228).

## 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. HARKIN:

S. 2812. A bill to fully enforce guidance on single sum distributions from cash balance plans, and for other purposes; to the Committee on Finance.

By Mr. SMITH of New Hampshire (for himself, Mr. CRAPO, and Mr. INHOFE):  
S. 2813. A bill to improve the financial and environmental sustainability of the water programs of the United States; to the Committee on Environment and Public Works.

By Mr. DORGAN (for himself, Mr. ROBERTS, Mr. CONRAD, Mr. JOHNSON, and Mr. BROWNBACK):

S. 2814. A bill to amend the Farm Security and Rural Investment Act of 2002 to clarify the rates applicable to marketing assistance loans and loan deficiency payments for other oilseeds; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SMITH of New Hampshire (by request):

S. 2815. A bill to amend the Clean Air Act to reduce air pollution through expansion of cap and trade programs, to provide an alternative regulatory classification for units subject to the cap and trade programs, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. MCCAIN, Mr. DEWINE, Ms. LANDRIEU, Mr. JOHNSON, Mrs. CARNAHAN, Mr. HATCH, Mr. ROCKEFELLER, Mrs. LINCOLN, Mr. TORRICE, Mr. DURBIN, Mr. MURKOWSKI, and Mr. KERRY):

S. 2816. A bill to amend the Internal Revenue Code of 1986 to improve tax equity for military personnel, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. HOLLINGS, Mr. BOND, and Ms. MIKULSKI):

S. 2817. A bill to authorize appropriations for fiscal years 2003, 2004, 2005, 2006, and 2007 for the National Science Foundation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GREGG:

S. 2818. A bill to amend the Federal Food, Drug, and Cosmetic Act to ensure that there is competition in the pharmaceutical industry and increased access to affordable drugs; to the Committee on Health, Education, Labor, and Pensions.

## ADDITIONAL COSPONSORS

S. 486

At the request of Mr. LEAHY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 486, a bill to reduce the risk that innocent persons may be executed, and for other purposes.

S. 674

At the request of Ms. COLLINS, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 674, a bill to amend the Internal Revenue Code of 1986 to provide new tax incentives to make health insurance more affordable for small businesses, and for other purposes.

S. 847

At the request of Mr. DAYTON, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 847, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 1226

At the request of Mr. CAMPBELL, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1226, a bill to require the display of the POW/MIA flag at the World War II memorial, the Korean War Veterans Memorial, and the Vietnam Veterans Memorial.

S. 1394

At the request of Mr. ENSIGN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1394, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 1523

At the request of Mrs. FEINSTEIN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1523, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 1605

At the request of Mr. CONRAD, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 1605, a bill to amend title XVIII of the Social Security Act to provide for payment under the Medicare Program for four hemodialysis treatments per week for certain patients, to provide for an increased update in the composite payment rate for dialysis treatments, and for other purposes.

S. 1679

At the request of Mr. CONRAD, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 1679, a bill to amend title XVIII of the Social Security Act to accelerate the reduction on the amount of beneficiary copayment liability for medicare outpatient services.

S. 1785

At the request of Mr. CLELAND, the names of the Senator from New Jersey (Mr. TORRICELLI) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 1785, a bill to urge the President to establish the White House Commission on National Military Appreciation Month, and for other purposes.

S. 2027

At the request of Mr. DURBIN, the name of the Senator from Louisiana (Mr. LANDRIEU) was added as a cosponsor of S. 2027, a bill to implement effective measures to stop trade in conflict diamonds, and for other purposes.

S. 2268

At the request of Mr. MILLER, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of S. 2268, a bill to amend the Act establishing the Department of Commerce to protect manufacturers and sellers in the firearms and ammunition industry from restrictions on interstate or foreign commerce.

S. 2505

At the request of Mr. KENNEDY, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 2505, a bill to promote the national security of the United States through international educational and cultural exchange programs between the United States and the Islamic world, and for other purposes.

S. 2634

At the request of Mrs. CLINTON, the name of the Senator from Delaware

(Mr. BIDEN) was added as a cosponsor of S. 2634, a bill to establish within the National Park Service the 225th Anniversary of the American Revolution Commemorative Program, and for other purposes.

S. 2712

At the request of Mr. HAGEL, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 2712, a bill to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries.

S. 2762

At the request of Mr. THOMAS, the names of the Senator from Kansas (Mr. ROBERTS), the Senator from North Carolina (Mr. HELMS) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. 2762, a bill to amend the Internal Revenue Code of 1986 to provide involuntary conversion tax relief for producers forced to sell livestock due to weather-related conditions or Federal land management agency policy or action, and for other purposes.

S. RES. 242

At the request of Mr. THURMOND, the names of the Senator from Alabama (Mr. SHELBY) and the Senator from Tennessee (Mr. FRIST) were added as cosponsors of S. Res. 242, a resolution designating August 16, 2002, as "National Airborne Day".

AMENDMENT NO. 4326

At the request of Mr. MCCONNELL, the names of the Senator from Arkansas (Mr. HUTCHINSON) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of amendment No. 4326 proposed to S. 812, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SMITH of New Hampshire (for himself, Mr. CRAPO, and Mr. INHOFE):

S. 2813. A bill to improve the financial and environmental sustainability of the water programs of the United States; to the Committee on Environment and Public Works.

Mr. SMITH of New Hampshire. Mr. President, I am pleased to be joining my colleagues on the Environment and Public Works Committee to introduce the Water Quality Investment Act of 2002. When I became Chairman of the Committee in 1999, one of my top priorities was a renewed commitment to our Nation's water systems and the Americans served by them. Senator CRAPO, as Chairman of the Fisheries, Wildlife and Water Subcommittee shared my commitment and made this issue a focus of his subcommittee.

Earlier this year, I joined with Chairmen JEFFORDS and GRAHAM, as well as Senator CRAPO, to introduce S. 1961, the Water Investment Act. This was a

strong bipartisan bill that took compromise by all four members to achieve. Unfortunately, the bill that was reported out of Committee was a partisan proposal that added several provisions that will prevent the bill from moving forward. Our majority colleagues insisted on changing the principled funding formula included in S. 1961 for a politically driven one that has no hope of surviving the lengthy legislative process while also compromising the needs of the country's small States. Further, they added Davis Bacon, an onerous labor provision that continues to divide the Senate and only serves to cloud the future of an otherwise strong bill.

While I can no longer support S. 1961, clean water remains one of my top priorities as the Ranking Republican on the EPW Committee. Therefore, I join Senators INHOFE and CRAPO today in introducing a streamlined bill that is free of the controversies that now plague S. 1961.

I am a strong advocate of limited government and when it comes to water infrastructure, I do not believe the primary responsibility of financing local water needs lies with the Federal Government. I am equally adamant, however, that the Federal Government should not place unfunded mandates on our local communities. This bill strikes a responsible balance between meeting Federal obligations and maintaining local responsibility and state flexibility.

So much of our Nation's water infrastructure is aging and in desperate need of replacement. Coupled with the aging problem is the cost burden that local communities face in order to comply with ever increasing State and Federal clean water mandates. This bill addresses these problems and makes structural changes to ensure that we avoid a national crisis now and in the future.

The legislation authorizes \$35 billion over the next 5 years in Federal contribution to the total water infrastructure need to help defray the cost of the mandates placed on communities. This is a substantial increase in Federal commitment, but not nearly as high as some would have preferred.

This commitment does not come without additional responsibilities. When the Clean Water Act was amended by Congress in 1987, a debate I remember well, we set up a revolving fund so more Federal money would not be required. The fund would continually revolve providing a continual pool of money for water needs. Unfortunately, appropriations have not kept pace with the Federal share and the funds have not been able to revolve at levels necessary to meet the increasing need. Further, as more Federal mandates have been imposed on local communities, facilities have exhausted their useful life while local officials have found raising water rates unpalatable. Thus, what was not to be

Federal responsibility became a Federal necessity. Now we are faced with a near crisis situation.

This bill makes certain that we do not go down that road again. The Federal government will help to defray the costs of Federal mandates, but with the new money comes a new requirement that all utilities do a better job of managing their funds and plan for future costs. The bill requires utilities to assess the condition of their facility and pipes and develop a plan to pay for the long-term repair and replacement of these assets. That plan will include Federal assistance, but it will be limited assistance.

We also make additional structural changes to the law both to address financial concerns and to help achieve improved management of these water systems. One such change to the Clean Water Act is to incorporate a Drinking Water Act provision that allows States, at their discretion, to provide principal forgiveness on loans and to extend the repayment period for loans to disadvantaged communities. This flexibility will provide help to communities struggling with high combined sewer overflow cost to secure additional financial help. This bill also promotes other important cost saving measures that many communities are already experimenting with throughout the country. It will also provide much needed information and planning tools to communities across the country who are experiencing a months-long drought.

Again, I am disappointed I could not maintain my support for S. 1961, the Water Investment Act. However, the bill that passed the Committee took several steps in the wrong direction by including not only a formula but new mandates and regulatory requirements that will prevent the bill from moving forward. Clean water should be a priority for every member of the Senate. We need to come together around a bill that can go forward. S. 1961 is no longer that bill.

I look forward to working with my colleagues to enact the Water Quality Investment Act this year and commemorate the 30th Anniversary of the Clean Water Act with a renewed commitment to the nation's waterways and the people who depend on them.

Mr. CRAPO. Mr. President, I rise with my colleague, Senator BOB SMITH, to introduce the Water Quality Investment Act of 2002. We are introducing this legislation to reinvigorate the debate on investing in our Nation's water and wastewater infrastructure.

When I became Chairman of the Fisheries, Wildlife, and Water Subcommittee, I began the long process of assessing the performance of our water and wastewater infrastructure statutes and exploring needed improvements to address outstanding problems. With the able partnership of Senator SMITH, over the past 3 years, I convened many hearings and meeting with the stakeholders and agency officials to better

understand how to address the problems of communities with unmet water and wastewater infrastructure needs.

Earlier this year, Senator SMITH and I joined with Senator BOB GRAHAM and Senator JIM JEFFORDS to introduce S. 1961, the Water Investment Act. As introduced, this measure represented a strong and principled bipartisan measure. The major facets of the bill, heightened investment levels in our infrastructure, increased flexibility to states, and strong accountability by utilities, reflect the commonalities of need and recommendations by stakeholders, experts, and communities. I commend my colleagues for their hard work and the partnership we established in putting together a model bill, which was closely followed by our colleagues in the House of Representatives.

I am proud of the overwhelming support that bill generated. As introduced, S. 1961 represented the collaboration and hard work of many who recognize that the goal of assisting communities should be our guiding principle. Too many communities are waiting for the assistance this bill will provide to see the legislation brought down by difficult, unnecessary proposals.

While by no means perfect, I hoped the committee process would not turn this legislation into a vehicle for individual proposals and controversial concepts. Against my hope, S. 1961 started to unravel as some worked to undermine the compromise and the bipartisan nature of the legislation. As you are well aware, the markup for S. 1961 was contentious and divisive. It was unfortunate that S. 1961, which started out as a bipartisan effort between the four principals, ended up in partisan votes. Despite many warnings, some felt it necessary to bring this legislation down simply to advance narrow agendas.

I have welcomed the opportunity to work again with committed stakeholders and others to craft this carefully-balanced measure. This new bill builds upon the foundations of S. 1961 as introduced and adds important refinements brought forward by the affected communities and stakeholders. It is a proposal that serves the critical needs of our nation's water and wastewater infrastructure in a cost-effective and responsible manner.

I look forward to the Senate's consideration of a sound, balanced, and carefully-deliberated bill to address the water and wastewater needs of the Nation. I believe all of us share that goal and we should all rally around the Water Quality Investment Act as the means to achieve that goal.

By Mr. DORGAN (for himself, Mr. ROBERTS, Mr. CONRAD, Mr. JOHNSON, and Mr. BROWNBACK):

S. 2814. A bill to amend the Farm Security and Rural Investment Act of 2002 to clarify the rates applicable to marketing assistance loans and loan deficiency payments for other oilseeds;

to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DORGAN. Mr. President, today, along with Senators ROBERTS, CONRAD, JOHNSON and BROWNBACK, I am introducing legislation to clarify Congressional intent regarding minor oilseed loan rates in the Farm Security and Rural Investment Act, FSRIA, of 2002.

In early June, the United States Department of Agriculture incorrectly interpreted the intent of the new farm bill when the Farm Service Agency arbitrarily announced a wide range of minor oilseed loan rates. For some crops, the loan rate increased substantially, while for others, the rates plunged.

Not once during the farm bill debate was there ever discussion of splitting apart minor oilseed loan rates. In fact, the minor oilseed industry and farmers alike anticipated a county-level increase in loan rates from \$9.30 to \$9.60/cwt. The announcement by the Farm Service Agency caught virtually everyone in the agriculture community by surprise.

This legislation is intended to correct this misinterpretation of the new farm bill, and to prevent what will certainly be extreme acreage shifts among these crops in the coming years should these rates be allowed to stand. These acreage shifts will destroy segments of the minor oilseed industry that have been painstakingly developed over a number of years.

For instance, already, users of the oil derived from oil sunflowers anticipate supply shortages next year and have indicated they may remove sunflower oil from their product mix. Conversely, incentives caused by the much higher confectionery sunflower loan rate could deluge USDA with massive loan forfeitures of low quality confectionery sunflowers if farmers simply grow for the loan rate rather than a quality crop that has a market.

The legislation amends the new farm bill by simply—and redundantly—listing each minor oilseed's loan rate separately. The legislation also reinstates the crambe and sesame seed loan rates that were eliminated by USDA.

This legislation should not be needed. USDA could easily repeal the current announcement of minor oilseed loan rates in favor of rates consistent with this legislation and the new farm bill, as I and my colleagues have asked in recent letters on this issue.

I request 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. 2814

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS FOR OTHER OLSEEDS.**

(a) DEFINITION OF OTHER OLSEED.—Section 1001(9) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7901(9)) is

amended by inserting "crambe, sesame seed," after "mustard seed."

(b) LOAN RATES FOR NONRECOURSE MARKETING ASSISTANCE LOANS.—Section 1202 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7932) is amended—

(1) in subsection (a), by striking paragraph (10) and inserting the following:

"(10) In the case of other oilseeds:

"(A) In the case of oil sunflower seed, confectionery sunflower seed, and other types of sunflower seed, \$.0960 per pound, except that the Secretary shall establish a single sunflower loan rate in each county for all seed described in this subparagraph.

"(B) In the case of rapeseed, \$.0960 per pound.

"(C) In the case of canola, \$.0960 per pound.

"(D) In the case of safflower, \$.0960 per pound.

"(E) In the case of flaxseed, \$.0960 per pound.

"(F) In the case of mustard seed, \$.0960 per pound.

"(G) In the case of crambe, \$.0960 per pound.

"(H) In the case of sesame seed, \$.0960 per pound.

"(I) In the case of another oilseed designated by the Secretary, \$.0960 per pound."; and

(2) in subsection (b), by striking paragraph (10) and inserting the following:

"(10) In the case of other oilseeds:

"(A) In the case of oil sunflower seed, confectionery sunflower seed, and other types of sunflower seed, \$.0930 per pound, except that the Secretary shall establish a single sunflower loan rate in each county for all seed described in this subparagraph.

"(B) In the case of rapeseed, \$.0930 per pound.

"(C) In the case of canola, \$.0930 per pound.

"(D) In the case of safflower, \$.0930 per pound.

"(E) In the case of flaxseed, \$.0930 per pound.

"(F) In the case of mustard seed, \$.0930 per pound.

"(G) In the case of crambe, \$.0930 per pound.

"(H) In the case of sesame seed, \$.0930 per pound.

"(I) In the case of another oilseed designated by the Secretary, \$.0930 per pound.".

(c) REPAYMENT OF LOANS.—Section 1204 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7934) is amended—

(1) in subsection (a), by striking "and extra long staple cotton" and inserting "extra long staple cotton, oil sunflower seed, confectionery sunflower seed, or any other type of sunflower seed";

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following:

"(f) REPAYMENT RATES FOR SUNFLOWER SEEDS.—The Secretary shall permit the producers on a farm to repay a marketing assistance loan under section 1201 for oil sunflower seed, confectionery sunflower seed, or any other type of sunflower seed at a rate that is the lesser of—

"(1) the loan rate established for the commodity under section 1202, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)); or

"(2) the repayment rate established (on the basis of the prevailing market price) for oil sunflower seed.".

By Mr. SMITH of New Hampshire  
(by request):

S. 2815. A bill to amend the Clean Air Act to reduce air pollution through ex-

pansion of cap and trade programs, to provide an alternative regulatory classification for units subject to the cap and trade programs, and for other purposes; to the Committee on Environment and Public Works.

Mr. SMITH of New Hampshire. Mr. President, today, at the request of the President of the United States, I am introducing his proposal to address power plant pollution in the Nation. Introduction of his bill is an important step forward in the long progress of amending the Clean Air to ensure that we are both improving air quality and building upon the most successful environmental program in Federal law, the Acid Rain Program.

One of the first goals that I announced when I became Chairman of the Environment and Public Works Committee in 1999 was to craft a multi-emissions bill for the utility sector. It was a new idea at the time, and we have had to work hard since then to build support for the concept. Recently the Environment and Public Works Committee held a markup during which four separate legislative approaches to a multi-pollutant system were considered, one of those was a complete substitute that I presented to my colleagues.

Today the President offers us a fifth option for our consideration. Each of these legislative drafts contain worthy and groundbreaking ideas as to how we can move forward on the difficult area of reducing air pollution without harming our economy. None is exactly like the others, and there are some clear policy differences among them. I am obviously partial to my own approach, but all five should be discussed. I am confident that the Senate can, if we work together in a bipartisan fashion, find a consensus approach that will be acceptable to a majority of Senators.

I look forward to that process, and I welcome the President to that debate.

I ask unanimous consent to print in the RECORD a summary of the President's legislation that was provided by the Administration, and that the text of the bill also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### SUMMARY OF CLEAR SKIES ACT OF 2002

The Clear Skies Act of 2002 (Clear Skies Act) amends Title IV of the Clean Air Act to establish new cap-and-trade programs requiring reductions of sulfur dioxide, nitrogen oxides, and mercury emissions from electric generating facilities and amends Title I of the Clean Air Act to provide an alternative regulatory classification for units subject to the cap and trade programs.

Common Provisions: The Clear Skies Act establishes a new Part A, which contains the program elements shared by the sulfur dioxide, nitrogen oxides, and mercury programs. A cap-and-trade program will be implemented for each pollutant. Common definitions, allowance system procedures, monitoring, permitting and compliance requirements, penalties for non-compliance, and auction procedures apply to the new trading programs and are modeled largely after the existing Acid Rain Program.

Under Section 403, the Administrator must establish an allowance system for sulfur dioxide, nitrogen oxide, and mercury that is essentially the same as in the existing Acid Rain Program but that provides for safety valve, i.e., a direct sale of allowances by the Administrator at a fixed price for use in meeting the requirement to hold allowances at least equal to annual emissions.

Under Section 404, the new trading programs must be reflected in Title V permits. This is similar to the permitting provisions of the existing Acid Rain Program.

Under Section 405, affected units must meet essentially the same type of continuous emission monitoring and reporting requirements under the new trading programs as under the Acid Rain Program.

Under Section 406, a graduated, automatic excess emissions penalty replaces the existing single, automatic penalty under the Acid Rain Program.

Under Section 407, fossil-fuel fired boilers, turbines, and integrated gasification combined cycle plants that are not otherwise subject to the new sulfur dioxide, nitrogen oxides, and mercury trading programs may opt into these program if certain requirements are met. Once a unit opts into the new trading programs, it cannot withdraw.

Section 409 requires the Administrator to promulgate regulations for auctions of allowances under the new sulfur dioxide, nitrogen oxides, and mercury trading programs. All auction proceeds will go to the general Treasury.

Section 410 establishes criteria and the process by which the Administrator may recommend to Congress adjustment of the total amounts of allowances available (whether through allocation or auction) starting in 2018 under the new sulfur dioxide, nitrogen oxides, and mercury trading programs.

Sulfur Dioxide Emissions Reductions: The Clear Skies Act establishes Part B, which retains in Sections 411–419, with few changes, the relevant requirements of the existing Acid Rain Program through December 31, 2009 and contains in Sections 421–434 the new, lower annual caps on total sulfur dioxide emissions and new allocation procedures starting January 1, 2010.

Under Section 421, the new sulfur dioxide trading program covers units in the U.S. and its territories. The program includes existing fossil fuel-fired electricity generating boilers and turbines and integrated gasification combined cycle plants with generators having a nameplate capacity of greater than 25 MW with certain exceptions for cogeneration units. The program also includes new fossil fuel-fired electricity generating boilers and turbines and integrated gasification combined cycle plants regardless of size, except for gas-fired units serving one or more generators with total nameplate capacity of 25 MW or less and certain new cogeneration units. In addition, solid waste incineration units and units for treatment, storage, or disposal of hazardous waste are exempted.

Under Section 422, compliance with the requirement to hold allowances covering sulfur dioxide emissions in the new trading program will be determined on a facility-wide basis. The owner or operator must hold allowances for all the affected units at a facility at least equal to the total sulfur dioxide emissions for those units during the year.

Under Section 423, annual sulfur dioxide emissions for affected units are capped at 4.5 million tons starting in 2010 and 3.0 million tons starting in 2018. During the first year of the program, 99 percent of the allowances will be allocated to affected units with an auction for the remaining 1 percent. Each subsequent year, an additional 1 percent of the allowances for twenty years, and then an additional 2.5 percent thereafter, will be auctioned until eventually all the allowances are auctioned.



Under Section 424, allowances are allocated to affected units previously receiving allowances under the Acid Rain Program based on their proportion of the total post-2009 Acid Rain sulfur dioxide allowances currently recorded in their Acid Rain Program allowance accounts. Units that received no allocations under the Acid Rain Program are allocated allowances based on the product of their baseline heat input and a standard emission rate reflective of fuel type. If the Administrator does not promulgate final allocations on a timely basis a default provision takes effect that allocates allowances to Acid Rain Program units based on heat input data collected under that program and auctions other allowances.

Under Section 425, once the Administrator places sulfur dioxide allowances under the new trading program into accounts in the Allowance Tracking System, all year 2010 and later allowances allocated under the Acid Rain Program will be removed from the accounts. All pre-2010 allowances under the Acid Rain Program that have not been used will remain in accounts and may be used to meet the requirement to hold allowances in the new trading program.

Under Section 426, a reserve of 250,000 allowances is established for affected units that combusted bituminous and that, before 2008, install and operate sulfur dioxide control technology and continue to combust such coal. The procedure established for submission of applications by owners and operators and approval of applications and award of allowances by the Administrator is designed to ensure that approval of those projects will result in the largest amount of sulfur dioxide emission reductions achieved per allowance awarded.

Under Sections 431–434, a separate emission limitation and cap-and-trade program are provided for the States in the Western Regional Air Partnership (WRAP). The cap-and-trade program for the WRAP States goes into effect the third year after the year 2018 or later when sulfur dioxide emissions for these units exceed 271,000 tons. This cap-and-trade program is analogous to the new nation-wide sulfur dioxide trading program but establishes a second sulfur dioxide emission limitation only for these WRAP units, which will be subject to both the regional and the nationwide programs.

**Nitrogen Oxides Emissions Reductions:** The Clear Skies Act establishes Part C, which retains in Sections 431–432 the requirements of the existing Acid Rain Program for nitrogen oxides and in Sections 461–465 the requirements of the existing NO<sub>x</sub> State Implementation (SIP) call under Section 110 of the Clean Air Act through December 31, 2007; and contains in Sections 451–454 the new, annual caps on total allowances and new, allocation procedures starting January 1, 2008.

Under Section 451, the new nitrogen oxides trading program covers the same units in the U.S. and its territories as the new sulfur dioxide trading program, but separate cap-and-trade systems are established for Zone 1 (largely the eastern and part of the central portions of the U.S.) and Zone 2 (the remainder of the U.S. and territories).

Under Section 452, compliance with the requirement to hold allowances covering nitrogen oxides emissions will be determined on a facility-wide basis, analogous to the way compliance is determined under the new sulfur dioxide trading programs. Only allowances issued for the zone in which the facility is located can be used for compliance for that facility.

Under Section 453, annual NO<sub>x</sub> emissions for affected units in Zone 1 are capped at 1.562 million tons starting in 2008 and 1.162 million tons starting in 2010. Zone 2 annual emissions are capped at 538,000 tons. Each

year, the percentages of allowances allocated and auctioned each year are the same as under the new sulfur trading program.

Under Section 454, allowances are allocated to affected units based on the proportionate share of their baseline heat input to total heat input of the units in their respective zone. If the Administrator does not promulgate final allocations on a timely basis, a default provision, like that under the new sulfur dioxide trading program, takes effect.

Sections 461–456 contains provisions that codify the emission reduction requirements of the NO<sub>x</sub> SIP Call that covers the eastern U.S. The SIPs are required to be consistent with the NO<sub>x</sub> emission budgets established under the NO<sub>x</sub> SIP Call. SIPs must be submitted for certain full States and for certain portions of some States as determined proposed by the Administrator in the rule-making that commenced February 22, 2002.

**Mercury Emission Reductions:** The Clear Skies Act establishes Part D, which contains the new, annual caps on total mercury allowances and new, allocation procedures starting January 1, 2010.

Under Section 471, the new mercury trading program covers coal-fired units that are covered by the new sulfur dioxide and nitrogen oxides trading programs.

Under Section 472, compliance with the requirement to hold allowances covering mercury emissions will be determined on a facility-wide basis, analogous to the way compliance is determined under the new sulfur dioxide and nitrogen oxides trading programs.

Under Section 473, annual mercury emission are capped at 26 tons starting in 2010 and 15 tons starting in 2018. Each year, the percentages of allowances allocated and auctioned each year are the same as under the new sulfur and nitrogen oxides trading programs.

Under Section 474, allowances are allocated to affected units based on the proportionate share of their baseline heat input to total heat input of all affected units. For purposes of allocating the allowances, each unit's baseline heat input is adjusted to reflect the types of coal combusted by the unit during the baseline period. If the Administrator does not promulgate final allocations on a timely basis, a default provision, like that under the new sulfur dioxide and nitrogen oxides trading programs, takes effect.

**Performance Standards for New Sources:** To ensure that all new affected units have appropriate controls, Part E establishes, in section 481, performance standards for all new boilers, combustion turbines, and integrated gasification combined cycle plants (IGCCs) covered under the Act.

“New” units are those that commence construction or reconstruction after the date of enactment. The standards also apply to “modified” units that opt to meet the applicable performance standard in lieu of case-specific BACT.

These statutory performance standards include emission limits for four pollutants: nitrogen oxides (NO<sub>x</sub>); sulfur dioxide (SO<sub>2</sub>); mercury (Hg); and particulate matter (PM). The Hg emission limit applies only to coal. In addition, a PM emission limit is established for existing oil-fired boilers to ensure reductions of nickel from such units. All units subject to a performance standard must monitor emissions using CEMS and use averaging times similar to current NSPS.

Boilers and IGCCs are subject to a SO<sub>2</sub> emission limit of 2.0 lb/MWh; a NO<sub>x</sub> emission limit of 1.0 lb/MWh; and a PM emission limit of 0.20 lb/MWh. Coal-fired boilers and IGCCs are subject to a Hg emission limit of 0.015 lb/GWh; however, alternative standards would apply in some circumstances. Coal-fired combustion turbines are subject to the same NO<sub>x</sub>, SO<sub>2</sub>, PM, and Hg emission limits as

boilers and IGCCs. Oil-fired combustion turbines are subject to NO<sub>x</sub> emission limits ranging from 0.289 lb/MWh to 1.01 lb/MWh, an SO<sub>2</sub> emission limit of 2.0 lb/MWh, and a PM emission limit of 0.20 lb/MWh. Gas-fired combustion turbines are subject to NO<sub>x</sub> emission limits ranging from 0.084 lb/MWh to 0.56 lb/MWh. Existing oil-fired boilers are subject to a PM emission limit of 0.30 lb/MWh.

**Research, Environmental Monitoring, and Assessment:** Section 482 contains provisions for evaluating and reporting the efficacy of the new sulfur dioxide, nitrogen oxides, and mercury trading programs; and providing information concerning whether the total amounts of allowances under these programs starting in 2018 should be adjusted under Section 410.

**Exemption from Major Source Reconstruction Review Requirements and Best Available Retrofit Control Technology Requirements:** Section 483 exempts units from the requirements of New Source Review (NSR). The section also exempts these sources from the requirement to install best available retrofit technology (BART). These exemptions are created by excluding affected sources from being “major stationary sources” for purposes of Part C and D of the Clean Air Act.

Affected units constructed after enactment of the Clear Skies Act must meet the performance standards for NO<sub>x</sub>, SO<sub>2</sub>, PM, and CO specified in Section 481, but a case-by-case review of the appropriate control technology such as BACT or LAER is no longer required. Similarly, modifications at existing affected units must either comply with the performance standards for NO<sub>x</sub>, SO<sub>2</sub>, PM, and CO established in section 481 or comply with BACT. However, to qualify for this exemption from NSR, an existing sources must either commit within three years to meet the existing NSPS limit for PM of 0.03 lb/MMBtu in the future, or have begun to properly operate any existing control technology to reduce PM emissions or otherwise minimize PM emissions according to best operational practices. To qualify for the exemption, an existing source must also use good combustion practices to minimize emissions of carbon monoxide. Permits issued in the past to comply with the requirements of Parts C and D, however, will remain in effect.

To ensure that national parks and other Class I areas are protected, affected units located within 50 km of such an area will remain subject to the requirements in Part C for the protection of such areas.

States must ensure that the construction of new or modified affected units will not cause or contribute to a violation of the NAAQS or interfere with the programs to assure that the NAAQS are met. States also must provide the public with an opportunity to comment on the impact of the affected unit on the NAAQS, or on any Class I areas within 50 km of the facility.

For affected units, the definition of modification is defined to mean changes that increases the hourly emissions of any air pollutant.

S. 2815

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Clear Skies Act of 2002”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:  
Sec. 1. Short title, table of contents.  
Sec. 2. Emission Reduction Programs.

#### “TITLE IV—EMISSION REDUCTION PROGRAMS

##### “PART A—GENERAL PROVISIONS

“Sec. 401. (Reserved)



“Sec. 402. Definitions.  
 “Sec. 403. Allowance system.  
 “Sec. 404. Permits and compliance plans.  
 “Sec. 405. Monitoring, reporting, and record-keeping requirements.  
 “Sec. 406. Excess emissions penalty; general compliance with other provisions; enforcement.  
 “Sec. 407. Election of additional units.  
 “Sec. 408. Clean coal technology regulatory incentives.  
 “Sec. 409. Auctions.  
 “Sec. 410. Evaluation of limitations on total sulfur dioxide, nitrogen oxides, and mercury emissions that start in 2018.

“PART B—SULFUR DIOXIDE EMISSION REDUCTIONS

“Subpart 1—Acid Rain Program

“Sec. 411. Definitions.  
 “Sec. 412. Allowance allocations.  
 “Sec. 413. Phase I sulfur dioxide requirements.  
 “Sec. 414. Phase II sulfur dioxide requirements.  
 “Sec. 415. Allowances for states with emission rates at or below .8 lbs/mmbtu.  
 “Sec. 416. Election for additional sources.  
 “Sec. 417. Auctions, Reserve.  
 “Sec. 418. Industrial sulfur dioxide emissions.  
 “Sec. 419. Termination.

“Subpart 2—Sulfur Dioxide Allowance Program

“Sec. 421. Definitions.  
 “Sec. 422. Applicability.  
 “Sec. 423. Limitations on total emissions.  
 “Sec. 424. Allocations.  
 “Sec. 425. Disposition of sulfur dioxide allowances allocated under subpart 1.  
 “Sec. 426. Incentives for sulfur dioxide emission control technology.

“Subpart 3—Western Regional Air Partnership

“Sec. 431. Definitions.  
 “Sec. 432. Applicability.  
 “Sec. 433. Limitations on total emissions.  
 “Sec. 434. Allocations.

“PART C—NITROGEN OXIDES EMISSIONS REDUCTIONS

“Subpart 1—Acid Rain Program

“Sec. 441. Nitrogen Oxides Emission Reduction Program.  
 “Sec. 442. Termination.

“Subpart 2—Nitrogen Oxides Allowance Program

“Sec. 451. Definitions.  
 “Sec. 452. Applicability.  
 “Sec. 453. Limitations on total emissions.  
 “Sec. 454. Allocations.

“Subpart 3—Ozone Season NO<sub>x</sub> Budget Program

“Sec. 461. Definitions.  
 “Sec. 462. General Provisions.  
 “Sec. 463. Applicable Implementation Plan.  
 “Sec. 464. Termination of Federal Administration of NO<sub>x</sub> Trading Program.  
 “Sec. 465. Carryforward of Pre-2008 Nitrogen Oxides Allowances.

“PART D—MERCURY EMISSION REDUCTIONS

“Sec. 471. Definitions.  
 “Sec. 472. Applicability.  
 “Sec. 473. Limitations on total emissions.  
 “Sec. 474. Allocations.

“PART E—NATIONAL EMISSION STANDARDS; RESEARCH; ENVIRONMENTAL ACCOUNTABILITY; MAJOR SOURCE PRECONSTRUCTION REVIEW AND BEST AVAILABLE RETROFIT CONTROL TECHNOLOGY REQUIREMENTS

“Sec. 481. National emission standards for affected units.

“Sec. 482. Research, environmental monitoring, and assessment.  
 “Sec. 483. Major source preconstruction review and best availability retrofit control technology requirements.”

Sec. 3. Other amendments.  
 Sec. 2. Emission Reduction Programs.  
 Title IV of the Clean Air Act (relating to acid deposition control) (42 U.S.C. 7651, et seq.) is amended to read as follows:

#### “TITLE IV—EMISSION REDUCTION PROGRAMS

##### PART A. GENERAL PROVISIONS

##### SEC. 401. (Reserved)

##### SEC. 402. DEFINITIONS.

As used in this title—

(1) The term “affected EGU” shall have the meaning set forth in section 421, 431, 451, or 471, as appropriate.

(2) The term “affected facility” or “affected source” means a facility or source that includes one or more affected units.

(3) The term “affected unit” means—

(A) Under this part, a unit that is subject to emission reduction requirements or limitations under part B, C, or D or, it applicable, under a specified part or subpart or

(B) Under subpart 1 of part B or subpart 1 of part C, a unit that is subject to emission reduction requirements or limitations under that subpart.

(4) The term “allowance” means—

(A) an authorization, by the Administrator under this title, to emit one ton of sulfur dioxide, one ton of nitrogen oxides, or one ounce of mercury; or

(B) under subpart 1 of part B, an authorization by the Administrator under this title, to emit one ton of sulfur dioxide.

(5)(A) The term “baseline heat input” means, except under subpart 1 of part B and section 407, the average annual heat input used by a unit during the three years in which the unit had the highest heat input for the period 1997 through 2001.

(B) Notwithstanding subparagraph (A),

(i) if a unit commenced operation during 2000, then “baseline heat input” means the average annual heat input used by the unit during 2000–2001; and

(ii) if a unit commenced or commences operation during 2001–2004, then “baseline heat input” means the manufacturer’s design heat input capacity for the unit multiplied by eighty percent for coal-fired units, fifty percent for combined cycle combustion turbines, and five percent for simple cycle combustion turbines.

(C) A unit’s heat input for a year shall be the heat input—

(i) required to be reported under section 405 for the unit, if the unit was required to report heat input during the year under that section;

(ii) reported to the Energy Information Administration for the unit, if the unit was not required to report heat input under section 405;

(iii) based on data for the unit reported to the State where the unit is located as required by State law, if the unit was not required to report heat input during the year under section 405 and did not report to the Energy Information Administration; or

(iv) based on fuel use and fuel heat content data for the unit from fuel purchase or use records, if the unit was not required to report heat input during the year under section 405 and did not report to the Energy Information Administration and the State.

(D) By July 1, 2003, the Administrator shall promulgate regulations, without notice and opportunity for comment, specifying the format in which the information under subparagraphs (B)(ii) and (C)(ii), (iii), or (iv) shall be submitted. By January 1, 2004, the owner or

operator of any unit under subparagraph (B)(ii) or (C)(ii), (iii), or (iv) to which allowances may be allocated under section 424, 434, 454, or 474 shall submit to the Administrator such information. The Administrator is not required to allocate allowances under such sections to a unit for which the owner or operator fails to submit information in accordance with the regulations promulgated under this subparagraph.

(6) The term “clearing price” means the price at which allowances are sold at an auction conducted by the Administrator or, if allowances are sold at an auction conducted by the Administrator at more than one price, the lowest price at which allowances are sold at the auction.

(7) The term “coal” means any solid fuel classified as anthracite, bituminous, sub-bituminous, or lignite.

(8) The term “coal-derived fuel” means any fuel (whether in a solid, liquid, or gaseous state) produced by the mechanical, thermal, or chemical processing of coal.

(9) The term “coal-fired” with regard to a unit means, except under subpart 1 of part B, subpart 1 of part C, and sections 424 and 434, combusting coal or any coal-derived fuel alone or in combination with any amount of any other fuel in any year.

(10) The term “cogeneration unit” means, except under subpart 1 of part B and subpart 1 of part C, a unit that produces through the sequential use of energy:

(A) electricity; and

(B) useful thermal energy (such as heat or steam) for industrial, commercial, heating, or cooling purposes.

(11) The term “combustion turbine” means any combustion turbine that is not self-propelled. The term includes, but is not limited to, a simple cycle combustion turbine, a combined cycle combustion turbine and any duct burner or heat recovery device used to extract heat from the combustion turbine exhaust, and a regenerative combustion turbine. The term does not include a combined turbine in an integrated gasification combined cycle plant.

(12) The term “commence operation” with regard to a unit means start up the unit’s combustion chamber.

(13) The term “compliance plan means either—

(A) a statement that the facility will comply with all applicable requirements under this title, or

(B) under subpart 1 of part B or subpart 1 of part C, a schedule and description of the method or methods for compliance and certification by the owner or operator that the facility is in compliance with the requirements of that subpart.

(14) The term “continuous emission monitoring system” (CEMS) means the equipment as required by section 405, used to sample, analyze, measure, and provide on a continuous basis a permanent record of emissions and flow (expressed in pounds per million British thermal units (lbs/mmBtu), pounds per hour (lbs/hr) or such other form as the Administrator may prescribe by regulations under section 405.

(15) The term “designated representative” means a responsible person or official authorized by the owner or operator of a unit and the facility that includes the unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances, and the submission of and compliance with permits, permit applications, and compliance plans.

(16) The term “duct burner” means a combustion device that uses the exhaust from a combustion turbine to burn fuel for heat recovery.

(17) The term “facility” means all buildings, structures, or installations located on

one or more adjacent properties under common control of the same person or persons.

(18) The term “fossil fuel” means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

(19) The term “fossil fuel-fired” with regard to a unit means combusting fossil fuel, alone or in combination with any amount of other fuel or material.

(20) The term “fuel oil” means a petroleum-based fuel, including diesel fuel or petroleum derivatives.

(21) The term “gas-fired” with regard to a unit means, except under subpart 1 of part B and subpart 1 of part C, combusting only natural gas or fuel oil, with natural gas comprising at least ninety percent, and fuel oil comprising no more than ten percent, of the unit’s total heat input in any year.

(22) The term “gasify” means to convert carbon-containing material into a gas consisting primarily of carbon monoxide and hydrogen.

(23) The term “generator” means a device that produces electricity and, under subpart 1 of part B and subpart 1 of part C, that is reported as a generating unit pursuant to Department of Energy Form 860.

(24) The term “heat input” with regard to a specific period of time means the product (in mmBtu/time) of the gross calorific value of the fuel (in mmBtu/lb) and the fuel feed rate into a unit (in lb of fuel/time) and does not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust.

(25) The term “integrated gasification combined cycle plant” means any combination of equipment used to gasify fossil fuels (with or without other material) and then burn the gas in a combined cycle combustion turbine.

(26) The term “oil-fired” with regard to a unit means, except under section 424 and 434, combusting fuel oil for more than ten percent of the unit’s total heat input, and combusting no coal or coal-derived fuel, in any year.

(27) The term “owner or operator” with regard to a unit or facility means, except for subpart 1 of part B and subpart 1 of part C, any person who owns, leases, operates, controls, or supervises the unit or the facility.

(28) The term “permitting authority” means the Administrator, or the State or local air pollution control agency, with an approved permitting program under title V of the Act.

(29) The term “potential electrical output” with regard to a generator means the nameplate capacity of the generator multiplied by 8,760 hours.

(30) The term “source” means, except for sections 410, 481, and 482, all buildings, structures, or installations located on one or more adjacent properties under common control of the same person or persons.

(31) The term “State” means—

(A) one of the 48 contiguous States, Alaska, Hawaii, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands; or

(B) under subpart 1 of part B and subpart 1 of part C, one of the 48 contiguous States or the District of Columbia; or

(C) under subpart 3 of part B, Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, and Wyoming.

(32) The term “unit” means—

(A) a fossil fuel-fired boiler, combustion turbine, or integrated gasification combined cycle plant; or

(B) under subpart 1 of part B and subpart 1 of part C, a fossil fuel-fired combustion device.

(33) The term “utility unit” shall have the meaning set forth in section 411.

(34) The term “year” means calendar year.

#### SEC. 403. ALLOWANCE SYSTEM.

(a) ALLOCATION IN GENERAL.—(1) For the emission limitation programs under this title, the Administrator shall allocate annual allowances for an affected unit, to be held or distributed by the designated representative of the owner or operator in accordance with this title as follows—

(A) sulfur dioxide allowances in an amount equal to the annual tonnage emission limitation calculated under section 413, 414, 415, or 416 except as otherwise specifically provided elsewhere in subpart 1 of part B, or in an amount calculated under section 424 or 434.

(B) nitrogen oxides allowances in an amount calculated under section 454, and

(C) mercury allowances in an amount calculated under section 474.

(2) Notwithstanding any other provision of law to the contrary, the calculation of the allocation for any unit, and the determination of any values used in such calculation, under sections 424, 434, 454, and 474 shall not be subject to judicial review.

(3) Allowances shall be allocated by the Administrator without cost to the recipient, and shall be auctioned or sold by the Administrator, in accordance with this title.

(b) ALLOWANCE TRANSFER SYSTEM.—Allowances allocated, auctioned, or sold by the Administrator under this title may be transferred among designated representatives of the owners or operators of affected facilities under this title and any other person, as provided by the allowance system regulations promulgated by the Administrator. With regard to sulfur dioxide allowances, the Administrator shall implement this subsection under 40 CFR part 73 (2001), amended as appropriate by the Administrator. With regard to nitrogen oxides allowances and mercury allowances, the Administrator shall implement this subsection by promulgating regulations not later than twenty-four months after the date of enactment of the Clear Skies Act of 2002. The regulations under this subsection shall establish the allowance system prescribed under this section, including, but not limited to, requirements for the allocation, transfer, and use of allowances under this title. Such regulations shall prohibit the use of any allowance prior to the calendar year for which the allowance was allocated or auctioned and shall provide, consistent with the purposes of this title, for the identification of unused allowances, and for such unused allowances to be carried forward and added to allowances allocated in subsequent years, except as otherwise provided in section 425. Such regulations shall provide, or shall be amended to provide, that transfers of allowances shall not be effective until certification of the transfer, signed by a responsible official of the transferor, is received and recorded by the Administrator.

(c) ALLOWANCE TRACKING SYSTEM.—The Administrator shall promulgate regulations establishing a system for issuing, recording, and tracking allowances, which shall specify all necessary procedures and requirements for an orderly and competitive functioning of the allowance system. Such system shall provide, by January 1, 2008, for one or more facility-wide accounts for holding sulfur dioxide allowances, nitrogen oxides allowances, and, if applicable, mercury allowances for all affected units at an affected facility. With regard to sulfur dioxide allowances, the Administrator shall implement this subsection under 40 CFR part 73 (2001), amended as appropriate by the Administrator. With regard to nitrogen oxides allowances and mercury allowances, the Administrator shall implement this subsection by promulgating

regulations not later than twenty-four months after the date of enactment of the Clear Skies Act of 2002. All allowance allocations and transfers shall, upon recordation by the Administrator, be deemed a part of each unit’s or facility’s permit requirements pursuant to section 404, without any further permit review and revision.

(d) NATURE OF ALLOWANCES.—A sulfur dioxide allowance, nitrogen oxides allowance, or mercury allowance allocated, auctioned, or sold by the Administrator under this title is a limited authorization to emit one ton of sulfur dioxide, one ton of nitrogen oxides, or one ounce of mercury, as the case may be, in accordance with the provisions of this title. Such allowance does not constitute a property right. Nothing in this title or in any other provision of law shall be construed to limit the authority of the United States to terminate or limit such authorization. Nothing in this section relating to allowances shall be construed as affecting the application of, or compliance with, any other provision of this Act to an affected unit or facility, including the provisions related to applicable National Ambient Air Quality Standards and State implementation plans. Nothing in this section shall be construed as requiring a change of any kind in any State law regulating electric utility rates and charges or affecting any State law regarding such State regulation or as limiting State regulation (including any prudency review) under such a State law. Nothing in this section shall be construed as modifying the Federal Power Act or as affecting the authority of the Federal Energy Regulatory Commission under that Act. Nothing in this title shall be construed to interfere with or impair any program for competitive bidding for power supply in a State in which such program is established. Allowances, once allocated or auctioned to a person by the Administrator, may be received, held, and temporarily or permanently transferred in accordance with this title and the regulations of the Administrator without regard to whether or not a permit is in effect under title V or section 404 with respect to the unit for which such allowance was originally allocated and recorded.

(e) PROHIBITION.—(1) It shall be unlawful for any person to hold, use, or transfer any allowance allocated, auctioned, or sold by the Administrator under this title, except in accordance with regulations promulgated by the Administrator.

(2) It shall be unlawful for any affected unit or for the affected units at a facility to emit sulfur dioxide, nitrogen oxides, and mercury, as the case may be, during a year in excess of the number of allowances held for that unit or facility for that year by the owner or operator as provided in sections 412(c), 422, 432, 452, and 472.

(3) The owner or operator of a facility may purchase allowances directly from the Administrator to be used only to meet the requirements of sections 422, 432, 452, and 472, as the case may be, for a specified year. Not later than thirty-six months after the date of enactment of the Clear Skies Act of 2002, the Administrator shall promulgate regulations providing for direct sales of sulfur dioxide allowances, nitrogen oxides allowances, and mercury allowances to an owner or operator of a facility. The regulations shall provide that—

(A) such allowances may be used only to meet the requirements of section 422, 432, 452, and 472, as the case may be, for such facility and for a year specified by the Administrator,

(B) each such sulfur dioxide allowance shall be sold for \$4,000, each such nitrogen oxides allowance shall be sold for \$4,000, and each such mercury allowance shall be sold

for \$2,187.50, with such prices adjusted for inflation based on the Consumer Price Index on the date of enactment of the Clear Skies Act of 2002 and annually thereafter,

(C) the proceeds from any sales of allowances under subparagraph (B) shall be deposited in the United States Treasury.

(D) the allowances directly purchased for use for a specified year shall be taken from, and reduce, the amount of sulfur dioxide allowances, nitrogen oxides allowances, or mercury allowances, as the case may be, that would otherwise be auctioned under section 423, 453, or 473 starting for the year after the specified year and continuing for each subsequent year as necessary.

(E) if an owner or operator does not use any such allowance in accordance with paragraph (A),

(i) the owner or operator shall hold the allowance for deduction by the Administrator and

(ii) the Administrator shall deduct the allowance, without refund or other form of recompense, and offer it for sale in the auction from which it was taken under subparagraph (D) or a subsequent relevant auction as necessary.

(F) if the direct sales of allowances result in the removal of all sulfur dioxide allowances, nitrogen oxides allowances, or mercury allowances, as the case may be, from auctions under section 423, 453, or 473 for three consecutive years, the Administrator shall conduct a study to determine whether revisions to the relevant allowance trading program are necessary and shall report the results to the Congress.

(4) Allowances may not be used prior to the calendar year for which they are allocated or auctioned. Nothing in this section or in the allowance system regulations shall relieve the Administrator of the Administrator's permitting, monitoring and enforcement obligations under this Act, nor relieve affected facilities of their requirements and liabilities under the Act.

(f) **COMPETITIVE BIDDING FOR POWER SUPPLY.**—Nothing in this title shall be construed to interfere with or impair any program for competitive bidding for power supply in a State in which such program is established.

(g) **APPLICABILITY OF THE ANTITRUST LAWS.**—

(1) Nothing in this section affects—

(A) the applicability of the antitrust laws to the transfer, use, or sale of allowances, or

(B) the authority of the Federal Energy Regulatory Commission under any provision of law respecting unfair methods of competition or anticompetitive acts or practices.

(2) As used in this section, “antitrust laws” means those Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12), as amended.

(h) **PUBLIC UTILITY HOLDING COMPANY ACT.**—The acquisition or disposition of allowances pursuant to this title including the issuance of securities or the undertaking of any other financing transaction in connection with such allowances shall not be subject to the provisions of the Public Utility Holding Company Act of 1935.

(i) **INTERPOLLUTANT TRADING.**—Not later than July 1, 2009, the Administrator shall furnish to the Congress a study evaluating the environmental and economic consequences of amending this title to permit trading sulfur dioxide allowances for nitrogen oxides allowances.

(j) **INTERNATIONAL TRADING.**—Not later than 24 months after the date of enactment of the Clear Skies Act of 2002, the Administrator shall furnish to the Congress a study evaluating the feasibility of international trading of sulfur dioxide allowances, nitrogen oxides allowances, and mercury allowances.

#### SEC. 404. PERMITS AND COMPLIANCE PLANS.

(a) **PERMIT PROGRAM.**—The provisions of this title shall be implemented, subject to section 403, by permits issued to units and facilities subject to this title and enforced in accordance with the provisions of title V, as modified by this title. Any such permit issued by the Administrator, or by a State with an approved permit program, shall prohibit—

(1) annual emissions of sulfur dioxide, nitrogen oxides, and mercury in excess of the number of allowances required to be held in accordance with sections 412(c), 422, 432, 452, and 472.

(2) exceedances of applicable emissions rates under section 441.

(3) the use of any allowance prior to the year for which it was allocated or auctioned, and

(4) contravention of any other provision of the permit. No permit shall be issued that is inconsistent with the requirements of this title, and title V as applicable.

(b) **COMPLIANCE PLAN.**—Each initial permit application shall be accompanied by a compliance plan for the facility to comply with its requirements under this title. Where an affected facility consists of more than one affected unit, such plan shall cover all such units, and such facility shall be considered a “facility” under section 502(c). Nothing in this section regarding compliance plans or in title V shall be construed as affecting allowances.

(1) submission of a statement by the owner or operator, or the designated representative of the owners and operators, of a unit subject to the emissions limitation requirements of sections 412(c), 413, 414, and 441, that the unit will meet the applicable emissions limitation requirements of such sections in a timely manner or that, in the case of the emissions limitation requirements of sections 412(c), 413, and 414, the owners and operators will hold sulfur dioxide allowances in the amount required by section 412(c), shall be deemed to meet the proposed and approved compliance planning requirements of this section and title V, except that, for any unit that will meet the requirements of this title by means of an alternative method of compliance authorized under section 413 (b), (c), (d), or (f), section 416, and section 441 (d) or (e), the proposed and approved compliance plan, permit application and permit shall include, pursuant to regulations promulgated by the Administrator, for each alternative method of compliance a comprehensive description of the schedule and means by which the unit will rely on one or more alternative methods of compliance in the manner and time authorized under subpart 1 of part B or subpart 1 of part C.

(2) Submission of a statement by the owner or operator, or the designated representative, of a facility that includes a unit subject to the emissions limitation requirements of sections 422, 432, 452, and 472 that the owner or operator will hold sulfur dioxide allowances, nitrogen oxide allowances, and mercury allowances, as the case may be, in the amount required by such sections shall be deemed to meet the proposed and approved compliance planning requirements of this section and title V with regard to subparts A through D.

(3) Recordation by the Administrator of transfers of allowances shall amend automatically all applicable proposed or approved permit applications, compliance plans and permits.

(c) **PERMITS.**—The owner or operator of each facility under this title that includes an affected unit subject to title V shall submit a permit application and compliance plan with regard to the applicable requirements under sections 412(c), 422, 432, 441, 452, and 472

for sulfur dioxide emissions, nitrogen oxide emissions, and mercury emissions from such unit to the permitting authority in accordance with the deadline for submission of permit applications and compliance plans under title V. The permitting authority shall issue a permit to such owner or operator, or the designated representative of such owner or operator, that satisfies the requirements of title V and this title.

(d) **AMENDMENT OF APPLICATION AND COMPLIANCE PLAN.**—At any time after the submission of an application and compliance plan under this section, the applicant may submit a revised application and compliance plan, in accordance with the requirements of this section.

(e) **PROHIBITION.**—It shall be unlawful for an owner or operator, or designated representative, required to submit a permit application or compliance plan under this title to fail to submit such application or plan in accordance with the deadlines specified in this section or to otherwise fail to comply with regulations implementing this section.

(2) It shall be unlawful for any person to operate any facility subject to this title except in compliance with the terms and requirements of a permit application and compliance plan (including amendments thereto) or permit issued by the Administrator or a State with an approved permit program. For purposes of this subsection, compliance, as provided in section 504(f), with a permit issued under title V which complies with this title for facilities subject to this title shall be deemed compliance with this subsection as well as section 502(a).

(3) In order to ensure reliability of electric power, nothing in this title or title V shall be construed as requiring termination of operations of a unit serving a generator for failure to have an approved permit or compliance plan under this section, except that any such unit may be subject to the applicable enforcement provisions of section 113.

(f) **CERTIFICATE OF REPRESENTATION.**—No permit shall be issued under this section to an affected unit or facility until the designated representative of the owners or operators has filed a certificate of representation with regard to matters under this title, including the holding and distribution of allowances and the proceeds of transactions involving allowances.

#### SEC. 405. MONITORING, REPORTING, AND RECORDKEEPING REQUIREMENTS.

(a) **APPLICABILITY.**—(1)(A) The owner and operator of any facility subject to this title shall be required to install and operate CEMS on each affected unit subject to subpart 1 of part B or subpart 1 of part C at the facility, and to quality assure the data, for sulfur dioxide, nitrogen oxides, opacity, and volumetric flow at each such unit.

(B) The Administrator shall, by regulations, specify the requirements for CEMS under subparagraph (A), for any alternative monitoring system that is demonstrated as providing information with the same precision, reliability, accessibility, and timelines as that provided by CEMS, and for recordkeeping and reporting of information from such systems. Such regulations may include limitations on the use of alternative compliance methods by units equipped with an alternative monitoring system as may be necessary to preserve the orderly functioning of the allowance system, and which will ensure the emissions reductions contemplated by this title. Where 2 or more units utilize a single stack, a separate CEMS shall not be required for each unit, and for such units the regulations shall require that the owner or operator collect sufficient information to permit reliable compliance determinations for each such unit.

(2)(A) The owner and operator of any facility subject to this title shall be required to

install and operate CEMS to monitor the emissions from each affected unit at the facility, and to quality assure the data for—

(i) sulfur dioxide, opacity, and volumetric flow for all affected units subject to subpart 2 of part B at the facility,

(ii) nitrogen oxides for all affected units subject to subpart 2 of part C at the facility, and

(iii) mercury for all affected units subject to part D at the facility.

(B)(i) The Administrator shall, by regulations, specify the requirements for CEMS under subparagraph (A), for any alternative monitoring system that is demonstrated as providing information with the same precision, reliability, accessibility, and timeliness as that provided by CEMS, for recordkeeping and reporting of information from such systems, and if necessary under section 474, for monitoring, recordkeeping, and reporting of the mercury content of fuel.

(ii) Notwithstanding the requirements of clause (i), the regulations under clause (i) may specify an alternative monitoring system for determining mercury emissions to the extent that the Administrator determines that CEMS for mercury with appropriate vendor guarantees are not commercially available.

(iii) The regulations under clause (i) may include limitation on the use of alternative compliance methods by units equipped with an alternative monitoring system as may be necessary to preserve the orderly functioning of the allowance system, and which will ensure the emissions reductions contemplated by this title.

(iv) Except as provided in clause (v), the regulations under clause (i) shall not require a separate CEMS for each unit where two or more units utilize a single stack and shall require that the owner or operator collect sufficient information to permit reliable compliance determinations for such units.

(v) The regulations under clause (i) may require a separate CEMS for each unit where two or more units utilize a single stack and another provision of the Act requires data under subparagraph (A) for an individual unit.

(b) DEADLINES.—(1). Upon commencement of commercial operation of each new utility unit under subpart I of part B, the unit shall comply with the requirements of subsection (a)(1).

(2) By the later of January 1, 2009 or the date on which the unit commences operation, the owner or operator of each affected unit under subpart 2 of part B shall install and operate CEMS, quality assure the data, and keep records and reports in accordance with the regulations issued under paragraph (a)(2) with regard to sulfur dioxide, opacity, and volumetric flow.

(3) By the later of January 1 of the year before the first covered year or the date on which the unit commences operation, the owner or operator of each affected unit under subpart 3 of part B shall install and operate CEMS, quality assure the data, and keep records and reports in accordance with the regulations issued under paragraph (a)(2) with regard to sulfur dioxide and volumetric flow.

(4) By the later of January 1, 2007 or the date on which the unit commences operation, the owner or operator of each affected unit under subpart 2 of part C shall install and operate CEMS, quality assure the data, and keep records and reports in accordance with the regulations issued under paragraph (a)(2) with regard to nitrogen oxides, and

(5) By the later of January 1, 2009 or the date on which the unit commences operation, the owner or operator of each affected unit under part D shall install and operate CEMS, quality assure the data, and keep

records and reports in accordance with the regulations issued under paragraph (a)(2) with regard to mercury.

(c) UNAVAILABILITY OF EMISSIONS DATA.—If CEMS data or data from an alternative monitoring system approved by the Administrator under subsection (a) is not available for any affected unit during any period of a calendar year in which such data is required under this title, and the owner or operator cannot provide information, satisfactory to the Administrator, on emissions during that period, the Administrator shall deem the unit to be operating in an uncontrolled manner during the entire period for which the data was not available and shall, by regulation, prescribe means to calculate emissions for that period. The owner or operator shall be liable for excess emissions fees and offsets under section 406 in accordance with such regulations. Any fee due and payable under this subsection shall not diminish the liability of the unit's owner or operator for any fine, penalty, fee or assessment against the unit for the same violation under any other section of this Act.

(d) With regard to sulfur dioxide, nitrogen oxides, opacity, and volumetric flow, the Administrator shall implement subsections (a) and (c) under 40 CFR part 75 (2001), amended as appropriate by the Administrator. With regard to mercury, the Administrator shall implement subsections (a) and (c) by issuing regulations not later than January 1, 2008.

(e) PROHIBITION.—It shall be unlawful for the owner or operator of any facility subject to this title to operate a facility without complying with the requirements of this section, and any regulations implementing this section.

#### **SEC. 406. EXCESS EMISSIONS PENALTY; GENERAL COMPLIANCE WITH OTHER PROVISIONS; ENFORCEMENT**

(a) EXCESS EMISSIONS PENALTY.—(1) The owner or operator of any unit subject to the requirements of section 441 that emits nitrogen oxides for any calendar year in excess of the unit's emissions limitation requirement shall be liable for the payment of an excess emissions penalty, except where such emission were authorized pursuant to section 110(f). That penalty shall be calculated on the basis of the number of tons emitted in excess of the unit's emissions limitation requirement multiplied by \$2,000.

(2) The owner or operator of any unit subject to the requirements of section 412(c) that emits sulfur dioxide for any calendar year before 2008 in excess of the sulfur dioxide allowances the owner or operator holds for use for the unit for that calendar year shall be liable for the payment of an excess emissions penalty, except where such emissions were authorized pursuant to section 110(f). That penalty shall be calculated as follows:

(A) the product of the unit's excess emissions (in tons) multiplied by the clearing price of sulfur dioxide allowances sold at the most recent auction under section 417, if within thirty days after the date on which the owner or operator was required to hold sulfur dioxide allowances—

(i) the owner or operator offsets the excess emissions in accordance with paragraph (b)(1); and

(ii) the Administrator receives the penalty required under this subparagraph.

(B) if the requirements of clause (A)(i) or (A)(ii) are not met, three hundred percent of the product of the unit's excess emissions (in tons) multiplied by the clearing price of sulfur dioxide allowances sold at the most recent auction under section 417.

(3) If the units at a facility that are subject to the requirements of section 412(c) emit sulfur dioxide for any calendar year after 2007 in excess of the sulfur dioxide allow-

ances that the owner or operator of the facility holds for use for the facility for that calendar year, the owner or operator shall be liable for the payment of an excess emissions penalty, except where such emissions were authorized pursuant to section 110(f). That penalty shall be calculated under paragraph (4)(A) or (4)(B).

(4) If the units at a facility that are subject to the requirements of section 422, 432, 452, or 472 emit sulfur dioxide, nitrogen oxides, or mercury for any calendar year in excess of the sulfur dioxide allowances, nitrogen oxides allowances, or mercury allowances, as the case may be, that the owner or operator of the facility holds for use for the facility for that calendar year, the owner or operator shall be liable for the payment of an excess emissions penalty, except where such emissions were authorized pursuant to section 110(f). That penalty shall be calculated as follows:

(A) the product of the units' excess emissions (in tons or, for mercury emissions, in ounces) multiplied by the clearing price of sulfur dioxide allowances, nitrogen oxides allowances, or mercury allowances, as the case may be, sold at the most recent auction under section 423, 453, or 473, if within thirty days after the date on which the owner or operator was required to hold sulfur dioxide, nitrogen oxides allowance, or mercury allowances as the case may be—

(i) the owner or operator offsets the excess emissions in accordance with paragraph (b)(1); and

(ii) the Administrator receives the penalty required under this subparagraph.

(B) if the requirements of clause (A)(i) or (A)(ii) are not met, three hundred percent of the product of the units' excess emissions (in tons or, for mercury emissions, in ounces) multiplied by the clearing price of sulfur dioxide allowances, nitrogen oxides allowances, or mercury allowances, as the case may be, sold at the most recent auction under section 423, 453, or 473.

(5) Any penalty under paragraph 1, 2, 3, or 4 shall be due and payable without demand to the Administrator as provided in regulations issued by the Administrator. With regard to the penalty under paragraph 1, the Administrator shall implement this paragraph under 40 CFR 77 (2001), amended as appropriate by the administrator. With regard to the penalty under paragraphs 2, 3, and 4, the Administrator shall implement this paragraph by issuing regulations no later than twenty-four months after the date of enactment of the Clear Skies Act of 2002. Any such payment shall be deposited in the United States Treasury. Any penalty due and payable under this section shall not diminish the liability of the unit's owner or operator for any fine, penalty or assessment against the unit for the same violation under any other section of this Act.

(b) EXCESS EMISSIONS OFFSET.—(1) The owner or operator of any unit subject to the requirements of section 412(c) that emits sulfur dioxide during any calendar year before 2008 in excess of the sulfur dioxide allowances held for the unit for the calendar year shall be liable to offset the excess emissions by an equal tonnage amount in the following calendar year, or such longer period as the Administrator may prescribe. The Administrator shall deduct sulfur dioxide allowances equal to the excess tonnage from those held for the facility for the calendar year, or succeeding years during which offsets are required, following the year in which the excess emissions occurred.

(2) If the units at a facility that are subject to the requirements of section 412(c) emit sulfur dioxide for a year after 2007 in excess of the sulfur dioxide allowances that the owner or operator of the facility holds for

use for the facility for that calendar year, the owner or operator shall be liable to offset the excess emissions by an equal amount of tons in the following calendar year, or such longer period as the Administrator may prescribe. The Administrator shall deduct sulfur dioxide allowances equal to the excess emissions in tons from those held for the facility for the year, or succeeding years during which offsets are required, following the year in which the excess emissions occurred.

(3) If the units at a facility that are subject to the requirements of section 422, 432, 452, or 472 emit sulfur dioxide, nitrogen oxides, or mercury for any calendar year in excess of the sulfur dioxide allowances, nitrogen oxides allowances, or mercury allowances, as the case may be, that the owner or operator of the facility holds for use for the facility for that calendar year, the owner or operator shall be liable to offset the excess emissions by an equal amount of tons or, for mercury, ounces in the following calendar year, or such longer period as the Administrator may prescribe. The Administrator shall deduct sulfur dioxide allowances, nitrogen oxide allowances, or mercury allowances, as the case may be, equal to the excess emissions in tons or, for mercury, ounces from those held for the facility for the year, or succeeding years during which offsets are required, following the year in which the excess emissions occurred.

(c) **PENALTY ADJUSTMENT.**—The Administrator shall, by regulation, adjust the penalty specified in subsection (a)(1) for inflation, based on the Consumer Price Index, on November 15, 1990 and annually thereafter.

(d) **PROHIBITION.**—It shall be unlawful for the owner or operator of any unit or facility liable for a penalty and offset under this section to fail—

(1) to pay the penalty under subsection (a) or

(2) to offset excess emissions as required by subsection (b).

(e) **SAVINGS PROVISION.**—Nothing in this title shall limit or otherwise affect the application of section 113, 114, 120, or 304 except as otherwise explicitly provided in this title.

(f) Except as expressly provided, compliance with the requirements of this title shall not exempt or exclude the owner or operator of any facility subject to this title from compliance with any other applicable requirements of this Act. Notwithstanding any other provision of the Act, no State or political subdivision thereof shall restrict or interfere with the transfer, sale, or purchase of allowances under this title.

(g) Violation by any person subject to this title of any prohibition of, requirement of, or regulation promulgated pursuant to this title shall be a violation of this Act. In addition to the other requirements and prohibitions provided for in this title, the operation of any affected unit or the affected units at a facility to emit sulfur dioxide, nitrogen oxides, or mercury in violation of section 412(c), 422, 432, 452, and 472, as the case may be, shall be deemed a violation, with each ton or, in the case of mercury, each ounce emitted in excess of allowances held constituting a separate violation.

#### SEC. 407. ELECTION FOR ADDITIONAL UNITS.

(a) **APPLICABILITY.**—The owner or operator of any unit that is not an affected EGU under subpart 2 of part B and subpart 2 of part C and whose emissions of sulfur dioxide and nitrogen oxides are vented only through a stack or duct may elect to designate such unit as an affected unit under subpart 2 of part B and subpart 2 of part C. If the owner or operator elects to designate a unit that is coal-fired and emits mercury vented only through a stack or duct, the owner or operator shall also designate the unit as an affected unit under part D.

(b) **APPLICATION.**—The owner or operator making an election under subsection (a) shall submit an application for the election to the Administrator for approval.

(c) **APPROVAL.**—If an application for an election under subsection (b) meets the requirements of subsection (a), the Administrator shall approve the designation as an affected unit under subpart 2 of part B and subpart 2 of part C and, if applicable, under part D, subject to the requirements in subsections (d) through (g).

(d) **ESTABLISHMENT OF BASELINE.**—(1) After approval of the designation under subsection (c), the owner or operator shall install and operate CEMS on the unit, and shall quality assure the data, in accordance with the requirements of paragraph (a)(2) and subsections (c) through (e) of section 405, except that, where two or more units utilize a single stack, separate monitoring shall be required for each unit.

(2) The baselines for heat input and sulfur dioxide, nitrogen oxides, and mercury emission rates, as the case may be, for the unit shall be the unit's heat input and the emission rates of sulfur dioxide, nitrogen oxides, and mercury for a year starting after approval of the designation under subsection (c). The Administrator shall issue regulations requiring all the unit's baselines to be based on the same year and specifying minimum requirements concerning the percentage of the unit's operating hours for which quality assured CEMS data must be available during such year.

(e) **EMISSION LIMITATIONS.**—After approval of the designation of the unit under paragraph (c), the unit shall become:

(1) an affected unit under subpart 2 of part B, and shall be allocated sulfur dioxide allowances under paragraph (f), starting the later of January 1, 2010 or January 1 of the year after the year on which the unit's baselines are based under subsection (d);

(2) an affected unit under subpart 2 of part C, and shall be allocated nitrogen oxides allowances under paragraph (f), starting the later of January 1, 2008 or January 1 of the year after the year on which the unit's baselines are based under subsection (d); and

(3) if applicable, an affected unit under part D, and shall be allocated mercury allowances, starting the later of January 1, 2010 or January 1 of the year after the year on which the unit's baselines are based under subsection (d).

(f) **ALLOCATIONS AND AUCTION AMOUNTS.**—(1) The Administrator shall promulgate regulations determining the allocations of sulfur dioxide allowances, nitrogen oxides allowances, and, if applicable, mercury allowances for each year during which a unit is an affected unit under subsection (e). The regulations shall provide for allocations equal to fifty percent of the following amounts, as adjusted under paragraph (2):

(A) the lesser of the unit's baseline heat input under subsection (d) or the unit's heat input for the year before the year for which the Administrator is determining the allocations; multiplied by

(B) the lesser of—

(i) the unit's baseline sulfur dioxide emission rate, nitrogen oxides emission rate, or mercury emission rate, as the case may be,

(ii) the unit's sulfur dioxide emission rate, nitrogen oxides emission rate, or mercury emission rate, as the case may be, during 2002, as determined by the Administrator based, to the extent available, on information reported to the State where the unit is located; or

(iii) the unit's most stringent State or federal emission limitation for sulfur dioxide, nitrogen oxides, or mercury applicable to the year on which the unit's baseline heat input is based under subsection (d).

(2) the Administrator shall reduce the allocations under paragraph (1) by 1.0 percent in the first year for which the Administrator is allocating allowances to the unit, by an additional 1.0 percent of the allocations under paragraph (1) each year starting in the second year through the twentieth year, and by an additional 2.5 percent of the allocations under paragraph (1) each year starting in the twenty-first year and each year thereafter. The Administrator shall make corresponding increases in the amounts of allowances auctioned under sections 423, 453, and 473.

(g) **WITHDRAWAL.**—The Administrator shall promulgate regulations withdrawing from the approved designation under subsection (c) any unit that qualifies as an affected EGU under subpart 2 of part B, subpart 2 of part C, or part D after the approval of the designation of the unit under subsection (c).

(h) The Administrator shall promulgate regulations implementing this section within 24 months of the date of enactment of the Clear Skies Act of 2003.

#### SEC. 408. CLEAN COAL TECHNOLOGY REGULATORY INCENTIVES.

(a) **DEFINITION.**—For purposes of this section, "clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, process steam, or industrial products, which is not in widespread use as of the date of enactment of this title.

(b) **REVISED REGULATIONS FOR CLEAN COAL TECHNOLOGY DEMONSTRATIONS.**—

(1) **APPLICABILITY.**—This subsection applies to physical or operational changes to existing facilities for the sole purpose of installation, operation, cessation, or removal of a temporary or permanent clean coal technology demonstration project. For the purposes of this section, a clean coal technology demonstration project shall mean a project using funds appropriated under the heading "Department of Energy—Clean Coal Technology", up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The Federal contribution for qualifying project shall be at least 20 percent of the total cost of the demonstration project.

(2) **TEMPORARY PROJECTS.**—Installation, operation, cessation, or removal of a temporary clean coal technology demonstration project that is operated for a period of five years or less, and which complies with the State implementation plans for the State in which the project is located and other requirements necessary to attain and maintain the national ambient air quality standards during and after the project is terminated, shall not subject such facility to the requirements of section 111 or part C or D of title I.

(3) **PERMANENT PROJECTS.**—For permanent clean coal technology demonstration projects that constitute repowering as defined in section 411, any qualifying project shall not be subject to standards of performance under section 111 or to the review and permitting requirements of part C for any pollutant the potential emissions of which will not increase as a result of the demonstration project.

(4) **EPA REGULATIONS.**—Not later than 12 months after November 15, 1990, the Administrator shall promulgate regulations or interpretive rulings to revise requirements under section 111 and parts C and D, as appropriate, to facilitate projects consistent in this subsection. With respect to parts C and D, such regulations or rulings shall apply to

all areas in which EPA is the permitting authority. In those instances in which the State is the permitting authority under part C or D, any State may adopt and submit to the Administrator for approval revisions to its implementation plan to apply the regulations or rulings promulgated under this subsection.

(C) **EXEMPTION FOR REACTIVATION OF VERY CLEAN UNITS.**—Physical changes or changes in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation shall not subject the unit to the requirements of section 111 or part C of the Act where the unit (1) has not been in operation for the two-year period prior to November 15, 1990, and the emissions from such unit continue to be carried in the permitting authority's emissions inventory on November 15, 1990, (2) was equipped prior to shut-down with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85 percent and a removal efficiency for particulates of no less than 98 percent, (3) is equipped with low-NOx burners prior to the time of commencement, and (4) is otherwise in compliance with the requirements of this Act.

#### SEC. 409 AUCTIONS.

(a) Commencing in 2005 and in each year thereafter, the Administrator shall conduct auctions, as required under sections 423, 424, 426, 453, 454, 473, and 474, at which allowances shall be offered for sale in accordance with regulations promulgated by the Administrator no later than twenty-four months after the date of enactment of the Clear Skies Act of 2002. Such regulations may provide allowances to be offered for sale before or during the year for which such allowances may be used to meet the requirement to hold allowances under section 422, 452, and 472. Such regulations shall specify the frequency and timing of auctions and may provide for more than one auction of sulfur dioxide allowances, nitrogen oxides allowances, or mercury allowances during a year. Each auction shall be open to any person. A person wishing to bid for allowances in the auction shall submit to the Administrator (by a date set, and on a bid schedule provided, by the Administrator) offers to purchase specified numbers of allowances at specified prices. Allowances purchased at the auction may be used for any purpose and at any time after the auction, subject to the provisions of this title.

(b) **DEFAULT AUCTION PROCEDURES.**—If the Administrator is required to conduct an auction of allowances under subsection (a) before regulations have been promulgated under that subsection, such auction shall be conducted as follows—

(1) The auction shall be held on the first business day in October of the year in which the auction is required or, in the absence of such a requirement, of the year before the first year for which the allowances may be used to meet the requirements of section 403(e)(2).

(2) The auction shall be open to any person.

(3) In order to bid for allowances included in the auction, a person shall submit, and the Administrator must receive by the date three business days before the auction, one or more offers to purchase a specified amount of such allowances at a specified price on a sealed bid schedule to be provided by the Administrator. The bidder shall state in the bid schedule that the bidder is willing to purchase at the specified price fewer allowances than the specified amount and shall identify the account in the Allowance Tracking System under section 403(c) in

which the allowances purchased are to be placed. Each bid must include a certified check or, using a form to be provided by the Administrator, a letter of credit for the specified amount of allowances multiplied by the bid price payable to the U.S. EPA. The bid schedule, and check or letter of credit, shall be sent to the address specified on the bid schedule.

(4) The Administrator shall auction the allowances by:

(A) determining whether each bid meets the requirements of paragraph (3);

(B) listing the bids (including the specified amounts of allowances and the specified bid prices) meeting the requirements of paragraph (3) in order, from highest to lowest bid price;

(C) for each bid price, summing the amounts of allowances specified in the bids listed under subparagraph (B) with the same or a higher bid price;

(D) identifying the bid price with the highest sum of allowances under subparagraph (C) that does not exceed the total amount of allowances available for auction;

(E) setting as the sales price in the auction:

(i) the bid price identified under subparagraph (D) if that bid price has a sum of allowances under subparagraph (C) equal to the total amount of allowances available for auction; or

(ii) the next lowest bid price after the bid price identified under subparagraph (D), if the bid price identified under subparagraph (D) has a sum of allowances under subparagraph (C) less than the total amount of allowances available for auction; and

(F) starting with the first bid listed under subparagraph (B) and ending with the bid listed immediately before the bid with a bid price equal to the sales price, selling the amounts of allowances specified in each bid to the person who submitted the bid.

(i) If the amount of remaining allowances available for auction equals or is less than the amount of allowances specified in the bid with a bid price equal to the sales price, the Administrator shall sell the amount of remaining allowances to the person who submitted that bid.

(ii) If there is more than one bid with a bid price equal to the sales price and the amount of remaining allowances available for auction is less than the total of the amounts of allowances specified in such bids, the Administrator shall sell the amount of the remaining allowances to the persons who submitted those bids on a pro rata basis.

(5) After the auction, the Administrator will publish the names of winning and losing bidders, their bids, and the sales price. The Administrator will provide the successful bidders notice of the allowances that they have purchased within thirty days after payment is collected by the Administrator. After the conclusion of the auction, the Administrator will return payment to unsuccessful bidders and the appropriate portion of payment to successful bidders who offered to purchase a larger amount of allowances than the amount that they are sold or to pay a bid price exceeding the sales price and will add any unsold allowances to the next relevant auction.

(c) The Administrator may by delegation or contract provide for the conduct of auctions under the Administrator's supervision by other departments or agencies of the United States Government or by nongovernmental agencies, groups, or organizations.

(d) The proceeds from any auction conducted under this title shall be deposited in the United States Treasury.

#### SEC. 410. EVALUATION OF LIMITATIONS ON TOTAL SULFUR DIOXIDE, NITROGEN OXIDES, AND MERCURY EMISSIONS THAT START IN 2018.

(a) **EVALUATION.**—(1) The Administrator, in consultation with the Secretary of Energy, shall study whether the limitations on the total annual amounts of allowances available starting in 2018 for sulfur dioxide under section 423, nitrogen oxides under section 453, and mercury under section 473 should be adjusted.

(2) As part of the study, the Administrator shall address the following factors concerning the pollutants under paragraph (a)(1):

(A) the need for further emission reductions from affected EGUs under subpart 2 of part B, subpart 2 of part C, or part D and other sources to attain or maintain the national ambient air quality standards;

(B) whether the benefits of the limitations on the total annual amounts of allowances available starting in 2018 justify the costs and whether adjusting any of the limitations would provide additional benefits which justify the costs of such adjustment, taking into account both quantifiable and non-quantifiable factors;

(C) the marginal cost effectiveness of reducing emissions for each pollutant;

(D) the relative marginal cost effectiveness of reducing sulfur dioxide and nitrogen oxide emissions from affected EGUs under subpart 2 of part B and subpart 2 of part C, as compared to the marginal cost effectiveness of controls on other sources of sulfur dioxide, nitrogen oxides and other pollutants that can be controlled to attain or maintain national ambient air quality standards;

(E) the feasibility of attaining the limitations on the total annual amounts of allowances available starting in 2018 given the available control technologies and the ability to install control technologies by 2018, and the feasibility of attaining alternative limitations on the total annual amounts of allowances available starting in 2018 under paragraph (a)(1) for each pollutant, including the ability to achieve alternative limitations given the available control technologies, and the feasibility of installing the control technologies needed to meet the alternative limitation by 2018;

(F) the results of the most current research and development regarding technologies and strategies to reduce the emissions of one or more of these pollutants from affected EGUs under subpart 2 of part B, subpart 2 of part C, or part D, as applicable and the results of the most current research and development regarding technologies for other sources of the same pollutants;

(G) the projected impact of the limitations on the total annual amounts of allowances available starting in 2018 and the projected impact of adjusting any of the limitations on the total annual amounts of allowances available starting in 2018 under paragraph (a)(1) on the safety and reliability of affected EGUs under subpart 2 of part B, subpart 2 of part C, or part D and on fuel diversity within the power generation section;

(H) the most current scientific information relating to emissions, transformation and deposition of these pollutants, including studies evaluating:

(i) the role of emissions of affected EGUs under subpart 2 of part B, subpart 2 of part C, or part D in the atmospheric formation of pollutants for which national ambient air quality standards exist;

(ii) the transformation, transport, and fate of these pollutants in the atmosphere, other media, and biota;

(iii) the extent to which effective control programs in other countries would prevent air pollution generated in those countries



from contributing to nonattainment, or interfering with the maintenance of any national ambient air quality standards;

(iv) whether the limitations starting in 2010 or 2018 will result in an increase in the level of any other pollutant and the level of any such increase; and

(v) speciated monitoring data for particulate matter and the effect of various elements of fine particulate matter on public health;

(I) the most current scientific information relating to emissions, transformation and deposition of mercury, including studies evaluating:

(i) known and potential human health and environmental effects of mercury;

(ii) whether emissions of mercury from affected EGUs under part D contribute significantly to elevated levels of mercury in fish;

(iii) human population exposure to mercury;

(iv) the relative marginal cost effectiveness of reducing mercury emissions from affected EGUs under part D, as compared to the marginal cost effectiveness of controls on other sources of mercury.

(J) a comparison of the extent to which sources of mercury not located in the United States contributed to adverse effects on terrestrial or aquatic systems as opposed to the contribution from affected EGUs under part D, and the extent to which effective mercury control programs in other countries could minimize such impairment; and

(K) an analysis of the effectiveness and efficiency of the sulfur dioxide allowance program under subpart 2 of part B, the nitrogen oxides allowance program under subpart 2 of part C, and the mercury allowance program under part D.

(3) As part of the study, the Administrator shall take into account the most current information available pursuant to the review of the air quality criteria for particulate matter under section 108.

(b) **PEER REVIEW PROCEDURES.**—The draft results of the study under subsection (a) and related technical documents shall be subject to an independent and external peer review in accordance with this section. Any documents that are to be considered by the Administrator in the study must be independently peer reviewed no later than July 1, 2008. The peer review required under this section shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.). The Administrator shall:

(1) conduct the peer review in an open manner. Such peer review shall

(A) be conducted through a formal panel that is broadly representative and involves qualified specialists who

(i) are selected primarily on the basis of their technical expertise relevant to the analyses required under this section and to the decision whether or not to adjust the total annual amounts of allowances available starting in 2018 under paragraph (a)(1);

(ii) are independent of the agency;

(iii) disclose to the agency prior technical or policy positions they have taken on the issues under consideration; and

(iv) disclose to the agency their sources of personal and institutional funding from the private or public sectors;

(B) contain a balanced presentation of all considerations, including minority reports;

(C) provide adequate protections for confidential business information and trade secrets, including requiring panel members or participants to enter into confidentiality agreements;

(D) afford an opportunity for public comment; and

(E) be complete by no later than January 1, 2009.

(2) respond, in writing, to all significant peer review and public comments; and

(3) certify that

(A) each peer review participant has the expertise an independence required under this section; and

(B) the agency has adequately responded to the peer review comments as requires under this section.

(c) **RECOMMENDATION TO CONGRESS.**—The Administrator, in consultation with the Secretary of Energy, should submit to Congress no later than July 1, 2009, a recommendation whether to revise the limitations on the total annual amounts of allowances available starting in 2018 under paragraph (a)(1). The recommendation shall include the final results of the study under subsections (a) and (b) and shall address the factors described in paragraph (a)(2). The Administrator may submit separate recommendations addressing sulfur dioxide, nitrogen oxides, or mercury at any time after the study has been completed under paragraph (a)(2) and the peer review process has been completed under subsection (b).

#### PART B. SULFUR DIOXIDE EMISSION REDUCTIONS

##### Subpart 1. Acid Rain Program.

#### SEC. 411. DEFINITIONS.

For purposes of this subpart—

(1) the term “actual 1985 emission rate”, for electric utility units means the annual sulfur dioxide or nitrogen oxides emission rate in pounds per million Btu as reported in the NAPAP Emissions Inventory, Version 2, National Utility reference File. For non-utility units, the term “actual 1985 emission rate” means the annual sulfur dioxide or nitrogen oxides emission rate in pounds per million Btu as reported in the NAPAP Emissions Inventory, Version 2.

(2) The term “allowable 1985 emissions rate” means a federally enforceable emissions limitation for sulfur dioxide or oxides of nitrogen, applicable to the unit in 1985 or the limitation applicable in such other subsequent year as determined by the Administrator if such a limitation for 1985 does not exist. Where the emissions limitation for a unit is not expressed in pounds of emissions per million Btu, or the averaging period of that emissions limitation is not expressed on an annual basis, the Administrator shall calculate the annual equivalent of that emissions

(3) The term “alternative method of compliance” means a method of compliance in accordance with one or more of the following authorities:

(A) a substitution plan submitted and approved in accordance with subsections 413(b) and (c); or

(B) a Phase I extension plan approved by the Administrator under section 413(d), using qualifying phase I technology as determined by the Administrator in accordance with that section.

(4) The term “baseline” means the annual quantity of fossil fuel consumed by an affected unit, measured in millions of British Thermal Units (“mmBtu’s”), calculated as follows:

(A) For each utility unit that was in commercial operation prior to January 1, 1985, the baseline shall be the annual average quantity of mmBtu’s consumed in fuel during calendar years 1985, 1986, and 1987, as recorded by the Department of Energy pursuant to Form 767. For any utility unit for which such form was not filed, the baseline shall be the level specified for such unit in the 1985 National Acid Precipitation Assessment Program (NAPAP) Emissions Inventory, Version 2, National Utility Reference File (NURF) or in a corrected data base as established by the Administrator pursuant to paragraph (3). For non-utility units, the baseline in the NAPAP Emissions Inventory,

Version 2. The Administrator, in the Administrator’s sole discretion, may exclude periods during which a unit is shutdown for a continuous period of four calendar months or longer, and make appropriate adjustments under this paragraph. Upon petition of the owner or operator of any unit, the Administrator may make appropriate baseline adjustments for accidents that caused prolonged outages.

(B) For any other nonutility unit that is not included in the NAPAP Emissions Inventory, Version 2, or a corrected data base as established by the Administrator pursuant to paragraph (3), the baseline shall be the annual average quantity, in mmBtu consumed in fuel by that unit, as calculated pursuant to a method which the Administrator shall prescribe by regulation to be promulgated not later than eighteen months after November 15, 1990.

(C) The Administrator shall, upon application or on his own motion, by December 31, 1991, supplement data needed in support of this subpart and correct any factual errors in data from which affected Phase II units’ baselines or actual 1985 emission rates have been calculated. Corrected data shall be used for purposes of issuing allowances under this subpart. Such corrections shall not be subject to judicial review, nor shall the failure of the Administrator to correct an alleged factual error in such reports be subject to judicial review.

(5) The term “basic Phase II allowance allocations” means:

(A) For calendar years 2000 through 2009 inclusive, allocations of allowances made by the Administrator pursuant to section 412 and subsections (b)(1), (3), and (4); (c)(1), (2), (3), and (5); (d)(1), (2), (4), and (5); (e); (f); (g) (1), (2), (3), (4), and (5); (h)(1); (i) and (j) of section 414.

(B) For each calendar year beginning in 2010, allocations of allowances made by the Administrator pursuant to section 412 and subsections (b)(1), (3), and (4); (c)(1), (2), (3), and (5); (d)(1), (2), (4) and (5); (e); (f); (g)(1), (2), (3), (4), and (5); (h)(1) and (3); (i) and (j) of section 414.

(6) The term “capacity factor” means the ratio between the actual electric output from a unit and the potential electric output from that unit.

(7) The term “commenced” as applied to construction of any new electric utility unit means that an owner or operator has undertaken a continuous program of construction or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction.

(8) The term “commenced commercial operation” means to have begun to generate electricity for sale.

(9) The term “construction” means fabrication, erection, or installation of an affected unit.

(10) The term “existing unit” means a unit (including units subject to section 111) that commenced commercial operation before November 15, 1990. Any unit that commenced commercial operation before November 15, 1990 which is modified, reconstructed, or repowered after November 15, 1990 shall continue to be an existing unit for the purposes of this subpart. For the purposes of this subpart, existing units shall not include simple combustion turbines, or units which serve a generator with a nameplate capacity of 25 MWe or less.

(11) The term “independent power producer” means any person who owns or operates, in whole or in part, one or more new independent power production facilities.

(12) The term “new” independent power production facility” means a facility that—

(A) is used for the generation of electric energy, 80 percent or more of which is sold at wholesale;



(B) in nonrecourse project-financed (as such term is defined by the Secretary of Energy within 3 months of the date of the enactment of the Clean Air Act Amendments of 1990); and

(C) is a new unit required to hold allowances under this subpart.

(13) The term "industrial source" means a unit that does not serve a generator that produces electricity, a "non-utility unit" as defined in this section, or a process source.

(14) The term "life-of-the-unit, firm power contractual arrangement" means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of capacity and associated energy generated by a specified generating unit (or units) and pays its proportional amount of such unit's total costs, pursuant to a contract either—

(A) for the life of the unit;

(B) for a cumulative term of no less than 30 years, including contracts that permit an election for early termination; or

(C) for a period equal to or greater than 25 years or 70 percent of the economic useful life of the unit determined as of the time the unit was built, with option rights to purchase or release some portion of the capacity and associated energy generated by the unit (or units) at the end of the period.

(15) The term "new unit" means a unit that commences commercial operation on or after November 15, 1990.

(16) The term "nonutility unit" means a unit other than a utility unit.

(17) The term "Phase II bonus allowance allocations" means, for calendar year 2000 through 2009, inclusive, and only for such years, allocations made by the Administrator pursuant to section 412, subsections (a)(2), (b)(2), (c)(4), (d)(3) (except as otherwise provided therein), and (h)(2) of section 414, and section 415.

(18) The term "qualifying phase I technology" means a technological system of continuous emission reduction which achieves a 90 percent reduction in emissions of sulfur dioxide from the emissions that would have resulted from the use of fuels which were not subject to treatment prior to combustion.

(19) The term "repowering" means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

(20) The term "reserve" means any bank of allowances established by the Administrator under this subpart.

(21)(A) The term "utility unit" means—

(i) a unit that serves a generator in any State that produces electricity for sale, or

(ii) a unit that, during 1985, served a generator in any State that produced electricity for sale.

(B) Notwithstanding subparagraph (A), a unit described in subparagraph (A) that—

(i) was in commercial operations during 1985, but

(ii) did not during 1985, serve a generator in any State that produced electricity for sale shall not be a utility unit for purposes of this subpart.

(C) A unit that congenerates steam and electricity is not a "utility unit" for purposes of this subpart unless the unit is constructed for the purpose of supplying, or commences construction after November 15, 1990 and supplies more than one-third of its potential electric output capacity of more than 25 megawatts electrical output to any utility power distribution system for sale.

#### SEC. 412. ALLOWANCE ALLOCATION.

(a)(1) Except as provided in sections 414(a)(2), 415(a)(3), and 416, beginning January 1, 2000, the Administrator shall not allocate annual missions of sulfur dioxide from utility units in excess of 8.90 million tons except that the Administrator shall not take into account unused allowances carried forward by owners and operators of affected units or by other persons holding such allowances, following the year for which they were allocated. If necessary to meeting the restrictions imposed in the preceding sentence, the Administrator shall reduce, pro rata, the basic Phase II allowance allocations for each unit subject to the requirements of section 414. Subject to the provisions of section 417, the Administrator shall allocate allowances for each affected unit at an affected source annually, as provided in paragraphs (2) and (3) and section 404. Except as provided in sections 416, the removal of an existing affected unit or source from commercial operation at any time after November 15, 1990 (whether before or after January 1, 1995, or January 1, 2000) shall not terminate or otherwise affect the allocation of allowances pursuant to section 413 or 414 to which the unit is entitled. Prior to June 1, 1998, the Administrator shall publish a revised final statement of allowance allocations, subject to the provisions of section 414(a)(2).

(b) NEW UTILITY UNITS.—(1) After January 1, 2000 and through December 31, 2007, it shall be unlawful for a new utility unit to emit an annual tonnage of sulfur dioxide in excess of the number of allowances to emit held for the unit by the unit's owner or operator.

(2) Starting January 1, 2008, a new utility unit shall be subject to the prohibition in subsection (c)(3).

(3) New utility units shall not be eligible for an allocation of sulfur dioxide allowances under subsection (a)(1), unless the unit is subject to the provisions of subsection (g)(2) or (3) of section 414. New utility units may obtain allowances from any person, in accordance with this title. The owner or operator of any new utility unit in violation of subsection (b)(1) or subsection (c)(3) shall be liable for fulfilling the obligations specified in section 406.

(c) PROHIBITIONS.—(1) It shall be unlawful for any person to hold, use, or transfer any allowance allocated under this subpart, except in accordance with regulations promulgated by the Administrator.

(2) For any year 1995 through 2007, it shall be unlawful for any affected unit to emit sulfur dioxide in excess of the number of allowances held for that unit for that year by the owner or operator of the unit.

(3) Starting January 1, 2008, it shall be unlawful for the affected units at a source to emit a total amount of sulfur dioxide during the year in excess of the number of allowances held for the source for that year by the owner or operator of the source.

(4) Upon the allocation of allowances under this subpart, the prohibition in paragraphs (2) and (3) shall supersede any other emission limitation applicable under this subpart to the units for which such allowances are allocated.

(d) In order to insure electric reliability, regulations establishing a system for issuing, recording, and tracking allowances

under section 403(b) and this subpart shall not prohibit or affect temporary increases and decreases in emissions within utility systems, power pools, or utilities entering into allowance pool agreements, that result from their operations, including emergencies and central dispatch, and such temporary emissions increases and decreases shall not require transfer of allowances among units nor shall it require recordation. The owners or operators of such units shall act through a designated representative. Notwithstanding the preceding sentence, the total tonnage of emissions in any calendar year (calculated at the end thereof) from all units in such a utility system, power pool, or allowance pool agreements shall not exceed the total allowances for such units for the calendar year concerned, including for calendar years after 2007, allowances held for such units by the owner or operator of the sources where the units are located.

(e) Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, an affected unit, or where a utility or industrial customer purchases power from an affected unit (or units) under life-of-the-unit, firm power contractual arrangements, the certificate of representation required under section 404(f) shall state (1) that allowances under this subpart and the proceeds of transactions involving such allowances will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual reservation or entitlement, or (2) if such multiple holders have expressly provided for a different distribution of allowances by contract, that allowances under this subpart and the proceeds of transactions involving such allowances will be deemed to be held or distributed in accordance with the contract. A passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the affected unit shall not be deemed to be a holder of a legal, equitable, leasehold, or contractual interest for the purpose of holding or distributing allowances as provided in this subsection, during either the term of such leasehold or thereafter, unless expressly provided for in the leasehold agreement. Except as otherwise provided in this subsection, where all legal or equitable title to or interest in an affected unit is held by a single person, the certification shall state that all allowances under this subpart received by the unit are deemed to be held for that person.

#### SEC. 413. PHASE I SULFUR DIOXIDE REQUIREMENTS.

(a) EMISSION LIMITATIONS.—(1) After January 1, 1995, each source that includes one or more affected units listed in table A is an affected source under this section. After January 1, 1995, it shall be unlawful for any affected unit (other than an eligible phase I unit under section 413(d)(2)) to emit sulfur dioxide in excess of the tonnage limitation stated as a total number of allowances in table A for phase I, unless (A) the emissions reduction requirements applicable to such unit have been achieved pursuant to subsection (b) or (d), or (B) the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions, except that, after January 1, 2000, the emissions limitations established in this section shall be superseded by those established in section 414. The owner or operator of any unit in violation of this section be fully liable for such violation including, but not limited to, liability for fulfilling the obligations specified in section 406.

(2) Not later than December 31, 1991, the Administrator shall determine the total tonnage of reductions in the emissions of sulfur dioxide from all utility units in calendar

year 1995 that will occur as a result of compliance with the emissions limitation requirements of this section, and shall establish a reserve of allowances equal in amount to the number of tons determined thereby not to exceed a total of 3.50 million tons. In making such a determination, the Administrator shall compute for each unit subject to the emissions limitation requirements of this section the difference between:

(A) the product of its baseline multiplied by the lesser of each unit's allowable 1985 emissions rate and its actual 1985 emissions rate, divided by 2,000, and

(B) the product of each unit's baseline multiplied by 2.50 lbs/mmBtu divided by 2,000, and sum the computations. The Administrator shall adjust the foregoing calculation to reflect projected calendar year 1995 utilization of the units subject to the emissions limitations of this subpart that the Administrator finds would have occurred in the absence of the imposition of such requirements. Pursuant to subsection (d), the Administrator shall allocate allowances from the reserve established hereinunder until the earlier of such time as all such allowances in the reserve are allocated or December 31, 1999.

(3) In addition to allowances allocated pursuant to paragraph (1), in each calendar year beginning in 1995 and ending in 1999, inclusive, the Administrator shall allocate for each unit on Table A that is located in the States of Illinois, Indiana, or Ohio (other than units at Kyger Creek, Clifty Creek and Joppa Steam), allowances in an amount equal to 200,000 multiplied by the unit's pro rata share of the total number of allowances allocated for all units on Table A in the 3 States (other than units at Kyger Creek, Clifty Creek, and Joppa Steam) pursuant to paragraph (1). Such allowances shall be excluded from the calculation of the reserve under paragraph (2).

(b) **SUBSTITUTIONS.**—The owner or operator of an affected unit under subsection (a) may include in its section 404 permit application and proposed compliance plan a proposal to reassign, in whole or in part, the affected unit's sulfur dioxide reduction requirements to any other unit(s) under the control of such owner or operator. Such proposal shall specify—

(1) the designation of the substitute unit or units to which any part of the reduction obligations of subsection (a) shall be required, in addition to, or in lieu of, any original affected units designated under such subsection;

(2) the original affected unit's baseline, the actual and allowable 1985 emissions rate for sulfur dioxide, and the authorized annual allowance allocation stated in table A;

(3) calculation of the annual average tonnage for calendar years 1985, 1986, and 1987, emitted by the substitute unit or units, based on the baseline for each unit, as defined in section 411(4), multiplied by the lesser of the unit's actual or allowable 1985 emissions rate;

(4) the emissions rates and tonnage limitations that would be applicable to the original and substitute affected units under the substitution proposal;

(5) documentation, to the satisfaction of the Administrator, that the reassigned tonnage limits will, in total, achieve the same or greater emissions reduction than would have been achieved by the original affected unit and the substitute unit or units without such substitution; and

(6) such other information as the Administrator may require.

(c) **ADMINISTRATOR'S ACTION ON SUBSTITUTION PROPOSALS.**—(1) The Administrator shall take final action on such substitution proposal in accordance with section 404(c) if

the substitution proposal fulfills the requirements of this subsection. The Administrator may approve a substitution proposal in whole or in part and with such modifications or conditions as may be consistent with the orderly functioning of the allowance system and which will ensure the emissions reductions contemplated by this title. If a proposal does not meet the requirements of subsection (b), the Administrator shall disapprove it. The owner or operator of a unit listed in table A shall not substitute another unit or units without the prior approval of the Administrator.

(2) Upon approval of a substitution proposal, each substitute unit, and each source with such unit, shall be deemed affected under this title, and the Administrator shall issue a permit to the original and substitute affected source and unit in accordance with the approved substitution plan and section 404. The Administrator shall allocate allowances for the original and substitute affected units in accordance with the approved substitution proposal pursuant to section 412. It shall be unlawful for any source or unit that is allocated allowances pursuant to this section to emit sulfur dioxide in excess of the emissions limitation provided for in the approved substitution permit and plan unless the owner or operator of each unit governed by the permit and approved substitution plan holds allowances to emit not less than the unit's total annual emissions. The owner or operator of any original or substitute affected unit operated in violation of this subsection shall be fully liable for such violation, including liability for fulfilling the obligations specified in section 406. If a substitution proposal is disapproved, the Administrator shall allocate allowances to the original affected unit or units in accordance with subsection (a).

(d) **ELIGIBLE PHASE I EXTENSION UNITS.**—(1) The owner or operator of any affected unit subject to an emissions limitation requirement under this section may petition the Administrator in its permit application under section 404 for an extension of 2 years of the deadline for meeting such requirement, provided that the owner or operator of any such unit holds allowances to emit not less than the unit's total annual emissions for each of the 2 years of the period of extension. To qualify for such an extension, the affected unit must either employ a qualifying phase I technology, or transfer its phase I emissions reduction obligation to a unit employing a qualifying phase I technology. Such transfer shall be accomplished in accordance with a compliance plan, submitted and approved under section 404, that shall govern operations at all units included in the transfer, and that specifies the emissions reduction requirements imposed pursuant to this title.

(2) Such extension proposal shall—

(A) specify the unit or units proposed for designation as an eligible phase I extension unit;

(B) provide a copy of an executed contract, which may be contingent upon the Administrator approving the proposal, for the design engineering, and construction of the qualifying phase I technology for the extension unit, or for the unit or units to which the extension unit's emission reduction obligation is to be transferred;

(C) specify the unit's or units' baseline, actual 1985 emissions rate, allowable 1985 emissions rate, and projected utilization for calendar years 1995 through 1999;

(D) require CEMS on both the eligible phase I extension unit or units and the transfer unit or units beginning no later than January 1, 1995; and

(E) specify the emission limitation and number of allowances expected to be nec-

essary for annual operation after the qualifying phase I technology has been installed.

(3) The Administrator shall review and take final action on each extension proposal in order of receipt, consistent with section 404, and for an approved proposal shall designate the unit or units as an eligible phase I extension unit. The Administrator may approve an extension proposal in whole or in part, and with such modifications or conditions as may be necessary, consistent with the orderly functioning of the allowance system, and to ensure the emissions reductions contemplated by the subpart.

(4) In order to determine the number of proposals eligible for allocations from the reserve under subsection (a)(2) and the number of the allowances remaining available after each proposal is acted upon, the Administrator shall reduce the total number of allowances remaining available in the reserve by the number of allowances calculated according to subparagraph (A), (B) and (C) until either no allowances remain available in the reserve for further allocation or all approved proposals have been acted upon. If no allowances remain available in the reserve for further allocation before all proposals have been acted upon by the Administrator, any pending proposals shall be disapproved. The Administrator shall calculate allowances equal to.

(A) the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or the projected emissions tonnage for calendar year 1995 of each eligible phase I extension unit, as designated under paragraph (3), and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000;

(B) the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or the projected emissions tonnage for calendar year 1996 of each eligible phase I extension unit, as designated under paragraph (3), and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000; and

(C) the amount by which (i) the product of each unit's baseline multiplied by an emission rate of 1.20 lbs/mmBtu, divided by 2,000, exceeds (ii) the tonnage level specified under subparagraph (E) of paragraph (2) of this subsection multiplied by a factor of 3.

(5) Each eligible Phase I extension unit shall receive allowances determined under subsection (a)(1) or (c) of this section. In addition, for calendar year 1995, the Administrator shall allocate to each eligible Phase I extension unit, from the allowance reserve created pursuant to subsection (a)(2), allowances equal to the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or its projected emission tonnage for calendar year 1995 and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000. In calendar year 1996, the Administrator shall allocate for each eligible unit, from the allowance reserve created pursuant to subsection (a)(2), allowances equal to the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or its projected emissions tonnage for calendar year 1996 and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000. It shall be unlawful for any source or unit subject to an approved extension plan under this subsection to emit sulfur dioxide in excess of the emissions limitations provided for in the permit and approved extension plan, unless the owner or operator of each unit governed by the permit and approved plan holds allowances to emit not less than the unit's total annual emissions.

(6) In addition to allowances specified in paragraph (4), the Administrator shall allocate for each eligible Phase I extension unit

employing qualifying Phase I technology, for calendar years 1997, 1998, and 1999, additional allowances, from any remaining allowances in the reserve created pursuant to subsection (a)(2), following the reduction in the reserve provided for in paragraph (4), not to exceed the amount by which (A) the product of each eligible unit's baseline times an emission rate of 1.20 lbs/mmBtu, divided by 2,000 exceeds (B) the tonnage level specified under subparagraph (E) of paragraph (2) of this subsection.

(7) After January 1, 1997, in addition to any liability under this Act, including under section 406, if any eligible phase I extension unit employing qualifying phase I technology or any transfer unit under this subsection emits sulfur dioxide in excess of the annual tonnage limitation specified in the extension plan, as approved in paragraph (2) of this subsection, the Administrator shall, in the calendar year following such excess, deduct allowances equal to the amount of such excess from such unit's annual allowance allocation.

(e)(1) In the case of a unit that receives authorization from the Governor of the State in which such unit is located to make reductions in the emissions of sulfur dioxide prior to calendar year 1995 and that is part of a utility system that meets the following requirements:

(A) the total coal-fired generation within the utility system as a percentage of total system generation decreased by more than 20 percent between January 1, 1980, and December 31, 1985; and (B) the weighted capacity factor of all coal-fired units within the utility system averaged over the period from January 1, 1985, through December 31, 1987, was below 50 percent, the Administrator shall allocate allowances under this paragraph for the unit pursuant to this subsection. The Administrator shall allocate allowances for a unit that is an affected unit pursuant to section 414 (but is not also an affected unit under this section) and part of a utility system that includes 1 or more affected units under section 414 for reductions in the emissions of sulfur dioxide made during the period 1995–1999 if the unit meets the requirements of this subsection and the requirements of the preceding sentence, except that for the purposes of applying this subsection to any such unit, the prior year concerned as specified below, shall be any year after January 1, 1995 but prior to January 1, 2000.

(2) In the case of an affected unit under this section described in subparagraph (A), the allowances allocated under this subsection for early reductions in any prior year may not exceed the amount which (A) the product of the unit's baseline multiplied by the unit's 1985 actual sulfur dioxide emission rate (in lbs. per mmBtu), divided by 2,000 exceeds (B) the allowances specified for such unit in Table A. In the case of an affected unit under section 414 described in subparagraph (A), the allowances awarded under this subsection for early reductions in any prior year may not exceed the amount by which (i) the product of the quality of fossil fuel consumed by the unit (in mmBtu) in the prior year multiplied by the lesser of 2.50 or the most stringent emission rate (in lbs. per mmBtu) applicable to the unit under the applicable implementation plan, divided by 2,000 exceeds (ii) the unit's actual tonnage of sulfur dioxide emission for the prior year concerned. Allowances allocated under this subsection for units referred to in subparagraph (A) may be allocated only for emission reductions achieved as a result of physical changes or changes in the method of operation made after November 15, 1990, including changes in the type or quality of fossil fuel consumed.

(3) In no event shall the provisions of this paragraph be interpreted as an event of force majeure or a commercial impracticability or in any other way as a basis for excused non-performance by a utility system under a coal sales contract in effect before November 15, 1990.

TABLE A.—AFFECTED SOURCES AND UNITS IN PHASE I AND THEIR SULFUR DIOXIDE ALLOWANCES (TONS)

State	Plant name	Generator	Phase I allowances
Alabama	Colbert	1	13,570
		2	15,310
		3	15,400
		4	15,410
		5	37,180
	E.C. Gaston	1	18,100
		2	18,540
		3	18,310
		4	19,280
		5	59,840
Florida	Big Bend	1	28,410
		2	27,100
		3	26,740
	Crist	6	19,200
		7	31,680
Georgia	Bowen	1	56,320
		2	54,770
		3	71,750
		4	71,740
	Hammond	1	8,780
		2	9,220
		3	8,910
		4	37,640
	J. McDonough	1	19,910
		2	20,600
	Wansley	1	70,770
		2	65,430
	Yates	1	7,210
		2	7,040
		3	6,950
		4	8,910
		5	9,410
		6	24,760
Illinois	Baldwin	7	21,480
		1	42,010
		2	44,420
		3	42,550
	Coffeen	1	11,790
		2	35,670
		4	5,910
	Grand Tower	2	18,410
	Hennepin	1	12,590
	Joppa Steam	2	10,770
		3	12,270
		4	11,360
		5	11,420
		6	10,620
	Kincaid	1	31,530
		2	33,810
	Meredosia	3	13,890
	Vermilion	2	8,880
Indiana	Bailey	7	11,180
		8	15,630
	Breed	1	18,500
	Cayuga	1	33,370
		2	34,130
	Clifty Creek	1	20,150
		2	19,810
		3	20,410
		4	20,080
		5	19,360
		6	20,380
	E. W. Stout	5	3,880
		6	4,770
		7	23,610
	F. B. Culley	2	4,290
		3	16,970
	F. E. Ratts	1	8,330
		2	8,480
	Gibson	1	40,400
		2	41,010
		3	41,080
		4	40,320
	H.T. Pritchard	6	5,770
	Michigan City	12	23,310
	Petersburg	1	16,430
		2	32,380
	R. Gallagher	1	6,490
		2	7,280
		3	6,530
		4	7,650
	Tanners Creek	4	24,820
	Wabash River	1	4,000
		2	2,860
		3	3,750
		5	3,670
		6	12,280
Iowa	Warrick	4	26,980
	Burlington	1	10,710
	Des Moines	7	2,320
	George Neal	1	1,290
	M.L. Kapp	2	13,800
	Prairie Creek	4	8,180
	Riverside	5	3,990
Kansas	Quindaro	2	4,220
Kentucky	Coleman	1	11,250
		2	12,840
		3	12,340

TABLE A.—AFFECTED SOURCES AND UNITS IN PHASE I AND THEIR SULFUR DIOXIDE ALLOWANCES (TONS)—Continued

State	Plant name	Generator	Phase I allowances
	Cooper	1	7,450
		2	15,320
	E.W. Brown	1	7,110
		2	10,910
		3	26,100
	Elmer Smith	1	6,520
		2	14,410
	Ghent	1	28,410
	Green River	4	7,820
	H.L. Spurlock	1	22,780
	Henderson II	1	13,340
		2	12,310
	Paradise	3	59,170
	Shawnee	10	10,170
Maryland	Chalk Point	1	21,910
		2	24,330
	C.P. Crane	1	10,330
		2	9,230
	Morgantown	1	35,260
Michigan	J.H. Campbell	1	38,480
		2	19,280
		2	23,060
Minnesota	High Bridge	6	4,270
Mississippi	Jack Watson	4	17,910
		5	36,700
Missouri	Asbury	1	16,190
	James River	5	4,850
	Labadie	1	40,110
		2	37,710
		3	40,310
		4	35,940
	Montrose	1	7,390
		2	8,200
		3	10,090
	New Madrid	1	28,240
		2	32,480
	Sibley	3	15,580
	Sioux	1	22,570
		2	23,690
	Thomas Hill	1	10,250
		2	19,390
New Hampshire	Merrimack	1	10,190
		2	22,000
New Jersey	B.L. England	1	9,060
		2	11,720
New York	Dunkirk	3	12,600
		4	14,060
	Greenidge	4	7,540
	Milliken	1	11,170
		2	12,410
	Northport	1	19,810
		2	24,110
		3	26,480
	Port Jefferson	3	10,470
		4	12,330
Ohio	Ashtabula	5	16,740
	Avon Lake	8	11,650
		9	30,480
	Cardinal	1	34,270
		2	38,320
	Conesville	1	4,210
		2	4,890
		3	5,500
		4	48,770
	Eastlake	1	7,800
		2	8,640
		3	10,020
		4	14,510
		5	34,070
	Edgewater	4	5,050
	Gen. J.M. Gavin	1	79,080
		2	80,560
	Kyger Creek	1	19,280
		2	18,560
		3	17,910
		4	18,710
		5	18,740
	Miami Fort	5	760
		6	11,380
	Muskingum River	7	38,510
		1	14,880
		2	14,170
		3	13,950
		4	11,780
		5	40,470
	Niles	1	6,940
		2	9,100
	Picway	5	4,930
	R.E. Burger	3	6,150
		4	10,780
		5	12,430
	W.H. Sammis	5	24,170
		6	39,930
		7	43,220
	W.C. Beckjord	5	8,950
		6	23,020
Pennsylvania	Armstrong	1	14,410
		2	15,430
	Brunner Island	1	27,760
		2	31,100
		3	53,820
	Cheswick	1	39,170
	Conemaugh	1	59,790
		2	66,450
	Hatfield's Ferry	1	37,830
		2	37,320
		3	40,270

TABLE A.—AFFECTED SOURCES AND UNITS IN PHASE I  
AND THEIR SULFUR DIOXIDE ALLOWANCES (TONS)—  
Continued

State	Plant name	Gener- ator	Phase I allow- ances
Tennessee	Martins Creek .....	1	12,660
	.....	2	12,820
	Portland .....	1	5,940
	.....	2	10,230
	Shawville .....	1	10,320
	.....	2	10,320
	.....	3	14,220
	.....	4	14,070
	Sunbury .....	3	8,760
	.....	4	11,450
	Allen .....	1	15,320
	.....	2	16,770
	.....	3	15,670
	Cumberland .....	1	86,700
	.....	2	94,840
West Virginia	Gallatin .....	1	17,870
	.....	2	17,310
	.....	3	20,020
	.....	4	21,260
	Johnsonville .....	1	7,790
	.....	2	8,040
	.....	3	8,410
	.....	4	7,990
	.....	5	8,240
	.....	6	7,890
	.....	7	8,980
	.....	8	8,700
	.....	9	7,080
	.....	10	7,550
	Albright .....	3	12,000
Wisconsin	Fort Martin .....	1	41,590
	.....	2	41,200
	Harrison .....	1	48,620
	.....	2	46,150
	.....	3	41,500
	Kammer .....	1	18,740
	.....	2	19,460
	.....	3	17,390
	Mitchell .....	1	43,980
	.....	2	45,510
	Mount Storm .....	1	43,720
	.....	2	35,580
	.....	3	42,430
	Edgewater .....	4	24,750
	La Crosse/Genoa .....	3	22,700
Wisconsin	Nelson Dewey .....	1	6,010
	.....	2	6,680
	N. Oak Creek .....	1	5,220
	.....	2	5,140
	.....	3	5,370
	.....	4	6,320
	Pulliam .....	8	7,510
	S. Oak Creek .....	5	9,670
	.....	6	12,040
	.....	7	16,180
	.....	8	15,790

## (F) ENERGY CONSERVATION AND RENEWABLE ENERGY.—

(1) DEFINITIONS.—As used in this subsection:

(A) QUALIFIED ENERGY CONSERVATION MEASURE.—The term “qualified energy conservation measure” means a cost effective measure, as identified by the Administrator in consultation with the Secretary of Energy, that increases the efficiency of the use of electricity provided by an electric utility to its customers.

(B) QUALIFIED RENEWABLE ENERGY.—The term “qualified renewable energy” means energy derived from biomass, solar, geothermal, or wind as identified by the Administrator in consultation with the Secretary of Energy.

(C) ELECTRIC UTILITY.—The term “electric utility” means any person, State agency, or Federal agency, which sells electric energy.

(2) ALLOWANCES FOR EMISSIONS AVOIDED THROUGH ENERGY CONSERVATION AND RENEWABLE ENERGY.—

(A) IN GENERAL.—The regulations under paragraph (4) of this subsection shall provide that for each ton of sulfur dioxide emissions avoided by an electric utility, during the applicable period, through the use of qualified energy conservation measures or qualified renewable energy, the Administrator shall allocate a single allowance to such electric utility, on a first-come-first-served basis from the Conservation and Renewable Energy Reserve established under subsection (g), up to a total of 300,000 allowances for allocation from such Reserve.

(B) REQUIREMENTS FOR ISSUANCE.—The Administrator shall allocate allowances to an electric utility under this subsection only if all of the following requirements are met:

(i) Such electric utility is paying for the qualified energy conservation measures or qualified renewable energy directly or through purchase from another person.

(ii) The emissions of sulfur dioxide avoided through the use of qualified energy conservation measures or qualified renewable energy are quantified in accordance with regulations promulgated by the Administrator under this subsection.

(iii) (I) Such electric utility has adopted and is implementing a least cost energy conservation and electric power plan which evaluates a range of resources, including new power supplies, energy conservation, and renewable energy resources, in order to meet expected future demand at the lowest system cost.

(II) The qualified energy conservation measures or qualified renewable energy, or both, are consistent with that plan.

(III) Electric utilities subject to the jurisdiction of a State regulatory authority must have such plan approved by such authority. For electric utilities not subject to the jurisdiction of a State regulatory authority such plan shall be approved by the entity with rate-making authority for such utility.

(iv) In the case of qualified energy conservation measures undertaken by a State regulated electric utility, the Secretary of Energy certifies that the State regulatory authority with jurisdiction over the electric rates of such electric utility has established rates and charges which ensure that the net income of such electric utility after implementation of specific cost effective energy conservation measures is at least as high as such net income would have been if the energy conservation measures had not been implemented. Upon the date of any such certification by the Secretary of Energy, all allowances which, but for this paragraph, would have been allocated under subparagraph (B) before such date, shall be allocated to the electric utility. This clause is not a requirement for qualified renewable energy.

(v) Such utility or any subsidiary of the utility's holding company owns or operates at least one affected unit.

(C) PERIOD OF APPLICABILITY.—Allowances under this subsection shall be allocated only with respect to kilowatt hours of electric energy saved by qualified energy conservation measures or generated by qualified renewable energy after January 1, 1992 and before the earlier of (i) December 31, 2000, or (ii) the date on which any electric utility steam generating unit owned or operated by the electric utility to which the allowances are allocated becomes subject to this subpart (including those sources that elect to become affected by this title, pursuant to section 417).

(D) DETERMINATION OF AVOIDED EMISSIONS.—

(i) APPLICATION.—In order to receive allowances under this subsection, an electric utility shall make an application which—

(I) designates the qualified energy conservation measures implemented and the qualified renewable energy sources used for purposes of avoiding emissions,

(II) calculates, in accordance with subparagraphs (F) and (G), the number of tons of emissions avoided by reason of the implementation of such measures or the use of such renewable energy sources; and

(III) demonstrates that the requirements of subparagraph (B) have been met. Such application for allowances by a State-regulated electric utility shall require approval by the State regulatory authority with jurisdiction over such electric utility. The authority

shall review the application for accuracy and compliance with this subsection and the rules under this subsection. Electric utilities whose retail rates are not subject to the jurisdiction of a State regulatory authority shall apply directly to the Administrator for such approval.

(E) AVOIDED EMISSIONS FROM QUALIFIED ENERGY CONSERVATION MEASURES.—For the purposes of this subsection, the emission tonnage deemed avoided by reason of the implementation of qualified energy conservation measures for any calendar year shall be a tonnage equal to the product of multiplying—

(i) the kilowatt hours that would otherwise have been supplied by the utility during such year in the absence of such qualified energy conservation measures, by

(ii) 0.004, and dividing by 2,000.

(F) AVOIDED EMISSIONS FROM THE USE OF QUALIFIED RENEWABLE ENERGY.—The emissions tonnage deemed avoided by reason of the use of qualified renewable energy by an electric utility for any calendar year shall be a tonnage equal to the product of multiplying—(i) the actual kilowatt hours generated by, or purchased from, qualified renewable energy, by (ii) 0.004, and dividing by 2,000.

(G) PROHIBITIONS.—

(i) No allowances shall be allocated under this subsection for the implementation of programs that are exclusively informational or educational in nature.

(ii) No allowances shall be allocated for energy conservation measures or renewable energy that were operational before January 1, 1992.

(3) SAVINGS PROVISION.—Nothing in this subsection precludes a State or State regulatory authority from providing additional incentives to utilities to encourage investment in demand-side resources.

(4) REGULATIONS.—The Administrator shall implement this subsection under 40 CFR part 73 (2001), amended as appropriate by the Administrator. Such regulations shall list energy conservation measures and renewable energy sources which may be treated as qualified energy conservation measures and qualified renewable energy for purposes of this subsection. Allowances shall only be allocated if all requirements of this subsection and the rules promulgated to implement this subsection are complied with. The Administrator shall review the determinations of each State regulatory authority under this subsection to encourage consistency from electric utility and from State to State in accordance with the Administrator's rules. The Administrator shall publish the findings of this review no less than annually.

(g) Conservation and Renewable Energy Reserve.—The Administrator shall establish a Conservation and Renewable Energy Reserve under this subsection. Beginning on January 1, 1995, the Administrator may allocate from the Conservation and Renewable Energy Reserve an amount equal to a total of 300,000 allowances for emissions of sulfur dioxide pursuant to section 411. In order to provide 300,000 allowances for such reserve, in each year beginning in calendar year 2000 and until calendar year 2009, inclusive, the Administrator shall reduce each unit's basic Phase II allowance allocation on the basis of its pro rata share of 30,000 allowances. Notwithstanding the prior sentence, if allowances remain in the reserve one year after the date of enactment of the Clear Skies Act of 2002, the Administrator shall allocate such allowances for affected units under section 414 on a pro rata basis. For purposes of this subsection, for any unit subject to the emissions limitation requirements of section 414, the term “pro rata basis” refers to the ratio which the reductions made in such unit's allowances in order

to establish the reserve under this subsection bears to the total of such reductions for all such units.

(h) **ALTERNATIVE ALLOWANCE ALLOCATION FOR UNITED IN CERTAIN UTILITY SYSTEMS WITH OPTIONAL BASELINE.**—

(1) **OPTIONAL BASELINE FOR UNITS IN CERTAIN SYSTEMS.**—In the case of a unit subject to the emissions limitation requirements of this section which (as of November 15, 1990)—

(A) has an emission rate below 1.0 lbs/mmBtu,

(B) has decreased its sulfur dioxide emissions rate by 60 percent or greater since 1980, and

(C) is part of a utility system which has a weighted average sulfur dioxide emissions rate for all fossil fueled-fired units below 1.0 lbs/mmBtu, at the election to the owner or operator of such unit, the unit's baseline may be calculated

(i) as provided under section 411, or

(ii) by utilizing the unit's average annual fuel consumption at a 60 percent capacity factor. Such election shall be made no later than March 1, 1991.

(2) **ALLOWANCE ALLOCATION.**—Whenever a unit referred to in paragraph (1) elects to calculate its baseline as provided in clause (ii) of paragraph (1), the Administrator shall allocate allowances for the unit pursuant to section 412(a), this section, and section 414 (as Basic Phase II allowance allocations) in an amount equal to the baseline selected multiplied by the lower of the average annual emission rate for such unit in 1989, or 1.0 lbs/mmBtu. Such allowance allocation shall be in lieu of any allocation of allowances under this section and section 414.

**SEC. 414. PHASE II SULFUR DIOXIDE REQUIREMENTS.**

(a) **APPLICABILITY.**—(1) After January 1, 2000, each existing utility unit as provided below is subject to the limitations or requirements of this section. Each utility unit subject to an annual sulfur dioxide tonnage emission limitation under this section is an affected unit under this subpart. Each source that includes one or more affected units is an affected source. In the case of an existing unit that was not in operation during calendar year 1985, the emission rate for a calendar year after 1985, as determined by the Administrator, shall be used in lieu of the 1985 rate. The owner or operator of any unit operated in violation of this section shall be fully liable under this Act for fulfilling the obligations specified in section 406.

(2) In addition to basic Phase II allowance allocations, in each year beginning in calendar year 2000 and ending in calendar year 2009, inclusive, the Administrator shall allocate up to 530,000 Phase II bonus allowances pursuant to subsections (b)(2), (c)(4), (d)(3)(A) and (B), and (h)(2) of this section and section 415.

(3) In addition to basic Phase II allowances allocations and Phase II bonus allowance allocations, beginning January 1, 2000, the Administrator shall allocate for each unit listed on Table A in section 413 (other than units at Kyger Creek, Clifty Creek, and Joppa Stream) and located in the States of Illinois, Indiana, Ohio, Georgia, Alabama, Missouri, Pennsylvania, West Virginia, Kentucky, or Tennessee allowances in an amount equal to 50,000 multiplied by the unit's pro rata share of the total number of basic allowances allocated for all units listed on Table A (other than units at Kyger Creek, Clifty Creek, and Joppa Stream). Allowances allocated pursuant to this paragraph shall not be subject to the 8,900,000 ton limitation in section 412(a).

(b) **UNITS EQUAL TO, OR ABOVE, 75 MWE AND 1.20 LBS/MMBTU.**—(1) Except as otherwise provided in paragraph (3), after January 1, 2000, it shall be unlawful for any existing utility unit that serves a generator with nameplate

capacity equal to, or greater, than 75 MWE and an actual 1985 emission rate equal to or greater than 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's baseline multiplied by an emission rate equal to 1.20 lbs/mmBtu, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(2) In addition to allowances allocated pursuant to paragraph (1) and section 412(a) as basic Phase II allowance allocations, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) with an actual 1985 emissions rate greater than 1.20 lbs/mmBtu and less than 2.50 lbs/mmBtu and a baseline capacity factor of less than 60 percent, allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to 1.20 lbs/mmBtu multiplied by 50 percent of the difference, on a Btu basis, between the unit's baseline and the unit's fuel consumption at a 60 percent capacity factor.

(3) After January 1, 2000, it shall be unlawful for any existing utility unit with an actual 1985 emissions rate equal to or greater than 1.20 lbs/mmBtu whose annual average fuel consumption during 1985, 1986, and 1987 on a Btu basis exceeded 90 percent in the form of lignite coal which is located in a State in which, as of July 1, 1989, no county or portion of a county was designated non-attainment under section 107 of this Act for any pollutant subject to the requirements of section 109 of this Act to exceed an annual sulfur dioxide tonnage limitation equal to the product of the unit's baseline multiplied by the lesser of the unit's actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(4) After January 1, 2000, the Administrator shall allocate annually for each unit, subject to the emissions limitation requirements of paragraph (1), which is located in a State with an installed electrical generating capacity of more than 30,000,000 kw in 1988 and for which was issued a prohibition order or a proposed prohibition order (from burning oil), which unit subsequently converted to coal between January 1, 1980 and December 31, 1985, allowances equal to the difference between (A) the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the lesser of its actual or allowable emissions rate during the first full calendar year after conversion, divided by 2,000, and (B) the number of allowances allocated for the unit pursuant to paragraph (1): Provided, That the number of allowances allocated pursuant to this paragraph shall not exceed an annual total of five thousand. If necessary to meeting the restriction imposed in the preceding sentence the Administrator shall reduce, pro rata, the annual allowances allocated for each unit under this paragraph.

(c) **COAL OR OIL-FIRED UNITS BELOW 75 MWE AND ABOVE 1.20 LBS/MMBTU.**—(1) Except as otherwise provided in paragraph (3), after January 1, 2000, it shall be unlawful for a coal or oil-fired existing utility unit that serves a generator with nameplate capacity of less than 75 MWE and an actual 1985 emis-

sion rate equal to, or greater than, 1.20 lbs/mmBtu and which is a unit owned by a utility operating company whose aggregate nameplate fossil fuel steam-electric capacity is, as of December 31, 1989, equal to, or greater than, 250 MWE to exceed an annual sulfur dioxide emissions limitation equal to the product of the unit's baseline multiplied by an emission rate equal to 1.20 lbs/mmBtu, divided by 2,000 unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(2) After January 1, 2000, it shall be unlawful for a coal or oil-fired existing utility unit that serves a generator with nameplate capacity of less than 75 MWE and an actual 1985 emission rate equal to, or greater than, 1.20 lbs/mmBtu (excluding units subject to section 111 of the Act or to a federally enforceable emissions limitation for sulfur dioxide equivalent to an annual rate of less than 1.20 lbs/mmBtu) and which is a unit owned by a utility operating company whose aggregate nameplate fossil fuel steam-electric capacity is, as of December 31, 1989, less than 250 MWE, to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by the lesser of its actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(3) After January 1, 2000 it shall be unlawful for any existing utility unit with a nameplate capacity below 75 MWE and an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu which became operational on or before December 31, 1965, which is owned by a utility operating company with, as of December 31, 1989, a total fossil fuel steam-electric generating capacity greater than 250 MWE, and less than 450 MWE which serves fewer than 78,000 electrical customers as of November 15, 1990 to exceed an annual sulfur dioxide emissions tonnage limitation equal to the product of its baseline multiplied by the lesser of its actual or allowable 1985 emission rate, divided by 2,000, unless the owner or operator holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source. After January 1, 2010, it shall be unlawful for each unit subject to the emissions limitation requirements of this paragraph to exceed an annual emissions tonnage limitation equal to the product of its baseline multiplied by an emissions rate of 1.20 lbs/mmBtu, divided by 2,000, unless the owner or operator holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(4) In addition to allowances allocated pursuant to paragraph (1) and section 412(a) as basic Phase II allowance allocations, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, inclusive, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) with an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu and less than

2.50 lbs/mmBtu and a baseline capacity factor of less than 60 percent, allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to 1.20 lbs/mmBtu multiplied by 50 percent of the difference, on a Btu basis, between the unit's baseline and the unit's fuel consumption at a 60 percent capacity factor.

(5) After January 1, 2000, is shall be unlawful for any existing unit with a nameplate capacity below 75 MWe and an actual 1985 emissions rate equal to, or greater than, 1.20lbs/mmBtu which is part of an electric utility system which, as of November 15, 1990, (A) has at least 20 percent of its fossil-fuel capacity controlled by flue gas desulfurization devices, (B) has more than 10 percent of its fossil-fuel capacity consisting of coal-fired units of less than 75 MWe, and (C) has large units (greater than 400 MWe) all of which have difficult or very difficult FGD Retrofit Cost Factors (according to the Emissions and the FGD Retrofit Feasibility at the 200 Top Emitting Generating Stations, prepared for the United States Environmental Protection Agency on January 10, 1986) to exceed an annual sulfur dioxide emissions tonnage limitation equal to the product of its baseline multiplied by an emissions rate of 2.5 lbs/mmBtu, divided by 2,000, unless the owner or operator holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source. After January 1, 2010, it shall be unlawful for each unit subject to the emissions limitation requirements of this paragraph to exceed an annual emissions tonnage limitation equal to the project of its baseline multiplied by an emissions rate of 1.20lbs/mmBtu, divided by 2,000, unless the owner or operator holds for use allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(d) COAL-FIRED UNITS BELOW 1.20 LBS/MMBTU.—(1) After January 1, 2000, it shall be unlawful for any existing coal-fired utility unit the lesser of whose actual or allowable 1985 sulfur dioxide emissions rate is less than 0.60 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's baseline multiplied by (A) the lesser of 0.60 lbs/mmBtu or the unit's allowable 1985 emissions rate, and (B) a numerical factor of 120 percent, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(2) After January 1, 2000, it shall be unlawful for any existing coal-fired utility unit the lesser of whose actual or allowable 1985 sulfur dioxide emissions rate is equal to, or greater than, 0.60 lbs/mmBtu and less than 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by (A) the lesser of its actual 1985 emissions rate or its allowable 1985 emissions rate, and (B) a numerical factor of 120 percent, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(3)(A) In addition to allowances allocated pursuant to paragraph (1) and section 412(a) as basic Phase II allowance allocations, at the election of the designated representative of the operating company, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to the amount by which (i) the product of the lesser of 0.60 lbs/mmBtu or the unit's allowable 1985 emissions rate multiplied by the unit's baseline adjusted to reflect operation at a 60 percent capacity factor, divided by 2,000, exceeds (ii) the number of allowances allocated for the unit pursuant to paragraph (1) and section 403(a)(1) as basic Phase II allowance allocations.

(B) In addition to allowances allocated pursuant to paragraph (2) and section 412(a) as basic Phase II allowance allocations, at the election of the designated representative of the operating company, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (2) allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to the amount by which (i) the product of the lesser of the unit's actual 1985 emissions rate or its allowable 1985 emissions rate multiplied by the unit's baseline adjusted to reflect operation at a 60 percent capacity factor, divided by 2,000, exceeds (ii) the number of allowances allocated for the unit pursuant to paragraph (2) and section 412(a) as basic Phase II allowance allocations.

(C) An operating company with units subject to the emissions limitation requirements of this subsection may elect the allocation of allowances as provided under subparagraphs (A) and (B). Such election shall apply to the annual allowance allocation for each and every unit in the operating company subject to the emissions limitation requirements of this subsection. The Administrator shall allocate allowances pursuant to subparagraphs (A) and (B) only in accordance with this subparagraph.

(4) Notwithstanding any other provision of this section, at the election of the owner or operator, after January 1, 2000, the Administrator shall allocate in lieu of allocation, pursuant to paragraph (1), (2), (3), (5), or (6), allowances for a unit subject to the emissions limitation requirements of this subsection which commenced commercial operation on or after January 1, 1981 and before December 31, 1985, which was subject to, and in compliance with, section 111 of the Act in an amount equal to the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the unit's allowable 1985 emissions rate, divided by 2,000.

(5) For the purposes of this section, in the case of an oil-and gas-fired unit which has been awarded a clean coal technology demonstration grant as of January 1, 1991, by the United States Department of Energy, beginning January 1, 2002, the Administrator shall allocate for the unit allowances in an amount equal to the unit's baseline multiplied by 1.20 lbs/mmBtu, divided by 2,000.

(e) OIL AND GAS-FIRED UNITS EQUAL TO OR GREATER THAN 0.60 LBS/MMBTU AND LESS THAN 1.20 LBS/MMBTU.—After January 1, 2000, it shall be unlawful for any existing oil and gas-fired utility unit the lesser of whose actual or allowable 1985 sulfur dioxide emission rate is equal to, or greater than, 0.60 lbs/mmBtu, but less than 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage limitation equal to the product of the unit's

baseline multiplied by (A) the lesser of the unit's allowable 1985 emissions rate or its actual 1985 emissions rate and (B) a numerical factor of 120 percent divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(f) OIL AND GAS-FIRED UNITS LESS THAN 0.60 LBS/MMBTU.—After January 1, 2000, it shall be unlawful for any oil and gas-fired existing utility unit the lesser of whose actual or allowance 1985 emission rate is less than 0.60 lbs/mmBtu and whose average annual fuel consumption during the period 1980 through 1989 on a Btu basis was 90 percent or less in the form of natural gas to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by (A) the lesser of 0.60 lbs/mmBtu or the unit's allowance 1985 emissions, and (b) a numerical factor of 120 percent, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(2) In addition to allowances allocated pursuant to paragraph (1) as basic Phase II allowance allocations and section 412(a), beginning January 1, 2000, the Administrator shall, in the case of any unit operated by a utility that furnishes electricity, electric energy, steam, and natural gas within an area consisting of a city and 1 contiguous county, and in the case of any unit owned by a State authority, the output of which unit is furnished within that same area consisting of a city and 1 contiguous county, the Administrator shall allocate for each unit in the utility its pro rata share of 7,000 allowances and for each unit in the State authority its pro rata share of 2,000 allowances.

(g) UNITS THAT COMMENCE OPERATION BETWEEN 1986 AND DECEMBER 31, 1995.—(1) After January 1, 2000, it shall be unlawful for any utility unit that has commenced commercial operation on or after January 1, 1986, but not later than September 30, 1990 to exceed an annual tonnage emission limitation equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the unit's allowance 1985 sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu), divided by 2,000 unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(2) After January 1, 2000, the Administrator shall allocate allowances pursuant to section 411 to each unit which is listed in table B of this paragraph in an annual amount equal to the amount specified in table B.

Table B

Unit	Allowances
Brandon Shores .....	8,907
Miller 4 .....	9,197
TNP One 2 .....	4,000
Zimmer 1 .....	18,458
Spruce 1 .....	7,647
Clover 1 .....	2,796
Clover 2 .....	2,796
Twin Oak 2 .....	1,760
Twin Oak 1 .....	9,158
Cross 1 .....	6,401
Malakoff 1 .....	1,759



Notwithstanding any other paragraph of this subsection, for units subject to this paragraph, the Administrator shall not allocate allowances pursuant to any other paragraph of this subsection, provided that the owner or operator of a unit listed on Table B may elect an allocation of allowances under another paragraph of this subsection in lieu of an allocation under this paragraph.

(3) Beginning January 1, 2000, the Administrator shall allocate to the owner or operator of any utility unit that commences commercial operation, or has commenced commercial operation, on or after October 1, 1990, but not later than December 31, 1992 allowances in an amount equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the lesser of 0.30 lbs/mmBtu or the unit's allowable sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu), divided by 2,000.

(4) Beginning January 1, 2000, the Administrator shall allocate to the owner or operator of any utility unit that has commenced construction before December 31, 1990 and that commences commercial operation between January 1, 1993 and December 31, 1995, allowances in an amount equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the lesser of 0.30 lbs/mmBtu or the unit's allowable sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu), divided by 2,000.

(5) After January 1, 2000, it shall be unlawful for any existing utility unit that has completed conversion from predominantly gas fired existing operation to coal fired operation between January 1, 1985 and December 31, 1987, for which there has been allocated a proposed or final prohibition order pursuant to section 301(b) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq. repealed 1987) to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the lesser of 1.20 lbs/mmBtu or the unit's allowable 1987 sulfur dioxide emissions rate, divided by 2,000, unless the owner or operator of such unit has obtained allowances equal to its actual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(6)(A) Unless the Administrator has approved a designation of such facility under section 417, the provisions of this subpart shall not apply to a "qualifying small power production facility" or "qualifying cogeneration facility" (within the meaning of section 3(17)(C) or 3(18)(B) of the Federal Power Act) or to a "new independent power production facility" if, as of November 15, 1990,

(i) an applicable power sales agreement has been executed;

(ii) the facility is the subject of a State regulatory authority order requiring an electric utility to enter into a power sales agreement with, purchase capacity from, or (for purposes of establishing terms and conditions of the electric utility's purchase of power) enter into arbitration concerning, the facility;

(iii) an electric utility has issued a letter of intent or similar instrument committing to purchase power from the facility at a previously offered or lower price and a power sales agreement is executed within a reasonable period of time; or

(iv) the facility has been selected as a winning bidder in a utility competitive bid solicitation.

(h) OIL AND GAS-FIRED UNITS LESS THAN 10 PERCENT OIL CONSUMED.—(1) After January 1,

2000, it shall be unlawful for any oil- and gas-fired utility unit whose average annual fuel consumption during the period 1980 through 1989 on a Btu basis exceeded 90 percent in the form of natural gas to exceed an annual sulfur dioxide tonnage limitation equal to the product of the unit's baseline multiplied by the unit's actual 1985 emissions rate divided by 2,000 unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(2) In addition to allowances allocated pursuant to paragraph (1) and section 412(a) as basic Phase II allowance allocations, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to the unit's baseline multiplied by 0.050 lbs/mmBtu, divided by 2,000.

(3) In addition to allowances allocated pursuant to paragraph (1) and section 412(a), beginning January 1, 2010, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) allowances in an amount equal to the unit's baseline multiplied by 0.050 lbs/mmBtu, divided by 2,000.

(i) UNITS IN HIGH GROWTH STATES.—(1) In addition to allowances allocated pursuant to this section and section 412(a) as basic Phase II allowance allocations, beginning January 1, 2000, the Administrator shall allocate annually allowances for each unit, subject to an emissions limitation requirement under this section, and located in a State that—

(A) has experienced a growth in population in excess of 25 percent between 1980 and 1988 according to State Population and Household Estimates, With Age, Sex, and Components of Change: 1981–1988 allocated by the United States Department of Commerce, and

(B) had an installed electrical generating capacity of more than 30,000,000 kw in 1988, in an amount equal to the difference between (A) the number of allowances that would be allocated for the unit pursuant to the emissions limitation requirements of this section applicable to the unit adjusted to reflect the unit's annual average fuel consumption on a Btu basis of any three consecutive calendar years between 1980 and 1989 (inclusive) as elected by the owner or operator and (B) the number of allowances allocated for the unit pursuant to the emissions limitation requirements of this section: Provided, That the number of allowances allocated pursuant to this subsection shall not exceed an annual total of 40,000. If necessary to meeting the 40,000 allowance restriction imposed under this subsection the Administrator shall reduce, pro rata, the additional annual allowances allocated to each unit under this subsection.

(2) Beginning January 1, 2000, in addition to allowances allocated pursuant to this section and section 403(a)(1) as basic Phase II allowance allocations, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of subsection (b)(1), (A) the lesser of whose actual or allowable 1980 emissions rate has declined by 50 percent or more as of November 15, 1990, (B) whose actual emissions rate is less than 1.2 lbs/mmBtu as of January 1, 2000, (C) which commenced operation after January 1, 1970, (D) which is owned by a utility company whose combined commercial and industrial kilowatt-hour sales have increased by more than 20 percent between cal-

endar year 1980 and November 15, 1990, and (E) whose company-wide fossil-fuel sulfur dioxide emissions rate has declined 40 percent or more from 1980 to 1988, allowances in an amount equal to the difference between (i) the number of allowances that would be allocated for the unit pursuant to the emissions limitation requirements of subsection (b)(1) adjusted to reflect the unit's annual average fuel consumption on a Btu basis for any three consecutive years between 1980 and 1989 (inclusive) as elected by the owner or operator and (ii) the number of allowances allocated for the unit pursuant to the emissions limitation requirements of subsection (b)(1): Provided, That the number of allowances allocated pursuant to this paragraph shall not exceed an annual total of 5,000. If necessary to meeting the 5,000 allowance restriction imposed in the last clause of the preceding sentence the Administrator shall reduce, pro rata, the additional allowances allocated to each unit pursuant to this paragraph.

(j) CERTAIN MUNICIPALLY OWNED POWER PLANTS.—Beginning January 1, 2000, in addition to allowances allocated pursuant to this section and section 412(a) as basic Phase II allowance allocations, the Administrator shall allocate annually for each existing municipally owned oil and gas-fired utility unit with nameplate capacity equal to, or less than, 40 MWe, the lesser of whose actual or allowable 1985 sulfur dioxide emission rate is less than 1.20 lbs/mmBtu, allowances in an amount equal to the product of the unit's annual fuel consumption on a Btu basis at a 60 percent capacity factor multiplied by the lesser of its allowable 1985 emission rate or its actual 1985 emission rate, divided by 2,000.

#### SEC. 415. ALLOWANCES FOR STATES WITH EMISSIONS RATES AT OR BELOW 0.80 LBS/MMBTU.

(a) ELECTION OF GOVERNOR.—In addition to basic Phase II allowance allocations, upon the election of the Governor of any State, with a 1985 state-wide annual sulfur dioxide emissions rate equal to or less than, 0.80 lbs/mmBtu, averaged over all fossil fuel-fired utility steam generating units, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, the Administrator shall allocate, in lieu of other Phase II bonus allowance allocations, allowances from the reserve created pursuant to section 414(a)(2) to all such units in the State in an amount equal to 125,000 multiplied by the unit's pro rata share of electricity generated in calendar year 1985 at fossil fuel-fired utility steam units in all States eligible for the election.

(b) NOTIFICATION OF ADMINISTRATOR.—Pursuant to section 412(a), each Governor of a State eligible to make an election under paragraph (a) shall notify the Administrator of such election. In the event that the Governor of any such state fails to notify the Administrator of the Governor's elections, the Administrator shall allocate allowances pursuant to section 414.

(c) ALLOWANCES AFTER JANUARY 1, 2010.—After January 1, 2010, the Administrator shall allocate allowances to units subject to the provisions of this section pursuant to section 414.

#### SEC. 416. ELECTION FOR ADDITIONAL SOURCES.

(a) APPLICABILITY.—The owner or operator of any unit that is not, nor will become, an affected unit under section 412(b), 413, or 414, that emits sulfur dioxide, may elect to designate that unit or source to become an affected unit and to receive allowances under this subpart. An election shall be submitted to the Administrator for approval, along with a permit application and proposed compliance plan in accordance with section 404.

The Administrator shall approve a designation that meets the requirements of this section, and such designated unit shall be allocated allowances, and be an affected unit for purposes of this subpart.

(b) **ESTABLISHMENT OF BASELINE.**—The baseline for a unit designated under this section shall be established by the Administrator by regulation, based on fuel consumption and operating data for the unit for calendar years 1985, 1986, and 1987, or if such data is not available, the Administrator may prescribe a baseline based on alternative representative data.

(c) **EMISSION LIMITATIONS.**—(1) For a unit for which an election, along with a permit application and compliance plan, is submitted to the Administrator under paragraph (a) before January 1, 2002, annual emissions limitations for sulfur dioxide shall be equal to the product of the baseline multiplied by the lesser of the unit's 1985 actual or allowable emission rate in lbs/mmBtu, or if the unit did not operate in 1985, by the lesser of the unit's actual or allowable emission rate for a calendar year after 1985 (as determined by the Administrator), divided by 2,000.

(2) For a unit for which an election, along with a permit application and compliance plan, is submitted to the Administrator under paragraph (a) on or after January 1, 2002, annual emissions limitations for sulfur dioxide shall be equal to the product of the baseline multiplied by the lesser of the unit's 1985 actual or allowable emission rate in lbs/mmBtu, or, if the unit did not operate in 1985, by the lesser of the unit's actual or allowable emission rate for a calendar year after 1985 (as determined by the Administrator), divided by 4,000.

(d) **ALLOWANCES AND PERMITS.**—The Administrator shall issue allowances to an affected unit under this section in an amount equal to the emissions limitation calculated under subsection (c), in accordance with sec-

tion 412. Such allowance may be used in accordance with, and shall be subject to, the provisions of section 412. Affected sources under this section shall be subject to the requirements of sections 404, 405, 406, and 412.

(e) **LIMITATIONS.**—Any unit designated under this section shall not transfer or bank allowances produced as a result of reduced utilization or shutdown, except that, such allowances may be transferred or carried forward for use in subsequent years to the extent that the reduced utilization or shutdown results from the replacement of thermal energy from the unit designated under this section, with thermal energy generated by any other unit or units subject to the requirements of this subpart, and the designated unit's allowances are transferred or carried forward for use at such other replacement unit or units. In no case may the Administrator allocate to a source designated under this section allowances in an amount greater than the emissions resulting from operation of the source in full compliance with the requirements of this Act. No such allowances shall authorize operation of a unit in violation of any other requirements of this Act.

(f) **IMPLEMENTATION.**—The Administrator shall implement this section under 40 CFR part 74 (2001), amended as appropriate by the Administrator.

#### SEC. 417 AUCTIONS, RESERVE.

(a) **SPECIAL RESERVE OF ALLOWANCES.**—For purposes of establishing the Special Allowance Reserve, the Administrator shall withhold—

(1) 2.8 percent of the allocation of allowances for each year from 1995 through 1999 inclusive; and

(2) 2.8 percent of the basic Phase II allowance allocation of allowances for each year beginning in the year 2000

which would (but for this subsection) be issued for each affected unit at an affected

source. The Administrator shall record such withholding for purposes of transferring the proceeds of the allowance sales under this subsection. The allowances so withheld shall be deposited in the Reserve under this section.

(b) **AUCTION SALES.**—(1) Subaccount for auctions.—The Administrator shall establish an Auction Subaccount in the Special Reserve established under this section. The Auction Subaccount shall contain allowances to be sold at auction under this section in the amount of 150,000 tons per year for each year from 1995 through 1999, inclusive and 250,000 tons per year for each year from 2000 through 2009, inclusive.

(2) **ANNUAL AUCTIONS.**—Commencing in 1993 and in each year thereafter until 2010, the Administrator shall conduct auctions at which the allowances referred to in paragraph (1) shall be offered for sale in accordance with regulations promulgated by the Administrator. The allowances referred to in paragraph (1) shall be offered for sale at auction in the amounts specified in table C. The auction shall be open to any person. A person wishing to bid for such allowances shall submit (by a date set by the Administrator) to the Administrator (on a sealed bid schedule provided by the Administrator) offers to purchase specified numbers of allowance at specified prices. Such regulations shall specify that the auctioned allowances shall be allocated and sold on the basis of bid price, starting with the highest-priced bid and continuing until all allowances for sale at such auction have been allocated. The regulations shall not permit that a minimum price be set for the purchase of withheld allowances. Allowances purchased at the auction may be used for any purpose and at any time after the auction, subject to the provisions of this subpart and subpart 2.

TABLE C.—NUMBER OF ALLOWANCES AVAILABLE FOR AUCTION

Year of sale	Spot auction (same year)	Advance auc- tion
1993	50,000	100,000
1994	50,000	100,000
1995	50,000	100,000
1996	150,000	100,000
1997	150,000	100,000
1998	150,000	100,000
1999	150,000	100,000
2000	125,000	125,000
2001	125,000	125,000
2002	125,000	125,000
2003–2009	125,000	0

(3) **PROCEEDS.**—(A) Notwithstanding section 3302 of title 31 of the United States Code or any other provision of law, within 90 days of receipt, the Administrator shall transfer the proceeds from the auction under this section, on a pro rata basis, to the owners or operators of the affected units at an affected source from whom allowances were withheld under subsection (b). No funds transferred from a purchaser to a seller of allowances under this paragraph shall be held by any officer or employee of the United States or treated for any purpose as revenue to the United States or the Administrator.

(B) At the end of each year, any allowances offered for sale but not sold at the auction shall be returned without charge, on a pro rata basis, to the owner or operator of the affected units from whose allocation the allowances were withheld. With 170 days after the date of enactment of the Clear Skies Act of 2002, any allowance withheld under paragraph (a)(2) but not offered for sale at an auction shall be returned without charge, on a pro rata basis, to the owner or operator of the affected units from whose allocation the allowances were withheld.

(4) **RECORDING BY EPA.**—The Administrator shall record and publicly report the nature, prices and results of each auction under this

subsection, including the prices of successful bids, and shall record the transfers of allowances as a result of each auction in accordance with the requirements of this section. The transfer of allowances at such auction shall be recorded in accordance with the regulations promulgated by the Administrator under this subpart.

(c) **CHANGES IN AUCTIONS AND WITHHOLDING.**—Pursuant to rulemaking after public notice and comment the Administrator may at any time after the year 1998 (in the case of advance auctions) and 2005 (in the case of spot auctions) decrease the number of allowances withheld and sold under this section.

(d) **TERMINATION OF AUCTION.**—The Administrator shall terminate the withholding of allowances and the auction sales under this section on December 31, 2009. Pursuant to regulations under this section, the Administrator may be delegation or contract provide for the conduct of sales or auctions under the Administrator's supervision by other departments or agencies of the United States Government or by nongovernmental agencies, groups, or organizations.

(e) The Administrator shall implement this section under 40 CFR part 73 (2001),

amended as appropriate by the Administrator.

#### SEC. 418. INDUSTRIAL SO<sub>2</sub> EMISSIONS.

(a) **REPORT.**—Not later than January 1, 1995 and every 5 years thereafter, the Administrator shall transmit to the Congress a report containing an inventory of national annual sulfur dioxide emissions from industrial sources (as defined in section 411(11)), including units subject to section 414(g)(2), for all years for which data are available, as well as the likely trend in such emission over the following twenty-year period. The reports shall also contain estimates of the actual emission reduction in each year resulting from promulgation of the diesel fuel desulfurization regulations under section 214.

(b) **5.60 MILLION TON CAP.**—Whenever the inventory required by this section indicates that sulfur dioxide emissions from industrial sources, including units subject to section 414(g)(2), and may reasonably be expected to reach levels greater than 5.60 million tons per year, the Administrator shall take such

actions under the Act as may be appropriate to ensure that such emissions do not exceed 5.60 million tons per year. Such actions may include the promulgation of new and revised standards of performance for new sources, including units subject to section 414(g)(2), under section 111(b), as well as promulgation of standards of performance for existing sources, including units subject to section 414(g)(2), under authority of this section. For an existing source regulated under this section, "standard of performance" means a standard which the Administrator determines is applicable to that source and which reflects the degree of emission reduction achievable through the application of the best system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated for that category of sources.

(c) **ELECTION.**—Regulations promulgated under section 414(b) shall not prohibit a source from electing to become an affected unit under section 417.

#### SEC. 419. TERMINATION.

Starting January 1, 2010, the owners or operators of affected units and affected facilities under sections 412(b) and (c) and 416 and shall no longer be subject to the requirements of sections 412 through 417.

#### Subpart 2. Sulfur Dioxide Allowance Program

#### SEC. 421. DEFINITIONS.

For purposes of this subpart—

(1) The term "affected EGU" means:

(A) for a unit serving a generator before the date of enactment of the Clear Skies Act of 2002, a unit in a State serving a generator with a nameplate capacity of greater than 25 megawatts that produced or produces electricity for sale during 2001 or any year thereafter, except for a cogeneration unit that produced or produces electricity for sale equal to less than one-third of the potential electrical output of the generator that it served or serves during 2001 and each year thereafter; and

(B) for a unit commencing service of a generator on or after the date of enactment of the Clear Skies Act of 2002, a unit in a State serving a generator that produces electricity for sale during any year starting with the year the unit commences service of a generator, except for a gas-fired unit serving one or more generators with total nameplate capacity of 25 megawatts or less, or a cogeneration unit that produces electricity for sale equal to less than one-third of the potential electrical output of the generator that it serves, during each year starting with the year the unit commences services of a generator.

(C) Notwithstanding paragraphs (A) and (B), the term "affected EGU" does not include a solid waste incineration unit subject to section 129 or a unit for the treatment, storage, or disposal of hazardous waste subject to section 3005 of the Solid Waste Disposal Act.

(2) The term "coal-fired" with regard to a unit means, for purposes of section 424, combusting coal or any coal-derived fuel alone or in combination with any amount of any other fuel in any year during 1997 through 2001 or, for a unit that commenced operation during 2001–2004, a unit designed to combust coal or any coal-derived fuel alone or in combination with any other fuel.

(3) The term "Eastern bituminous" means bituminous that is from a mine located in a State east of the Mississippi River.

(4) The term "general account" means an account in the Allowance Tracking System

under section 403(c) established by the Administrator for any person under 40 CFR §73.31(c) (2001), amended as appropriate by the Administrator.

(5) The term "oil-fired" with regard to a unit means, for purposes of section 424, combusting fuel oil for more than ten percent of the unit's total heat input, and combusting no coal or coal-derived fuel, in any year during 1997 through 2001 or, for a unit that commenced operation during 2001–2004, a unit designed to combust oil for more than ten percent of the unit's total heat input and not to combust any coal or coal-derived fuel coal.

(6) The term "unit account" means an account in the Allowance Tracking System under section 403(c) established by the Administrator for any unit under 40 CFR §73.31(a) and (b) (2001), amended as appropriate by the Administrator.

#### SEC. 422. APPLICABILITY.

Starting January 1, 2010, it shall be unlawful for the affected EGUs at a facility to emit a total amount of sulfur dioxide during the year in excess of the number of sulfur dioxide allowances held for such facility for that year by the owner or operator of the facility.

#### SEC. 423. LIMITATIONS ON TOTAL EMISSIONS.

For affected EGUs for 2010 and each year thereafter, the Administrator shall allocate sulfur dioxide allowances under section 424, and shall conduct auctions of sulfur dioxide allowances under section 409, in the amounts in Table A.

TABLE A.—TOTAL SO<sub>2</sub> ALLOWANCES ALLOCATED OR AUCTIONED FOR EGUS

Year	SO <sub>2</sub> allowances allocated	SO <sub>2</sub> allowances auctioned
2010	4,371,666	45,000
2011	4,326,667	90,000
2012	4,281,667	135,000
2013	4,320,000	180,000
2014	4,275,000	225,000
2015	4,230,000	270,000
2016	4,185,000	315,000
2017	4,140,000	360,000
2018	2,730,000	270,000
2019	2,700,000	300,000
2020	2,670,000	330,000
2021	2,640,000	360,000
2022	2,610,000	390,000
2023	2,580,000	420,000
2024	2,550,000	450,000
2025	2,520,000	480,000
2026	2,490,000	510,000
2027	2,460,000	540,000
2028	2,430,000	570,000
2029	2,400,000	600,000
2030	2,325,000	675,000
2031	2,250,000	750,000
2032	2,175,000	825,000
2033	2,100,000	900,000
2034	2,025,000	975,000
2035	1,950,000	1,050,000
2036	1,875,000	1,125,000
2037	1,800,000	1,200,000
2038	1,725,000	1,275,000
2039	1,650,000	1,350,000
2040	1,575,000	1,425,000
2041	1,500,000	1,500,000
2042	1,425,000	1,575,000
2043	1,350,000	1,650,000
2044	1,275,000	1,725,000
2045	1,200,000	1,800,000
2046	1,125,000	1,875,000
2047	1,050,000	1,950,000
2048	975,000	2,025,000
2049	900,000	2,100,000
2050	825,000	2,175,000
2051	750,000	2,250,000
2052	675,000	2,325,000
2053	600,000	2,400,000
2054	525,000	2,475,000
2055	450,000	2,550,000
2056	375,000	2,625,000
2057	300,000	2,700,000
2058	225,000	2,775,000
2059	150,000	2,850,000
2060	75,000	2,925,000
2061	0	3,000,000

#### SEC. 424. EGU ALLOCATIONS.

(a) By January 1, 2007, the Administrator shall promulgate regulations determining allocations of sulfur dioxide allowances for affected EGUs for each year during 2010

through 2060. The regulations shall provide that—

(1)(A) Ninety-five percent of the total amount of sulfur dioxide allowances allocated each year to affected EGUs under section 423 shall be allocated based on the sulfur dioxide allowances that were allocated under subpart 1 for 2010 or thereafter and are held in unit accounts and general accounts in the Allowance Tracking System under section 403(c).

(B) The Administrator shall allocate sulfur dioxide allowances to each facility's account and each general account in the Allowance Tracking System under section 403(c) as follows:

(i) The Administrator shall determine the amount of sulfur dioxide allowances allocated under subpart 1 for 2010, and each subsequent year, that are recorded in each unit account and each general account in the Allowance Tracking System as of 12:00 noon, Eastern Standard time, on the date 180 days after enactment of the Clear Skies Act of 2002. The Administrator shall determine this amount in accordance with 40 CFR part 73 (2001), amended as appropriate by the Administrator, except that the Administrator shall discount all sulfur dioxide allowances allocated for 2011 or later at a rate of 7% per year.

(ii) The Administrator shall determine for each unit account and each general account in the Allowance Tracking System an amount of sulfur dioxide allowances equal to the allocation amount under subparagraph (A) multiplied by the ratio of the amount of sulfur dioxide allowances determined to be recorded in that account under clause (i) to the total amount of sulfur dioxide allowances determined to be recorded in all unit accounts and general accounts in the Allowance Tracking System under clause (i).

(iii) The Administrator shall allocate to each facility's account in the Allowance Tracking System an amount of sulfur dioxide allowances equal to the total amount of sulfur dioxide allowances determined under clause (ii) for the unit accounts of the units at the facility and to each general account in the Allowance Tracking System the amount of sulfur dioxide allowances determined under clause (ii) for that general account.

(2)(A) Three and one-half percent of the total amount of sulfur dioxide allowances allocated each year for affected EGUs under section 423 shall be allocated for units at a facility that are affected EGUs as of December 31, 2004, that commenced operation before January 1, 2001, and that are not allocated any sulfur dioxide allowances under subpart 1.

(B) The Administrator shall allocate each year for the units under subparagraph (A) an amount of sulfur dioxide allowances determined by—

(i) For such units at the facility that are coal-fired, multiplying 0.40 lb/mmBtu by the total baseline heat input of such units and converting to tons;

(ii) For such units at the facility that are oil-fired, multiplying 0.20 lb/mmBtu by the total baseline heat input of such units and converting to tons;

(iii) For all such other units at the facility that are not covered by clause (i) or (ii), multiplying 0.05 lb/mmBtu by the total baseline heat input of such units and converting to tons;

(iv) If the total of the amounts for all facilities under clauses (i), (ii), and (iii) exceeds the allocation amount under subparagraph (A), multiplying the allocation amount under subparagraph (A) by the ratio of the total of the amounts for the facility under clauses (i), (ii), and (iii) to the total of the amounts for all facilities under clause (i), (ii), and (iii); and

(v) Allocating to each facility the lesser of the total of the amounts for the facility under clauses (i), (ii), and (iii) or, if the total of the amounts for all facilities under clauses (i), (ii), and (iii) exceeds the allocation amount under subparagraph (A), the amount under clause (iv). The Administrator shall add to the amount of sulfur dioxide allowances allocated under paragraph (3) any unallocated allowances under this paragraph.

(3)(A) One and one-half percent of the total amount of sulfur dioxide allowances allocated each year for affected EGUs under section 423 shall be allocated for units that are affected EGUs as of December 31, 2004, that commence operation on or after January 1, 2001 and before January 1, 2005, and that are not allocated any sulfur dioxide allowances under subpart 1.

(B) The Administrator shall allocate each year for the units under subparagraph (A) an amount of sulfur dioxide allowances determined by—

(i) For such units at the facility that are coal-fired or oil-fired, multiplying 0.19 lb/mmBtu by the total baseline heat input of such units and converting to tons;

(ii) For all such other units at the facility that are not covered by clause (i), multiplying 0.02 lb/mmBtu by the total baseline heat input of such units and converting to tons;

(iv) If the total of the amounts for all facilities under clauses (i) and (ii) exceeds the allocation amount under subparagraph (A), multiplying the allocation amount under subparagraph (A) by the ratio of the total of the amounts for the facility under clauses (i) and (ii) to the total of the amounts for all facilities under clauses (i) and (ii); and

(v) Allocating to each facility the lesser of the total of the amounts for the facility under clauses (i) and (ii) or, if the total of the amounts for all facilities under clauses (i) and (ii) exceeds the allocation amount under subparagraph (A), the amount under clause (iv). The Administrator shall allocate to the facilities under paragraphs (1) and (2) on a pro rata basis (based on the allocations under those paragraphs) any unallocated allowances under this paragraph.

(b) For each year 2010 through 2060, if the Administrator has not promulgated the regulations determining allocations under paragraph (a) by July 1 that is eighteen months before January 1 of such year, then—

(1) The Administrator shall:

(A) allocate, for such year, to each unit with coal as its primary or secondary fuel or residual oil as its primary fuel listed in the Administrator's Emissions Scorecard 2000, Appendix B, Table B1 an amount of sulfur dioxide allowances determined by multiplying eighty percent of the allocation amount under section 423 by the ratio of such unit's heat input in the Emissions Scorecard 2000, Appendix B, Table B1 to the total of the heat input in the Emissions Scorecard 2000, Appendix B, Table B1 for all units with coal as their primary or secondary fuel or residual oil as their primary fuel;

(B) record in each facility's account in the Allowance Tracking System under section 403(c) for such year the total of the amounts of sulfur dioxide allowances for the units at such facility determined under subparagraph (A); and

(C) auction an amount of sulfur dioxide allowances equal to five percent of the allocation amount under section 423 and conduct the auction on the first business day in October following the respective promulgation deadline under subsection (b) and in accordance with section 400.

(2) Notwithstanding any other provision of law to the contrary, the determination of the amount of sulfur dioxide allowances

under subparagraph (1)(A) and the recording of sulfur dioxide allowances under subparagraph (1)(B) shall not be subject to judicial review.

(3) Notwithstanding the provisions to the contrary in section 423, the Administrator shall not allocate or record fifteen percent of the allocation amount under section 423 for such year.

#### **SEC. 425. DISPOSITION OF SULFUR DIOXIDE ALLOWANCES ALLOCATED UNDER SUBPART 1.**

(a) After allocating allowances under section 424(a)(1), the Administrator shall remove from the unit accounts and general accounts in the Allowance Tracking System under section 403(c) and from the Special Allowances Reserve under section 418 all sulfur dioxide allowances allocated or deposited under subpart 1 for 2010 or later.

(b) The Administrator shall promulgate regulations as necessary to assure that the requirement to hold allowances under section 422 may be met using sulfur dioxide allowances allocated under subpart 1 for 1995 through 2009.

#### **SEC. 426. INCENTIVES FOR SULFUR DIOXIDE EMISSION CONTROL TECHNOLOGY.**

(a) RESERVE.—The Administrator shall establish a reserve of 250,000 sulfur dioxide allowances comprising 83,334 sulfur dioxide allowances for 2010, 83,333 sulfur dioxide allowances for 2011, and 83,333 sulfur dioxide allowances for 2012.

(b) APPLICATION.—By July 1, 2004 an owner or operator of an affected EGU that commenced operation before 2001 and that during 2001 combusted Eastern bituminous may submit an application to the Administrator for sulfur dioxide allowances from the reserve under subsection (a). The application shall include—

(1) a statement that the owner or operator will install and commence operation of specified sulfur dioxide control technology at the unit within 24 months after approval of the application under subsection (c) if the unit is allocated the sulfur dioxide allowances requested under paragraph (4). The owner or operator shall provide description of the control technology.

(2) a statement that, during the period starting with the commencement of operation of sulfur dioxide technology under paragraph (1) through 2009, the unit will combust Eastern bituminous at a percentage of the unit's total heat input equal to or exceeding the percentage of total heat input combusted by the unit in 2001 if the unit is allocated the sulfur dioxide allowances requested under paragraph (4).

(3) a demonstration that the unit will achieve, while combusting fuel in accordance with paragraph (2) and operating the sulfur dioxide control technology specified in paragraph (1), a specified tonnage of sulfur dioxide emission reductions during the period starting with the commencement of operation of sulfur dioxide technology under subparagraph (1) through 2009. The tonnage of emission reductions shall be the difference between emissions monitored at a location at the unit upstream of the control technology described in paragraph (1) and emissions monitored at a location at the unit downstream of such control technology, while the unit is combusting fuel in accordance with paragraph (2).

(4) a request that EPA allocate for the unit a specified number of sulfur dioxide allowances from the reserve under subsection (a) for the period starting with the commencement of operation of the sulfur dioxide technology under paragraph (1) through 2009.

(5) a statement of the ratio of the number of sulfur dioxide allowances requested under paragraph (4) to the tonnage of sulfur dioxide emissions reductions under paragraph (3).

(c) APPROVAL OR DISAPPROVAL.—Through adjudicative determinations subject to notice and opportunity for comment, the Administrator shall—

(1) determine whether each application meets the requirements of subsection (b);

(2) list the applications meeting the requirements of subsection (b) and their respective allowance-to-emission-reduction ratios under paragraph (b)(5) in order, from lowest to highest, of such ratios;

(3) for each application listed under paragraph (2), multiply the amount of sulfur dioxide emission reductions requested by each allowance-to-emission-reduction ratio on the list that equals or is less than the ratio for the application;

(4) sum, for each allowance-to-emission-reduction ratio in the list under paragraph (2), the amounts of sulfur dioxide allowances determined under paragraph (3);

(5) based on the calculations in paragraph (4), determine which allowance-to-emission-reduction ratio on the list under paragraph (2) results in the highest total amount of allowances that does not exceed 250,000 allowances; and

(6) approve each application listed under paragraph (2) with a ratio equal to or less than the allowance-to-emission-reduction ratio determined under paragraph (5) and disapprove all the other applications.

(d) MONITORING.—An owner or operator whose application is approved under subsection (c) shall install, and quality assure data from, a CEMS for sulfur dioxide located upstream of the sulfur dioxide control technology under paragraph (b)(1) at the unit and a CEMS for sulfur dioxide located downstream of such control technology at the unit during the period starting with the commencement of operation of such control technology through 2009. The installation of the CEMS and the quality assurance of data shall be in accordance with subparagraph (a)(2)(B) and subsections (c) through (e) of section 405, except that, where two or more units utilize a single stock, separate monitoring shall be required for each unit.

(f) ALLOCATIONS.—By July 1, 2010, for the units for which applications are approved under paragraph (c), the Administrator shall allocate sulfur dioxide allowances as follows:

(1) For each unit, the Administrator shall multiply the allowance-to-emission-reduction ratio of the last application that EPA approved under subsection (c) by the lesser of:

(A) the total tonnage of sulfur dioxide emissions reductions achieved by the unit, during the period starting with the commencement of operation of the sulfur dioxide control technology under subparagraph (b)(1) through 2009, through use of such control technology; or

(B) the tonnage of sulfur dioxide emission reductions under paragraph (b)(3).

(2) If the total amount of sulfur dioxide allowances determined for all units under paragraph (1) exceeds 250,000 sulfur dioxide allowances, the Administrator shall multiply 250,000 sulfur dioxide allowances by the ratio of the amount of sulfur dioxide allowances determined for each unit under paragraph (1) to the total amount of sulfur dioxide allowances determined for all units under paragraph (1).

(3) The Administrator shall allocate to each unit the lesser of the amount determined for that unit under paragraph (1) or, if the total amount of sulfur dioxide allowances determined for all units under paragraph (1) exceeds 250,000 sulfur dioxide allowances, under paragraph (2). The Administrator shall auction any unallocated allowances from the reserve under this section and conduct the auction by the first business

day in October 2010 and in accordance with section 409.

Subpart 3. Western Regional Air Partnership.

**SEC. 431. DEFINITIONS.**

For purposes of this subpart—

(1) The term “adjusted baseline heat input” means the average annual heat input used by a unit during the three years in which the unit had the highest heat input for the period from the eighth through the fourth year before the first covered year.

(A) Notwithstanding paragraph (1), if a unit commences operation during such period and—

(i) on or after January 1 of the fifth year before the first covered year, then “adjusted baseline heat input” shall mean the average annual heat input used by the unit during the fifth and fourth years before the first covered year; and (ii) on or after January 1 of the fourth year before the first covered year, then “adjusted baseline heat input” shall mean the annual heat input used by the unit during the fourth year before the first covered year.

(B) A unit’s heat input for a year shall be the heat input—

(i) required to be reported under section 405 for the unit, if the unit was required to report heat input during the year under that section;

(ii) reported to the Energy Information Administrator for the unit, if the unit was not required to report heat input under section 405;

(iii) based on data for the unit reported to the State where the unit is located as required by State law, if the unit was not required to report heat input during the year under section 405 and did not report to the Energy Information Administration; or

(iv) based on fuel use and fuel heat content data for the unit from fuel purchase or use records, if the unit was not required to report heat input during the year under section 405 and did not report to the Energy Information Administration and the State.

(2) The term “affected EGU” means an affected EGU under subpart 2 that is in a State and that:

(A) in 2000, emitted 100 tons or more of sulfur dioxide and was used to produce electricity for sale; or

(B) in any year after 2000, emits 100 tons or more of sulfur dioxide and is used to produce electricity for sale.

(3) The term “coal-fired” with regard to a unit means, for purposes of section 434, a unit combusting coal or any coal-derived fuel alone or in combination with any amount of any other fuel in any year during the period from the eighth through the fourth year before the first covered year.

(4) The term “covered year” means:

(A)(1) the third year after the year 2018 or later when the total annual sulfur dioxide emissions of all affected EGUs in the States first exceed 271,000 tons; or

(2) the third year after the year 2013 or later when the Administrator determines by regulation that the total annual sulfur dioxide emissions of all affected EGUs in the States are reasonably projected to exceed 271,000 tons in 2018 or any year thereafter. The Administrator may make such determination only if all the States submit to the Administrator a petition requesting that the Administrator issue such determination and make all affected EGUs in the States subject to the requirements of sections 432 through 434; and

(B) each year after the “covered year” under subparagraph (A).

(5) The term “oil-fired” with regard to a unit means, for purposes of section 434, a unit combusting fuel oil for more than ten

percent of the unit’s total heat input, and combusting no coal or coal-derived fuel, in any year during the period from the eighth through the fourth year before the first covered year.

**SEC. 432. APPLICABILITY.**

Starting January 1 of the first covered year, it shall be unlawful for the affected EGUs at a facility to emit a total amount of sulfur dioxide during the year in excess of the number of sulfur dioxide allowances held for such facility for that year by the owner or operator of the facility.

**SEC. 433. LIMITATIONS ON TOTAL EMISSIONS.**

For affected EGUs, the total amount of sulfur dioxide allowances that the Administrator shall allocate for each covered year under section 434 shall equal 271,000 tons.

**SEC. 434. EGU ALLOCATIONS.**

(a) By January 1 of the year before the first covered year, the Administrator shall promulgate regulations determining, for each covered year, the allocations of sulfur dioxide allowances for the units at a facility that are affected EGUs as of December 31 of the fourth year before the covered year by—

(1) For such units at the facility that are coal-fired, multiplying 0.40 lb/mmBtu by the total adjusted baseline heat input of such units and converting to tons;

(2) For such units at the facility that are oil-fired, multiplying 0.20 lb/mmBtu by the total adjusted baseline heat input of such units and converting to tons;

(3) For all such other units at the facility that are not covered by paragraph (1) or (2) multiplying 0.05 lb/mmBtu by the total adjusted baseline heat input of such units and converting to tons; and

(4) Multiplying the allocation amount under section 433 by the ratio of the total of the amounts for the facility under paragraphs (1), (2), and (3) to the total of the amounts for all facilities under paragraphs (1), (2), and (3).

(b) For each covered year, if the Administrator has not promulgated the regulations determining allocations under paragraph (a) by July 1 that is eighteen months before January 1 of such year, then—

(1) The Administrator shall:

(A) allocate, for such year, to each affected EGU with coal as its primary or secondary fuel or residual oil as its primary fuel listed in the Administrator’s Emissions Scorecard 2000, Appendix B, Table B1 an amount of sulfur dioxide allowances determined by multiplying eighty percent of the allocation amount under section 433 by the ratio of such unit’s heat input in the Emissions Scorecard 2000, Appendix B, Table B1 to the total of the heat input in the Emissions Scorecard 2000, Appendix B, Table B1 for all affected EGUs with coal as their primary or secondary fuel or residual oil as their primary fuel;

(B) record in each facility’s account in the Allowance Tracking System under section 403(c) for such year the sum of the amounts of sulfur dioxide allowances for the units at such facility determined under subparagraph (A); and

(C) auction an amount of sulfur dioxide allowances equal to five percent of the allocation amount under section 433 and conduct the auction on the first business day in October following the respective promulgation deadline under subsection (b) and in accordance with section 409.

(2) Notwithstanding any other provision of law to the contrary, the determination of the amount of sulfur dioxide allowances under subparagraph (1)(A) and the recording of sulfur dioxide allowances under subparagraph (1)(B) shall not be subject to judicial review.

(3) Notwithstanding the provisions to the contrary in section 433, the Administrator shall not allocate or record fifteen percent of the allocation amount under section 433 for such year.

PART C—NITROGEN OXIDES EMISSION REDUCTIONS

Subpart 1—Acid Rain Program

**SEC. 441. NITROGEN OXIDES EMISSION REDUCTION PROGRAM.**

(a) APPLICABILITY.—On the date that a coal-fired utility unit becomes an affected unit pursuant to sections 413 or 414, or on the date a unit subject to the provisions of section 413(d), must meet the SO<sub>2</sub> reduction requirements, each such unit shall become an affected unit for purposes of this section and shall be subject to the emission limitations for nitrogen oxides set forth herein.

(b) EMISSION LIMITATIONS.—

(1) The Administrator shall by regulation establish annual allowable emission limitations for nitrogen oxides for the types of utility boilers listed below, which limitations shall not exceed the rates listed below: Provided, That the Administrator may set a rate higher than that listed for any type of utility boiler if the Administrator finds that the maximum listed rate for that boiler type cannot be achieved using low NO<sub>x</sub> burner technology. The Administrator shall implement this paragraph under 40 CFR §76.5 (2001). The maximum allowable emission rates are as follows:

(A) for tangentially fired boilers, 0.45 lb/mmBtu;

(B) for dry bottom wall-fired boilers (other than units applying cell burner technology), 0.50 lb/mmBtu. After January 1, 1995, it shall be unlawful for any unit that is an affected unit on that date and is of the type listed in this paragraph to emit nitrogen oxides in excess of the emission rates set by the Administrator pursuant to this paragraph.

(2) The Administrator shall, by regulation, establish allowable emission limitations on a lb/mmBtu, annual average basis, for nitrogen oxides for the following types of utility boilers:

(A) wet bottom wall-fired boilers;

(B) cyclones;

(C) units applying cell burner technology;

(D) all other types of utility boilers.

The Administrator shall base such rates on the degree of reduction achievable through the retrofit application of the best system of continuous emission reduction, taking into account available technology, costs and energy and environmental impacts; and which is comparable to the costs of nitrogen oxides controls set pursuant to subsection (b)(1). The Administrator may revise the applicable emission limitations for tangentially fired and dry bottom, wall-fired boilers (other than cell burners) to be more stringent if the Administrator determines that more effective low NO<sub>x</sub> burned technology is available: Provided, That, no unit that is an affected unit pursuant to section 413 and that is subject to the requirements of subsection (b)(1), shall be subject to the revised emission limitations, if any. The Administrator shall implement that paragraph under 40 CFR §§76.6 and 76.7 (2001).

(c) ALTERNATIVE EMISSION LIMITATIONS.—The permitting authority shall, upon request of an owner or operator of a unit subject to this section, authorize an emission limitation less stringent than the applicable limitation established under subsection (b)(1) or (b)(2) upon a determination that—

(1) a unit subject to subsection (b)(1) cannot meet the applicable limitation using low NO<sub>x</sub> burner technology; or

(2) a unit subject to subsection (b)(2) cannot meet the applicable rate using the technology on which the Administrator based the applicable emission limitation.

The permitting authority shall base such determination upon a showing satisfactory to the permitting authority, in accordance with regulations established by the Administrator, that the owner or operator—

(1) has properly installed appropriate control equipment designed to meet the applicable emission rate;

(2) has properly operated such equipment for a period of fifteen months (or such other period of time as the Administrator determines through the regulations), and provides operating and monitoring data for such period demonstrating that the unit cannot meet the applicable emission rate; and

(3) has specified an emission rate that such unit can meet on an annual average basis. The permitting authority shall issue an operating permit for the unit in question, in accordance with section 404 and title V—

(i) that permits the unit during the demonstration period referred to in subparagraph (2) above, to emit at a rate in excess of the applicable emission rate;

(ii) at the conclusion of the demonstration period to revise the operating permit to reflect the alternative emission rate demonstrated in paragraphs (2) and (3) above.

Units subject to subsection (b)(1) for which an alternative emission limitation is established shall not be required to install any additional control technology beyond low NO<sub>x</sub> burners. Nothing in this section shall preclude an owner or operator from installing and operating an alternative NO<sub>x</sub> control technology capable of achieving the applicable emission limitation. The Administrator shall implement this subsection under 40 CFR part 76 (2001), amended as appropriate by the Administrator.

(d) EMISSIONS AVERAGING.—In lieu of complying with the applicable emission limitations under subsection (b)(1), (2), or (c), the owner or operator of two or more units subject to one or more of the applicable emission limitations set pursuant to these sections, may petition the permitting authority for alternative contemporaneous annual emission limitations for such units that ensure that (1) the actual annual emission rate in pounds of nitrogen oxides per million Btu averaged over the units in question is a rate that is less than or equal to (2) Btu-weighted average annual emission rate for the same units if they had been operated, during the same period of time, in compliance with limitations set in accordance with the applicable emission rates set pursuant to subsections (b)(1) and (2).

If the permitting authority determines, in accordance with regulations issued by the Administrator that the conditions in the paragraph above can be met, the permitting authority shall issue operating permits for such units, in accordance with section 404 and title V, that allow alternative contemporaneous annual emission limitations. Such emission limitations shall only remain in effect while both units continue operation under the conditions specified in their respective operating permits. The Administrator shall implement this subsection under 40 CFR part 76 (2001), amended as appropriate by the Administrator.

#### SEC. 442. TERMINATION.

Starting January 1, 2008, owner or operator of affected units and affected facilities under section 441 shall no longer be subject to the requirements of that section.

#### Subpart 2. Nitrogen Oxides Allowance Program.

#### SEC. 451. DEFINITIONS.

For purposes of this subpart—

(1) The term “affected EGU” means:

(A) for a unit serving a generator before the date of enactment of the Clear Skies Act of 2002, a unit in a State serving a generator

with a nameplate capacity of greater than 25 megawatts that produced or produces electricity for sale during 2001 or any year thereafter, except for a cogeneration unit that produced or produces electricity for sale equal to less than one-third of the potential electrical output of the generator that it served or serves during 2001 and each year thereafter; and

(B) for a unit commencing service of a generator on or after the date of enactment of the Clear Skies Act of 2002, a unit in a State serving a generator that produces electricity for sale during any year starting with the year the unit commences service of a generator, except for a gas-fired unit serving one or more generators with total nameplate capacity of 25 megawatts or less, or a cogeneration unit that produces electricity for sale equal to less than one-third of the potential electrical output of the generator that it serves, during each year starting with the unit commences service of a generator.

(C) Notwithstanding paragraphs (A) and (B), the term “affected EGU” does not include a solid waste incineration unit subject to section 129 or a unit for the treatment, storage, or disposal of hazardous waste subject to section 3005 of the Solid Waste Disposal Act.

(2) The term “Zone 1 State” means Alabama, Arkansas, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas east of Interstate 35, Vermont, Virginia, West Virginia, and Wisconsin.

(3) The term “Zone 2 State” means Alaska, American Samoa, Arizona, California, Colorado, the Commonwealth of Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, Hawaii, Idaho, Montana, Nebraska, North Dakota, New Mexico, Nevada, Oregon, South Dakota, Texas west of Interstate 35, Utah, the Virgin Islands, Washington, and Wyoming.

#### SEC. 452. APPLICABILITY.

(a)(1) Starting January 1, 2008, it shall be unlawful for the affected EGUs at a facility in a Zone 1 State to emit a total amount of nitrogen oxides during a year in excess of the number of nitrogen oxides allowances held for such facility for that year by the owner or operator of the facility.

(2) Only nitrogen oxides allowances under section 453(a) shall be held in order to meet the requirements of paragraph (1), except as provided under section 465.

(b)(1) Starting January 1, 2008, it shall be unlawful for the affected EGUs at a facility in a Zone 2 State to emit a total amount of nitrogen oxides during a year in excess of the number of nitrogen oxides allowances held for such facility for that year by the owner or operator of the facility.

(2) Only nitrogen oxides allowances under section 453(b) shall be held in order to meet the requirements of paragraph (1).

#### SEC. 453. LIMITATIONS ON TOTAL EMISSIONS.

(a) For affected EGUs in the Zone 1 States for 2008 and each year thereafter, the Administrator shall allocate nitrogen oxides allowances under section 454(a), and conduct auctions of nitrogen oxides allowances under section 409, in the amounts in Table A.

TABLE A.—TOTAL NO<sub>x</sub> ALLOWANCE ALLOCATED OR AUCTIONED FOR EGUS IN ZONE 1

Year	NO <sub>x</sub> allowances allocated	NO <sub>x</sub> allowances auctioned
2008	1,546,380	15,620

TABLE A.—TOTAL NO<sub>x</sub> ALLOWANCE ALLOCATED OR AUCTIONED FOR EGUS IN ZONE 1—Continued

Year	NO <sub>x</sub> allowances allocated	NO <sub>x</sub> allowances auctioned
2009	1,530,760	31,240
2010	1,515,140	46,860
2011	1,499,520	62,480
2012	1,483,900	78,100
2013	1,468,280	93,720
2014	1,452,660	109,340
2015	1,437,040	124,960
2016	1,421,420	140,580
2017	1,405,800	156,200
2018	1,034,180	127,820
2019	1,022,560	139,440
2020	1,010,940	151,060
2021	999,320	162,680
2022	987,700	174,300
2023	976,080	185,920
2024	964,460	197,540
2025	952,840	209,160
2026	941,220	220,780
2027	929,600	232,400
2028	900,550	261,450
2029	871,500	290,500
2030	842,450	319,550
2031	813,400	348,600
2032	784,350	377,650
2033	755,300	406,700
2034	726,250	435,750
2035	697,200	464,800
2036	668,150	493,850
2037	639,100	522,900
2038	610,050	551,950
2039	581,000	581,000
2040	551,950	610,050
2041	522,900	639,100
2042	493,850	668,150
2043	464,800	697,200
2044	435,750	726,250
2045	406,700	755,300
2046	377,650	784,350
2047	348,600	813,400
2048	319,550	842,450
2049	290,500	871,500
2050	261,450	900,550
2051	232,400	929,600
2052	203,350	958,650
2053	174,300	987,700
2054	145,250	1,016,750
2055	116,200	1,045,800
2056	87,150	1,074,850
2057	58,100	1,103,900
2058	29,050	1,132,950
2059	0	1,162,000

(b) For affected EGUs in the Zone 2 States for 2008 and each year thereafter, the Administrator shall allocate nitrogen oxides allowances under section 454(b), and conduct auctions of nitrogen oxides allowances under section 409, in the amounts in Table B.

TABLE B.—TOTAL NO<sub>x</sub> ALLOWANCES ALLOCATED FOR EGUS IN ZONE 2

Year	NO <sub>x</sub> allowance allocated	NO <sub>x</sub> allowance auctioned
2008	532,620	5,380
2009	527,240	10,760
2010	521,860	16,140
2011	516,480	21,520
2012	511,100	26,900
2013	505,720	32,280
2014	500,340	37,660
2015	494,960	43,040
2016	489,580	48,420
2017	484,200	53,800
2018	478,820	59,180
2019	473,440	64,560
2020	468,060	69,940
2021	462,680	75,320
2022	457,300	80,700
2023	451,920	86,080
2024	446,540	91,460
2025	441,160	96,840
2026	435,780	102,220
2027	430,400	107,600
2028	416,950	121,050
2029	403,500	134,500
2030	390,050	147,950
2031	376,600	161,400
2032	363,150	174,850
2033	349,700	188,300
2034	336,250	201,750
2035	322,800	215,200
2036	309,350	228,650
2037	295,900	242,100
2038	282,450	255,550
2039	269,000	269,000
2040	255,550	282,450
2041	242,100	295,900
2042	228,650	309,350
2043	215,200	322,800
2044	201,750	336,250
2045	188,300	349,700



TABLE B.—TOTAL NO<sub>x</sub> ALLOWANCES ALLOCATED FOR EGU IN ZONE 2—Continued

Year	NO <sub>x</sub> allowance allocated	NO <sub>x</sub> allowance auctioned
2046	174,850	363,150
2047	161,400	376,600
2048	147,950	390,050
2049	134,500	403,500
2050	121,050	416,950
2051	107,600	430,400
2052	94,150	443,850
2053	80,700	457,300
2054	67,250	470,750
2055	53,800	484,200
2056	40,350	497,650
2057	26,900	511,100
2058	13,450	524,550
2059	0	538,000

**SEC. 454. EGU ALLOCATIONS.**

(a) EGU ALLOCATIONS IN THE ZONE 1 STATES.—(1) by January 1, 2006, the Administrator shall promulgate regulations determining the allocation of nitrogen oxides allowances for each year during 2008 through 2058 for units at a facility in a Zone 1 State that are affected EGUs as of December 31, 2004. The regulations shall determine the allocation for such units for each year by multiplying the allocation amount under section 453(a) by the ratio of the total amount of baseline heat input of such units at the facility to the total amount of baseline heat input of all affected EGUs in the Zone 1 States.

(2)(A) For each year 2008 through 2058, if the Administrator has not promulgated the regulations determining allocation under paragraph (a)(1), but has promulgated the regulations under section 403(b) providing for the transfer of nitrogen oxides allowances and section 403(c) establishing the Allowance Tracking system for nitrogen oxides allowances, by July 1 that is eighteen months before January 1 of such year, then—

(i) The Administrator shall:

(I) allocate, for such year, to each unit in the Zone 1 States listed in the Administrator's Emissions Scorecard 2000, Appendix B, Table B1 an amount of nitrogen oxides allowances determined by multiplying eighty percent of the allocation amount under section 453(a) by the ratio of such unit's heat input in the Emissions Scorecard 2000, Appendix B, Table B1 to the total of the heat input in the Emissions Scorecard 2000, Appendix B, Table B1 for all units in the Zone 1 States;

(II) record in each facility's account in the Allowance Tracking System under section 403(c) for such year the total of the amounts of nitrogen oxides allowances for the units at such facility determined under subclause (I); and

(III) auction an amount of nitrogen oxides allowances equal to five percent of the allocation amount under section 453(a) and conduct the auction on the first business day in October following the respective promulgation deadline under subparagraph (A) and in accordance with section 409.

(ii) Notwithstanding any other provision of law to the contrary, the determination of the amount of nitrogen oxides allowances under subclause (i)(I) and the recording of nitrogen oxides allowances under subclause (i)(II) shall not be subject to judicial review.

(iii) Notwithstanding the provisions to the contrary in section 453, the Administrator shall not allocate or record fifteen percent of the allocation amount under section 453(a) for such year.

(B) For each year 2008 through 2058, if the Administrator has not promulgated the regulations determining allocations under paragraph (a)(1), and has not promulgated the regulations under section 403(b) providing for the transfer of nitrogen oxides allowances and section 403(c) establishing the Allowance Tracking System for nitrogen oxides allow-

ances, by July 1 that is eighteen months before January 1 of such year, then it shall be unlawful for an affected EGU in the Zone 1 States to emit nitrogen oxides during such year in excess of 0.14 lb/mmBtu.

(b) EGU ALLOCATIONS IN THE ZONE 2 STATES.—(1)—By January 1, 2006, the Administrator shall promulgate regulations determining the allocation of nitrogen oxides allowances for each year during 2008 through 2058 for units at a facility in a Zone 2 State that are affected EGUs as of December 31, 2004. The regulations shall determine the allocation for such units for each year by multiplying the allocation amount under section 453(b) by the ratio of the total amount of baseline heat input of such units at the facility to the total amount of baseline heat input of all affected EGUs in the Zone 2 States.

(2)(A) For each year 2008 through 2058, if the Administrator has not promulgated the regulations determining allocations under paragraph (b)(1), but has promulgated the regulations under section 403(b) providing for the transfer of nitrogen oxides allowances and section 403(c) establishing the Allowance Tracking System for nitrogen oxides allowances, by July 1 that is eighteen months before January 1 of such year, then—

(i) The Administrator shall:

(I) allocate, for such year, to each unit in the Zone 2 States listed in the Administrator's Emissions Scorecard 2000, Appendix B, Table B1 an amount of nitrogen oxides allowances determined by multiplying eighty percent of the allocation amount under section 453(b) by the ratio of such unit's heat input in the Emissions Scorecard 2000, Appendix B, Table B1 to the total of the heat input in the Emissions Scorecard 2000, Appendix B, Table B1 for all units in the Zone 2 States;

(II) record in each facility's account in the Allowance Tracking System under section 403(c) for such year the total of the amounts of nitrogen oxides allowances for the units at such facility determined under subclause (I); and

(III) auction an amount of nitrogen oxides allowances equal to five percent of the allocation amount under section 453(b) and conduct the auction on the first business day in October following the respective promulgation deadline under subparagraph (A) and in accordance with section 409.

(ii) Notwithstanding any other provision of law to the contrary, the determination of the amount of nitrogen oxides allowances under subclause (i)(I) and the recording of nitrogen oxides allowances under subclause (i)(II) shall not be subject to judicial review.

(III) Notwithstanding the provisions to the contrary in section 453, the Administrator shall not allocate or record fifteen percent of the allocation amount under section 453(b) for such year.

(B) For each year 2008 through 2058, if the Administrator has not promulgated the regulations determining allocations under paragraph (b)(1), and has not promulgated the regulations under section 403(b) providing for the transfer of nitrogen oxides allowances and section 403(c) establishing the Allowance Tracking System for nitrogen oxides allowances, by July 1 that is eighteen months before January 1 of such year, then it shall be unlawful for any affected EGU in the Zone 2 States to emit nitrogen oxides during such year in excess of 0.25 lb/mmBtu.

#### Subpart 3. Ozone Season NO<sub>x</sub> Budget Program

**SEC. 461. DEFINITIONS.**

For purposes of this subpart—

(1) The term "ozone season" means:

(A) with regard to Connecticut, Delaware, the District of Columbia, Maryland, Massachusetts, New Jersey, New York, Pennsyl-

vania, and Rhode Island, the period May 1 through September 30 for each year starting in 2003; and

(B) with regard to all other States, the period May 30, 2004 through September 30, 2004 and the period May 1 through September 30 for each year thereafter.

(2) The term "State" means Connecticut, Delaware, the District of Columbia, Illinois, Indiana, Kennedy, Maryland, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and West Virginia and the fine grid portions of Alabama, Georgia, Michigan, and Missouri.

(3) The term "fine grid portions of Alabama, Georgia, Michigan, and Missouri" means the areas in Alabama, Georgia, Michigan, and Missouri subject to 40 CFR §51.121 (2001), as it would be amended in the notice of proposed rulemaking at 67 Federal Register 8396 (February 22, 2002).

**SEC. 462. GENERAL PROVISIONS.**

The provisions of sections 402 through 406 and section 409 shall not apply to this subpart.

**SEC. 463. APPLICABLE IMPLEMENTATION PLAN.**

(a) Except as provided in subsection (b), the applicable implementation plan for each State shall be consistent with the requirements, including the State's nitrogen oxides budget and compliance supplement pool, in 40 CFR §§51.121 and 51.122 (2001), as it would be amended in the notice of proposed rulemaking at 67 Federal Register 8396 (February 22, 2002).

(b) Notwithstanding any provision to the contrary in 40 CFR §51.121 (2001), the applicable implementation plan for each State shall require full implementation of the required emission control measures starting no later than the first ozone season.

**SEC. 464. TERMINATION OF FEDERAL ADMINISTRATION OF NO<sub>x</sub> TRADING PROGRAM.**

(a) Starting January 1, 2008, the Administrator shall not administer any nitrogen oxides trading program in any State's applicable implementation plan under section 463.

(b) Nothing in subsection (a) shall preclude a State from administering any nitrogen oxides trading program in the State's applicable implementation plan under section 463.

**SEC. 465. CARRYFORWARD OF PRE-2008 NITROGEN OXIDES ALLOWANCES.**

The Administrator shall promulgate regulations as necessary to assure that the requirement to hold allowances under section 452(a)(1) may be met using nitrogen oxides allowances allocated for an ozone season before 2008 under a nitrogen oxides trading program that the Administrator administers in a State's applicable implementation plan under section 463.

#### PART D—MERCURY EMISSIONS REDUCTIONS

**SEC. 471. DEFINITIONS.**

For purposes of this subpart—

(1) The term "adjusted baseline heat input" with regard to a unit means the unit's baseline heat input multiplied by—

(A) 1.0, for the portion of the baseline heat input that is the unit's average annual combustion of bituminous during the years on which the unit's baseline heat input is based;

(B) 3.0, for the portion of the baseline heat input that is the unit's average annual combustion of lignite during the years on which the unit's baseline heat input is based;

(C) 1.25, for the portion of the baseline heat input that is the unit's average annual combustion of subbituminous during the years on which the unit's baseline heat input is based; and

(D) 1.0, for the portion of the baseline heat input that is not covered by subparagraph (A), (B), or (C) or for the entire baseline heat

input if such baseline heat input is not based on the unit's heat input in specified years.

(2) The term "affected EGU" means:

(A) for a unit serving a generator before the date of enactment of the Clear Skies Act of 2002, a coal-fired unit in a State serving a generator with a nameplate capacity of greater than 25 megawatts that produced or produces electricity for sale during 2001 or any year thereafter, except for a cogeneration unit that produced or produces electricity for sale equal to less than one-third of the potential electrical output of the generator that it served or serves during 2001 and each year thereafter; and

(B) for a unit commencing service of a generator on or after the date of enactment of the Clear Skies Act of 2002, a coal-fired unit in a State serving a generator that produces electricity for sale during any year starting with the year the unit commences service of a generator, except for a cogeneration unit that produces electricity for sale equal to less than one-third of the potential electrical output of the generator that it serves, during each year starting with the year the unit commences service of a generator.

(C) Notwithstanding paragraphs (A) and (B), the term "affected EGU" does not include a solid waste incineration unit subject to section 129 or a unit for the treatment, storage, or disposal of hazardous waste subject to section 3005 of the Solid Waste Disposal Act.

#### SEC. 472. APPLICABILITY.

Starting January 1, 2010, it shall be unlawful for the affected EGUs at a facility in a State to emit a total amount of mercury during the year in excess of the number of mercury allowances held for such facility for that year by the owner or operator of the facility.

#### SEC. 473. LIMITATIONS ON TOTAL EMISSIONS.

For affected EGUs for 2010 and each year thereafter, the Administrator shall allocate mercury allowances under section 474, and conduct auctions of mercury allowances under section 409, in the amounts in Table A.

TABLE A.—TOTAL MERCURY ALLOWANCES ALLOCATED OR AUCTIONED FOR EGUS

Year	Mercury allowances allocated	Mercury allowances auctioned
2010	823,680	8,320
2011	815,360	16,640
2012	807,040	24,960
2013	798,720	33,280
2014	790,400	41,600
2015	782,080	49,920
2016	773,760	58,240
2017	765,440	66,560
2018	436,800	43,200
2019	432,000	48,000
2020	427,200	52,800
2021	422,400	57,600
2022	417,600	62,400
2023	412,800	67,200
2024	408,000	72,000
2025	403,200	76,800
2026	398,400	81,600
2027	393,600	86,400
2028	388,800	91,200
2029	384,000	96,000
2030	372,000	108,000
2031	360,000	120,000
2032	348,000	132,000
2033	336,000	144,000
2034	324,000	156,000
2035	312,000	168,000
2036	300,000	180,000
2037	288,000	192,000
2038	276,000	204,000
2039	264,000	216,000
2040	252,000	228,000
2041	240,000	240,000
2042	228,000	252,000
2043	216,000	264,000
2044	204,000	276,000
2045	192,000	288,000
2046	180,000	300,000
2047	168,000	312,000
2048	156,000	324,000
2049	144,000	336,000
2050	132,000	348,000
2051	120,000	360,000

TABLE A.—TOTAL MERCURY ALLOWANCES ALLOCATED OR AUCTIONED FOR EGUS—Continued

Year	Mercury allowances allocated	Mercury allowances auctioned
2052	108,000	372,000
2053	96,000	384,000
2054	84,000	396,000
2055	72,000	408,000
2056	60,000	420,000
2057	48,000	432,000
2058	36,000	444,000
2059	24,000	456,000
2060	12,000	468,000
2061	0	480,000

#### SEC. 474. EGU ALLOCATIONS.

(a) By January 1, 2007, the Administrator shall promulgate regulations determining allocations of mercury allowances for each year during 2010 through 2060 for units at a facility that are affected EGUs as of December 31, 2004. The regulations shall provide that the Administrator shall allocate each year for such units an amount determined by multiplying the allocation amount in section 473 by the ratio of the total amount of the adjusted baseline heat input of such units at the facility to the total amount of adjusted baseline heat input of all affected EGUs.

(b)(1) For each year 2010 through 2060, if the Administrator has not promulgated the regulations determining allocations under paragraph (a), but has promulgated the regulations under section 403(b) providing for the transfer of mercury allowances and section 403(c) establishing the Allowance Tracking System for mercury allowances, by July 1 that is eighteen months before January 1 of such year, then—

(A) The Administrator shall

(i) allocate, for such year, to each unit with coal as its primary or secondary fuel listed in the Administrator's Emissions Scorecard 2000, Appendix B, Table B1 an amount of mercury allowances determined by multiplying eighty percent of the allocation amount under section 473 by the ratio of such unit's heat input in the Emissions Scorecard 2000, Appendix B, Table B1 to the total of the heat input in the Emissions Scorecard 2000, Appendix B, Table B1 for all units with coal as their primary or secondary fuel;

(ii) record in each facility's account in the Allowance Tracking System under section 403(c) for such year the total of the amounts of mercury allowances for the units at such facility determined under clause (i); and

(iii) auction an amount of mercury allowances equal to five percent of the allocation amount under section 473 and conduct the auction on the first business day in October following the respective promulgation deadline under paragraph (1) and in accordance with section 409.

(B) Notwithstanding any other provision of law to the contrary, the determination of the amount of mercury allowances under subparagraph (1)(A) and the recording of mercury allowances under subparagraph (1)(B) shall not be subject to judicial review.

(C) Notwithstanding the provisions to the contrary in section 473, the Administrator shall not allocate or record fifteen percent of the allocation amount under section 473 for such year.

(2) For each year 2010 through 2060, if the Administrator has not promulgated the regulations determining allocations under paragraph (a), and has not promulgated the regulations under section 403(b) providing for the transfer of mercury allowances and section 403(c) establishing the Allowance Tracking System for mercury allowances, by July 1 that is eighteen months before January 1 of such year, then it shall be unlawful for any affected EGU to emit mercury during such

year in excess of 30 percent of the mercury content (in ounces per mmBtu) of the coal and coal-derived fuel combusted by the unit.

PART E—NATIONAL EMISSION STANDARDS; RESEARCH; ENVIRONMENTAL ACCOUNTABILITY; MAJOR SOURCE PRECONSTRUCTION REVIEW AND BEST AVAILABLE RETROFIT CONTROL TECHNOLOGY REQUIREMENTS

#### SECTION 481. NATIONAL EMISSION STANDARDS FOR AFFECTED UNITS

(a) DEFINITIONS.—For purposes of this section:

(1) The term "commenced," with regard to construction, means that an owner or operator has either undertaken a continuous program of construction or has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction. For boilers and integrated gasification combined cycle plants, this term does not include undertaking such a program or entering into such an obligation more than 36 months prior to the date on which the unit begins operation. For combustion turbines, this term does not include undertaking such a program or entering into such an obligation more than 18 months prior to the date on which the unit begins operation.

(2) The term "construction" means fabrication, erection, or installation of an affected unit.

(3) The term "affected unit" means any unit that is subject to emission limitations under subpart 2 of part B, subpart 2 of part C, or part D.

(4) The term "existing affected unit" means any affected unit that is not a new affected unit.

(5) The term "new affected unit" means any affected unit, the construction or reconstruction of which is commenced after the date of enactment of the Clear Skies Act of 2002, except that for the purpose of any revision of a standard pursuant to subsection (e), "new affected unit" means any affected unit, the construction or reconstruction of which is commenced after the public of regulations (or, if earlier, proposed regulations) prescribing a standard under this section that will apply to such unit.

(6) The term "reconstruction" means the replacement of components of a unit to such an extent that:

(A) the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new unit; and

(B) it is technologically and economically feasible to meet the applicable standards set forth in this section.

(7) The term "simply cycle combustion turbine" means a stationary combustion turbine that does not extract heat from the combustion turbine exhaust gases.

#### (b) EMISSION STANDARDS.—

(1) IN GENERAL.—No later than twelve months after the date of enactment of the Clear Skies Act of 2002, the Administrator shall promulgate regulations prescribing the standards in subsections (c) through (d) for the specified affected units and establishing requirements to ensure compliance with these standards, including monitoring, recordkeeping, and reporting requirements.

#### (2) MONITORING.—

(A) The owner or operator of any affected unit subject to the standards for sulfur dioxide, nitrogen oxides, or mercury under this section shall meet the requirements of section 405, except that, where two or more units utilize a single stack, separate monitoring shall be required for each affected unit for the pollutants for which the unit is subject to such standards.

(B) The Administrator shall, by regulation, require—

(1) the owner or operator of any affected unit subject to the standards for sulfur dioxide, nitrogen oxides, or mercury under this section to—

(i) install and operate CEMS for monitoring output, including electricity and useful thermal energy, on the affected unit and to quality assure the data; and

(ii) comply with recordkeeping and reporting requirements, including provisions for reporting output data in megawatt hours.

(2) the owner or operator of any affected unit subject to the standards for particulate matter under this section to—

(i) install and operate CEMS for monitoring particulate matter on the affected unit and to quality assure the data;

(ii) comply with recordkeeping and reporting requirements; and

(iii) comply with alternative monitoring, quality assurance, recordkeeping, and reporting requirements for any period of time for which the Administrator determines that CEMS with appropriate vendor guarantees are not commercially available for particulate matter.

(3) **COMPLIANCE.**—For boilers, integrated gasification combined cycle plants, and combustion turbines that are gas-fired or coal fired, the Administrator shall require that the owner or operator demonstrate compliance with the standards daily, using a 30-day rolling average, except that in the case of mercury, the compliance period shall be the calendar year. For combustion turbines that are not gas-fired or coal-fired, the Administrator shall require that the owner or operator demonstrate compliance with the standards hourly, using a 4-hour rolling average.

(c) **BOILERS AND INTEGRATED GASIFICATION COMBINED CYCLE PLANTS.**—(1) After the effective date of standards promulgated under subsection (b), no owner or operator shall cause any boiler or integrated gasification combined cycle plant that is a new affected unit to discharge into the atmosphere any gases which contain:

(A) sulfur dioxide in excess of 2.0 lb/MWh;

(B) nitrogen oxides in excess of 1.0 lb/MWh;

(C) particulate matter in excess of 0.20 lb/MWh; or

(D) if the unit is coal-fired, mercury in excess of 0.015 lb/GWh, unless:

(i) mercury emissions from the unit are reduced by 80%

(ii) flue gas desulfurization (FGD) and selective catalytic reduction (SCR) are applied to the unit and are operated so as to optimize capture of mercury; or

(iii) a technology is applied to the unit and operated so as to optimize capture of mercury, and the permitting authority determines that the technology is equivalent in terms of mercury capture to the application of FGD and SCR.

(2) Notwithstanding subparagraph (1)(D), integrated gasification combined cycle plants with a combined capacity of less than 5 GW are exempt from the mercury requirement under subparagraph (1)(D) if they are constructed as part of a demonstration project under the Secretary of Energy that will include a demonstration of removal of significant amounts of mercury as determined by the Secretary of Energy in conjunction with the Administrator as part of the solicitation process.

(3) After the effective date of standards promulgated under subsection (b), no owner or operator shall cause any oil-fired boiler that is an existing affected unit to discharge into the atmosphere any gases which contain particulate matter in excess of 0.30 lb/MWh.

(d) **COMBUSTION TURBINES.**—(1) After the effective date of standards promulgated under subsection (b), no owner or operator shall cause any gas-fired combustion turbine that is a new affected unit to discharge into the

atmosphere any gases which contain nitrogen oxides in excess of:

(A) 0.56 lb/MWh (15 ppm at 15 percent oxygen), if the unit is a simple cycle combustion turbine;

(B) 0.084 lb/MWh (3.5 ppm at 15 percent oxygen), if the unit is not a simple cycle combustion turbine and either uses add-on controls or is located within 50 km of a class I area;

(C) 0.21 lb/MWh (9 ppm at 15 percent oxygen), if the unit is not a simple cycle turbine and neither uses add-on controls nor is located within 50 km of a class I area.

(2) After the effective date of standards promulgated under subsection (b), no owner or operator shall cause any coal-fired combustion turbine that is a new affected unit to discharge into the atmosphere any gases which contain sulfur dioxide, nitrogen oxides, particulate matter, or mercury in excess of the emission limits under subparagraphs (c)(1)(A) through (D).

(3) After the effective date of standards promulgated under subsection (b), no owner or operator shall cause any combustion turbine that is not gas-fired or coal-fired and that is a new affected unit to discharge into the atmosphere any gases which contain:

(A) sulfur dioxide in excess of 2.0 lb/MWh;

(B) nitrogen oxides in excess of—

(i) 0.289 lb/MWh (12 ppm at 15 percent oxygen), if the unit is not a simple cycle combustion turbine, is dual-fuel capable, and uses add-on controls; or is not a simple cycle combustion turbine and is located within 50 km of a class I area;

(ii) 1.01 lb/MWh (42 ppm at 15 percent oxygen), if the unit is a simple cycle combustion turbine; is not a simple cycle combustion turbine and is not dual-fuel capable; or is not a simple cycle combustion turbine, is dual-fuel capable, and does not use add-on controls.

(C) particulate matter in excess of 0.20 lb/MWh.

(e) **PERIODIC REVIEW AND REVISION.**—(1) The Administrator shall, at least every 8 years following the promulgation of standards under subsection (b), review and, if appropriate, revise such standards to reflect the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impacts and energy requirements) the Administrator determines has been adequately demonstrated. When implementation and enforcement of any requirement of this Act indicate that emission limitations and percent reductions beyond those required by the standards promulgated under this section are achieved in practice, the Administrator shall, when revising standards promulgated under this section, consider the emission limitations and percent reductions achieved in practice.

(2) Notwithstanding the requirements of paragraph (1) the Administrator need not review any standard promulgated under subsection (b) if the Administrator determines that such review is not appropriate in light of readily available information on the efficacy of such standard.

(f) **EFFECTIVE DATE.**—Standard promulgated pursuant to this section shall become effective upon promulgation.

(g) **DELEGATION.**—(1) Each State may develop and submit to the Administration a procedure for implementing and enforcing standards promulgated under this section for affected units located in such State. If the Administrator finds the State procedure is adequate, the Administrator shall delegate to such State any authority the Administrator has under this Act to implement and enforce such standards.

(2) Nothing in this subsection shall prohibit the Administrator from enforcing any applicable standard under this section.

(h) **VIOLATIONS.**—After the effective date of standards promulgated under this section, it shall be unlawful for any owner or operator of any affected unit to operate such unit in violation of any standard applicable to such unit.

(i) **COORDINATION WITH OTHER AUTHORITIES.**—For purposes of sections 111(e), 113, 114, 116, 120, 303, 304, 307 and other provisions for the enforcement of this Act, each standard established pursuant to this section shall be treated in the same manner as a standard of performance under section 111, and each affected unit subject to standards under this section shall be treated in the same manner as a stationary source under section 111.

(j) **STATE AUTHORITY.**—Nothing in this section shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce any regulations, requirement, limitation, or standard relating to affected units that is more stringent than a regulation, requirement, limitation or standard in effect under this section or under any other provision of this Act.

(k) **OTHER AUTHORITY UNDER THIS ACT.**—Nothing in this section shall diminish the authority of the Administrator or a State to establish any other requirements applicable to affected units under any other authority of law, including the authority to establish for any air pollutant a national ambient air quality standard, except that no new affected unit subject to standards under this section shall be subject to standards under section 111 of this Act.

#### **SECTION 482. RESEARCH, ENVIRONMENTAL MONITORING, AND ASSESSMENT.**

(a) **PURPOSES.**—The Administrator, in collaboration with the Secretary of Energy and the Secretary of the Interior, shall conduct a comprehensive program of research and environmental monitoring and assessment to enhance scientific understanding of the human health and environmental effects of particulate matter and mercury and to demonstrate the efficacy of emission reductions under this title. The purposes of such a program are to:

(1) expand current research and knowledge of the contribution of emissions from electricity generation to exposure and health effects associated with particulate matter and mercury;

(2) enhance current research and development of promising multi-pollutant control strategies and CEMS for mercury;

(3) produce peer-reviewed scientific and technology information to inform the review of emissions levels under section 410;

(4) improve environmental monitoring and assessment of sulfur dioxide, nitrogen oxides and mercury, and their transformation products, to track changes in human health and the environment attributable to emission reductions under this title; and

(5) periodically provide peer-reviewed reports on the costs, benefits, and effectiveness of emission reductions achieved under this title.

(b) **RESEARCH.**—The Administrator shall enhance planned and ongoing laboratory and field research and modeling analyses, and conduct new research and analyses to produce peer-reviewed information concerning the human health and environmental effects of mercury and particulate matter and the contribution of U.S. electrical generating units to those effects. Such information shall be included in the report under subsection (d). In addition, such research and analyses shall:

(1) improve understanding of the rates and processes governing chemical and physical transformations of mercury in the atmosphere, including speciation of emissions from

electricity generation and the transport of these species;

(2) improve understanding of the contribution of mercury emissions from electricity generation to mercury in fish and other biota, including:

(A) the response of and contribution to mercury in the biota owing to atmospheric deposition of mercury from U.S. electricity generation on both local and regional scales;

(B) long-term contributions of mercury from U.S. electricity generation on mercury accumulations in ecosystems, and the effects of mercury reductions in that sector on the environment and public health;

(C) the role and contribution of mercury, from U.S. electricity generating facilities and anthropogenic and natural sources to fish contamination and to human exposure, particularly with respect to sensitive populations; and

(D) the contribution of U.S. electricity generation to population exposure to mercury in freshwater fish and seafood and quantification of linkages between U.S. mercury emissions and domestic mercury exposure and its health effects; and

(E) the contribution of mercury from U.S. electricity generation in the context of other domestic and international sources of mercury, including transport of global anthropogenic and natural background levels.

(3) improve understanding of the health effects of fine particulate matter components related to electricity generation emissions (as distinct from other fine particle fractions and indoor air exposures) and the contribution of U.S. electrical generating units to those effects including:

(A) the chronic effects of fine particulate matter from electricity generation in sensitive population groups; and

(B) personal exposure to fine particulate matter from electricity generation.

(4) improve understanding, by way of a review of the literature, of methods for valuing human health and environmental benefits associated with fine particulate matter and mercury.

(C) **INNOVATIVE CONTROL TECHNOLOGIES.**—The Administrator shall collaborate with the Secretary of Energy to enhance research and development, and conduct new research that facilitates research into and development of innovative technologies to control sulfur dioxide, nitrogen oxides, mercury, and particulate matter at a lower cost than existing technologies. Such research and development shall provide updated information on the cost and feasibility of technologies. Such information shall be included in the report under subsection (d). In addition, the research and development shall:

(1) upgrade cost and performance models to include results from ongoing and future electricity generation and pollution control demonstrations by the Administrator and the Secretary of Energy;

(2) evaluate the overall environmental implications of the various technologies tested including the impact on the characteristics of coal combustion residues;

(3) evaluate the impact of the use of selective catalytic reduction on mercury emissions from the combustion of all coal types;

(4) evaluate the potential of integrated gasification combined cycle to adequately control mercury;

(5) expand current programs by the Administrator to conduct research and promote, lower cost CEMS capable of providing real-time measurements of both speciated and total mercury and integrated compact CEMS that provide cost-effective real-time measurements of sulfur dioxide, nitrogen oxides, and mercury;

(6) expand lab- and pilot-scale mercury and multi-pollutant control programs by the

Secretary of Energy and the Administrator, including development of enhanced sorbents and scrubbers for use on all coal types;

(7) characterize mercury emissions from low-rank coals, for a range of traditional control technologies, like scrubbers and selective catalytic reduction; and

(8) improve low cost combustion modifications and controls for dry-bottom boilers.

(d) **EMISSIONS LEVELS EVALUATION REPORT.**—Not later than January 1, 2008, the Administrator, in consultation with the Secretary of Energy, shall prepare a peer reviewed report to inform review of the emissions levels under section 410. The report shall be based on the best available peer-reviewed scientific and technology information. It shall address cost, feasibility, human health and ecological effects, and net benefits associated with emissions levels under this title.

(e) **ENVIRONMENTAL ACCOUNTABILITY.**—(1) The Administrator shall conduct a program of environmental monitoring and assessment to track on a continuing basis, changes in human health and the environment attributable to the emission reductions required under this title. Such a program shall:

(A) develop and employ methods to routinely monitor, collect, and compile data on the status and trends of mercury and its transformation products in emissions from affected facilities, atmospheric deposition, surface water quality, and biological systems. Emphasis shall be placed on those methods that—

(i) improve the ability to routinely measure mercury in dry deposition processes;

(ii) improve understanding of the spatial and temporal distribution of mercury deposition in order to determine source-receptor relationships and patterns of long-range, regional, and local deposition;

(iii) improve understanding of aggregate exposures and additive effects of methylmercury and other pollutants; and

(iv) improve understanding of the effectiveness and cost of mercury emissions controls.

(B) modernize and enhance the national air quality and atmospheric deposition monitoring networks in order to cost-effectively expand and integrate, where appropriate, monitoring capabilities for sulfur, nitrogen, and mercury to meet the assessment and reporting requirements of this section.

(C) perform and enhance long-term monitoring of sulfur, nitrogen, and mercury, and parameters related to acidification, nutrient enrichment, and mercury bioaccumulation in freshwater and marine biota.

(D) maintain and upgrade models that describe the interactions of emissions with the atmosphere and resulting air quality implications and models that describe the response of ecosystems to atmospheric deposition.

(E) assess indicators of ecosystems health related to sulfur, nitrogen, and mercury, including characterization of the causes and effects of episodic exposure to air pollutants and evaluation of recovery.

(2) **REPORTING REQUIREMENTS.**—Not later than twenty-four months after the date of enactment of the Clear Skies Act of 2002, and not later than every four years thereafter, the Administrator shall provide a peer reviewed report to the Congress on the costs, benefits, and effectiveness of emission reduction programs under this title. The report shall address the relative contribution of emission reductions from U.S. electricity generation under this title compared to the emission reductions achieved under other titles of the Clean Air Act with respect to:

(A) actual and projected emissions of sulfur dioxide, nitrogen oxides, and mercury;

(B) average ambient concentrations of sulfur dioxide and nitrogen oxides trans-

formation products, related air quality parameters, and indicators of reductions in human exposure;

(C) status and trends in total atmospheric deposition of sulfur, nitrogen, and mercury, including regional estimates of total atmospheric deposition;

(D) status and trends in visibility;

(E) status of terrestrial and aquatic ecosystems (including forests and forested watersheds, streams, lakes, rivers, estuaries, and near-coastal waters);

(F) status of mercury and its transformation products in fish;

(G) causes and effects of atmospheric deposition, including changes in surface water quality, forest and soil conditions;

(H) occurrence and effects of coastal eutrophication and episodic acidification, particularly with respect to high elevation watersheds; and

(I) reduction in atmospheric deposition rates that should be achieved to prevent or reduce adverse ecological effects.

#### **SEC. 483. EXEMPTION FROM MAJOR SOURCE RECONSTRUCTION REVIEW REQUIREMENTS AND BEST AVAILABLE RETROFIT CONTROL TECHNOLOGY REQUIREMENTS.**

(a) **MAJOR SOURCE EXEMPTION.**—An affected unit may not be considered a major emitting facility or major stationary source, or a part of a major emitting facility or major stationary source for purposes of compliance with the requirements of part C and part D of title I. This exemption only applies to units that are either subject to the performance standards of section 481 or meet the following requirements within three years after the date of enactment of the Clear Skies Act of 2002:

(1) The owner or operator of the affected unit properly operates, maintains and repairs pollution control equipment to limit emissions of particulate matter, or the owner or operator of the affected unit is subject to an enforceable permit issued pursuant to title V or a permit program approved or promulgated as part of an applicable implementation plan to limit the emissions of particulate matter from the affected unit to 0.03 lb/mmBtu within eight years after the date of enactment of the Clear Skies Act of 2002, and

(2) The owner or operator of the affected unit uses good combustion practices to minimize emissions of carbon monoxide.

(b) **CLASS I AREA PROTECTIONS.**—Notwithstanding the exemption in subsection (a), an affected unit located within 50 km of a Class I area on which construction commences after the date of enactment of the Clear Skies Act of 2002 is subject to those provisions under part C of title I pertaining to the review of a new or modified major stationary source's impact on a Class I area.

(c) **PRECONSTRUCTION REQUIREMENTS.**—Each State shall include in its plan under section 110, a program to provide for the regulation of the construction of an affected unit that ensures that the following requirements are met prior to the commencement of construction of an affected unit:

(1) in an area designated as attainment or unclassifiable under section 107(d), the owner or operator of the affected unit must demonstrate to the State that the emissions increase from the construction or operation of such unit will not cause, or contribute to, air pollution in excess of any national ambient air quality standard.

(2) in an area designated as nonattainment under section 107(d), the State must determine that the emissions increase from the construction or operation of such unit will not interfere with any program to assure that the national ambient air quality standards are achieved.

(3) for a modified unit, the unit must comply prior to beginning operation with either the performance standards of section 481 or best available control technology as defined in part C of title I for the pollutants whose hourly emissions will increase at the unit's maximum capacity.

(4) the State must provide for an opportunity for interested persons to comment on the Class I area protections and preconstruction requirements as set forth in this section.

(d) DEFINITIONS.—For purposes of this section:

(1) The term “affected unit” means any unit that is subject to emission limitations under subpart 2 of part B, subpart 2 of part C, or part D.

(2) The term “construction” includes the construction of a new affected unit and the modification of any affected unit.

(3) The term “modification” means any physical change in, or change in the method of operation of, an affected unit which increases the hourly emissions of any air pollutant at the unit's maximum capacity.”

### SEC. 3. OTHER AMENDMENTS.

(a) Title I of the Clean Air Act is amended by—

(1) removing from section 103 subparagraphs (j)(3)(E) and (j)(3)(F); and

(2) modifying section 107 by amending:

(A) subparagraph (D)(1)(A) by

(i) deleting the “or” at the end of clause (ii);

(ii) replacing the period with “, or” at the end of clause (iii);

(iii) adding clause (iv) to read as follows:

“(iv) notwithstanding clauses (i)—(iii), an area may be designated transitional for the fine particles national primary ambient air quality standard or the 8-hour ozone national primary ambient air quality standard if the Administrator has performed air quality modeling and, in the case of an area that needs additional local control measures, the State has performed supplemental air quality modeling, demonstrating that the area will attain that standard no later than December 31, 2015, and such modeling demonstration and all necessary local controls have been approved into the state implementation plan no later than December 31, 2004.”; and

(iv) adding to the flush language at the end a sentence to read as follows:

“... However, for purposes of the fine particles national primary ambient air quality standard and the 8-hour ozone national primary ambient air quality standard, the time period for the State to submit the designations shall be extended to no later than November 30, 2003.”

(B) clause (d)(1)(B)(i) by adding at the end a sentence to read as follows:

“... Provided, however, that the Administrator shall not be required to designate areas for the revised fine particles national primary ambient air quality standard and 8-hour ozone fine particles national primary ambient air quality standard prior to 6 months after the States are required to submit recommendations under section 107(d)(1)(A), but in no event shall the period for designating such areas be extended beyond November 30, 2004.”

(3) modifying section 110 by:

(A) amending clause (a)(2)(D)(i) to read as follows:

“(D) contain adequate provisions—

(i)(I) except as provided in subclause (II), prohibiting, consistent with the provisions of this title, any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will—

(A) contribute significantly to nonattainment in, or interfere with maintenance by,

any other State with respect to any such national primary or secondary ambient air quality standard, or

(B) interfere with measures required to be included in the applicable implementation plan for any other State under part C to prevent significant deterioration of air quality or to protect visibility,

(II) The Administrator, in reviewing, under subclause (I), any plan with respect to which emissions from affected units, within the meaning of section 126(d)(1), are substantial—

(A) shall consider, among other relevant factors, emissions reductions required to occur by the attainment date or dates of any relevant non-attainment areas in the other State or States; and

(B) may not require submission of plan provisions—

(i) subjecting affected units, within the meaning of section 126(d)(1), to requirements with an effective date prior to January 1, 2012; or

(ii) mandating an amount of emissions reductions based on the Administrator's determination that emissions reductions are available from such affected units, unless the Administrator determines that emissions from such units may be reduced at least as cost-effectively as emissions from each other principal category of sources of sulfur dioxide or nitrogen oxides, including industrial boilers, on-road mobile sources, and off-road mobile sources, and any other category of sources that the Administrator may identify, and that reductions in such emissions will improve air quality in the petitioning State's nonattainment area(s) at least as cost-effectively as reductions in emissions from each other principal category of sources of sulfur dioxide or nitrogen oxides, to the maximum extent that a methodology is reasonably available to make such a determination. The Administrator shall develop an appropriate peer reviewed methodology for making such determinations by December 31, 2006. In making this determination, the Administrator will use the best available peer reviewed models and methodology that consider the proximity of the source or sources to the petitioning State or political subdivision and incorporate other source characteristics.

(III) Nothing in subclause (II) shall be interpreted to require revisions to the provisions of 40 CFR 51.121 and 51.122 (2001), as would be amended in the notice of proposed rulemaking at 67 Federal Register 8396 (February 22, 2002).”

(B) adding a new subsection (q) to read as follows:

“(q) TRANSITIONAL AREAS.—

(1) MAINTENANCE.—

(A) By December 31, 2010, each area designated as transitional pursuant to section 107(d)(1) shall submit an updated emission inventory and an analysis of whether growth in emissions, including growth in vehicle miles traveled, will interfere with attainment by December 31, 2015.

(B) No later than December 31, 2011, the Administrator shall review each transitional area's maintenance analysis, and, if the Administrator determines that growth in emissions will interfere with attainment by December 31, 2015, the Administrator will consult with the State and determine what action, if any, is necessary to assure that attainment will be achieved by 2015.

(2) PREVENTION OF SIGNIFICANT DETERIORATION. Each area designated as transitional pursuant to section 107(d)(1) shall be treated as an attainment or unclassifiable area for purposes of the prevention of significant deterioration provisions of part C of this subchapter.

(3) CONSEQUENCES OF FAILURE TO ATTAIN BY 2015. No later than June 30, 2016, EPA shall

determine whether each area designated as transitional for the 8-hour ozone standard or for the fine particles standard has attained that standard. If EPA determines that a transitional area has not attained the standard, the area shall be redesignated as non-attainment within 1 year of the determination and the State shall be required to submit a state implementation plan revision satisfying the provisions of section 172 within 3 years of redesignation as nonattainment.

(4) adding to section 111 a new subparagraph (b)(1)(C) to read as follows:

“(C) No standards of performance promulgated under this section shall apply to units subject to regulations promulgated pursuant to section 481.”

(5) modifying section 112 by amending:

(A) paragraph (c)(1) to read as follows:

“(c) LIST OF SOURCE CATEGORIES.—

(1) IN GENERAL.—Not later than 12 months after November 15, 1990, the Administrator shall publish, and shall from time to time, but not less often than every 8 years, revise, if appropriate, in response to public comment or new information, a list of all categories and subcategories of major sources and area sources (listed under paragraph (3)) of the air pollutants listed pursuant to subsection (b). Provided, however, that electric utility steam generating units not subject to Resource Conservation and Recovery Act section 3005 shall not be included in any category or subcategory listed under this subsection. The Administrator shall have the authority to regulate the emission of hazardous air pollutants listed under section 112(b), other than mercury compounds, by electric utility steam generating units in accordance with the regime set forth in section 112(f)(2) through (4). The section 112(f)(2) determination shall be based on actual emissions by electric utility steam generating units in 2010. Any such regulations shall be promulgated within 8 years of 2010. To the extent practicable, the categories and subcategories listed under this subsection shall be consistent with the list of source categories established pursuant to section 111 and part C. Nothing in the preceding sentence limits the Administrator's authority to establish subcategories under this section, as appropriate.”

(B) subparagraph (n)(1)(A) to read as follows:

“(n) OTHER PROVISIONS.—

(1) ELECTRIC UTILITY STEAM GENERATING UNITS.—

(A) The Administrator shall perform a study of the hazards to public health reasonably anticipated to occur as a result of emissions by electric utility steam generating units of pollutants listed under subsection (b) after imposition of the requirements of this Act. The Administrator shall report the results of this study to the Congress within 3 years after November 15, 1990.”

(6) modifying section 126 by:

(A) revising subsection (b) by replacing “section 110(a)(2)(D)(ii) or this section” with “section 110(a)(2)(D)(i)”;

(B) revising subsection (c)(1) by replacing “this section and the prohibition of section 110(a)(2)(D)(ii)” with “the prohibition of section 110(a)(2)(D)(i)”;

(C) revising subsection (c), flush language at end, by replacing “section 110(a)(2)(D)(ii)” with “section 110(a)(2)(D)(i)” and deleting the last sentence; and

(D) adding subsection (d) to read as follows:

“(d)(1) For purposes of this subsection, the term “affected unit” means any unit that is subject to emission limitations under subpart 2 of part B, subpart 2 of part C, or part D.

(2) To the extent that any petition submitted under subsection (b) after the date of

enactment of the Clear Skies Act of 2002 seeks a finding for any affected unit, then, notwithstanding any provision in subsections (a) through (c) to the contrary—

(A) In determining whether to make a finding under subsection (b) for any affected unit, the Administrator shall consider, among other relevant factors, emissions reductions required to occur by the attainment date or dates of any relevant nonattainment areas in the petitioning State or political subdivision.

(B) The Administrator may not determine that affected units emit or would emit any air pollutant in violation of the prohibition of section 110(a)(2)(D)(i) unless that Administrator determines that:

(i) such emissions may be reduced at least as cost-effectively as emissions from each other principal category of sources of sulfur dioxide or nitrogen oxides, including industrial boilers, on-road mobile sources, and off-road mobile sources, and any other category of sources that the Administrator may identify; and

(ii) reductions in such emissions will improve air quality in the petitioning state's nonattainment area(s) at least as cost-effectively as reductions in emissions from each other principal category of sources of sulfur dioxide or nitrogen oxides to the maximum extent that a methodology is reasonably available to make such a determination. In making this determination, the Administrator will use the best available peer reviewed models and methodology that consider the proximity of the source or sources to the petitioning State or political subdivision and incorporate other sources characteristics.

(C) The Administrator shall develop an appropriate peer reviewed methodology for making determinations under subparagraph (B) by December 31, 2006.

(D) The Administrator shall not make any findings with respect to an affected unit under this section prior to January 1, 2009. For any petition submitted prior to January 1, 2007, the Administrator shall make a finding or deny the petition by January 31, 2009.

(E) The Administrator, by rulemaking, shall extend the compliance and implementation deadlines in subsection (c) to the extent necessary to assure that no affected unit shall be subject to any such deadline prior to January 1, 2012."

(b) Title III of the Clean Air Act is amended by modifying section 307(d)(1)(G) to read as follows:

"(G) the promulgation or revision of any regulation under title IV."

(C) Title IV of the Clean Air Act (relating to noise pollution) (42 U.S.C. 7641 et seq.) is—

(1) amended by renumbering sections 401 through 403 as sections 701 through 703, respectively; and

(2) renumbered as title VII.

(d) Title VIII of the Clean Air Act Amendments of 1990 (miscellaneous provisions) is amended by modifying section 821(a) to read as follows:

"(a) MONITORING.—The Administrator of the Environmental Protection Agency shall promulgate regulations within 18 months after November 15, 1990 to require that all affected sources subject to subpart 1 of part B of title IV of the Clean Air Act shall also monitor carbon dioxide emissions according to the same timetable as in section 405(b). The regulations shall require that such data be reported to the Administrator. The provisions of section 405(e) of title IV of the Clean Air Act shall apply for purposes of this section in the same manner and to the same extent as such provision applies to the monitoring and data referred to in section 405. The Administrator shall implement this subsection under 40 CFR part 75 (2001), amended as appropriate by the Administrator."

By Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. MCCAIN, Mr. DEWINE, Ms. LANDRIEU, Mr. JOHNSON, Mrs. CARNAHAN, Mr. HATCH, Mr. ROCKEFELLER, Mrs. LINCOLN, Mr. TORRICELLI, Mr. DURBIN, Mr. MURKOWSKI, and Mr. KERRY):

S. 2816. A bill to amend the Internal Revenue Code of 1986 to improve tax equity for military personnel, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today to introduce the Foreign and Armed Services Tax Fairness Act of 2002, FAST Fairness, that will not only correct inequities in the current tax code our military men and women are subject to, but it will also provide incentives for our dedicated forces to continue their service to America.

On July 9, 2002, the House passed unanimously a bill, H.R. 5063, that provided limited relief to military personnel. The bill would provide a special rule for members of the armed forces in determining the exclusion of gain from the sale of a principal residence and would restore the tax-exempt status of death gratuity payments to members of the armed forces. I support the efforts of the House, but believe we can go farther.

These are the men and women that put their lives on the line for our freedom on a daily basis. We need to ensure that laws that we here in Congress pass do not negatively impact them. We should also develop sound policy that serves as an incentive for our youth to follow in the steps of the men and women that went before them to defend our country.

It is with these principles in mind that I move forward with this military tax package and incorporate additional provisions already introduced by my colleagues. I would now like to describe the provisions that I have chosen to include in this critical piece of legislation:

On July 24, 2002, Senator CARNAHAN introduced S. 2783, which would restore the tax exempt status of all death gratuity payments. This proposal is similar to the provision included in H.R. 5063.

Why is this provision so important? Under current law, death gratuity benefits are excludable from income only to the extent that they were as of September 9, 1986. In 1986, the death gratuity benefit was \$3,000. In 1991, the benefit was increased to \$6,000, but the tax code was never adjusted to exclude the additional \$3,000 from income. Because of this oversight, the U.S. government has been taxing families for the death of a family member who died in combat. This is just wrong.

I support the provisions of H.R. 5063 and S. 2783, therefore I have included them in this piece of legislation.

In 1997, Congress passed legislation revising the taxation of capital gains on the sale of a person's principal residence. The new rule is that up to

\$250,000, \$500,000 per couple, is excluded on that sale of a principal residence if the individual has lived in the house for at least two of the previous five years.

However, when enacted, Congress failed to provide a special rule for military and Foreign Service personnel who are required to move either within the U.S. or abroad. Senators MCCAIN and GRAHAM both have introduced legislation to address this oversight.

I agree that we should adjust the rule for our service men and women. We shouldn't penalize them for choosing to serve our country. My proposal would permit service personnel and members of the Foreign Service to suspend the five-year period while away on assignment, meaning those years would count toward neither the two years nor the five year periods. This is a also similar to provisions on H.R. 5063.

The Department of Defense provides payments to members of the Armed Services to offset diminution in housing values due to military base realignment or closure. For example, if a house near a base was worth \$180,000 prior to the base closure and \$100,000 after the base closure, DOD may provide the owner with a payment to offset some, but not all of the \$80,000 diminution in value. Under current law, those amounts are taxable as compensation.

There will be another round of base closures in the near future. That fate was decided in the FY2002 Defense Authorization bill. We should ensure that those men and women losing value in their homes due to a federal government decision are not adversely affected financially. The proposal would provide that payments for lost value are not includible into income. Recently, Senator CLELAND introduced a package that included this provision. I thank him for his unending pursuit to provide military personnel with the best quality of life available. And, I'm happy to include this provision in my legislation.

Under current law, military personnel in a combat zone are afforded an extended period for filing tax returns. However, this does not apply to contingency operations. This proposal would extend the same benefits to military personnel assigned to contingency operations.

It can't be easy trying to figure out our complicated tax system while you are overseas and protecting our nation's freedom. Those men and women that have been sent to uphold freedom in other countries are confronted with similar circumstances, such as in Operation Just Cause in Panama, 1989, or in Operation Restore Hope in Somalia in 1992 and 1993, or in Operation Uphold Democracy in Haiti, 1994. Contingency operations are just as demanding as combat zone deployment, although not always in the same manner. I would like to thank Senator JOHNSON for introducing S. 2785. It is important that we support all our troops when they are overseas.



Some reservists who travel one week-end per month and two weeks in the summer for reserve duty incur significant travel and lodging expenses. Under current law, these are deductible as itemized deductions but must exceed 2 percent of adjusted gross income. For lower income reservists, this deduction does not provide a benefit, because they do not itemize. For higher income reservists, the 2 percent floor limits the amount of the benefit of the deductions.

In my home state of Montana, we have approximately 3500 reservists, 800 of which travel each month across the State for their training. These 800 reservists pay out of their own pocket the expense for travel, and hotel rooms. In Montana we rank 48th in the Nation for per capita personal income. I know it can't be easy for Montanans to incur approximately \$200 in expenses each and every month. Yet, they continue selflessly to provide their services to our country at their own expense. For those reservists that travel out of State for their training, this expense is higher on average. This proposal would provide an above the line deduction for overnight travel costs and would be available for all reservists and members of the National Guard.

This issue is currently addressed in S. 540, which Senator DEWINE introduced back in March of 2001. I can't tell you just how many people have contacted our office in support of this bill. I support what this bill does and I am glad that we can include some of its provisions in my military tax package.

Recently, Senator HARKIN introduced S. 2789, which would expand the membership for Veteran's organizations. Currently, qualified veterans' organizations under section 501(c)(19) of the tax code are both tax-exempt and contributions to the organization are tax-deductible. In order to qualify under 501(c)(19), the organization must meet several tests, including 75 percent of the members must be current or former active military, and substantially all of the members must be either current or former active military or widows of former active military. The proposal would permit lineal descendants and ancestors to qualify for the "substantially all" test.

It is important that our veterans' organizations continue the good work that they do. But, as the organizations age, they are in danger of losing their tax-exempt status. I support Senator HARKIN's bill, as does the American Legion. I have included it in my tax package.

Finally, I want to ensure that women in the military can continue their dedicated service even once they have entered motherhood knowing that their children are being well taken care of. The military provides extensive childcare benefits to its employees. DOD employees at DOD-owned facilities provide childcare services while other areas contract out their childcare.

When Congress passed the Tax Reform Act of 1986, we included a provision stating that qualified military benefits are excluded from income. It is not absolutely clear whether child care provisions are covered under this provision. The proposal would clarify that any childcare benefit provided to military personnel would be excludable from income. Senator LANDRIEU has introduced S. 2807, a similar measure. I support this measure and am proud to include it in this piece of legislation.

It is my intention to mark-up this legislation soon in hopes that we can move it through the Senate quickly. It is important that we continue to show members of the armed forces our support and solidarity during this time of conflict. The War on Terrorism has brought to light the essential role the armed services play in upholding freedom throughout the world. I would like to see a military tax equity bill signed into law by the President before the end of the year.

Mr. President, I ask 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. 2816

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; ETC.

(a) **SHORT TITLE.**—This Act may be cited as the "Foreign and Armed Services Tax Fairness Act of 2002".

(b) **AMENDMENT OF 1986 CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; etc.
- Sec. 2. Restoration of full exclusion from gross income of death gratuity payment.
- Sec. 3. Special rule for members of uniformed services and Foreign Service in determining exclusion of gain from sale of principal residence.
- Sec. 4. Qualified military base realignment and closure fringe benefit.
- Sec. 5. Extension of tax filing delay provisions to military personnel serving in contingency operations.
- Sec. 6. Deduction of certain expenses of members of the reserve component.
- Sec. 7. Modification of membership requirement for exemption from tax for veterans' organizations.
- Sec. 8. Clarification of the treatment of dependent care assistance programs sponsored by the Department of Defense for members of the Armed Forces of the United States.

#### SEC. 2. RESTORATION OF FULL EXCLUSION FROM GROSS INCOME OF DEATH GRATUITY PAYMENT.

(a) **IN GENERAL.**—Subsection (b)(3) of section 134 (relating to certain military benefits) is amended by adding at the end the following new subparagraph:

"(C) **EXCEPTION FOR DEATH GRATUITY ADJUSTMENTS MADE BY LAW.**—Subparagraph (A) shall not apply to any adjustment to the amount of death gratuity payable under chapter 75 of title 10, United States Code, which is pursuant to a provision of law enacted after September 9, 1986."

(b) **CONFORMING AMENDMENT.**—Subparagraph (A) of section 134(b)(3) is amended by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)".

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to deaths occurring after September 10, 2001.

#### SEC. 3. SPECIAL RULE FOR MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE IN DETERMINING EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

(a) **IN GENERAL.**—Subsection (d) of section 121 (relating to exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

"(9) **MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE.**—

"(A) **IN GENERAL.**—At the election of an individual with respect to a property, the running of the 5-year period described in subsection (a) with respect to such property shall be suspended during any period that such individual or such individual's spouse is serving on qualified official extended duty as a member of the uniformed services or of the Foreign Service.

"(B) **MAXIMUM PERIOD OF SUSPENSION.**—The 5-year period described in subsection (a) shall not be extended more than 5 years by reason of subparagraph (A).

"(C) **QUALIFIED OFFICIAL EXTENDED DUTY.**—For purposes of this paragraph—

"(i) **IN GENERAL.**—The term 'qualified official extended duty' means any extended duty while serving at a duty station which is at least 50 miles from such property or while residing under Government orders in Government quarters.

"(ii) **UNIFORMED SERVICES.**—The term 'uniformed services' has the meaning given such term by section 101(a)(5) of title 10, United States Code, as in effect on the date of the enactment of this paragraph.

"(iii) **FOREIGN SERVICE OF THE UNITED STATES.**—The term 'member of the Foreign Service' has the meaning given the term 'member of the Service' by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980.

"(iv) **EXTENDED DUTY.**—The term 'extended duty' means any period of duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

"(D) **SPECIAL RULES RELATING TO ELECTION.**—

"(i) **ELECTION LIMITED TO 1 PROPERTY AT A TIME.**—An election under subparagraph (A) with respect to any property may not be made if such an election is in effect with respect to any other property.

"(ii) **REVOCATION OF ELECTION.**—An election under subparagraph (A) may be revoked at any time."

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to elections made after the date of the enactment of this Act for suspended periods under section 121(d)(9) of the Internal Revenue Code of 1986 (as added by this section) beginning after such date.

#### SEC. 4. QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE BENEFIT.

(a) **IN GENERAL.**—Section 132(a) (relating to the exclusion from gross income of certain fringe benefits) is amended by striking "or" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting "or" and by adding at the end the following new paragraph:

“(8) qualified military base realignment and closure fringe.”.

(b) **QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.**—Section 132 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

“(n) **QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.**—For purposes of this section, the term ‘qualified military base realignment and closure fringe’ means 1 or more payments under the authority of section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to offset the adverse effects on housing values as a result of a military base realignment or closure.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

**SEC. 5. EXTENSION OF TAX FILING DELAY PROVISIONS TO MILITARY PERSONNEL SERVING IN CONTINGENCY OPERATIONS.**

(a) **IN GENERAL.**—Section 7508(a) (relating to time for performing certain acts postponed by reason of service in combat zone) is amended—

(1) by inserting “or when deployed outside the United States away from the individual’s permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) or which became such a contingency operation by operation of law” after “section 112”;

(2) by inserting in the first sentence “or at any time during the period of such contingency operation” after “for purposes of such section”;

(3) by inserting “or operation” after “such an area”, and

(4) by inserting “or operation” after “such area”.

(b) **CONFORMING AMENDMENTS.**—

(1) Section 7508(d) is amended by inserting “or contingency operation” after “area”.

(2) The heading for section 7508 is amended by inserting “**or contingency operation**” after “**combat zone**”.

(3) The item relating to section 7508 in the table of sections for chapter 77 is amended by inserting “or contingency operation” after “combat zone”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to any period for performing an act which has not expired before the date of the enactment of this Act.

**SEC. 6. DEDUCTION OF CERTAIN EXPENSES OF MEMBERS OF THE RESERVE COMPONENT.**

(a) **DEDUCTION ALLOWED.**—Section 162 (relating to certain trade or business expenses) is amended by redesignating subsection (p) as subsection (q) and inserting after subsection (o) the following new subsection:

“(p) **TREATMENT OF EXPENSES OF MEMBERS OF RESERVE COMPONENT OF ARMED FORCES OF THE UNITED STATES.**—For purposes of subsection (a), in the case of an individual who performs services as a member of a reserve component of the Armed Forces of the United States at any time during the taxable year, such individual shall be deemed to be away from home in the pursuit of a trade or business during any period for which such individual is away from home in connection with such service.”.

(b) **DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ELECTS TO ITEMIZE.**—Section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by adding at the end the following new subparagraph:

“(E) **CERTAIN EXPENSES OF MEMBERS OF RESERVE COMPONENTS OF THE ARMED FORCES OF**

**THE UNITED STATES.**—The deductions allowed by section 162 which consist of expenses, in amounts not in excess of the rates for travel expenses (including per diem in lieu of subsistence) authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, paid or incurred by the taxpayer in connection with the performance of services by such taxpayer as a member of a reserve component of the Armed Forces of the United States.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2001.

**SEC. 7. MODIFICATION OF MEMBERSHIP REQUIREMENT FOR EXEMPTION FROM TAX FOR VETERANS’ ORGANIZATIONS.**

(a) **IN GENERAL.**—Subparagraph (B) of section 501(c)(19) (relating to list of exempt organizations) is amended by striking “or widowers” and inserting “, widowers, or ancestors or lineal descendants”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 8. CLARIFICATION OF THE TREATMENT OF DEPENDENT CARE ASSISTANCE PROGRAMS SPONSORED BY THE DEPARTMENT OF DEFENSE FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES.**

(a) **IN GENERAL.**—Section 134(b) (defining qualified military benefit) is amended by adding at the end the following new paragraph:

“(4) **CLARIFICATION OF CERTAIN BENEFITS.**—For purposes of paragraph (1), such term includes any dependent care assistance program sponsored by the Department of Defense for members of the Armed Forces of the United States.”.

(b) **CONFORMING AMENDMENTS.**—

(1) Section 3121(a)(18) is amended by striking “or 129” and inserting “, 129, or 134(b)(4)”.

(2) Section 3306(b)(13) is amended by striking “or 129” and inserting “, 129, or 134(b)(4)”.

(3) Section 3401(a)(18) is amended by striking “or 129” and inserting “, 129, or 134(b)(4)”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

(d) **NO INFERENCE.**—No inference may be drawn from the amendments made by this section with respect to the tax treatment of any amounts under the program described in section 134(b)(4) of the Internal Revenue Code of 1986 (as added by this section) for any taxable year beginning before January 1, 2002.

By Mr. KENNEDY (for himself,  
Mr. HOLLINGS, Mr. BOND, and  
Ms. MIKULSKI):

S. 2817. A bill to authorize appropriations for fiscal years 2003, 2004, 2005, 2006, and 2007 for the National Science Foundation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, I am pleased to introduce today the National Science Foundation Doubling Act. This important legislation has been crafted with the extensive cooperation of Senator HOLLINGS, Chairman of the Senate Committee on Commerce, Science, and Transportation, Senator MIKULSKI and Senator BOND, the respective Chair and Ranking Member of the Senate Committee on

Appropriations Subcommittee on Veterans Affairs, Housing and Urban Development, and Independent Agencies. I commend each of them for their leadership in federal support for the sciences.

The National Science Foundation, NSF, has two key missions, and it carries both of them out well. It supports basic research and development in math, science, engineering, and technology, and it promotes math and science learning at every level, from K-12 through post-graduate education.

NSF has funded basic research leading to the creation of speech recognition software, MRI machines, and even World Wide Web browsers such as Netscape and Microsoft’s Internet Explorer. In education, NSF initiatives of the late 1980s were the forerunners of the standards-based school reform movement embraced throughout the Nation today.

We can and should build on NSF’s distinguished record in improving the lives of millions of Americans. The 20th Century was the era of the industrial age, and the 21st Century will be the era of information technology and the life sciences. With the leadership of Senator HARKIN and others, we have doubled the budget of the National Institutes of Health over the last five years. We should do the same for NSF. We should double our support for research and development in theoretical mathematics and the physical sciences, because they support advances in the health sciences and because they are also valuable in their own right.

As former Senator Glenn has pointed out so frequently, we need to do much more to interest young minds in math and science and recruit tomorrow’s scientists and engineers. Over the next 10 years, the number of jobs requiring technical skills will grow by 50 percent. Unfortunately, high school student performance on math and science exams is alarmingly low. The number of American students studying the sciences at the post-secondary level is flat. Too many women and minorities continue to shy away from the sciences.

The bill we are introducing today authorizes a doubling of the NSF budget over the next five years. It makes sense to match the growth of NIH. As we enhance research and development in the life sciences, we should also be strengthening research and development in the physical sciences.

This legislation also builds on NSF’s Systemic Initiatives by supporting a Secondary School Systemic Initiative to develop models to improve high school student math and science performance and preparation for college-level or technical work.

The bill supports model Math and Science Partnerships between institutions of higher education and local school districts to improve the knowledge and teaching techniques of current math and science teachers.

The bill supports institutions of higher education in increasing the

number of students, particularly women and minorities, who study toward and obtain degrees in science, math, engineering, and technology.

Finally, the bill reforms NSF's program on major research and facilities equipment, to help prioritize projects and guard against cost overruns and non-merit reviewed proposals.

Scientific discovery and development continues to set America apart from other Nations and is one of our enduring legacies. The National Science Foundation Doubling Act is a solid piece of legislation building on our Nation's history in the sciences and promoting a better future. It deserves to be considered quickly, and I believe favorably, by the United States Senate.

Mr. HOLLINGS. Mr. President, I join my colleagues, Senator KENNEDY, and Senator MIKULSKI and Senator BOND, in introducing this bill to authorize the National Science Foundation through FY 2007. My friends and I represent three Committees with a strong interest in NSF, and we chose a straightforward title for the name of this bill, the NSF Doubling Act, because our intentions our simple and straightforward. Congress's intent is to double NSF's budget by fiscal year 2007. NSF is the Nation's premier federal science agency that invests in basic research across all disciplines that is on the frontiers of science. In 1945, Vannevar Bush's report for President Roosevelt led to the establishment of the National Science Foundation. Since then, this nation has been on a path of solid investment in the scientific research that underlies our future economic health and well being. It's no mistake that Alan Greenspan and other important economists have noted that more than one-half of our Nation's economic growth since World War I has stemmed from technology driven by science.

By next year, we in Congress will have succeeded in our goal to double the budget of the National Institutes of Health. I applaud that effort. But as scientific disciplines have become fundamentally interdependent, advances in the health sciences necessarily depend on advances in math, computer science, and engineering. NSF is the only Federal agency specifically charged with ensuring a broad and deep base of fundamental knowledge across disciplines. This mission is critical to technological innovation, our economy, and our general health and welfare as a Nation.

I have said that our intentions are simple and straightforward. So let me set out three simple reasons why this doubling is vital to our future:

The first concerns our security. Not only does NSF fund areas, such as cyber security, that are critical to protecting our nation, but NSF is the agency that takes the lead in ensuring that this country has sufficient human capital to ensure our continued world leadership in science and technology. The Hart-Rudman Commission on National Security warned that our failure

to invest in science and to reform math and science education was the second biggest threat to our national security, only the threat of a weapon of mass destruction in an American city was a greater danger. NSF invests in math and science education from kindergarten all the way through to the post-doctoral level and beyond. This bill allows the Foundation to increase that investment, while reaffirming our commitment to women, minorities, and people with disabilities. These under-represented groups, together, make up more than half of our Nation's work force and are only increasing. Letting these groups fall by the wayside would not only threaten our economic competitiveness, but also our national security.

Second pertains to our economy. I have already talked about science and technology driving our economic growth. Let me give just one example of how NSF's investments can spur our economy. NSF is the leading agency in the National Nanotechnology Initiative. Nanotechnology, which is the science of manipulating matter at the atomic and molecular level, will cut across every scientific discipline, including materials and manufacturing, healthcare and medicine, energy and the environment, agriculture, biotechnology, information technology, and national security. Worldwide, the market for nanotechnology is expected to be \$1 trillion annually within 10 to 15 years. NSF's cross-disciplinary approach, which includes groundbreaking research into the way society and this new technology will interact, will help this nation take advantage of Nanotechnology sooner, better, and with greater confidence.

The third involves basic research. NSF is responsible for the overall health and well-being of the research enterprise in this country. One way NSF does this is through continued support for the EPSCoR program. EPSCoR supports the development of the science and technology resources of individual States like South Carolina, through partnerships that involve the State's universities, industry, government, and the Federal research and development enterprise. For example, NSF supports an Engineering Research Center focused on advanced fibers and films at Clemson University that, through partnerships and continued investment over the next 10 years, will make Clemson the national leader in advanced fibers and films technologies.

I think these arguments are solid, simple, and straightforward. We can talk about NSF's past outstanding contributions to science. We can talk about the future and the importance of science and technology to our economy. But, where the rubber meets the road, we have to stop talking and invest, with real money, in the science and engineering enterprise that will guaranty the health, economic viability, and security of our future. I, for one, appreciate the hard work that

NSF has done over the past 52 years promoting the progress of science, and I urge my Senate colleagues to support me in providing this agency the resources needed to conquer tomorrow.

Mr. BOND. Mr. President, I rise today to express my strong support for the National Science Foundation Doubling Act of 2002. As an original cosponsor, I am pleased to join my colleagues, Senators KENNEDY, HOLLINGS, and MIKULSKI in introducing this important legislation that will strengthen the long-term economic competitiveness and health of our Nation. As an appropriator and as an authorizer of NSF, I have a special interest in NSF and the basic science research it supports. I believe this bill underscores the critical role NSF plays in the economic and intellectual growth and well-being of this Nation.

As many of my colleagues know, Senator MIKULSKI and I have led a bipartisan, bi-cameral effort to double NSF's budget and this reauthorization bill further supports our doubling effort over a five-year period. NSF is funding innovative and cutting-edge research in nanotechnology, plant biotechnology, and information technology. Doubling NSF's funding is not only important for these research programs but also in the area of education. NSF plays a valuable role in supporting math and science education and developing the Nation's supply of scientists and engineers in this country.

Unfortunately, despite our efforts on the appropriations committee, the Federal Government has not provided adequate support to NSF and the physical sciences in general. I believe the lack of adequate support for the physical sciences puts our Nation's capabilities for scientific innovation at risk and, equally important, at risk of falling behind other industrial nations.

Further, doctors throughout Missouri and the country have told me that despite the tremendous support we have provided for the life sciences, their research in the biomedical field will stagnate without adequate government support of the physical sciences that NSF supports. Many medical technologies such as magnetic resonance imaging, ultrasound, digital mammography and genomic mapping could not have occurred, and cannot improve to the next level of proficiency, without NSF-supported work in biology, physics, chemistry, mathematics, engineering, and computer sciences. Simply put: supporting NSF supports NIH.

The high-tech industry also is concerned about NSF funding because they are struggling to find qualified home-grown engineers and scientists and becoming more reliant on foreign nationals to fill their positions. Many notable researchers in the high-tech industry have told me that the significant shortages of trained American engineers and scientists have limited the growth potential of the electronics and software industries and allowed foreign

competitors to catch up to U.S. industry capabilities.

To address the development of tech talent in this country, NSF provides a wide array of support to preK-12, undergraduate, and graduate level schools. One new important tool is the Math and Science partnership program—a new joint program between NSF and the Department of Education. This program encourages partnerships among local school systems, higher education entities, and other organizations to improve student outcomes in math and science for all students.

Another important tool that I support is the tech talent program. This program was initiated at the urging of me and my Senate colleagues—Senators LIEBERMAN, FRIST, MIKULSKI, and DOMENICI. Last year, we introduced S. 1549, the Tech Talent Act to improve undergraduate education in math, science, engineering, and technology. We provided \$5 million in the Fiscal Year 2002 VA-HUD and Independent Agencies Appropriations Act to jumpstart this important initiative and another \$20 million was added in the fiscal year 2003 bill that passed the Appropriations Committee last week. NSF has already received 177 applications requesting an aggregate sum of almost \$60 million.

Lastly, I am very supportive of efforts to improve the accountability of NSF's programs and activities—especially those projects funded through the major research equipment and facilities construction account. The bill includes a number of provisions to ensure that funding decisions on large research facilities are done in a rationale and understandable manner.

Before the bill reaches the floor, I hope to work with my colleagues on addressing other issues related to the National Science Board. As the budget for NSF grows, it is important that the Board has the tools it needs to fulfill its statutory responsibilities. Specifically, we need to provide the chairman of the Board the authority to hire its own staff to support the Board's oversight and policy-making responsibilities and to ensure that it can provide the Congress and the President with independent science policy advice. These tools will also ensure that the Board is not a "rubber stamp" for the Director of NSF.

I urge my colleagues to support this bill. I understand that some of my colleagues have concerns about the bill, but I believe that overall, this is a good bill. I look forward to working with my colleagues in the Senate and the House in moving a strong bipartisan NSF reauthorization bill and in advancing our effort to double NSF's budget.

I thank the Chair.

#### NOTICES OF HEARINGS/MEETINGS

##### COMMITTEE ON INDIAN AFFAIRS

Mr. INOUE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Tuesday,

July 30, 2002, at 10 a.m. in room 106 of the Dirksen Senate Office Building to conduct a hearing on a Legislative Proposal of the Department of Interior/Tribal Trust Fund Reform Task Force; to be followed immediately by a second hearing on S. 2212, A bill 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-Determination Act and for other purposes.

##### COMMITTEE ON INDIAN AFFAIRS

Mr. INOUE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, August 1, 2002, at 10 a.m. in room 485 of the Russell Senate Office Building to conduct an oversight hearing on the Interior Secretary's Report on the Hoopa Yurok Settlement Act.

The Committee will meet again on Thursday, August 1, 2002, at 2 p.m. in room 485 of the Russell Senate Office Building to conduct an oversight hearing on Problems Facing Native Youth.

Those wishing additional information may contact the Indian Affairs Committee at 224-2251.

##### COMMITTEE ON INDIAN AFFAIRS

Mr. INOUE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Friday, August 2, 2002, at 2 p.m. in room 106 of the Dirksen Senate Office Building to conduct a hearing on S. 958, A bill 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, and for other purposes.

Those wishing additional information may contact the Indian Affairs Committee at 224-2251.

#### EXECUTIVE SESSION

##### EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 884, 885, 886, 890, 891, 892, 893, 904, 905, 910, 912, 913, 914, 915, 916, 917, 918, 919, and 920; that the nominations be confirmed, the motion to reconsider be laid upon the table, any statements thereon 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:

##### NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Jeffrey D. Wallin, of California, to be a Member of the National Council on the Hu-

manities for a term expiring January 26, 2006.

Wilfred M. McClay, of Tennessee, to be a Member of the National Council on the Humanities for a term expiring January 26, 2006.

Thomas Mallon, of Connecticut, to be a Member of the National Council on the Humanities for a term expiring January 26, 2004.

##### DEPARTMENT OF JUSTICE

Lawrence A. Greenfield, of Maryland, to be Director of the Bureau of Justice Statistics.

Anthony Dichio, of Massachusetts, to be United States Marshal for the District of Massachusetts for the term of four years.

Michael Lee Kline, of Washington, to be United States Marshal for the Eastern District of Washington for the term of four years.

James Thomas Roberts, Jr., of Georgia, to be United States Marshal for the Southern District of Georgia for the term of four years.

##### FARM CREDIT ADMINISTRATION

Fred L. Dailey, of Ohio, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

Grace Trujillo Daniel, of California, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

##### CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

J. Russell George, of Virginia, to be Inspector General, Corporation for National and Community Service.

##### DEPARTMENT OF JUSTICE

Marcos D. Jimenez, of Florida, to be United States Attorney for the Southern District of Florida for the term of four years.

Miriam F. Miquelon, of Illinois, to be United States Attorney for the Southern District of Illinois.

James Robert Dougan, of Michigan, to be United States Marshal for the Western District of Michigan for the term of four years.

George Breffni Walsh, of Virginia, to be United States Marshal for the District of Columbia for the term of four years.

##### FEDERAL MEDIATION AND CONCILIATION SERVICE

Peter J. Hurtgen, of Maryland, to be Federal Mediation and Conciliation Director.

##### NATIONAL COUNCIL ON DISABILITY

Robert Davila, of New York, to be a Member of the National Council On Disability for a term expiring September 17, 2003.

##### NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Earl A. Powell III, of Virginia, to be a Member of the National Council on the Arts for a term expiring September 3, 2006.

Naomi Shihab Nye, of Texas, to be a Member of the National Council on the Humanities for a term expiring January 26, 2006.

Michael Pack, of Maryland, to be a Member of the National Council on the Humanities for a term expiring January 26, 2004.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

##### PERSIAN GULF WAR POW/MIA ACCOUNTABILITY ACT OF 2001

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 452, S. 1339.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1339) to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

There being no objection, the Senate proceeded to the consideration of the bill, which had been reported from the Committee on the Judiciary, with an amendment, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics)

*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 "Persian Gulf War POW/MIA Accountability Act of 2001".

#### SEC. 2. AMERICAN PERSIAN GULF WAR POW/MIA ASYLUM PROGRAM.

(a) ASYLUM PROGRAM.—The Bring Them Home Alive Act of 2000 (Public Law 106-484; 114 Stat. 2195; 8 U.S.C. 1157 note) is amended by inserting after section 3 the following new section:

#### "SEC. 3A. AMERICAN PERSIAN GULF WAR POW/MIA ASYLUM PROGRAM.

"(a) ASYLUM FOR ELIGIBLE ALIENS.—Notwithstanding any other provision of law, the Attorney General shall grant refugee status in the United States to any alien described in subsection (b), upon the application of that alien.

"(b) ELIGIBILITY.—Refugee status shall be granted under subsection (a) to—

"(1) any alien who—

"(A) is a national of Iraq or a nation of the Greater Middle East Region (as determined by the Attorney General in consultation with the Secretary of State); and

"(B) personally delivers into the custody of the United States Government a living American Persian Gulf War POW/MIA; and

"(2) any parent, spouse, or child of an alien described in paragraph (1).]"

"(b) ELIGIBILITY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an alien described in this subsection is—

"(A) any alien who—

"(i) is a national of Iraq or a nation of the Greater Middle East Region (as determined by the Attorney General in consultation with the Secretary of State); and

"(ii) personally delivers into the custody of the United States Government a living American Persian Gulf War POW/MIA; and

"(B) any parent, spouse, or child of an alien described in subparagraph (A).

"(2) EXCEPTIONS.—An alien described in this subsection does not include a terrorist, a persecutor, a person who has been convicted of a serious criminal offense, or a person who presents a danger to the security of the United States, as set forth in clauses (i) through (v) of section 208(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)).

"(c) DEFINITIONS.—In this section:

"(1) AMERICAN PERSIAN GULF WAR POW/MIA.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'American Persian Gulf War POW/MIA' means an individual—

"(i) who is a member of a uniformed service within the meaning of section 101(3) of title 37, United States Code) in a missing status (as defined in section 551(2) of such title and this subsection) as a result of the Persian Gulf War, or any successor conflict, operation, or action; or

"(ii) who is an employee (as defined in section 5561(2) of title 5, United States Code) in a missing status (as defined in section 5561(5) of such title) as a result of the Persian Gulf War, or any successor conflict, operation, or action.

"(B) EXCLUSION.—Such term does not include an individual with respect to whom it is officially determined under section 552(c) of title 37, United States Code, that such individual is officially absent from such individual's post of duty without authority.

"(2) MISSING STATUS.—The term 'missing status', with respect to the Persian Gulf War, or any successor conflict, operation, or action, means the status of an individual as a result of the Persian Gulf War, or such conflict, operation, or action, if immediately before that status began the individual—

"(A) was performing service in Kuwait, Iraq, or another nation of the Greater Middle East Region; or

"(B) was performing service in the Greater Middle East Region in direct support of military operations in Kuwait or Iraq.

"(3) PERSIAN GULF WAR.—The term 'Persian Gulf War' means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law."

(b) BROADCASTING INFORMATION.—Section 4(a)(2) of that Act is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) Iraq, Kuwait, or any other country of the Greater Middle East Region (as determined by the International Broadcasting Bureau in consultation with the Attorney General and the Secretary of State)."

Mr. REID. Mr. President, I ask unanimous consent that the committee amendment be agreed to; the bill, as amended, be read a third time and passed; the motion to reconsider be laid upon the table; and that any statements relating thereto be printed in the RECORD, all with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was agreed to.

The bill (S. 1339), as amended, was read the third time and passed.

#### FILING OF COMMITTEE-REPORTED LEGISLATIVE AND EXECUTIVE CALENDAR BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that during the recess or adjournment of the Senate, Senate committees may file committee-reported Legislative and Executive Calendar business on Wednesday, August 28, 2002, during the hours of 10 a.m. to 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDERS FOR TUESDAY, JULY 30, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 10:30 a.m., Tuesday, July 30; that on Tuesday, following the

prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that the Senate then proceed to a period of morning business until 11:30 a.m., with Senators permitted to speak for up to 10 minutes each, with the first half controlled by the majority leader or his designee, and the second half controlled by the Republican leader or his designee; that at 11:30 a.m. the Senate resume consideration of S. 812, with the time until 12:30 p.m. equally divided and controlled between Senators KENNEDY and MCCONNELL or their designees; that the Senate stand in recess from 12:30 p.m. to 2:15 p.m. for the regular party conferences; and that the mandatory quorum required under rule XXII be waived with respect to the two cloture motions filed.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 7:37 p.m., adjourned until Tuesday, July 30, 2002, at 10:30 a.m.

#### CONFIRMATIONS

Executive nominations confirmed by the Senate July 29, 2002:

##### NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

JEFFREY DE. WALLIN, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006.

WILFRED M. MCCLAY, OF TENNESSEE, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006.

THOMAS MALLON, OF CONNECTICUT, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2004.

##### FARM CREDIT ADMINISTRATION

FRED L. DAILEY, OF OHIO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

GRACE TRUJILLO DANIEL, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

##### CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

J. RUSSELL GEORGE, OF VIRGINIA, TO BE INSPECTOR GENERAL, CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

##### FEDERAL MEDIATION AND CONCILIATION SERVICE

PETER J. HURTGEN, OF MARYLAND, TO BE FEDERAL MEDIATION AND CONCILIATION DIRECTOR.

##### NATIONAL COUNCIL ON DISABILITY

ROBERT DAVILA, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2003.

##### NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

EARL A. POWELL III, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2006.

NAOMI SHIHAB NYE, OF TEXAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006.

MICHAEL PACK, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2004.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

JULIA SMITH GIBBONS, OF TENNESSEE, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT.  
JOY FLOWERS CONTI, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA.  
JOHN E. JONES III, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF PENNSYLVANIA.

DEPARTMENT OF JUSTICE

LAWRENCE A. GREENFELD, OF MARYLAND, TO BE DIRECTOR OF THE BUREAU OF JUSTICE STATISTICS.  
ANTHONY DICHIO, OF MASSACHUSETTS, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF MASSACHUSETTS FOR THE TERM OF FOUR YEARS.  
MICHAEL LEE KLINE, OF WASHINGTON, TO BE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF WASHINGTON FOR THE TERM OF FOUR YEARS.  
JAMES THOMAS ROBERTS, JR., OF GEORGIA, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF GEORGIA FOR THE TERM OF FOUR YEARS.

MARCOS D. JIMENEZ, OF FLORIDA, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF FLORIDA FOR THE TERM OF FOUR YEARS.  
MIRIAM F. MIQUELON, OF ILLINOIS, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF ILLINOIS.  
JAMES ROBERT DOUGAN, OF MICHIGAN, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF MICHIGAN FOR THE TERM OF FOUR YEARS.  
GEORGE BREFFNI WALSH, OF VIRGINIA, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF COLUMBIA FOR THE TERM OF FOUR YEARS.



## EXTENSIONS OF REMARKS

FAREWELL TO CONGRESSMAN  
TONY P. HALL

SPEECH OF

## HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 25, 2002*

Mr. HOLT. Mr. Speaker, today I am both pleased and saddened to be in a position to present these remarks about TONY HALL. Pleased because I have had the opportunity to serve with TONY for the past four years, and pleased 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 calling for the United States to pay its back dues to the United Nations.

TONY HALL's record on hunger issues is unparalleled in Congress. TONY was a founding member of the Select Committee on Hunger and served as its chairman from 1989 until it was abolished in 1993. He has been an outspoken advocate for fighting domestic and international hunger and he has initiated legislation enacted into law to fight hunger-related diseases in developing nations. He has visited numerous poverty-stricken and war-torn regions of the world. He was the sponsor of a successful 1990 emergency measure to assist state Women, Infants and Children (WIC) programs and legislation to establish a clearinghouse to promote gleaning to provide poor people with food. TONY has worked to promote microenterprise to reduce joblessness.

When the Hunger Committee was abolished, TONY fasted for three weeks to draw attention to the needs of hungry people in the United States and around the world.

Rep. HALL was nominated for the Nobel Peace Prize in 1998, 1999, and 2001 for his humanitarian and hunger-related work. For his hunger legislation and for his proposal for a Humanitarian Summit in the Horn of Africa,

Mr. HALL and the Hunger Committee received the 1992 Silver World Food Day Medal from the Food and Agriculture Organization of the United Nations. Mr. HALL is a recipient of the United States Committee for UNICEF 1995 Children's Legislative Advocate Award, U.S. AID Presidential End Hunger Award, 1992 Oxfam America Partners Award, Bread for the World Distinguished Service Against Hunger Award, and NCAA Silver Anniversary Award.

Despite the number of awards he has won, TONY HALL's impact can be felt not by the number of plaques and awards in his office, but by the number of men, women and children around the world who have seen their lives brightened, and their sense of hope renewed because of his actions.

TONY was recently nominated by the President to serve as our ambassador to the United Nations Food and Agriculture Organization, the world's preeminent hunger fighting organization. While I am disappointed that I will no longer have the pleasure of serving with TONY in the U.S. House of Representatives, I am reassured by the fact that somebody of his talent and heart will be representing our Nation in an effort to fight hunger around the world.

A CELEBRATION OF THE LIFE OF  
DR. JAMES DAVID FORD

SPEECH OF

## HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 25, 2002*

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 or downs. As a family man, his loving and accomplished wife and children are a testament. 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 three 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 David Ford as 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 thank 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 faith-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 pastor 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:

If God is for us, who can be against us? He who did not spare his own Son, but handed him over for us all, will he not also give us everything else along with him? Who will bring a charge against God's chosen ones? It is God who acquits us who will condemn. It is Christ Jesus who died, rather was raised, who also is at the right hand of God and indeed intercedes for us all. What will separate us from the love of Christ? Languish or distress or persecution or famine or nakedness or peril or the sword? No, in all these things we conquer overwhelmingly through him who loved us. For I am convinced that neither death nor life, nor angels nor principalities, nor present things nor future things, nor powers, nor height nor depth, nor any creature will be able to separate us from the love of God in Christ Jesus our Lord.

So as we begin, let us call to memory first impressions, wisdom sayings, poignant moments and compassion and joyful laughter which he usually left with us.

Let us pray for Jim Ford.

Lord God, you chose our brother James to serve your people as a minister and so share the joys and burdens of their lives. Look with mercy on him and give him the just reward of his labors. Continue to console his family and all those he loved. Grant him now the fullness of life promised to those who preach your good news, your holy gospel. We ask this through Christ our Lord, Amen. We would like now to hear from a good friend.

REMARKS:

The Honorable Charles W. Johnson III, Parliamentarian, United States House of Representatives

CHARLIE JOHNSON: Mr. Speaker, I am honored to be here today as Jim's friend representing the staff. As Jim used to say, "Johnson, you never were invited to be a public speaker because you couldn't if you were." He said, "All you can do is this." "This" means whisper and "this" means hit the mute button at the same time.

• 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 commend Quaker prayer hour to the House on occasion, not publicly, but there were long periods of silence and then I felt so inspired to talk about Bill's public service 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, when the new Chaplain had just 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 didn't know and had not met the new Chaplain, that he needed a pay raise. So the Parliamentarian took it upon himself to make sure the floor was clear of all potential objectors and at the appropriate time H. Res. 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 the recipient." It was the spontaneity of it. It was not orchestrated. I don't think he can orchestrate Quaker meetings, at least for that event, but there he was Chaplain in 1979 and befriending people left and right.

He had his own separate chaplaincy right at the rostrum of the House. I will allude to certain little anecdotes as I go along here. 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. 53, and he handed it to him from 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 don't ask me where. 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 prayer, and shall personally attend, without benefit 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. 53, there is a preamble, a series of "whereas" clauses explaining why it was necessary to require the first full-time Chaplain to stick around full-time. His predecessors, Bernard Braskamp and Ed Latch, were part-time, lovely, wonderful ministers to the House but they weren't full-time. But here was Jim Ford full-time. Tip was lobbying for this. And so this picture was taken. On it, it says, "Charlie, would you buy a used prayer from this man?" Addressed, "Best Wishes, Jim Ford, July 25, 1985."

Jim Ford never wanted his prayers printed as his predecessors' prayers had been in a little document because he felt some of them were used. He would grab a psalm or a hymn, he did hundreds of prayers and so they weren't always original, but they were always meaningful. That was why he never had his prayers printed.

But then that ministry at the rostrum as I talked about it, we started to lobby for support of House Resolution 53 and that lobbying, and I think some Members past and present, Mr. Speaker, got wind of this, so would Members support this resolution, and it was almost unanimous. Everyone felt that a full-time Chaplain should be there to do a personal benediction. You can't rely on guest chaplains for that, with one exception, and I will never forget when I asked Henry Gonzalez whether he would support it, the champion of special orders, he said, "No, that is my definition of cruel and unusual punishment." I won't forget that.

That banter at the rostrum was not just for the fun of it but it was a ministry in and

of itself, and there are folks here today, and I am here as a spokesperson for the people at the rostrum and other employees in the Capitol whose lives were enriched every day by Jim's presence. He was a larger-than-life person in a lot of ways. But the great thing about it, he had this self-deprecating humor about this adventurous part of him and he could laugh at himself. By doing that he would make everyone else's life richer. The power to laugh at yourself was embodied in Jim Ford.

For example, he had this proclivity to jump off ski lifts backwards. There was a Parade, one of those Sunday Parade insertions in the Washington Post that Tip O'Neill happened to notice. The next day the Chaplain offered the prayer. No sooner was that prayer over but the Chaplain was walking off, "Hey, Monsignor, come over here." "Monsignor" 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. He said, "Johnson, are you a sailor?" I said, "No." He said, "Well, let me take you out on the Chesapeake and I'll show you how to sail." So he and Bill Brown and myself went out. It was a windy day. He got on his boat. He put on this engineer's cap. Peter, you remember, who he sailed the Atlantic with. Suddenly this gust of wind comes up, boom, the hat is gone forever and the sail is ripped. It was in our first half-hour. He spent the rest of the day getting his sail sewn up. It could have been very humiliating for him, but he saw the humor in it. It just was the way he could laugh at himself during this adventurous part of his life.

Then in his later years, he flew ultralight airplanes, as some of you know. He would always brag, "I'm the only one in our group who hasn't crashed yet." And one day 2 years ago, Bill Brown and I and our wives would celebrate New Year's Eve at Bill's log cabin. 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 hear anything. It's a beautiful 1st of January. 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 Dulles airspace to get to Bill's farm. 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 the statuary in Statuary 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 was just going to laugh and laugh at it, that he would subject himself to this kind of thing. And I said, "What would Will Rogers have said to you, Jim, in Statuary Hall?" He thought that was very funny.

In a more serious way, he was a listener. He used to say, "Text without context is pretext." He would come up and sit on the floor of the House during 1-minutes and guest chaplains by the hundreds would come and he would be with them. Then he would spend a lot of time with them after they had preached. And then he would come back after listening to some very provocative 1-minutes and he would come back and sit on

the rostrum with me day in and day out, and we would just kind of try to pull together the thoughts that these guest chaplains might have had, what their impressions were of the House, and then the theme of the day and the personalities involved in the 1-minutes. He could bring to me a context of the humanity of the House viewed from his own eyes and from the eyes of visiting clergy. It was a tremendous sense of inspiration when he did that for me.

But what I really want to honor today, and I think we all do, is really the way Jim brought a modern chaplaincy to the House. As the first full-time Chaplain, he was available. He may not have always been here for a benediction, but he was here into the evenings, and he would come onto the floor and he would be available to Members. He always said, "You know, Johnson, you'll never get that resolution through on the benediction." I said, "Why?" "Because I have 218 votes." I said, "Well, how do you know that?" And he pulled out a red book and that book had the names of his appointments, past, present and future. There were a lot of Members' names in that book. He said, "I've got names. I've got enough on these various names in this book that they will never support this resolution."

Chaplain, you saw that red book. Every time he held it up, I got the message. But his pastoral, his being a pastor to Members and staff was the modern chaplaincy, full-time, in confidence, a priest-penitent relationship, 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 part of a dialogue with himself. Not many people know this. I see a couple. He did pretty well on the honorarium circuit. 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 he at my behest 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 go up and do a great sermon for young boys on the shores of Lake Champlain in an outdoor chapel. His recurring theme, he would talk about adventure and all this, was the attitude of gratitude. I remember that little saying that he would use, and when he 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, but he was there, bearded and all. Just wonderful.

And so let me just close by remembering his final days, days of obvious distress for him, but there was a tree planting on the Capitol grounds in August of last year.

Speaker Hastert arranged it. It was a hot day. It was about 98 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 passed away. I got back, and on my desk was the most beautiful letter of thanks from Jim.

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 a true chaplaincy 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.

I came here as a freshman in 1979. I immediately read someplace that there was a new Chaplain being appointed. He was from Minneapolis. I didn't recognize the name. I wondered, who knows? It's great. I've never heard of him. I don't know anything about him, but pretty soon I got to meet this wonderful person.

He had some flaws. He was a Swede. I'm Norwegian. He went to college with his Swedish background. I went to college with a Norwegian background. But everything that 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 a Member of Congress, not I. He came from Northeast. I always reminded him he came from up on the hill, not down in the valley where the real Democrats were.

But I got to know just 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 clergy but he most certainly wasn't pompous or self-righteous. He related to all of us. I suppose in some ways for me, despite the fact that he was a Swede, we were both still Midwestern Lutherans, and it was rather easy and simple to do. On the other hand, I watched in amazement his relationship with the totality and 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 to him 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 life. I suppose for most of us when it simply came down to it, he was most fundamentally a friend.

So today, to the family, to everyone, I would simply say we remember Jim Ford as 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. CAPPS. Mr. Speaker, Mr. Leader, Peter, Sarah, family and friends, today as we celebrate the life of Chaplain Jim Ford, we are thankful to God and to his family for sharing him with us, 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. We were tardy in picking up his son, Marcy's brother Jack. He and Walter were to drive together across the country to Augustana Lutheran Seminary in Rock Island, Illinois. Only when we explained that we had just that very morning, only a few minutes earlier, become engaged did Rev-

erend 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 do, as one does a brother or a lifelong friend. And when Sarah called me with the sad 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 livening the proceedings in heaven just as they did 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 it goes without saying that 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 to his job.

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 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 has spent countless thousands of hours providing pastoral care to Members and staff who desperately need his guidance. He has taught us to respect and to nurture the diversity of our own religious faiths 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." Our Chaplain was both. He was a good man. He was the best of men. He walked the delicate and yet vital line between faith and public life, between religion and politics. He did this with unparalleled skill and devotion.

I have wanted to reach out to Marcy as one widow to another to share with her some of Jim's words of remembrance and prayer which he shared at Walter's memorial service. He wrote them about Walter, and so I am going to give them back with a heart full of sadness and respect and love, and I will insert Jim's name where he put Walter's. I very vividly remember the Chaplain saying these words on that day at the Old Mission in Santa Barbara:

"Ceremonies such as we have today are for the living and the lessons we can learn from our friends. God has already given to James David all of the good gifts of everlasting life. He is in good hands. There is a Bible verse from Psalm 90, verse 12: 'So teach us to number our days that we may gain a heart of wisdom.' Jim did so much with his days, his time here on Earth and in this Congress. He was so at home here in the House, so enthusiastic about doing the work of being a Chaplain. No one knows how many days or years we will be given but we can heed the words of scrip-

ture and make the best use of our time. 'So teach us to number our days that we may gain a heart of wisdom.' James David Ford gained a heart of wisdom and we all benefited from his great and wise and loving heart."

And then Jim prayed this prayer, so I will now pray it for him:

"We commend our friend and colleague to you, O gracious God, and we do so in thanks-giving. We are grateful for his presence in our lives and for the light that he gave us as a father, a husband, a grandfather, as a teacher, and as our beloved Chaplain. We saw the light of his spirit and we were drawn to him in such a special way. How blessed we have been and how grateful we are. Amen."

Thank you.

MUSICAL INTERLUDE:

Mrs. Judy Snopek, Pianist

REMARKS:

The Honorable Richard A. Gephardt, Democratic Leader United States House of Representatives

MR. GEPHARDT: On behalf of all the Members, we want to say to the Ford family how sorry we are that Reverend Ford has died and passed from our presence and that you have lost him. We also want to celebrate his life, because we think that is what today is really about. 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. When he did it, I realized I had 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 caught 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 stood up, 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 the present Speaker of the House, but two 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 know every Member here feels 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, for us to sort all of that out and make decisions on their behalf.

I am often saying that politics is a substitute for violence. I used to get snickers at that and even some laughing; and in recent days, as we see suicide bombers blowing themselves up, people being assassinated around the world, we know better, that that really is what it is. That is the magic ingredient of this place. It takes a lot of human effort to allow this institution to do what it is supposed to do.

Jim Ford was an important part of that mix that allows the House to do its work and to do it as successfully as it is done. First of all, he obviously had this wonderful sense of humor. It was kind of what I always recognized was the sparkle in his eyes when he would come up to you on the floor and tell you some kind of silly joke that he had that he thought was pretty funny. Sometimes it was, usually it wasn't, but what the heck. It was the glistening in his eyes and the way he got tickled himself about what he was saying that made it fun. And humor can lubricate and get you over any tough place that you are in, and he used it as well as I have ever seen it done.

He also understood 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 spiritual help and guidance and counseling and to have a friend as much as anybody else. He provided that friendship, that advice, that council, that help, that human caring that 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, and I don't know of a time ever that 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 do anything else.

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 we live 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 security service, he wound up on some of our trips to foreign countries providing security as we went into sometimes some difficult places. He was there on a number of trips that Speaker Gingrich and I got 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. 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 sometimes at these memorials. As a matter of fact, I didn't know that the Parliamentarian and the Chaplain assessed people's 1-minutes 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 deal 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, commiserating with Members and 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 you saw him every Thursday 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 would tell me stories about being in 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 Norwegian Lutheran minister in Illinois. But he was always telling those stories too, stories about Norwegians and Swedes, and the Norwegians 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 that 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 now 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. And they made all of us think about what our duties were and responsibilities as citizens and as leaders.

When Jim told me 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 the 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 these 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 motorcycle 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 friendship and his antics and the things that he did and the stories he told endeared himself to Members of this Congress, to people that he worked with 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 was always there, and 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 an honest man who dedicated himself to God, and he dedicated himself to 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 and a letter to your mother.

#### WORDS OF APPRECIATION FROM THE FAMILY AND BENEDICTION

REVEREND CHRISTIAN: Mr. Speaker and Mr. Leader, first, on behalf of the family, I too wish to thank you and certainly Charlie, as has been mentioned, for providing this opportunity. I think it is the case that all of you, all of us, needed a time where we could just be together, think here, repeat here. I suspect that each one of you could tell a story or two; and the biggest, hardest task of this whole event probably for you, Charlie, as well as some of the rest of us who had time for conversation, Jeff, to be sure as well, was how many speeches of course to make.

You have heard the stories, and there are many more that could be said. But I am here

as a representative, which I surely cannot do and I understand that, but I am here as a representative of the family just to bring a few closing remarks on behalf of them to all of you.

Mr. Leader, you did speak very kindly and strongly about Peter as the son of Jim Ford, and I only wanted to add to that that each one of the members of the family is an equal to Peter. I have had the great opportunity to be a friend of the family for 25 years and indeed have had a chance to share frequently with Jim Ford, even on the House floor, as I have participated with the opening prayers periodically.

So on behalf of the Ford family, let me say that I know they appreciate and offer to all of you their deep and abiding thanks for your love and for your concern which you have shown during these last months in many different ways, each one appropriate and each one received gratefully. But also, they want to thank you, and I know that is certainly true from Mrs. Ford, Marcy, one and all, to thank you for the joy and the happiness and the laughter and the fun that you all and so many others provided Jim through the years, and through Jim and, therefore, to the family.

Speaking of the family, isn't it wonderful to have Hannah here, sitting on the floor who will, one day, undoubtedly in the great oral tradition of our own family lives, bring forth the stories of the man we gather here to remember and to honor and to give thanks.

The family was all here on September 11, and you need to know that. They came from all over the country and all over really from many parts of the world; and of course many, almost all, of course, are not here today for 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 and the letter; but maybe, is there 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. You loved 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 his flock. 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 was gone a lot at night. I loved to hear 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 see the 2-hour special on West Point, they interviewed him and he talks about MacArthur coming up; and at the beginning, they show my father's face, and they go into the West Point cemetery, and he is buried in 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 this happened. I did learn something myself 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 printed them, because right now they are going through the whole house, and my mother saved every prayer. Every day he would bring home the Congressional Record and she would tear it out, and she would put them all in one place. I wish he would have printed them.

I want to say thank you very much. You were his flock. If my father came back right now, my family, we are a totally loving family, and we wouldn't have one question for him. We would just 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 putting this together. You have all been so honorable to us and to our family, because after September 11, we thought since there are so many other tragedies in this world, let us not do this, we will honor our 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 remember something 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. So we cherish that.

We miss his bad jokes and we miss his humor, and we love him very much; but we are very happy because who we are is because of our dad. And we are happy that he is healthy and happy. I know he is up there. I got married, and at our wedding his spirit was with us. If you ever saw him at the White House balls or somewhere, he danced very badly, and he would do this; and I know he was up there doing the same thing, and I know he is doing it now; and I know he is happy as can be. So thank you from our family.

**REVEREND CHRISTENSEN:** Just to bring this then to a close, Mr. Speaker, you did talk about the fact that you remember Jim Ford's prayers. I would like to ask us now to stand, and I am going to read the last prayer that Jim Ford gave at the House of Representatives. These are those words of his final prayer, and then I will conclude with the benediction. Let us pray:

"We are grateful, O merciful God, that you are with us wherever we are and whatever we do. We know that Your spirit gives us forgiveness for the ways of our past, direction for the path ahead, and the comforting assurance that we are never alone. We gain strength from the words of the Psalmist: be

still and know that I am God. I am exalted among the nations; I am exalted in the earth, the Lord of hosts is with us, the God of Jacob is our refuge. May Your good word, O God, be with all Your people and give them the peace and confidence that You alone can give. In Your name we pray. Amen."

The Lord bless you and keep you. The Lord make His face shine upon you and be gracious unto you. The Lord give up His countenance upon you and give you peace.

Amen.

#### A WONDERFUL MAN

(By Stephen Horn)

Thursday, May 9, 2002

Mr. HORN. Mr. Speaker, this afternoon we honored a Celebration of the Life of Dr. James D. Ford, the Chaplain Emeritus of the House of Representatives.

When we traveled to meeting with the delegations of the European Parliament, we found that Jim was a very fine companion. Jim Ford was a great teacher. When we met diplomats and officers, Jim was able to lighten up some of us who were stressed from negotiations and differences among various factions.

Jim was a fine scholar of the Bible. When we were in Israel, Jim was well versed in three of the great religions which are in Jerusalem. Before Chaplain Ford came to the House, he had been for 18 years as the Chaplain of the United States Military Academy at West Point. As a result of his experiences at West Point, he knew about youth and how they grow to be leaders for our country. When a delegation of the House met with General Wesley Clark, the Supreme Commander of the North Atlantic Treaty Organization [NATO]. When the General met the Chaplain there was a warm hug. We saw a four star General, but, Dr. Ford remembered him as the very bright senior who was President of the Bible Society during Clark's senior year at West Point.

Dr. Ford was an effective counselor of members that work hard and often needed to be working with people under stress.

One of Jim's great adventures was when he and three volunteer cadets from West Point navigated a boat with sails, guided by the stars. The waves tossed the small boat in the North Atlantic Ocean. It was a great experience.

Jim was a people-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 Marcie, 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. 5120) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, and for other purposes:

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 members, 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 of mail, 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 overtime 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 of Alaska. Mr. Speaker, The House Transportation and Infrastructure Committee, which I chair, is 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 may be years 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 highways have been constructed and 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 just 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. While I am not saying we are ready to set 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 real, is viable, is cost 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 demonstration. Thereafter we would be positioned 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 the vehicles 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 dependence upon foreign supplies 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 facing 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 insure 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 gasoline, natural gas, methanol, renewables, 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, business 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 it 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 technically challenging 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, if we are to maintain 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. BORSKI, can get the perspectives of all relevant sectors on this issue and address them in the reauthorization bill. I expect to be actively involved 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 acceptability of financial statements.

The agreement that we are considering 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 accountability. After all, 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 problem. The conference committee agreed to



accept their increased penalties for crime. But, the conference committee recognized that corporate abuses will not end until Congress makes changes that attack the root of the problems. So the conferees accepted the Democratic proposals almost in their entirety.

As we have seen from the collapse of Enron and other large corporations, auditors had guiding principles that were extremely weak and easily ignored by accountants and corporate management. Additionally, accounting improprieties were purposely overlooked because the auditors became too cozy with the companies they audited and made huge profits from non-audit consulting services. To address these problems, this agreement creates a new and independent accounting board that has authority to establish auditing standards, investigate accounting firms that conduct audits of publicly-traded companies, and enforce their rules. The agreement also mandates auditor independence and bans most non-audit consulting services.

As we have seen in the past, much-needed accounting reforms were impeded by industry officials who threatened to withhold funding from the Financial Accounting Standards Board (FASB). The new auditing board and the current FASB will be given an independent funding stream to ensure that important financial standards will not be senselessly squashed by greedy industry executives.

The agreement also increases and strengthens corporate governance by requiring senior executives to attest to the accuracy of their company's financial statements, under penalty of law. It also requires corporate executives to repay any compensation or profits received as a result of their accounting trickery.

Unfortunately, this agreement overlooks some issues that must be addressed, including expensing stock options and mandatory auditor rotation. Stock options that are not included on a company's financial statements can misrepresent the true value of a company. I am pleased that some companies have taken it upon themselves to include employee stock options on their financial statements and I am also pleased that the FASB has indicated that it will move quickly on a rule for expensing stock options. Additionally, requiring companies to rotate their auditors is very important to ensure that senior executives and the people auditing their companies do not become too cozy and allow a company to get away with accounting tricks. While these issues are not included in this agreement, I look forward to continue working on finding ways to deal with them.

This agreement goes to the root of the problem of corporate abuse. It is strong and comprehensive, and will increase investor confidence, transparency, and the strength of the markets.

#### 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, volunteering 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 unfold on television, 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 who beheld it 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 small car, so loaded down with baked goods from Entenmann'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 her and gave her an escort to 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 the emergency crews 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 bandaged 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 hovered over fires they routinely lit in barrels 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—"the Entenmann's Lady just entered the Zone!"—and waive her in with their flashlights. 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.

IN RECOGNITION OF CHIEF COMMANDER ARTHUR FARR AND THE CITY OF MANITOWOC

#### HON. MARK GREEN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. GREEN of Wisconsin. Mr. Speaker, today before this House I recognize and honor Past Chief Commander Arthur Farr of the United States Power Squadrons, as well as the city of Manitowoc, a Wisconsin community that has fought to preserve the causes of freedom and democracy through its superior ship building enterprise.

When the drums of war sound, and our nation is obliged to heed the calls of the oppressed and threatened, the citizens of the United States dutifully step up—as exemplified by the people of Manitowoc and Past Chief Commander Farr.

Commander Farr served as a naval submarine officer aboard the distinguished USS *Guitarro* throughout World War II. During his service, Commander Farr helped see the *Guitarro* 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 *Guitarro* 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 *Guitarro*, 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

#### HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

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 Lebanon 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 San Francisco, Charles Justi. He served as postmaster for nine years until the reigns were passed to John Gibson, the original petitioner 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 series of esteemed guardians of Glen Ellen's treasured institution. Today, located in the picturesque 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 produced at Ten Oaks Vineyard on Dunbar Road.

Mr. Speaker, I am pleased to congratulate Glen Ellen on this historic birthday and the Post Office for its 130 years of faithful service and commitment to the residents of the Glen Ellen community.

PAYING TRIBUTE TO: BILL  
MULDOON

**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 pay tribute to Bill Muldoon of Craig, Colorado for his selfless volunteer efforts to help the less fortunate of this world. For many years, he has dedicated his time and efforts to San Miguel de-Allende (Mexico) and greatly improved the living situation in that region, which is why he is deserving of our praise today.

Bill Muldoon is an outstanding individual actively involved in his community. As a member 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 humanitarian efforts in Moffat City Rotary history, Bill was known to spearhead and personally 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 dollars, and captured the hearts and attention of his community by making the journey alone. His adventurous journey towards San Miguel, yielded numerous problems and complications. Bill experienced rockslides, deer, and geese, not to mention treacherous weather at parts, and other barriers and detours. Nevertheless, Bill overcame these obstacles and provided the city hospitals and clinics of San Miguel de Allende with the many needed supplies 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 applaud his hard work and determination before this body of Congress and this nation for his efforts will serve to inspire many future generations. Thank you again for your hard work in every humanitarian endeavor.

TRIBUTE TO MR. JAMES B. HUNT,  
JR.

**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 Mr. James B. Hunt a gifted musician 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 instrument, he bought a toy clarinet from Kress "five and dime" Store. Mr. M.C. Lewis, Sterling High School Band Director, and some members 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 Tuesdays 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 Director" because of his many "first" achievements. He was the first band director at Wilkinson High School in Orangeburg, a position he held for 25 years. He was the first band director at Sharperson 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 participated in the Shrine Bowl Parade and half-time show in Charlotte, NC.

Mr. Hunt has placed more than 250 students in South Carolina All-State Bands sponsored by the S.C. Band Masters 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 Alumni Band Concert 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 Williams, member of the Count Basic Band since 1970; Shellie Thomas, a retired music teacher in Los Angeles and currently the leader of the Original Honey Drippers Band; Horace Ott, Broadway composer and arranger and sometimes 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 Lerlon Hilton. They have two daughters: Mrs. Deborah Hunt Woods, a 1999 Teacher of the Year in Lithonia, Georgia, and Dr. Marilyn Hunt Alim, an education analyst at NASA/Marshall Space Flight Center in Huntsville, Alabama. They have eight grandchildren and four great-grandchildren. Mr. Hunt is a member of Mt. Pisgah Baptist Church where he serves on the Deacon Board and teaches the Merfts Sunday School Class. He is a member of Epsilon Omega Chapter of Omega Psi Phi fraternity.

Mr. Speaker, I ask that you and my colleagues join me in honoring an outstanding South Carolinian whose dedication to his profession 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 university's 21st President, a position in which he has served with distinction since he took office in June 1994.

Under Dr. Bowen's leadership, Texas A&M has become one of the finest universities in our nation. Academic programs have been enhanced and recognized for excellence. Most recently, Texas A&M was invited to join the prestigious American Association of Universities.

Additionally, during Dr. Bowen's tenure, the George Bush Presidential Library and Museum Center was opened and formally dedicated. Dr. Bowen seized this opportunity to increase 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 nation by the year 2020. Mr. Speaker, Dr. Bowen has also successfully completed a major capital campaign exceeding its \$500 million goal by more than \$137 million and has already begun a second campaign entitled "One Spirit, One Vision."

Dr. Bowen's extensive educational background began when he received 5Bachelor 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 Kentucky.

Immediately before joining Texas A&M, Dr. Bowen served as interim President and Provost and Vice President for Academic Affairs at Oklahoma State University. Additionally, Dr. Bowen served as a staff member on two occasions at the National Science Foundation, where he most recently served as Deputy Assistant Director for Engineering and Acting Assistant 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 fail 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 soon 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 said 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 outstanding achievements and contributions bestowed not only upon Texas A&M University, but also this 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 Agencies 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 be found, 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 1984–1985, TONY was there experiencing firsthand 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 was the first to travel there and he later traveled there 5 more times and kept his colleagues here in Congress apprised of the situation. When no one else had the courage to do so, it was TONY 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 embarks upon his journey as 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 and supported his efforts in world hunger but there are none who have so relentlessly and singlemindedly reminded this Congress and this country of our obligation to the least among us. As we honor TONY'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 know that his convictions are grounded, first and foremost, in his faith in a God who has charged us to feed the hungry and to shelter the naked. It is this faith that gives TONY such grace in the face of adversity and his firm kindness when he stands alone.

Mr. Speaker, there is a passage from the book of Isaiah that I love and that I think speaks to TONY's steadfast efforts to raise up 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 the desire of the afflicted,  
Then your light will rise in darkness  
And your gloom will become like midday.  
And the LORD will continually guide you,  
And satisfy your desire in scorched places,  
And (give strength to your bones;  
And you will be like a watered garden,  
And like a (spring of water whose waters do  
not fail.

Those from among you will rebuild the ancient ruins;  
You will raise up the age-old foundations;  
And you will be called the repairer of the breach,

The restorer of the streets in which to dwell.

Mr. Speaker, TONY HALL has given himself to the hungry and his light has risen in the darkness. In so doing, he has spread this light to his colleagues and he has shed light on the actions that we must take to satisfy the desire of the afflicted.

Because of his efforts, TONY HALL is what the book of Isaiah calls a "repairer of the

breach 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 to 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 that 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 in 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 was walking home from a local Belfast pub, when he was suddenly shot to death 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 of 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 UDA confirms that loyalist groups refuse to give equality 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 were groups 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

*Friday, 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 to women everywhere, and 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 where he owned and operated 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 will be remembered 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.

---

PERSONAL EXPLANATION

**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 Etter, who was known by some in the community as "Officer Bob," served in law enforcement for three decades. He retired a few years ago but soon realized how hard it

was to leave behind 30 years of serving and protecting his neighbors—so he returned, bringing his immense experience and skills back to the local law enforcement community. In fact, he was sharing some of that experience with a new officer when their car was hit on July 22. He leaves behind a wife, four daughters, two grandchildren and a community grateful for having had the opportunity to share life with him.

Officer Markins was that new officer learning from Officer Etter. She had served on the force for just a short time. Described by one of her trainers as "very much a go getter" who wanted to "get out and deal with people," Officer Markins' promise as a law enforcement officer was tragically cut short Monday. She was a fiancé, a daughter, a sister, a friend, a neighbor and a protector who was willing to give everything for the security of others. She will be missed.

Mr. Speaker, this heartbreaking and senseless case tragically demonstrates that law enforcement is a dangerous job whether it's done in New York City or Hobart, Wisconsin. And it shows that the people who choose it as their profession are truly extraordinary in their 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.

---

INTRODUCTION 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 fanaticism.

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 one 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 stunning 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 questions used in this study appear 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 historical illiteracy of America's college and university graduates is a serious problem that should be addressed by the Nation's higher education community." 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. This includes 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 shoot off fireworks and hold picnics.

Western Civilization and the defining features of human progress which it embodies. These include democracy, universalism, individual rights, market economies, religious 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 gradually evolving into a world civilization.

Threats to free institutions. Some of these threats emerge from philosophical systems such as Communism, Fascism, Nazism, 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 courses, the development of centers 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 provided 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 higher education. 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 youngest of seven children, Jack learned many important lessons in his childhood, which served him well throughout his life. He married Helen Bradfield 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 dedication to not only his life 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 good deeds certainly deserve the recognition of this body of Congress and this nation. Jack's departure leaves a gap in many hearts but his memory will surely live on in the thoughts and lives of those who know him. I

join many others in expressing my deepest condolences to the friends and family of Jack Suckla.

#### INDIA SHOULD ACT LIKE A DEMOCRACY—SELF-DETERMINATION FOR KASHMIR, KHALISTAN AND OTHER NATIONS OF SOUTH ASIA

#### HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. BURTON of Indiana. Mr. Speaker, India calls itself "the world's largest democracy" yet it does not act democratic. As you know, a report from the Movement Against State Repression shows that India admitted to holding 52,268 Sikhs as political prisoners. Fort-two Members of Congress from both parties wrote to President Bush to urge him to work for the release of these political prisoners. There are tens of thousands of other political prisoners also, according to Amnesty International, and they must also be released. Recently, the Council of Khalistan wrote to Secretary of State Colin Powell to urge him to work for the release of political prisoners.

India has killed over 250,000 Sikhs since 1984, over 80,000 Kashmiri Muslims since 1988, over 200,000 Christians in Nagaland since 1947, and tens of thousands of other minorities. Mr. Speaker, this is not acceptable, and it shows that using the term "democracy" to describe India may not be the best use of the term.

Recently, former Senator George Mitchell said "the essence of democracy is the right to self determination." I'm not in the habit of quoting Democrats, Mr. Speaker, but Senator Mitchell is right about this. In 1948, India promised the United Nations that it would allow the people of Kashmir to decide their future in a free and fair plebiscite. No such vote has ever been held. Instead, over 600,000 troops have been sent to Kashmir to suppress the legitimate aspirations of the people for freedom. Similarly, in Punjab, Khalistan, which declared its independence from India on October 7, 1987, over half a million troops have terrorized the population to destroy the Sikh Nation's freedom movement, even though the Sikhs were one of the parties to the agreement establishing the independence of India and were supposed to get their own state. Nagaland, which is predominantly Christian, has been trying to secure its freedom and India has reacted with similar terror. All in all, there are 17 freedom movements within India's artificial borders.

Mr. Speaker, it is time for all the people of South Asia to enjoy freedom. Until India allows the people to exercise their legitimate rights, we should stop all U.S. foreign aid to India. We also should formally declare our support for self-determination for Kashmir, Khalistan, Nagaland, and all the people and nations of South Asia. These measures will go a long way towards securing the blessings of freedom to all the people of the subcontinent.

A SPECIAL TRIBUTE TO NORMAN M. WALKER IN RECOGNITION OF HIS 25 YEARS OF SERVICE WITH THE DEFIANCE 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 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 departments 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.

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 Waterfowl Association Public Waterfowl Management Award. This award was given in recognition of excellence in public waterfowl 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.

### JOHN'S LAW

### HON. FRANK A. LOBIONDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. LOBIONDO. Mr. Speaker, this week marks the second anniversary of the tragic death of one of my constituents. U.S. Navy Ensign John Elliott, who had just received his commission to Naval Flight School in Pensacola, Florida, was struck and killed by a drunk driver on July 22, 2000. The accident instantly killed Elliott and seriously injured his passenger, Kristen Hohenwarter.

Sadly, it was later discovered that Michael Pangle, the driver responsible for Elliott's death, had been arrested for drunken driving earlier that evening. Having called for a ride, he was picked up by a friend and returned to his car. Elliott was on his way home for his mother's birthday party when he crossed paths with Pangle and both were killed.

Two years after that tragic accident, John's parents continue the fight to save other families from the grief they have endured. Lobbying the New Jersey State Legislature, the Elliotts saw to fruition the drafting, passage and ultimate enactment of John's Law. The law ensures that individuals who pick up an

arrested driver sign a document accepting custody. Additionally, it gives State Police the authorization to impound the automobile of an arrested driver for up to 12 hours.

Today, I am introducing a resolution expressing the sense of the House that funding should be made available from the Highway Trust Fund to encourage all states to enact legislation to require law enforcement officers to impound motor vehicles of those charged with driving while intoxicated and to issue responsibility warnings to those who take custody of suspects driving while intoxicated. We are making important strides to eliminate the senseless deaths caused by the lethal mix of alcohol and automobiles. Annual deaths from drinking and driving have decreased from approximately 28,000 in 1980 to 16,068 in 2000. In 1982, 57 percent of all traffic fatalities were alcohol-related. In 2000, that percentage fell to 38 percent. However, much work remains to be done. Each death is a preventable one and I am sure this resolution will go a long way in ensuring deaths like Ensign Elliott's are prevented and families are saved from the pain the Elliotts and other families across the nation have endured.

I urge my colleagues in the House to support this resolution.

### 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 is only 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. HOUGHTON. 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 practices by a number of companies. Unfortunately, stock options of all types have been tarred by a common brush. This proposal is a new approach to options. In spite of current problems, it is good for both employers and employees if workers are also owners of the business.

Congress is considering legislation to impose new laws on corporations and accountants. Volume is reasonably intense in the debate on the advisability of expensing the value of stock options when they are granted. Expensing of options in financial statements may happen—even though there are several unresolved issues. If expensing happens, one hopes that we will leave it to the FASB and SEC to develop the best approach. Having said that, we would propose that the new type of option contained in this bill would be exempt from such valuation as a noncompensatory plan. Why? The option would be priced at market, fully available to nearly all employees, as well as management, on a nondiscriminatory basis, and subject to a relatively modest individual dollar cap. If we require expensing of such a widely held benefit, employers simply will not offer it.

The highlights of the bill include: (1) substantially all full-time U.S. employees would be eligible to participate, (2) the option price would be 100% of the fair market value at time of grant, the maximum annual amount of a grant per employee would be \$11,000 (same as indexed 401 (k) amount), (4) no tax to the employee at time of grant or exercise, including AMT, (5) at time of sale the employee would receive ordinary income to the extent of the fair market value at time of exercise, with any excess being capital gain, and (6) the employer's deduction would be the fair market value at time of exercise (same amount as employee reports at sale).

The ever-widening compensation gap between the highly paid and the nation's work force is cause for great concern. Once again, let us emphasize: This new 423(d) option is designed for working men and women, whose everyday, solid work enhances the company's overall performance. This is a broad-based stock option program. Employees ought to be able to build their wealth beyond that which they would ordinarily receive from a salary or bonus. This proposal would add another leg on the stool for employee retirement by providing an additional means of accumulating assets. It would encourage the long-term holding of stock by deferring all tax until sale.

We encourage our colleagues to join in co-sponsoring this legislation.

THANKS TO GLAXOSMITHKLINE  
ON ITS COMMITMENT TO THE  
LYMPHATIC FILARIASIS ELIMI-  
NATION PROGRAM

### HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. BALLENGER. Mr. Speaker, Last month, the pharmaceutical company GlaxoSmithKline produced the one-millionth donated tablet of albendazole, a drug that is being used to eliminate a devastating tropical disease called lymphatic filariasis (LF). I would like to con-

gratulate GlaxoSmithKline (GSK) on this outstanding accomplishment, and thank the company for its commitment to the World Health Organization's (WHO) Lymphatic Filariasis Elimination Program.

GlaxoSmithKline has its U.S. headquarters in my state, where it employs close to 6,000 North Carolinians in the search for disease treatments and cures that improve the quality of human life by enabling people to do more, feel better and live longer. In addition to developing leading treatments for such diseases as diabetes, depression, asthma and HIV/AIDS, GSK produces an anti-parasitic drug called albendazole that is used to prevent a tropical disease known as lymphatic filariasis, or LF.

LF is a parasitic disease caused by thread-like worms that live in the human lymphatic system after being transmitted by a mosquito bite. LF is one of the leading causes of permanent and long-term disability in the world. The WHO estimates there are a billion people at risk in about 80 countries, mostly in India, Africa, South Asia, the Western Pacific and Central and South America. Over 120 million people have already been affected by LF, and over 40 million of these are seriously incapacitated and disfigured by the disease. In an infected person, the adult worms damage the lymphatic system, causing fluid to collect and cause swelling in the arms, legs, breasts and genitals. Such infections cause a grotesque hardening and thickening of the skin, known as elephantiasis.

LF has been a scourge of civilization for thousands of years, being first depicted on the pharaonic murals of Egypt and in the ancient medical texts of China, India, Japan and Persia. Elephantiasis was first associated with parasitic filarial worms and their mosquito vectors in the late 19th century by French, English and Australian physicians working with patients from Cuba, Brazil, China and India.

The WHO has determined that LF can be eliminated through an intense prevention program that will break the chain of infection through the use of anti-parasitic drugs. When these efforts succeed, LF will be only the second disease in history, after smallpox, to have been eradicated through human intervention.

In December 1997, GlaxoSmithKline formed a collaboration with the WHO to spearhead efforts to eliminate LF. GSK would donate albendazole, one of three essential anti-parasitic drugs, for as long as necessary until the disease was eliminated—best estimates put the scale of this commitment at around five to six billion treatments. Since then, the program has evolved into a major public-private partnership known as the Global Alliance to Eliminate Lymphatic Filariasis.

GSK has become an active and involved partner in eliminating LF along with the WHO, organizations in the private and public sectors, and academia. By the end of the program to eliminate LF, GSK will have donated approximately five to six billion albendazole treatments for people in 80 countries. In addition to providing albendazole, GSK is supporting the Global Alliance for the Elimination of LF through help with coalition building, planning, training and communication initiatives.

GSK's production of the millionth dose of albendazole for the LF Elimination Program is an outstanding milestone achievement on the road to what will become the single largest pharmaceutical donation in history. I am pleased to represent the employees of

GlaxoSmithKline, and proud to share the news of their historic accomplishment with this chamber.

### PAYING TRIBUTE TO WILLIE TRAVNICEK

### 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 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 in 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.

### A TRIBUTE TO KIM GRANHOLM

### HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

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.

Captain Granholm was only 28 when he died, but his legacy will continue for years to come. For four years, he was a dedicated member of the Esko Volunteer Fire Department where he was loved and respected by his fellow firefighters. In the outpouring of grief for Kim Granholm, more than 1,000 people attended his funeral, including hundreds of firefighters and emergency workers from across the state of Minnesota.

Captain Granholm was a caring man who put his wife Aliina and their children Robyn 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 profound appreciation of 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 same 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 whose knowledge cannot begin to be measured.

In 1920, Mrs. Hamilton married Henry Hamilton and their union produced nine children: Williemenia, 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 never allows 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 and continues to spread tremendous 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 good luck and Godspeed, 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 national capital 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" dictatorship in that he led with a firm grip and used the country's military to rule the country at the same time he made weekly visits through the nation's 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 serving three terms. He remained leader of the political party he founded in the 1960's, now called the Social Christian Reform Party, and in 1986 won another bid to power.

He won elections in 1990 and 1994. In 1996, under increasing pressure from the U.S. and international bodies due to suspected election irregularities, he agreed to resign.

Mr. Balaguer remained an important figure in the political party he created until his death. Some herald him as the most influential Dominican.

[From the Washington Post, NewsBank NewsFile Collection, July 15, 2002]

JOAQUIN BALAGUER DIES AT 95, LONGTIME DOMINICAN LEADER  
(By Richard Pearson)

Joaquin Balaguer, 95, the authoritative and paternalistic president of the Dominican Republic for more than 20 years between 1961 and 1996, died July 14 in the national capital of 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 the 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 modest land 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 turn his nation into another Cuba, dispatched U.S. Marines to the Dominican Republic, supposedly to protect U.S. lives. Those who had begun protesting U.S. involvement in Vietnam added

this action to the list of mistakes made by the Johnson administration.

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.

Newsweek, which characterized President Balaguer as "slight, 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. He 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 stifled, many going into exile while others were imprisoned or disappeared. Vote fraud and corruption seemed constants in the Dominican Republic, regardless of who was president.

He instituted large-scale public works, including the enormous 1992 Christopher Columbus Lighthouse. President Balaguer also brought about modest reforms and made a weekly habit of walking through his nation's small villages, visiting residents and passing out toys to children and medicine to the sick and listening to the desires of all.

Through it all, he managed to largely keep in the good graces of the United States, with the Dominican Republic becoming a huge recipient of U.S. foreign aid.

President Balaguer, whose only interests were colliers and antique cars, never married and had no children. 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 will not be asked to thread needles when in office."

Joaquin Balaguer Ricardo was born in the small town of Villa Bisono, the only son of eight children. His father was born in Puerto Rico of Castilian descent. His mother was a Dominican of Spanish blood.

The future president, 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 1960.

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 and bloody Trujillo, was "the saddest and most humiliating" time in his political life.

President Balaguer also had at times deplored the "unavoidable excesses" of his own security forces and deplored corruption, though stoutly 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 young 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 sales skyrocketed. 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 manufacturer of upholstered furniture and the world's 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 small town values that prevailed when Mr. Knabusch and Mr. Shoemaker first launched the company. During World War II, La-Z-News kept the community informed about overseas news, and the company rented out garages to build the most comfortable tank seats and crash pads in the country. La-Z-Boy continues being very much involved in the city of Monroe and is a major asset to Michigan's 16th Congressional District.

Mr. Speaker, I would like you to join me in commending the La-Z-Boy corporation and its employees for their leadership in both their industry and in their community, as we celebrate their 75th anniversary.

## PERSONAL EXPLANATION

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Ms. ESHOO. Mr. Speaker, I was absent March 12 through 14 for medical reasons. Had I been here, I would have voted "yes" on rollcall votes 53-54, 56-61, 63-64 and "no" on rollcall votes 55 and 62.

HONORING THE SERVICE OF MASTER GUNNERY SERGEANT MICHAEL THOMAS FLETCHER, UNITED STATES MARINE CORPS

### HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. EVANS. Mr. Speaker, on the occasion of his retirement, it is my pleasure to recognize an exceptional United States Marine, Master Gunnery Sergeant Michael Thomas Fletcher. 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 Corp's 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 made immeasurable contributions to both today's Marine Corps' and to the Corps of the 21st Century. His superior performance of duties 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, JR.**

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/Civil Defense Mutual Assistance Association as it celebrates over three decades of dedicated service to the North Alabama community. The association, which dates as far back as 1971, consists of the Emergency Management officials in Colbert, Cullman, DeKalb, Franklin, Jackson, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan and Winston Counties across North Alabama. This organization has tirelessly protected countless lives in Alabama over the last thirty years, and I rise on behalf of my constituents in North Alabama to express my sincere appreciation to these EMAs.

Formally organized in December 1978, the association 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 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 his 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 a legacy of extraordinary courage and compassion.

A beautiful young woman with incredible grace and dignity, "Annie" Fox was dedicated to finding a cure for breast cancer. Diagnosed with a particularly aggressive cancer in 1998, the former triathlete, who ate organically and

exercised regularly, had none of the traditional risk factors for cancer. Undergoing a lumpectomy, she continued her athletic training and 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 20, 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."

A woman of uncommon positive spirit, Andrea Fox lost her courageous battle with breast cancer surrounded by friends and family, 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 beauty, 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 CARIÑO 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 Cariño 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 Cariño Walk-In Center staff for their hard work and dedication to the community and for creating a positive environment for my district.

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 their 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.

"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 Americans flocked to their mosques, synagogues and churches. Rescue teams were overwhelmed by the crush of volunteers, and the support of the entire nation was heaved upon their president and leaders, wholeheartedly trusting in the American system of democracy."

"Soon you could not go a block without seeing Old Glory. From the steps of the Capitol—still standing thanks to courageous passengers who fought off suicide hijackers—to the playing fields of professional sports, to

schools all across the country came the sweet sound of 'God Bless America.'"

By now many students had their hands up. "But I read that the economy went into a recession, and that soon afterward biological terrorism began arriving by mail. How could this spirit be maintained in such a dark time?"

"That's a paradox that helps make America such a great country," answered the guide. "It seems that throughout our history, our darkest hours were also our finest. In 2001 we refused to let the terrorists win. People continued with their regular lives, but a bit more mindful of what was really important. Friendships were bonded, old rifts erased, and the country truly became one nation under God. The country felt up to any challenge, and took it one day at a time. Every time a new problem arose, Americans simply dealt with it and continued to march forward. Everyone rose to the occasion, from the President to the firefighters, to the average Joe."

The students gazed at the monument, reflecting on the greatness of the generation past. They had never seen their grandparents and great grandparents in this light, and were stunned by the character they showed and the actions they took in the face of adversity. Faced with pure evil, they had stood up to it and won. These were the true heroes, these 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 civil war raged in this Central American nation, resulting in an estimated 200,000 civilian deaths. Now, the infamous architect of Guatemala's most intense period of genocide against the Maya indigenous population, ex-director General Efraín Ríos 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 biweekly publication, *The Wash-*

ington 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 León 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 integrity 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 1923 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 Kidsville 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 Staff Dr. Janice Elaine Kulik for their unrelenting dedication to the medical treatment of patients and coordination of all Parkview activities. Congratulations to Parkview Medical Center on your recent milestone and I wish all the best to the staff.

JIM CIRILLO, MANAGER OF THE RAYBURN BUILDING SPECIAL ORDERS DELI, WINS HOSPITALITY MANAGER OF THE YEAR AWARD

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. NEY. Mr. Speaker, the House has an award winner amongst its workforce. Mr. Jim Cirillo, an employee of one of the House food service contractors Guest Services, Inc. (GSI), won the 2002 Capital Restaurant & Hospitality Award for "Hospitality Manager of the Year." Jim is manager of the Rayburn Building Special Orders Deli and Pazzos Pizza. This annual award given by the Restaurant Association of Metropolitan Washington and the Washington, DC Convention and Tourism Corporation was presented to Jim at the industry's annual Awards Gala on Sunday, June 23, 2002 in Washington D.C.

One of five nominees from facilities in the Washington D.C. Metropolitan area, Jim won top honors for his superior service and extraordinary management skills as the manager of two facilities in the U.S. House of Representatives. Guest Services' President/CEO, Gerry Gabrys commented, "Members of Congress and their guests and staff have gone out of their way to recognize Jim's attitude and superior service on many occasions."

In a survey of customer satisfaction last fall, the Rayburn Special Orders deli was found to have the highest satisfaction rating amongst GSI's eleven business locations within the House. Recently, Jim developed two innovative websites where Members of Congress and their staff can conveniently and effortlessly place their food orders.

On behalf of the House of Representatives, I'd like to recognize Jim for this outstanding and well-deserved award, and for Jim's service to the House and his customers. Thank you Jim and keep up the great work!

RECOGNIZING THE WORTHINGTON, OHIO POOCH PARADE

### HON. PATRICK J. TIBERI

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. TIBERI. Mr. Speaker, I would like to recognize the Pooch Parade held in Worthington, Ohio. The Pooch Parade is an annual event

dedicated to the strengthening and educating of the unique relationship between dogs and the people who love them. In addition, the Parade helps create awareness of the growing number of homeless pets, the groups who work to find homes for them to end pet overpopulation and the valuable work of the hundreds of dog rescue groups and their volunteers.

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 3800 dogs, 9000 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.

HONORING BILL LAIRD FOR HIS COMMITMENT TO YOUTH

### HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. GORDON. Mr. Speaker, I rise to speak today about a distinguished member of my district who is being honored by an organization that has had an immeasurable impact on America. Bill Laird, a retired employee of Willis Corroon, is Junior Achievement's National Middle School Volunteer of the Year.

He has volunteered for nine years and taught 25 JA classes in that time. Mr. Laird always goes above and beyond his classroom duties, using his work and life experiences as a way to educate young people about business, economics and the free-enterprise system.

The history of Junior Achievement is a true testament to the indelible human spirit and American ingenuity. Junior Achievement was founded in 1919 as a collection of small, after school business clubs for students in Springfield, Massachusetts.

Today, through the efforts of more than 100,000 volunteers in classrooms all over America, Junior Achievement reaches more than four million students in grades K-12 per year. JA International takes the free enterprise message of hope and opportunity even further to nearly two million students in 113 countries.

Junior Achievement has been an influential part of many of today's successful entrepreneurs and business leaders. Junior Achievement's success is truly the story of America—the fact that one idea can influence and benefit many lives.

Mr. Speaker, I wish to extend my heartfelt congratulations to Bill Laird of Franklin for his outstanding service to Junior Achievement and the students of Tennessee. I am proud to have him as a constituent and congratulate him on his distinguished accomplishment.

HONORING TAKIRA GASTON

### HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. LARSON of Connecticut. Mr. Speaker, I rise today to honor and pay tribute to Takira Gaston of Hartford, Connecticut. On July 4, 2001, Takira was playing at 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.

No child should have to go through the ordeal that Takira has gone through. I ask my colleagues to join with me in honoring Takira's courage and continuing to work to rid our cities of the violence that plagues them.

[From the Hartford Courant, July 4, 2002]

THE COURAGE TO HEAL

(By Tina A. Brown)

NEW HAVEN.—After riding the toy cars and playing "Donkey Kong" on the computer, Takira Gaston flashes a bright smile that makes others in the pediatric surgery center forget the protruding scars on her face.

She's having a good day on this sunny Thursday despite being at Yale-New Haven Hospital for her second round of reconstructive surgery. She's thinking about splashing in her family's above-ground pool and jumping on the trampoline in her backyard, a safe place in a new neighborhood where gunfire is seldom heard.

After playing, Takira takes time to think of someone else. Someone like her, who was shot in the face.

Takira tells her adoptive mother, Delphine Gaston-Walters, that she wants to visit New Haven police Officer Robert Fumiatti, who's recovering at Yale-New Haven after being shot last month by a suspected drug dealer. They talk briefly with Fumiatti, whose head is stabilized by a metal halo. He calls Takira "courageous" and reaches out to shake her hand. But her good mood vanishes. She's scared. She refuses to shake his hand and backs out of his hospital room.

"They are not going to touch my face," she says, with anger in her eyes, as she returns to the surgery center. Deep down, she knows she has no choice, but that doesn't stop her from launching into an hour-long temper tantrum.



Such are the shifting emotions of an 8-year-old girl trying to recover from a stray bullet that tore through her face—and awoke people to the violence in the city—on July 4, 2001. The men responsible for her shooting, Anthony Carter and Maurice Miller, were convicted this spring. But for Takira, the physical and emotional scars continue to heal, in fits and starts.

#### TAKING A GAMBLE

Unlike a light-skinned person with a bullet wound, Takira faces another obstacle to her healing simply because she happens to be dark-skinned.

She is prone to keloids, an excessive growth of scar tissue common among African Americans. The skin disorder has left thick, 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 dish-shaped lights. As the clock on the wall marks 3:11 p.m., 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 Breslin hands him a scalpel to cut around the U-shaped 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 line, 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 face, 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 shaped like a thin cornrow-like braid. Rather than sew in a straight line, they create a ridge-like skin overlay, 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, and repeat the process of sewing 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 meanspirited children who call her scarface. Gaston-Walters, a dutiful parent, wants to protect Takira from those kinds of mental scars.

But for Takira, the pain and fear associated with the surgery make it hard to envision the outcome.

"Come on Missy, be nice," Gaston-Walters tells Takira four days after the 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 to restrain 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 given a sedative, and she goes 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 about 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 lying 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 from Kansas City 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 a burn 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 like Takira are afflicted with keloids, Geraghty supports the decision to remove the scars through surgery.

"Poor baby. Surgery is always a gamble, but a good gamble if you have no choice," he said. "If it were my daughter, I'd do it."

#### SPLASHING AROUND

Almost two weeks after the surgery, Takira got her wish to play in the water. The

portable pool hasn't been blown up yet, but she, her brother John and twin sister, Takara, take turns playing with the garden hose in a make-believe game of carwash.

There is no talk of the white bandages that still cover the lower half of Takira's face. The scar on her cheek is no longer covered and seems to be healing normally, no sign of a new keloid.

"Dr. Schneider said it was OK for her to get wet," Gaston-Walters 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.

None of that is on Takira's mind as she waits for her turn to rinse off the gold-colored pickup parked in the driveway. The game on this hot summer day, just three days 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 the others stand, dripping wet, outside the front door of the small Cape-style house. "They do this all of the time. They've changed clothes three times today already."

More surgery looms next year to remove the metal plate from Takira's jaw. For now, things are back to normal for Takira and her family.

AS THE ADA ENTERS ADOLESCENCE, ITS PROMISE REMAINS UNFULFILLED BUT WITHIN REACH

#### HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. HOYER. Mr. Speaker, today, we commemorate the 12th anniversary of the landmark Americans With Disabilities Act, the most sweeping civil rights legislation since the Civil Rights Act of 1964.

We do so with pride, as we measure our progress. 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 lead House sponsor of this historic law, I knew it 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 the more than 50 million disabled Americans—in 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 legal lightning rod with courts issuing narrow interpretations that limit its scope and undermine its intent.

In its most recent term, for example, the United States Supreme Court issued a series of decisions involving the ADA, ruling against the claimant each time.

In *Chevron v. Echazabal*, the Court held that an employer can keep a worker from filling a job that could be harmful to the worker's own health, even though the ADA itself only allows employers to deny jobs to those who pose a "direct threat" to other workers.

Whether intended or not, this decision stands for the proposition that disabled Americans really cannot exercise independent judgment on what is best for them. Thus, *Echazabal* perpetuates the paternalistic attitudes that the ADA sought to combat.

In another devastating blow, the Court held in *Toyota Motor Manufacturing v. Williams* that a worker needed to show that her condition not only affected her on the job, but also prevented or restricted her from performing "tasks that are of central importance to most people's daily lives." Because the claimant in *Williams* had not sufficiently demonstrated how her disability limited her in performed tasks such as brushing her teeth, the Court said, she was not "disabled" under the ADA.

Is this really what Congress intended when it passed the ADA? That a determination of "disability" would require courts to examine whether claimants can brush their teeth? The answer is obviously no.

This decision has put disabled Americans who avail themselves of the law's protection in a Catch-22: They must demonstrate that their impairment is substantial enough so that it constitutes a disability under the ADA, but not so substantial that the claimant cannot do the job without a reasonable accommodation.

In other recent ADA decisions, the Supreme Court has stripped state workers of their right to sue for monetary damages for ADA violations, and held that corrective or mitigating measures such as eyeglasses or medication should be considered in determining whether an individual is "disabled" under the law.

The latter decisions have produced absurd results in lower courts. People with diabetes, heart conditions, mental illness and even cancer have been ruled "too functional"—with corrective or mitigating measures—to be considered "disabled."

Mr. Speaker, this is clearly not what Congress intended when it passed the ADA and President Bush signed it into law. We intended the law to have broad application. In fact, any person who is disadvantaged by an employer due to a real or perceived impairment by others may bring a claim under the ADA. That's because, simply put, the point of the law is not disability; the point is discrimination.

Justin Dart Jr., the gentle giant who worked tirelessly on behalf of the ADA and the disabled throughout the world, would no doubt agree.

Perhaps best known as the father of the ADA, Justin passed away on June 22nd. For

nearly five decades, he was one of the world's most courageous, passionate and effective advocates for civil and human rights.

Many called him the Martin Luther King of the disability civil rights movement. But he thought of himself in more humble terms—simply as a soldier of justice. I was fortunate to call him a dear friend.

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 legislative responses.

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. Moreover, there is a growing concern that the military will be used domestically, within our borders, with intelligence and law enforcement mandates as some now call for a review of the Posse Comitatus Act prohibitions on military activity within our country.

In the 1960s, the lines between illegal intelligence, law enforcement and military practices became blurred as Americans wanting to make America a better place for all were targeted and attacked for political beliefs and political behavior. Under the cloak of the Cold

War, military intelligence was used for domestic purposes to conduct surveillance on civil rights, social equity, antiwar, and other activists. In the case of Dr. Martin Luther King, Jr., Operation Lantern Spike involved military intelligence covertly operating a surveillance operation of the civil rights leader up to the time of his assassination. In a period of two months, recently declassified documents on Operation Lantern Spike indicate that 240 military personnel were assigned in the two months of March and April to conduct surveillance on Dr. King. The documents further reveal that 16,900 man-hours were spent on this assignment. Dr. King had done nothing more than call for black suffrage, an end to black poverty, and an end to the Vietnam War. Dr. King was the lantern of justice for America: spreading light on issues the Administration should have been addressing. On April 4, 1968, Dr. King's valuable point of light was snuffed out. The documents I have submitted for the record outline the illegal activities of the FBI and its ColtelPro program. A 1967 memo from J. Edgar Hoover to 22 FBI field offices outlined the COINTELPRO program well: "The purpose of this new counterintelligence endeavor is to expose, disrupt, misdirect, or otherwise neutralize" black activist leaders and organizations.

As a result of the Church Committee hearings, we later learned that the FBI and other government authorities were conducting black bag operations that included illegally breaking 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 on false charges targeted individuals. And it resulted in the murder of some individuals. Geronimo Pratt Ji Jaga spent 27 years in prison for a crime he did not commit. And in COINTELPRO documents subsequently released, we learn that Fred Hampton was murdered in his bed while his pregnant wife slept next to him after a paid 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 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. Further, this 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, 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. For, 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 shortage 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 premiums 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 (TIM) 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 TES officer 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 local 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 check myself. 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, several trips to the police station 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 alive? Probably not, but she 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 murdered? My thoughts—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. Our nation's communities and 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 statement and statute against dogfighting, and cockfighting. In states where cockfighting is illegal, cockfighters had been using the loophole in federal law as a smokescreen to conceal their animal fighting activities; they

claimed that they were merely raising and possessing birds to sell to legal cockfighting states and countries, when in reality they were often engaging in illegal fights in their own states. It makes enforcement of state laws against cockfighting very difficult.

During consideration earlier in this Congress of the Farm bills, the House and Senate passed identical versions of legislation to close the loopholes in the law. Unfortunately, the conferees removed a provision, identical in both bills, to increase jail time for individuals who violate any provision of Section 26 of the Animal Welfare Act. The House and Senate increased the maximum jail time from one year to two years, seeking to make this illegal animal fighting a federal felony.

U.S. Attorneys have told humane organizations and others that they are reluctant to pursue animal fighting cases with such a modest penalty. They will be far more likely to pursue cases if it is a felony offense.

My legislation today seeks to restore what the House and Senate originally passed in terms of penalties. The adoption of this provision will bring federal law in better alignment with state laws. As I mentioned previously, 46 states have either dogfighting or cockfighting felony provisions. It is fitting and appropriate that the federal government treat dogfighting and cockfighting as felony offenses. It is well known that these forms of animal cruelty are often associated with drug traffic, illegal firearms possession, violence to people, and illegal gambling. In short, other criminal conduct goes hand in hand with animal fighting.

My legislation also bans the interstate shipment of deadly knives and gaffs, which are the implements attached to the birds' legs to heighten the bloodletting and expedite the conclusion of fights. These knives and gaffs are sold through cockfighting magazines and through the Internet, and it is time that this traffic in these deadly implements is halted. A number of states have prohibitions on the sale of these implements, but it is time to adopt a national standard.

Finally, this legislation improves and updates other enforcement language in the Animal Welfare Act, provisions that were adopted more than a quarter century ago, on forfeiture and disposition of animals seized by law enforcement once they make arrests of individuals participating in illegal animal fights.

I thank several colleagues for adding their names as original cosponsors, and hope that the committees of jurisdiction give this legislation proper and prompt attention and action. I hope it can be passed before the 107th Congress completes its work.

#### EGMONT KEY LAND TRANSFER

### 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 ef-

forts and are also original cosponsors of the bill. Egmont Key's cultural history dates back to 1830's, as a matter of fact 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 HIRSCHMAN

### 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!

#### EQUITY IN EDUCATION ACT

### HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. KNOLLENBERG. Mr. Speaker, today I urge my colleagues to support H.R. 2041, "The Equity in Education Act of 2001."

The rising cost of higher education is one of the major concerns facing American families today. In recent years the cost of college has gone through the roof. Making college affordable is vital to our children, our country's future, and our ability to remain competitive in a global economy.

I introduced the Equity in Education Act to help families save to send their children to college. It would allow individuals to use investments in securities to pay for higher education expenses without being penalized by the tax code.

The Equity in Education Act would provide families with a viable way to secure a good education for their children. By supporting this bill, Congress has the opportunity to ensure that the cost of receiving a higher education does not go beyond the reach of many Americans.

I encourage my colleagues to cosponsor H.R. 2041.

#### AN ACCURATE HISTORY OF CYPRUS

### HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. BURTON of Indiana. Mr. Speaker, recently several Members of Congress came to the House floor to attack Turkey and enumerate all the bad things that have happened to Cyprus as a result of the 1974 Turkish intervention on Cyprus. As has happened in the past, only one-sided, inaccurate, and incomplete information was provided, which not only ignored the historical reasons for the division of Cyprus, but also ignored the international laws that legitimized the Turkish intervention. For the sake of historical accuracy, I would like to insert in the RECORD an article authored by the Honorable Osman Ertug, the Representative of the Turkish Republic of Northern Cyprus here in Washington, DC. I commend it to anyone who has a sincere desire to understand why Cyprus stands divided today.

#### IS IT ALL HISTORY?

The month of July is marked by mourning and protestations in Cyprus on the one side, while by jubiliations and celebrations on the other. Even this sharp contrast in public mood shows the depth of the division between the two peoples of this eastern Mediterranean island—the Turkish Cypriots and Greek Cypriots. We believe the 28th Anniversary of the events of 1974 in Cyprus is an appropriate time to reflect on the background of the conflict and the prospects for its peaceful resolution.

Contrary to common belief, the origin of the Cyprus conflict dates back not to 1974, but to December 1963, when the Greek Cypriots, aided and abetted by Greece, launched an all-out attack on the Turkish Cypriot

people aimed at annexing the island to Greece (Enosis).

Turkish Cypriots resisted Greek attempts to "hellenize" Cyprus and, with the help of Turkey, which is a Guarantor Power under the Treaty of Guarantee of 1960, succeeded in defending and maintaining their existence in Cyprus as one of the two equal peoples of the island. Yet, this defense came at a heavy cost to the Turkish Cypriots, with thousands of them being killed, wounded or missing; a quarter of the Turkish Cypriot population evicted from their homes and properties in 103 villages; and the entire Turkish Cypriot population condemned to live in enclaves on 3% of the territory of Cyprus deprived of all human rights. The suffering of the Turkish Cypriots prompted a prominent US official, Mr. George W. Ball, former US Undersecretary of State, to write the following in his memoirs entitled "The Past Has Another Pattern":

"Makarios' central interest was to block off Turkish intervention so that he and his Greek Cypriots could go on happily massacring Turkish Cypriots. The Greek Cypriots just want to be left alone to kill the Turkish Cypriots."

The severity of Greek Cypriot attacks was such that The Washington Post of 17 February 1964 reported in a relevant article that "Greek Cypriot fanatics appear (ed) bent on a policy of genocide. . ."

The years-long campaign of the Greek Cypriots to annex the island to Greece culminated in the coup d'etat of 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 wholesale massacre of the Turkish Cypriots; stop the bloodshed on the island and prevent the colonization of Cyprus by Greece. 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 of this intervention."

Decision No. 2658/79 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 a permanent feature of the UN's Cypriot vocabulary.

Is this all history? Perhaps; but it is a history from which we must learn so as not to repeat it. A forward-looking strategy in 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 and viable settlement depends on 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 and a world that has 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 NEW PARTNERSHIP 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 in many daily newspapers.

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 depreciates 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 Lake Okeechobee, our country'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 this too, 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 try.

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. Departments 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 Rowesville 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 to her grandparents' home. She turned the wrong way initially, walking about .3 miles to Highway 41-A, then reversed her path, ran past the car with her mother inside down 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 1995 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 suppose 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.

# RECOGNIZING THE ANNIVERSARY OF THE INDEPENDENCE OF TRINIDAD AND TOBAGO

## 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 Republic of Trinidad and Tobago on its celebration of the 40th anniversary of its Independence.

I will spend a brief moment describing the beginnings of the Republic of Trinidad and Tobago and describe its ties with the U.S.

Trinidad was settled by the Spanish a century after Columbus landed there. The original inhabitants—Arawak and Carib Indians—were largely wiped out by the Spanish colonizers, and the survivors were gradually assimilated. Although it attracted French, free Black, and other non-Spanish settlers, Trinidad remained under Spanish rule until the British captured it in 1797. During the colonial period, Trinidad's economy relied on large sugar and cocoa plantations.

Tobago's development was similar to other plantation islands in the Lesser Antilles and quite different from Trinidad's. The smaller island of the pair, Tobago became known first as Tavaco, then Tabagua, then as Tobago. This was the name given by its tribal people who used a long stemmed pipe in which they smoked a herb called Vcohiba, known today as tobacco.

During the colonial period, French, Dutch, and British forces fought over possession of Tobago, and the island changed hands 22 times—more often than any other West Indian island. Tobago was finally ceded to Great Britain in 1814. Trinidad and Tobago were incorporated into a single colony in 1888.

If Trinidad was a sugar economy in the 19th Century it became an oil economy in the 20th. With the advent of the automobile and the conversion of the British Navy from coal to oil the search for and the production of oil received a strong boost.

Oil was discovered in the Guayaguayare, Point Fortin, and Forest Reserve areas in Trinidad. Over time oil and oil related exports came to dominate the economy and transformed much of populace from a rural to an urban one.

Besides oil, another important event was the establishment of U.S. bases on the island in 1941. This was agreed to in exchange for 50 destroyers which at the time was sorely needed by an overstretched Britain. These bases included a large chunk of the Chaguramas Peninsular as well as an air base at Wallerfield. The G.I.s injected American culture and money into a stagnant economy and shifted the focus of country from Britain to the U.S. More important, U.S. Marines helped construct numerous roads including the important Northern Coast Road which still is functional today.

In the 1950s, the British sponsored the West Indies Federation as a potential post-colonial model, in the belief that most of the Caribbean islands would be unable to survive politically or economically on their own. The Caribbean peoples thought otherwise and the Federation collapsed in the early 1960s.



In Trinidad and Tobago a movement was being born in the 1950s. After receiving his Ph.D. and serving as assistant professor at Howard University, Eric Williams returned to Trinidad and Tobago and formed the People's National Movement (PNM), a political party of which he became the leader. In September of 1956, the PNM won the national elections and he became the chief minister of the country from 1956 to 1959, premier from 1959 to 1962, and prime minister from 1962 to 1981. During his term as prime minister, Williams led Trinidad and Tobago into full independence within the Commonwealth in 1962. Eric Williams is considered the father of Trinidad and Tobago. He died in office on March 29, 1981.

After its 1962 independence, Trinidad joined the United Nations and the Commonwealth. In 1967, it became the first Commonwealth country to join the Organization of American States (OAS).

Trinidad and Tobago and the U.S. enjoy cordial relations. U.S. interests focus on investment and trade, and on enhancing Trinidad's political and social stability and positive regional role through assistance in drug interdiction and legal affairs. A U.S. embassy was established in Port of Spain in 1962, replacing the former consulate general. Today, the Republic of Trinidad and Tobago remains a stable government with close ties and a working relationship to the United States.

Evidence of government stability is represented in the fact that U.S. investment in Trinidad and Tobago exceeds one and one-quarter billion dollars. In addition, Trinidad and Tobago is becoming the leading importer of liquefied natural gas to the U.S. It also is active in the U.S.-initiated Summit of the Americas process and fully supports the establishment of the Free Trade Area of the Americas.

This has made Trinidad and Tobago one of the most prosperous islands in the Caribbean.

With a population of 1.2 million people and the size of the state of Delaware, Trinidad and Tobago maintains strong relations with its Caribbean neighbors as well. As the most industrialized and second-largest country in the English-speaking Caribbean, Trinidad and Tobago has taken a leading role in the Caribbean Community and Common Market (CARICOM), and strongly supports CARICOM economic integration efforts.

The two countries also share its people and culture. There are large numbers of U.S. citizens and permanent residents of Trinidadian origin living in the United States. These individuals keep strong cultural ties to their country of origin. About 20,000 U.S. citizens visit Trinidad and Tobago on vacation or for business every year, and over 2,700 American citizens are residents. In addition, Trinidad like carnivals are held in numerous cities across the U.S. with a major celebration occurring in Brooklyn every Labor Day.

The republic of Trinidad and Tobago is moving confidently forward in the 21st Century. As they celebrate their 40th anniversary let us give recognition to a nation that has realized its potential by fostering both economic and social growth.

IN HONOR OF AMBASSADOR F.  
HAYDEN WILLIAMS

**HON. NANCY PELOSI**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Ms. PELOSI. Mr. Speaker, I rise today to recognize and pay tribute to Ambassador F. Hayden Williams, a great American whose distinguished service and leadership has been instrumental in the creation of a World War II memorial on the National Mall in Washington, D.C.

Ambassador Williams has devoted a lifetime to public service. Through his time in the Navy Reserve during World War II, his work in the Kennedy and Eisenhower administrations, and his tenure as an Ambassador to Micronesia, Ambassador Williams has made important contributions to our government over more than fifty years. He has served with distinction on numerous boards and committees and in advisory capacities on defense and international affairs.

Ambassador Williams' connection to San Francisco and the Bay Area began as an undergraduate at the University of California at Berkeley, where he studied Political Science and History. He has since given much to the Bay Area, as an exemplary citizen, as a Trustee of U.C., Berkeley, and as a Commissioner of the Asian Art Museum of San Francisco.

Ambassador Williams' effort to build a World War II memorial is his most recent contribution to public life. He served as a Commissioner of the American Battle Monuments Commission from 1994 until 2001 and was named Chairman of the National World War II Memorial Committee. He directed the selection of the Memorial's site on the Mall and coordinated all aspects of the Memorial's design. He worked closely with Representative MARCY KAPTUR and others in the United States Congress to garner legislative support for the Memorial.

Ambassador Williams helped shape the purpose of the Memorial. He wanted it to honor and express the Nation's enduring gratitude to all American men and women who served in the United States Armed Forces during WWII, those who gave their lives in battle, those missing in action, and those who survived. He made sure that the Memorial would convey a sense of remembrance and national pride in the fortitude, valor, and sacrifice of our armed forces. He envisioned a Memorial that would acknowledge and honor the nation at large, the vigorous, spirited commitment of the American people to the war effort, and the vital contribution of the home front to America's victory in WWII.

Mr. Speaker, it is with great pleasure that I ask my colleagues to join me in honoring Ambassador F. Hayden Williams. I join with his family and friends in recognizing his service and dedication to ensuring that the country honors those who fought so valiantly in World War II.

RECOGNIZING THE MAGNIFICENT  
WORK OF DR. PAUL PHILLIPS  
COOKE

**HON. ELEANOR HOLMES NORTON**

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Ms. NORTON. Mr. Speaker, Today, in the CONGRESSIONAL RECORD on behalf of the citizens of the District of Columbia and the Washington, DC Alumni Chapter of Kappa Alpha Psi Fraternity, Inc., I recognize Dr. Paul Phillips Cooke for his efforts and successes in the field of education.

I count it a privilege to acknowledge Dr. Cooke's dedicated service to the District of Columbia and our nation. The citizens of Washington, DC have been privileged to have a leader like him in the vanguard promoting the advancement of our great city. With a congratulatory letter, I recently joined the Kappas at a Tribute to Dr. Paul Phillips Cooke, and noted his commitment to the enhancement of education in the District of Columbia.

Dr. Cooke was born on June 29, 1917, in New York City. His father and mother were born in Washington, DC, as well as his paternal grandfather and great grandmother. He attended public schools of the District of Columbia from 1st grade through high school. Dr. Cooke received his Bachelor's degree (cum laude) in English, from Miner Teachers College, Master's degrees from New York University, and the Catholic University of America, and his Doctorate in Education from Columbia University. He served as Professor of English from 1954 to 1974, at the District of Columbia Teachers College and as its President from 1966 to 1974. He received from the University of the District of Columbia the Doctor of Laws degree honoris causa in 1986.

During his distinguished educational journey, Dr. Cooke also was a teacher of English at Brown Junior High School, and at Phelps Vocational School, on the faculty in English at Miner Teachers College, and a lecturer at Trinity and Gallaudet Colleges, and Howard, American, George Washington, and Georgetown Universities.

A scholar, author of more than 200 publications and papers, lecturer, historian, and international statesman, Dr. Cooke has won the admiration and respect of his colleagues, associates, and friends for his many years of dedicated service. He has been a member of Kappa Alpha Psi Fraternity, Inc., since 1935, and is the recipient of the Laurel Wreath, the Fraternity's highest award.

Dr. Cooke served as Deputy Council Member of the World Veterans Federation, Consultant to the World Peace Through Law Conferences and as Chairman of the International Affairs Commission, American Veterans Committee and is a member of the Washington, D.C. Hall of Fame. His past and current memberships also include the Girard Street Block Association, the Shrine of the Sacred Heart R.C. Church, the Washington Torch Club, the Catholic Interracial Council of the District of Columbia, the Washington City Breakfast Group, the Cosmos Club, and the NAACP. For more than 50 years, "Corporal" Cooke, who served in the US Army Air Corps, has been a member of the American Veterans Committee.

Since 1940, Dr. Cooke has been married to the former Rose M. Clifford. Their four children have earned six college degrees.

The achievements of Dr. Paul Phillips Cooke serve as an inspiration for us all as we work to expand educational opportunities in the nation's capital. It is important that he be praised by the community at large. As the Congresswoman for the District of Columbia, I applaud Dr. Cooke's commitment to step into the breach and provide opportunities, options and hope, and give my best wishes for continued success in his important work.

#### INTRODUCING THE TEACHER VICTIMS' FAMILY ASSISTANCE ACT OF 2002

### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. HASTINGS of Florida. Mr. Speaker, a recent study conducted by the National School Safety Center on School Associated Violent Deaths notes that between 1992 and 2001, 33 teachers, school administrators, school employees, or volunteers, have been fatal victims of school violence. This means that during that nine-year period, teacher, school administrator or some other school employee in America was killed while performing the duties of his or her job every fourteen weeks.

A similar study done by the U.S. Department of Justice stated that teachers, school administrators and other school employees accounted for nearly 10 percent of all fatalities from school violence on campuses nationwide. Even more disturbing is that the majority of faculty fatalities occurred when a school employee attempted to stop a fight or some type of disagreement between students or other faculty members. In trying to stop school violence, these school employees became victims of school violence themselves.

On May 26, 2000, my district was struck with horror when a thirteen year old student walked into Lake Worth Middle School and shot and killed his teacher, Mr. Barry Grungow. While this tragic event once again raised the important issues of school safety, gun control, and the minimum age at which a child can be tried as an adult, to the Grungow family, the tragic death of Barry Grungow has meant much more.

In addition to the painful loss of a father and husband, Barry Grungow's death had a long-term effect on the entire Grungow family. Barry's death meant that, within six months, the entire Grungow family would find themselves without health care coverage; Barry's death meant that the Grungow family would incur added and unexpected expenses; and, ultimately, Barry's death means one less income that can be used to support Pam Grungow and her two children in the years to come.

In Spring 2001, the Florida State Legislature passed and the Governor signed the Barry Grungow Act, a measure that provided death benefits to the spouses and children of victims of school violence. Today, I come to the floor of the House of Representatives to say that it is time for Congress to follow Florida's lead and pass a similar measure.

Mr. Speaker, I rise today to introduce the Teacher Victims' Assistance Act of 2002. Simi-

lar to Florida's Barry Grungow Act, the Teacher Victims' Assistance Act places teachers, school administrators, school employees and school volunteers in the same high-risk category in which we currently place many of country's most important role models.

My bill provides the spouses and children of educators who are killed as a result of school violence with the following death benefits: a one-time death benefit of \$75,000, \$1,500 to be used to assist with any funeral expenses, \$900 per month in living assistance to the victims' surviving spouse, \$225 per month in living assistance to each dependent of the victim until the age of 18, \$7,500 per year, for up to five years, for each dependent to be used to pay for college or other forms of higher education before the age of 25, opportunity to enroll in the Medicare health benefits program, and exempts the family members from having to pay any accumulated income tax by the victim as a result of school employment.

Mr. Speaker, never before has Congress made the historic statement that we need to compensate the families of educators who are victims of school violence. Many of us understand that violence in our schools is virtually impossible to eliminate completely. However, it is possible for Congress to ensure every educator in the country that if another school shooting such as those which occurred at Lake Worth High School, the future of educators' families shall never be in jeopardy.

The Teacher Victims' Family Assistance Act of 2002 makes such a commitment, and I urge my colleagues to pass it immediately.

#### IN HONOR OF JUERGEN G. KEIL

### HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise today to honor Mr. Juergen G. Keil. Mr. Keil has recently retired as the Executive Director of the Naval Undersea Warfare Center (NUWC) Division, Newport, Rhode Island after 36 years of dedicated leadership and outstanding service. He was responsible for the overall planning and direction of the scientific and technical activities related to the U.S. Navy's undersea warfare systems. He led the Division in the development of innovative concepts and approaches to address the challenges posed by the post-Cold War undersea warfare and budget environment. Through Mr. Keil's leadership, Division Newport has been transformed into an organization widely regarded as the model of government reinvention, process improvement, and strategic planning.

Mr. Keil, a graduate of Brown University with a degree in Physics, has also served on the staff of Commander, Antisubmarine Warfare (ASW) Forces, U.S. Pacific Fleet and as Head of the Undersea Warfare Analysis Department responsible for the formulation and conduct of a broad-based analysis program that assessed the effectiveness of submarines and surface ships in countering undersea threats as well as submarine warfare effectiveness across the full spectrum of their missions. These were instrumental in support of the Los Angeles Class SSN 688 Improvement, the SEAWOLF (SSN 21) and the New Attack

Submarine (NSSN) Programs, as well as the Navy's ASW Weapon and Surface Ship ASW System Programs. Because of his efforts, NUWC Division, Newport's warfare analysis capabilities have been widely praised at all levels within the Department of the Navy and Department of Defense.

Over the years, Mr. Keil has received numerous achievement awards including the Excellence in Management Award from the Navy Meritorious Civilian Service Award in 1979. In 1987, he received the Bronze Medal from the American Defense Preparedness Association for his expertise in naval warfare analysis and his outstanding contributions to ASW. In June 1991, he received a Special Act Award for his technical leadership of Congressional mandated study of the Navy's ASNA Weapons Investment Alternatives, and the Decibel Award from NUWC in recognition of his development of a premier warfare analysis organization and for his nurturing an environment of excellence in all the technical disciplines related to underwater warfare analysis. In 1999, he was the recipient of the Department of Navy Superior Civilian Service Award. He was also selected as the recipient of the Society of Women Engineers' 1999 Rodney D. Chipp Award for fostering a positive working environment for women engineers and scientists, and as the recipient of the 1999 Rhode Island Federal Executive Council's Bud Gifford Leadership Award. Additionally, the National Defense Industrial Association named Mr. Keil the winner of the 1999 VADM Charles B. Martell/David Bushnell Award in recognition of his extraordinary leadership in undersea warfare research, development, test and evaluation (RDT&E) and acquisition reform. Most recently, in 2000, Mr. Keil received the prestigious Meritorious Executive Presidential Rank Award in recognition of his sustained accomplishments, results-oriented leadership, and relentless commitment to public service.

Mr. Speaker, Mr. Keil has been a well respected and hard working public servant, as well as a patriot. I am honored to recognize his long and highly accomplished career and his important work as the Executive Director of the Naval Undersea Warfare Center, Division Newport, Rhode Island. In time-honored naval tradition, I wish Mr. Juergen G. Keil "Fair Winds and Following Seas" as he enters into retirement.

#### CELEBRATING 12TH ANNIVERSARY OF AMERICANS WITH DISABILITIES ACT

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. RANGEL. Mr. Speaker, I join my colleagues in celebrating the 12th anniversary of the Americans with Disabilities Act. Signed on July 26, 1990, the nation took its first step to incorporate the disabled community back into mainstream America. Armed with 21st century technology and a warmhearted community, these Americans are able to interact smoothly with friends, family and coworkers in factories, office buildings, sports facilities, parks and even on the Internet. This Act has tapped into the full potential of individuals who were often excluded from the rest of the world.

The ADA has opened amazing doors for all people. Buildings, sidewalks and public transportation have become more accessible, allowing for ease in conducting everyday business. The use of screen-readers and voice-recognition software has brought the once unknown world of the Internet to all computer users. No longer will people with impaired vision or dexterity be limited to the available resources. The ADA has given employees with disabilities access to the tools they need to perform their job. Technological advances have been fully integrated into the workplace and I believe society is ready for the work-at-home employee.

As a member of the Bicameral Disabilities Caucus, I am a strong proponent for continued efforts to break down further barriers preventing our disabled community from living healthy, productive lives. With one in five Americans suffering from a debilitating ailment, we have a better understanding for the need to continue supporting both legislation and technology for tomorrow's generation.

Mr. Speaker, the Americans with Disabilities Act had the same impact on disabled Americans in the 1990s as did the Civil Rights Act had on African Americans back in the 1960s. I believe that the will of the people have spoken declaring not to discriminate against any person. With these pieces of legislation side-by-side on the same pedestal, we can observe our constantly changing, and more accepting, country and truly say that we are proud to be Americans.

---

ON THE PASSING OF NOLAN  
HANCOCK

---

**HON. GEORGE MILLER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. GEORGE MILLER of California. Mr. Speaker, sadly I wish to bring to the attention of my colleagues the passing of Nolan Hancock. Many of us have known Mr. Hancock as the former Legislative Director of the Oil, Chemical, and Atomic Workers International Union. Mr. Hancock died this week of a heart attack in West Valley City, Utah. He is survived by his wife, Barbara, four children, fourteen grandchildren, and five great grandchildren.

Nolan Hancock was an electrician by trade and an OCAW member for 48 years. For twenty-one years he worked in various local and international positions for the union. He retired five years ago after serving as Legislative Director for the union for 18 years.

Nolan Hancock worked with tremendous ability and integrity on behalf of the members of OCAW and all working Americans. Among the greatest privileges of being a Member of Congress is to work with people of the caliber of Mr. Hancock. I am proud to have known and worked with him.

ONE MORE REASON WHY RELIGIOUS IDEOLOGY SHOULD NOT DRIVE PUBLIC POLICY

**HON. FORTNEY PETE STARK**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. STARK. Mr. Speaker, As critics predicted, Bush's goal to make faith-based institutions the primary deliverers of social services has led to them promoting their religious beliefs with government money. Today, the Washington Post reported that a Louisiana federal judge ruled that the state illegally used federal money to promote religion in its abstinence-only sex education programs.

How many more examples do we need before Bush abandons this failed social policy?

JUDGE ORDERS CHANGES IN ABSTINENCE PROGRAM

(By Ceci Connolly)

A federal judge in Louisiana ruled yesterday that the state illegally used federal money to promote religion in its abstinence-only sex education programs, a decision that could jeopardize President Bush's ambitions for expanding the effort nationwide.

U.S. District Judge G. Thomas Porteous Jr. ordered the state to stop giving money to individuals or organizations that "convey religious messages or otherwise advance, religion" with tax dollars. He said there was ample evidence that many of the groups participating in the Governor's Program on Abstinence were "furthering religious objectives."

Using government money to distribute Bibles, stage prayer rallies outside clinics that provide abortions and perform skits with characters that preach Christianity violate the Constitution's separation of church and state, he ruled.

One group in its monthly report talked about using the Christmas message of Mary as a prime example of the virtue of abstinence.

"December was an excellent month for our program," the Rapides Station Community Ministries said in a report quoted by the court. "We were able to focus on the virgin birth and make it apparent that God's desire [sic] sexual purity as a way of life."

Gov. Mike Foster (R) expressed dismay over the decision and said he would review the state's legal options.

"It's a sad day when such a worthwhile program is attacked by the very people who are supposed to protect the interests of the citizens of Louisiana," he said.

The suit, filed in May by the American Civil Liberties Union, was the first legal challenge to abstinence-only programs created under the 1996 welfare reform legislation. Bush has asked Congress to extend the \$50 million-a-year program and increase other federal abstinence grants from \$40 million this year to \$73 million next year.

Cities, states or organizations that receive the federal grants must use the money to teach abstinence as the only reliable way to prevent pregnancy and sexually transmitted diseases. Supporters say abstinence education helps youngsters build character and develop the skills to "say no to sex." Grant recipients may not discuss contraception, except in the context of failure rates of condoms.

"Today's decision should stand as a wake-up call that this practice is unacceptable," said Catherine Weiss, director of the ACLU Reproductive Freedom Project.

The ruling was also a victory for liberals and public health advocates who argue that

abstinence-until-marriage programs are unrealistic and put young people in danger of unwanted pregnancy and sexually transmitted diseases.

Abstinence-only "is not a public health program," said James Wagoner, president of Advocates for Youth, which lobbies for broad-based sex education. "This is either ideology or religious instruction trying to pass itself off as public health."

The most recent, detailed analyses have concluded "the jury is still out" when it comes to teaching abstinence, said health researcher Douglas Kirby.

Wagoner called on policymakers to conduct audits of the abstinence programs similar to the current federal investigation of other types of sex education and HIV prevention programs.

Bill Pierce, spokesman for the Department of Health and Human Services, said the administration "remains deeply committed" to both abstinence-only programs and faith-based initiatives.

Weiss and Wagoner said that the misuse of abstinence money went beyond Louisiana and that they had begun to collect evidence of other instances of proselytizing. Many have close ties to the anti-abortion movement, they said.

Three weeks ago, HHS awarded \$27 million in new abstinence grants to numerous organizations with religious affiliations. Weiss acknowledged that it is constitutional to funnel tax money to religious groups as long as the money is used for secular purposes.

During a court hearing last month, Dan Richey, head of the Louisiana program, testified that the state had stopped subsidizing religious activities or overwhelmingly religious groups.

Porteous acknowledged the changes but added, "The Court does, however, feel the need to install legal safeguards to ensure the GPA [Governor's Program on Abstinence] does not fund 'pervasively sectarian' institutions in the future."

---

TRIBUTE TO NELLIE M. MCKAY

---

**HON. JOSÉ E. SERRANO**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to a wonderful community activist and dedicated humanitarian. Mrs. Nellie M. McKay will turn 73 years old on July 27th and her birthday is cause for great celebration.

Nellie was born in 1929 to two hard-working parents, Polly and Alex Brown. She grew up with ten brothers and sisters and learned the importance of sharing and support at a young age. Nellie has applied these values throughout her life as a community activist. New York was fortunate enough to become home to Nellie in 1950, when she immediately became a volunteer with the Baby Tracks program at the old Lincoln Hospital in the South Bronx. She also lent her time and energy to the Prosthesis Clinic at St. Luke's Hospital, easing the spirits of patients there. Nellie was a key player in the immunization program at local public schools, which is a crucial initiative for under resourced schools, especially during those times.

Mr. Speaker, Nellie has always been committed to helping those around her and she has also been committed to educating and fostering awareness in those around her. Having earned a Bachelor of Arts degree from

Norwich University, she champions the importance of education. She has facilitated countless workshops on Black History to empower members of the Black community with knowledge of their history and culture as well as to inform members of other ethnic communities. Her main goal was to bring people together through learning.

Many young people and adults throughout the South Bronx consider Nellie a second mother. She has cared for hundreds of children in her home and coordinated numerous events with young people in the community. The fashion shows she organized with Mott Haven HeadStart children created wonderful memories for many. While Nellie may have a special place in her heart for children, she is also very concerned with general community development and giving everyone, children and adults alike, a sense of pride in their neighborhood. She has spearheaded the reparation of abandoned buildings and vacant lots and the repaving of roads and sidewalks. Knowing that she and her neighbors deserved quality public transportation service, she called for and received improvement of the local bus line. Nellie has also helped empower fellow Bronx residents by participating in a number of voter registration drives, encouraging her neighbors to make their voices heard.

Mr. Speaker, at 73 years of age, Nellie continues to work hard and is currently the Chairperson of the Housing Committee of Planning Board 1, Assistant Chairperson of the Patterson Volunteer Committee, a lifetime member of the National Council of Negro Women, and a member of the New York NAACP, as well as many other prestigious organizations.

This exceptional human being is the mother of three, grandmother of six, great-grandmother of seven, and mother-figure of hundreds. I ask my colleagues to join me in honoring Mrs. Nellie McKay on her 73d birthday and to thank her for sharing so much of her heart, time and energy.

HONORING DR. JOHN E. SIRMALIS

**HON. PATRICK J. KENNEDY**

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise today to honor Dr. John E. Sirmalis. Dr. Sirmalis recently retired from the position of Technical Director of the Naval Undersea Warfare Center (NUWC) after 45 years of outstanding service. He earned his Bachelor of Science Degree in Mechanical Engineering in 1956, and a Master of Science Degree in Mechanical Engineering in 1958, both from the Massachusetts Institute of Technology. In 1975, he received a Doctorate Degree in Mechanical Engineering from the University of Rhode Island. He has a widely heralded reputation as a true leader and an exceptional visionary for submarine and undersea warfare systems. He has also been considered the nation's foremost authority on undersea weapons. As the "hands-on" leader of the Naval Undersea Warfare Center, Dr. Sirmalis stressed the importance of leading the Navy into the future through innovation, transformation and visionary concepts. Under his leadership and guidance, an incredible and significant series of accomplishments were

produced in many fields, including Sonar Technology, Combat Control Systems, Periscopes, and Launchers.

As a recognized expert in management and technology, Dr. Sirmalis has served as a member of a number of high-level Navy panels and served as the Navy's undersea weapons expert for cooperative international data exchange programs. He played a vital role in the fielding and improving of the Mark 48 and the Mark 48 Advanced Capability (ADCAF) torpedoes and other undersea vehicles. Dr. Sirmalis also implemented productivity enhancements, instituted an aggressive energy conservation program, and prioritized overhead functions to selectively reduce the cost of service. As a direct result of his initiatives, the Naval Undersea Warfare Center reduced overhead and costs while improving efficiency.

Throughout his distinguished career Dr. Sirmalis has received numerous awards. In 1997, Dr. Sirmalis received the Navy Distinguished Civilian Service Award, the highest award that can be received by a member of the Federal Government's Senior Executive Service. He has also been the recipient of the Meritorious Executive Presidential Rank Award, both in 1984 and 1994. He received the 1995 VADM Charles B. Martell Award presented for his outstanding record achievement and reputation as the world's foremost authority on undersea weaponry. Most recently he was selected to receive the 2000 Distinguished Civilian Award from the Naval Submarine League.

Mr. Speaker, Dr. Sirmalis has been a long serving and dedicated public servant and a true patriot. I am proud to recognize his long and distinguished career and accomplishments as Technical Director of the Naval Undersea Warfare Center. true naval tradition, I wish Dr. John E. Sirmalis "Fair Winds and Following Seas" as he enters into retirement.

IN RECOGNITION OF JAMAICA'S  
40TH YEAR OF INDEPENDENCE

**HON. CHARLES B. RANGEL**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. RANGEL. Mr. Speaker, it is with profound pleasure that I speak today in honor of the 164th year of Emancipation and the 40th anniversary marking Jamaica's independence from Great Britain. On August 6, 1962, Jamaica won its political independence from the colonial rule of Great Britain. This year, Ambassador Seymour Mullings will be leading the Jamaican and Jamaican-American communities in the United States in their yearly tradition of celebrating freedom from colonialism and slavery.

To give a brief history, Jamaica's first inhabitants were the South American Arawak Indians. In 1494, Columbus arrived on the island and claimed the land for Spain. Suffering a similar fate of the nearby Caribbean islands, the Arawak Indians were enslaved or died from diseases carried over by the Spanish settlers during their 160 year reign.

In 1655, the island was captured by the British and immediately started the large-scale importation of Africans for slave labor in the sugar plantations. The inhumane nature of slavery made slave revolts a common phe-

nomenon in Jamaica. Both freed and escaped slaves (Maroons) continually fought their British captors for their right to live free. The most famous of these rebellions happened in 1831 by Reverend Sam Sharpe. Known as the "Christmas Rebellion", this insurrection lasted for four months and is credited for bringing about the end of slavery. Today, Sam Sharpe is recognized as a national hero in Jamaica.

It was not until after the American Colonies declared themselves independent from England in 1776 that the abolition movement began to flourish throughout Jamaica. March 1, 1808 marked the year when slave trade between Africa and Jamaica was abolished by the British Parliament.

In 1834, the Emancipation Act officially ended slavery; however, the slaves did not gain complete freedom until four years later on August 1, 1838. Many ex-slaves settled down as small farmers in the Blue Mountains, far away from the plantations they used to cultivate. Those who stayed on the plantations now received compensation for their labor. Struggles over land culminated in the Morant Bay rebellion, leading to the deaths of two Jamaican national heroes: George William Gordon and Paul Bogle, and forcing Great Britain to proclaim Jamaica as a crown colony in 1865.

Inspired by the political ideas of Marcus Garvey, a national movement for independence began in the late 1930s. Political parties started forming and years later in 1944, Jamaica was proud to hold its first democratic elections. Over a decade later on August 6, 1962, full political independence was granted, allowing Jamaica, a new member to the British Commonwealth, to draft its own constitution and create a bicameral Parliament with elected representatives and a Prime Minister.

Jamaican-born Marcus Garvey was ultimately recognized as one of America's greatest Black leaders. He challenged the myths of racial inferiority and inspired hundreds of thousands of Black American supporters with hope for a better future. It is my hope that this Congress will support my bill, H.Res. 50, to exonerate this internationally renowned leader in the struggle for human rights. I ask my colleagues to join me today in clearing Marcus Garvey's name in honor of Jamaica's Emancipation from slavery and Independence from colonialism.

With 4,411 square miles of beautiful beaches, mountains and farms, Jamaica overcame centuries of economic and social struggles to become internationally acclaimed in all aspects of human culture, including tourism, music, and sports. Millions of tourists from all around the world vacation in Jamaica and experience for themselves the beauty that the inhabitants of this great nation get to see year round.

Although it is a small island nation of only two million people, Jamaica has had a remarkable impact upon the world of music. With its reggae beat played throughout the world, Jamaica has produced the musical stylings of Harry Belafonte, Jimmy Cliff, Peter Tosh and Bob Marley. The country is involved in all sports competitions, including cricket, soccer, basketball, boxing, and even more remote sports like baseball, hockey, and bobsledding. Great Jamaican athletes such as Heavyweight Champion Lennox Lewis and Patrick Ewing of the New York Knicks have contributed extensively to the American sports culture.

Mr. Speaker, it is an honor to speak in recognition of what has been accomplished by the people of Jamaica as we celebrate its independence. Jamaica has elevated itself from the perils of slavery and oppression to a country of great power and prestige. As we move forward, I am confident that our friendship with Jamaica will continue well into the future.

---

ALGERIA

**HON. JOSEPH R. PITTS**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. PITTS. Mr. Speaker, our nation celebrated our independence, freedom and democracy on the Fourth of July. Another independence day was commemorated one day later on July 5th—that of our friend and ally, Algeria, which celebrated 40 years of independence this year.

President Bush sent his congratulations to President Bouteflika to mark the occasion, expressing his solidarity with the Algerian people. The President reiterated U.S. support for Algeria's efforts in the war on terror and progress in political and economic reforms for the Algerian people.

Algeria has been an increasingly staunch ally of the U.S. over the years, and has been a particularly helpful friend and ally in our war on terrorism. Algeria was one of the first nations to offer its condolences and assistance in the immediate aftermath of the attacks. In addition, Algeria has cooperated fully with our law enforcement and intelligence agencies as a partner in the global coalition against terrorism. Ambassador Francis X. Taylor, head of the State Department's Counterterrorism Office, praised Algeria's cooperation calling that nation "one of the most tenacious and faithful partners of the United States" which has "cooperated with us in every domain."

As important as Algeria is to us today, it will be increasingly important in the future as we explore liquefied natural gas reserves there to meet our nation's growing energy needs. Algeria has some of the largest natural gas reserves in the world, exporting over four million barrel per day, soon to be five million—the largest exporter in Africa. Algeria could be a prime market for our agricultural products. It is a home to U.S. investment and will be an increasingly important economic partner in the years to come.

Mr. Speaker, I would like to add my congratulations to the people of Algeria on the occasion of their forty years of independence and recognize the important contribution that nation is making in the international war on terror, as well as the progress being made towards real and lasting democracy.

---

IN HONOR OF JOHN JACOBS

**HON. NANCY PELOSI**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. PELOSI. Mr. Speaker, It is with great personal sadness that I rise to pay tribute to my friend John Jacobs, a great friend to San

Francisco's business and conservation communities. John worked passionately to keep San Francisco's economy vital and its environment sound. The former head of the San Francisco Planning and Urban Research Association (SPUR) and the San Francisco Chamber of Commerce, he passed away on July 15th at 76 years of age.

A native of Philadelphia, John served as a paratrooper in the 101st Airborne Division during the Battle of the Bulge during World War II. Following the war, he worked for NATO in England and France. He attended New Mexico State University on the GI Bill and received his BS in Business. His college roommate, John Hirten, urged him to come to San Francisco to lead SPUR, which he did for the next twenty years.

John was one of the most influential figures in San Francisco's planning and economic development since the 1960's. Under his leadership, SPUR played a key role in the creation of the Golden Gate National Recreation Area by developing a network of more than 65 conservation and civic-minded organizations. He served as deputy director of SPUR from 1960 to 1968 and as executive director from 1968 to 1981.

He then served as executive director of the San Francisco Chamber of Commerce from 1981 to 1988, when he became president of the organization for a year. He played a leading role in resolving the downtown business community's battles with City Hall and neighborhood groups and helped draft guidelines for the treatment of HIV-positive employees.

John was also an avid sailor and expert yachtsman and named champion in several sailboat racing classes. His love for the San Francisco Bay Area was demonstrated by his service on the boards of the Fine Arts Museum, KQED, Point Reyes Bird Observatory, and the San Francisco State University Foundation.

John's service to San Francisco and the Bay Area was a gift to us all. His insistence that the business and conservation communities communicate with and support each other made San Francisco a model for other cities. He was a hero, always vigilant, always willing and able to do battle. To John's lovely wife Shirley, I extend my deepest sympathy and my gratitude to her for sharing her magnificent husband with us.

---

IN HONOR OF RICK SANCHEZ

**HON. ROBERT MENENDEZ**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. MENENDEZ. Mr. Speaker, I rise today to honor and acknowledge the many accomplishments of Rick Sanchez, whose voice will now be heard on Spanish-language radio in New York and Miami. In a historic arrangement, Mr. Sanchez will be the first host of two shows, in two media markets and in two languages. The Federation of Cuban Musicians in Exile will honor Rick Sanchez at Las Palmas Restaurant on Sunday, July 28th in West New York, New Jersey.

With over 20 years of experience covering major national and international stories, Mr. Sanchez has made a significant and long-lasting contribution in broadcasting. Most notably,

he covered the Contra War in Nicaragua, the uprisings in Haiti, and was one of the first reporters to broadcast live from the scene of the World Trade Center on September 11, 2001.

An accomplished interviewer, he has received many accolades for his work, including the Florida Broadcaster of the Year Award and a special commendation from the White House. He is also a philanthropist, having led the relief efforts to assist victims of Hurricane Andrew in South Miami Dade County.

Rick Sanchez and his parents were exiled from his birthplace, Havana, Cuba, when he was two years old. While attending Moorhead State University on a football scholarship, he was selected from thousands of applicants for a journalism scholarship at the University of Minnesota, awarded by CBS station WCCO-TV in Minneapolis. Following college, he was hired as a reporter at WSVN in South Florida and, at 22, he became the youngest anchor in the market when he became the station's weekend anchor.

Today, I ask my colleagues to join me in honoring Rick Sanchez for his ground breaking achievements in broadcasting and for paving the way for the Hispanic community.

---

IN MEMORY OF ARIEL MELCHIOR, SR., CO-FOUNDER OF THE DAILY NEWS OF THE VIRGIN ISLANDS

**HON. DONNA M. CHRISTENSEN**

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mrs. CHRISTENSEN. Mr. Speaker, I rise today to honor and pay tribute to Ariel Melchior Sr., co-founder of the Daily News of the Virgin Islands, died Tuesday night, July 23, 2002 at the Roy L. Schneider Hospital on St. Thomas in my district, the U.S. Virgin Islands. Members of his family were at his bedside at the time of his death. He was 93. Together with the late J. Antonio Jarvis, Melchior started the newspaper on August 1, 1930 and headed the publication for almost 50 years before it was purchased by Gannett Co. Inc. in 1978.

Melchior, Sr. is survived by two sons, Earl and Ariel, Jr.; six daughters, Marjorie Preston, Valerie Wade, Rita Watley, Norma Gomez, Laurel Melchior, and Juel Love; stepchildren George Dudley, Jr. and Rita Grant. A sister, Zelina Petersen, also survives together with many grand and great-grandchildren.

A giant among his fellow men, even though very few are aware of his intense love for his community or of his courage to stand by his decisions, Ariel Melchior, Sr., was a quiet but forceful champion of human rights. Chief among his contributions to his society is the establishment of the Daily News, a newspaper which has become a substantial force in the territory. Appearing on the newsstand on August 1, 1930, the paper was a joint effort of Mr. Melchior and the late Jose Antonio Jarvis, a teacher. Throughout the years, Melchior served on the paper in several positions, including business manager, a post he held for about 10 years.

When Jarvis sold his interest to his partner, Melchior then assumed full ownership and served as editor. Under his guidance, the paper observed almost half a century, never missing one day's publication. It was also

under his leadership that the paper was the recipient of several awards and citations. A partial listing of these tributes include certificates of appreciation from the Junior Chamber of Commerce, St. Thomas (1961), Boy Scouts of America (1961), The National Safe Boating Week Committee (1966), a Public Service award from the United States Department of Labor (1970), and an anniversary award from the Charlotte Amalie High School (1971).

On occasions of various anniversaries of the paper, letters of commendation have been received from prominent National, International, and Local figures and organizations. Some of these are Dwight D. Eisenhower, President of the United States (1959); John D. Merwin (former), Governor, U.S. Virgin Islands (1961); Hubert H. Humphrey, Vice President of the United States (1965); Fred Seaton, U.S. Secretary of Interior (1959); Lord Mayor of Dublin (1954); Erik Eriksen, Danish Information Services (1967); William H. Hastie, Judge United States Court of Appeals for the Third Circuit (1954); Syril E. King, Governor, U.S. Virgin Islands (1975); Women's League, St. Thomas (1966); Ralph M. Paiwdonsky, Governor, U.S. Virgin Islands (1975); The Very Reverend Edward J. Harper, Bishop, Roman Catholic Diocese, St. Thomas, V.I. (1975).

These expressions attest to the successful role the newspaper has played in fulfilling its obligation to protect the democratic process and to provide for good, clean government. To achieve these goals, Mr. Melchior even took his cause to the courts.

A classic example in which he challenged violations of the Constitution was the case of *Melchior v. St. Thomas Park Authority*, et al., 1966. In that case, Mr. Melchior contested the action of the local Park Authority for prohibiting or restricting the use of any part of Magen's Bay on St. Thomas to the public because the beach was conveyed from Arthur S. Fairchild for the use of the people of the Virgin Islands in perpetuity. The court agreed and granted a permanent injunction against the Park Authority and the Government of the Virgin Islands.

In another instance via the *Daily News*, Mr. Melchior's charge of irregularity in Government was brought to the public's attention during congressional hearings on the Virgin Islands Elective Bill on June 20, 1968. Remarks made at this hearing by representative John P. Saylor indicated that there was a violation of the Hatch Act by Government employees. The *Daily News* further charged that the persons involved were duly notified and warned. In the conclusion of his remarks, Mr. Saylor gave credit to the paper for its commitment to preserving good government.

Always a champion in civic matters, in 1939 Mr. Melchior intervened when the name of Alvaro de Lugo, the first native born U.S. Postmaster was omitted from the bronze plaque which was being installed in the U.S. Post Office in Charlotte Amalie, St. Thomas. He brought the omission to the attention of the U.S. Fourth Assistant Postmaster General, Smith W. Purden. As a result, the name of the Postmaster and the Governor, Lawrence Cramer, were included.

Besides the power of the press, it was also through personal involvement as a concerned citizen or through his civic affiliations that Mr. Melchior has continued to contribute his services and expertise to the community. After the sale of the *Daily News* in 1978 to the Gannett

Publishing Company, he concentrated on several other goals. He established the Ariel Melchior, Sr. Foundation, an agency which among other activities rented scholarships to students or other persons with interests in journalism.

In addition, the foundation, along with the St. Thomas Historic Trust, in 1980, erected a bust of the late Antonio Jarvis, an outstanding Virgin Islander. The life-sized bronze statue is based on a six-foot marble pedestal. Areas depicting Mr. Jarvis's specialties are attached on six "books" on which his arm rests. The memorial is housed in the educator's park in St. Thomas.

Another of his personal accomplishments is the publication of "Thoughts Along the Way" (1980). A compilation of selected *Daily News* Editorials, the book gives an in-depth look into life in the Virgin Islands. A second publication, "Commentaries—from the Archives," is a compilation of several letters of special significance, a photo file and copies of awards and citations to him and the *Daily News*. Earlier publications are a "Souvenir of the American Virgin Islands" (1953) and "Virgin Islands Magazine" (1936–1963). This periodical was awarded a scroll of honorable mention in 1952 from the Professional League of Virgin Islanders in New York for its "excellent example of modern magazine make-up and journalistic content."

Many of the organizations with which he has been affiliated have, through the years acknowledged his contributions. A member of the Inter-American Press Association (In 1969 he was named vice chairman by the president of the association, James S. Coplen). In recognition of this position, he was commended by prominent figures in the newspaper publishing industry. In 1973, he was among seventeen residents honored by the V.I. Academy of Arts and Letters for the contributions to the cultural heritage of the territory. In addition, Mr. Melchior received a plaque as evidence of his membership in the association. He was also awarded a plaque in 1979 for his outstanding service to the Rotary Club of St. Thomas. In 1979 he was awarded a service award in recognition of outstanding service as a senior member of the Governing Board of the Virgin Islands Port Authority. In that same year he received a certificate of appreciation for his personal interest in making the intensive care unit at the Knud-Hansen Memorial Hospital a reality. Other agencies recognizing his contributions include Virgin Islands National Guard, Boy Scouts of America, Junior Chamber of Commerce, and executive board of the Rotary Club of St. Thomas. A few other outstanding certificates include the Navy League's certification of Life Membership, the United States Congressional Advisory Board's Certificate in Grateful Recognition of his Outstanding Services and the 1982 Trustees Distinguished Achievement Award from the College of the Virgin Islands, now the University of the Virgin Islands. He is currently a member of the board of Overseers of the University and was its keynote speaker at the 1982 graduation ceremonies. The Virgin Islands Legislature has publicly recognized the contributions of Mr. Melchior on two separate occasions. In 1950, the fifteenth Legislative Assembly approved a resolution on the event of his twentieth year as a newspaper publisher, and in 1975 the eleventh Legislature approved a resolution in honor of his 45th year as a publisher.

It was Francis Xavier Cervantes, Regional housing director, who in 1975 best summarized Mr. Melchior's impact on his community with this quote, "The past of the Virgin Islands is wrapped around him like a cloak, and the future will regard him as the elder statesman that he is."

Formerly married to the late Violet Cruz, he was the father of their seven children: Earle, Marjorie Melchior Preston, Valerie Melchior Wade, Ariel Jr., Rita Melchior Watley, Norma and Laurel.

He and his second wife, Gertrude Lockhart Dudley Melchior, are world travelers who have visited many countries in Europe, Asia, Central America, South America, and the Caribbean. An avid sportsman, Mr. Melchior enjoys deep sea fishing and sailing.

Mr. Speaker, the description of Ariel Melchior, Sr.'s accomplishments which I recite here today, is taken from a book entitled "Profiles of Outstanding Virgin Islanders", written by Ruth Moolenaar of St. Thomas.

## A TRIBUTE TO LANGSTON HUGHES

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. RANGEL. Mr. Speaker, this year is the 100th anniversary of the birth of Langston Hughes (February 1, 1902). Schools, universities, libraries, and organizations around the country are celebrating his life. I want to take the time to recognize an outstanding individual who has contributed greatly to this country.

Hughes was born in Joplin, Missouri to abolitionist parents and attended high school in Cleveland, Ohio where he first began writing poetry. At his father's encouragement, Hughes attended Columbia University to studying engineering for a "practical" job. However, Hughes left the field in order to pursue his love for words. Hughes received a scholarship to Lincoln University, in Pennsylvania, where he eventually received his B.A. degree in 1929. His first published poem was "The Negro Speaks of Rivers" and became one of his most famous works.

Hailed as a genius, Hughes gave the gift of words to a country in turmoil. His writing began to flourish during the Harlem Renaissance of the 1920's and 30's, a time in which racism, war, the Depression, and other social ills plagued this nation. Hughes traveled throughout Europe, West and Central Africa during the early 1920's and returned to Harlem in 1924.

In the following year he moved from Harlem to Washington, DC. While in our nation's capital, he was heavily influenced by the blues and jazz scene. His work captured the dynamic of black music on paper, inspiring academia to study and recognize the uniqueness of black music as being an authentic American art form.

Some of Hughes' most famous works are *Not Without Laughter* (1930), *The Big Sea* (1940), and *I Wonder As I Wander* (1956), his autobiographies. His poetry includes *Tambourines to Glory* (1958), *The Weary Blues* (1926), *The Negro Mother* and other Dramatic Recitations (1931), *The Dream Keeper* (1932), *Shakespeare In Harlem* (1942), and *The Best of Simple* (1961).



In all, he wrote 16 books of poems, two novels, three collections of short stories, four volumes of editorial and documentary-type fiction, 20 plays, children's poetry, musicals and operas, 3 autobiographies, a dozen radio and television scripts and dozens of magazine articles. He also edited seven anthologies.

He continued throughout his life to write and edit literary works up until his death on May 22, 1967 when he succumbed to cancer. Later, his residence at 20 East 127th Street in Harlem was given landmark status by the New York City Preservation Commission. His block of East 127th Street was renamed "Langston Hughes Place."

We are inspired by the words of Langston Hughes: "We build our temples for tomorrow, as strong as we know how and we stand on the top of the mountain, free within ourselves." Hughes was a notable figure in America's history and his voice will live on throughout future generations.

#### BURMA

### HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. PITTS. Mr. Speaker, I am deeply disturbed by the horrifying reports of increasing repression in Burma. Accounts detail ongoing massacres, torture, burning of villages and churches, and forced labor of villagers by Burma's military regime in the Karen state and throughout the country. Despite the regime's promises of change and liberalization, Burma's military dictatorship has shown more of the same terrible treatment of the people—recently a dozen innocent civilians, including children and babies were massacred.

I have in my office graphic photos showing the April 28, 2002, massacre in Burma's Dooطلا district. The photos show the bodies of victims stacked neatly after their murder. The regime's soldiers shot and killed Naw Daw Bah, a two-year-old girl, and Naw Play and Naw Ble Po, two five-year-old girls. Nine others were shot, but fortunately escaped, including a six-year old boy who played dead until the military left the site. These first-person accounts, plus the photos, provide incontrovertible evidence of the State Peace and Development Council's (SPDC) horrifying human rights abuses and crimes against humanity as they continue their attempt to subjugate the entire country through whatever means they see necessary.

Mr. Speaker, what possible threat do babies and two and five-year-old little girls present to military men with arms?

Numerous reports from eyewitnesses and credible human rights organizations reveal that this latest massacre is but one example of an ongoing campaign of terror by Burma's military regime against its own people. The SPDC has burned down scores of villages and forcibly relocated villagers to areas near military bases to be forced laborers. During attacks on villages, the military also has burned down places of worship and tortured and killed ministers and monks. The military regime drove thousands of Karen and other ethnic villagers into hiding in the jungle—these internally displaced people have tried to flee to Thailand to join the 120,000 plus living in refugee camps.

In Burma's Shan state, hundreds, if not thousands, of women have been raped by Burma's SPDC in its quest to dominate those who struggle for freedom and democracy.

Shockingly, Burma's military regime operates with impunity. Amnesty International, in its most recent report on Burma, says, "No attempt appears to have been made by the SPDC [regime] to hold members of the tatmadaw [military] accountable for violations which they committed, and villagers do not have recourse to any complaint mechanism or other means of redress."

Mr. Speaker, no one should be forced to live like a hunted animal always on the run, in fear for its life. It is time that the international community wake and take action against the horrors occurring in Burma. While the military regime woos diplomats, business guests, and others in downtown Rangoon, Burma's people are fleeing in fear of intensifying and acute repression. Our government and the international community must press the SPDC to immediately cease its campaign of terror against the people of Burma. I urge my colleagues to join in solidarity with the Burmese people by raising their voices for freedom.

#### IN GOD WE TRUST THREATENED BY PLEDGE SUIT

### HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. ROTHMAN. Mr. Speaker, as we are all aware, the Ninth Circuit Court of Appeals recently held that the Pledge of Allegiance is unconstitutional because the phrase "under God," combined with daily recitation of the Pledge, violates the establishment clause of the Constitution. Following their victory, the plaintiffs vowed to challenge the motto, "In God We Trust," which appears on American currency. Fair Lawn, New Jersey Mayor and numismatic expert David L. Ganz recently published an article in the Numismatic News that analyzes why "In God We Trust" was chosen as the national motto, and why it should remain on our currency. With the chair's permission, I would like to submit this article, entitled "In God We Trust Threatened by Pledge Suit," for the RECORD. I also urge the members of this body to support the current Pledge of Allegiance and the continued use of "In God We Trust" on our nation's currency.

[From the Numismatic News, July 16, 2002]

'IN GOD WE TRUST' THREATENED BY PLEDGE  
SUIT—UNDER THE GLASS

(By David L. Ganz)

Front-page news and accompanying legislative denunciations have greeted the decision of the United States Court of Appeals for the 9th Circuit that the nation, "under God," indivisible, in the Pledge of Allegiance is unconstitutional. The successful plaintiffs have separately pledged to initiate an attack on the national motto, "In God we Trust" to remove it from U.S. currency.

Although the motto has been attacked several times in other appellate courts—the Supreme Court has never explicitly ruled on it—there is some question as to what success this might have, and the consequences to coin and paper money design.

Involved is the case of *Newdow v. U.S. Congress*, 00-16423 (9th Cir. June 26, 2002), which

was decided by the appellate court that covers California and much of the American West, comprising 20 percent of the nation's population and about a third of its area and natural resources.

Newdow, an avowed atheist, brought the suit because his young daughter attends a public elementary school in the Elk Grove Unified School District in California. In accordance with state law and a school district rule, teachers begin each school day by leading their students in a recitation of the Pledge of Allegiance.

Young Miss Newdow is not required to say the pledge; that was decided some 60 years ago when the case of *West Virginia v. Barnette*, a 1943 decision in which the U.S. Supreme Court prohibited compulsory flag salutes. Her father's objection was that she was intimidated by listening to it, at all.

On June 22, 1942, Congress first codified the Pledge in Public Law 642 as "I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation indivisible, with liberty and justice for all." (The codification is found in 36 U.S.C. §1972.)

A dozen years later, on June 14, 1954, Congress amended Section 1972 to add the words "under God" after the word "Nation" (Pub. L. No. 396, Ch. 297 68 Stat. 249 (1954) ("1954 Act")). The Pledge is currently codified as "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" (4 U.S.C. §4 (1988)).

The following year, 1955, largely at the instigation of Matt Rothert, later president of the American Numismatic Association, Congress amended the U.S. Code to require the national motto to be placed on all coins and currency. (Earlier, Congress took action to place the motto on the two-cent piece (1864), and on some gold coins (1908)).

There is some utility in reviewing what the Pledge of Allegiance is, and for that matter, the history of the national motto, "In God we Trust," where the "we" is not capitalized and all other letters are.

Francis Bellamy, a Baptist minister with socialist leanings, wrote the original version of the Pledge of Allegiance Sept. 8, 1892, for a popular family magazine, *The Youth's Companion*, a *Reader's Digest*-like periodical of the era.

The original pledge language was "I pledge allegiance to my Flag and to the Republic for which it stands, one nation, indivisible, with liberty and justice for all."

A generation later, in 1923 the pledge was adopted by the first National Flag Conference in Washington, where some participants expressed concerns that use of the words "my flag" might create confusion for immigrants, still thinking of their home countries. So the wording was changed to "the Flag of the United States of America." In 1954, Congress after a campaign by the Knights of Columbus added the words, "under God," to the Pledge. The Pledge was now both a patriotic oath and a public prayer.

Legislation approved July 11, 1955, made the appearance of "In God we Trust" mandatory on all coins and paper currency of the United States. By Act of July 30, 1956, "In God we Trust" became the national motto of the United States.

Several courts have been asked to construe whether or not the motto was unconstitutional and a violation of the First Amendment to the Constitution—freedom of religion arguments being raised.

In a 10th circuit Court of Appeals case arising in Colorado, *Gaylor v. US*, 74 F.3d 214 (10th Cir. 1996), the Court quoted a number of Supreme Court precedents and concluded

that, "The motto's primary effect is not to advance religion; instead, it is a form of 'ceremonial deism' which through historical usage and ubiquity cannot be reasonably understood to convey government approval of religious belief."

As neat a package as that creates for concluding the controversy, that is simply not the history of the motto "In God we Trust" or how it found its way onto American coinage. That story goes back to the bleak days of the Civil War, when the nation's constitutional mettle was being tested on the battlefields that left hundreds of thousands of Americans dead.

From the records of the Treasury Department, it appears that the first suggestion of the recognition of the deity on the coins of the United States was contained in a letter addressed to the Secretary of the Treasury, Hon. S.P. Chase, by the Rev. M.R. Watkinson, Minister of the Gospel, Ridleyville, Pa., under date of Nov. 13, 1861.

"One fact touching our currency has hitherto been seriously overlooked, I mean the recognition of the Almighty God in some form in our coins," Watkinson wrote to Secretary Chase.

"You are probably a Christian. What if our Republic were now shattered beyond reconstruction? Would not the antiquaries of succeeding centuries rightly reason from our past that we were a heathen nation? What I propose is that instead of the goddess of liberty we shall have next inside the 13 stars a ring inscribed with the words 'perpetual union'; within this ring the all-seeing eye, crowned with a halo; beneath this eye the American flag, bearing in its field stars equal to the number of the States united; in the folds of the bars the words 'God, liberty, law.'"

"This would make a beautiful coin, to which no possible citizens could object. This would relieve us from the ignominy of heathenism. This would place us openly under the Divine protection we have personally claimed."

"From my heart I have felt our national shame in disowning God as not the least of our present national disasters. To you first I address a subject that must be agitated," he concluded.

A week later, on Nov. 20, 1861, Chase wrote to James Pollock, the director of the Mint, "No nation can be strong except in the strength of God, or safe except in His defense. The trust of our people in God should be declared on our national coins."

He concluded with a mandate: "You will cause a device to be prepared without unnecessary delay with a motto expressing in the fewest and tersest words possible this national recognition."

In December 1863, the director of the Mint submitted to the secretary of the Treasury for approval designs for new one-, two- and three-cent pieces, on which it was proposed that one of the following mottoes should appear: "Our country; our God"; "God, our Trust." (Patterns for the two-cent pieces of this are found in Pollack 370-383.)

Dec. 9, 1863, saw this reply from Chase: "I approve your mottoes, only suggesting that on that with the Washington obverse the motto should begin with the word 'Our' so as to read: 'Our God and our country.' And on that with the shield, it should be changed so as to read: 'In God we trust.'"

The Act of April 22, 1864, created the two-cent piece and Secretary Chase exercised his rights to make sure the motto was in the design. By 1866 it had been added to the gold \$5, \$10 and \$20, and the silver dollar, half dollar, quarter and nickel.

As Augustus Saint-Gaudens designed the new gold coinage of 1907 at the instigation of his friend President Theodore Roosevelt, the

motto was removed for the reason that "Teddy" thought it blasphemous. Congress responded by legislatively directing its continuation.

Where all this leads in the 21st century remains an unknown—but an interesting hypothesis can be derived. The 9th Circuit's "Pledge of Allegiance" case will be appealed to the U.S. Supreme Court, and likely as not, the "In God we Trust" elimination suit will progress in the U.S. district court.

As Justice William O. Douglas noted in a concurring opinion in the 1962 Supreme Court case *Engel v. Vitale*, 370 U.S. 421 (1962), "Our Crier has from the beginning announced the convening of the Court and then added 'God save the United States and this Honorable Court.' That utterance is a supplication, a prayer in which we, the judges, are free to join."

Justice Douglas, one of the most liberal in first amendment views, saw little the matter with it. Indeed, he said, "What New York does on the opening of its public schools is what each House of Congress does at the opening of each day's business."

The 9th Circuit, by contrast, says "The Pledge, as currently codified, is an impermissible government endorsement of religion because it sends a message to unbelievers 'that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.'"

An earlier 9th Circuit case in 1970 which dealt with a direct attack on the motto on the coinage was briefly discussed in a footnote of the lengthy opinion. "In *Aronow v. United States*, 432 F.2d 242 (9th Cir. 1970), this court, without reaching the question of standing, upheld the inscription of the phrase 'In God We Trust' on our coins and currency. But cf. *Wooley v. Maryland*, 430 U.S. 705, 722 (1977) (Rehnquist, J., dissenting) (stating that the majority's holding leads logically to the conclusion that 'In God We Trust' is an unconstitutional affirmation of belief)."

Notwithstanding Justice Rehnquist's dissent, a more contemporary analysis of his views are more apparent in later cases since his becoming Chief Justice, and they suggest strongly that he has no issue with the pledge or the national motto on coinage.

Most likely, the next several months will see a hardening of positions and a wending process in which the lawsuit, and appeals, move toward highest court resolution. That could come in 2003 or 2004, in time for it to have impact on the next presidential election.

For now, until a stay is issued, the pledge is out in California and the 9th Circuit; God remains on our coinage, so long as we trust.

#### HONORING WESTERN NEW YORK GROUND ZERO VOLUNTEERS

**HON. THOMAS M. REYNOLDS**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. REYNOLDS. Mr. Speaker, during his State of the Union Address, President George W. Bush said, "none of us would ever wish the evil that was done on September the 11th. Yet after America was attacked, it was as if our entire country looked into a mirror and saw our better selves. We were reminded that we are citizens, with obligations to each other, to our country, and to history. We began to think less of the goods we can accumulate, and more about the good we can do."

In Western New York, as in communities across this great nation, we witnessed first hand our better selves: as Americans from all backgrounds and walks of life came together to show their love of country and of their neighbor. We saw it in countless acts of selflessness and heroism; from those brave patriots aboard United Airlines Flight 93 to our police and firefighters, medical and emergency crews, and countless volunteers—who showed us and the world the true strength of America's heart and America's character.

One such group of volunteers will be honored for their work at Ground Zero during a Liberty Day Awards Ceremony on Thursday, August 1, 2002. These dedicated and courageous men and women left their jobs, their homes, and their families to give of themselves in relief and recovery efforts, and I ask that this Congress join me in saluting their hard work, their commitment, and their patriotism. They are:

Mr. Wesley Rehwaldt, Mr. Woody Seufert, Mr. David Albone, Ms. Karen Russo, Ms. Ann Riegle, Mr. Scott Schmidt, Mr. Jesse Babcock, Mr. Harold Sutor, Mr. Marc Lussier, Mr. Ann Riester, Mr. James Riester, Mr. William Drexler, Mr. Russell Genco, Mr. H.T. Braunscheidel, Mr. Fred Drahms, Ms. Connie Kearns, Mr. Darren Burdick, Ms. Margaret Blake, Mr. Scott Blake, Mr. Chad Shepherd, Ms. Wendi Walker, Ms. Amanda Sparks, Ms. Sherri Reichel, Mr. Michael Owens, Mr. Chris Lane, Mr. Anthony Kostoy, Mr. Thomas FitzRandolph, Mr. Kevin Dilliot, Mr. Charles Huntington, Mr. Mark Gilson, and Mr. Mark Gerstung.

Also, Mr. Mark Maefs, Mr. Ray Catanesi, Mr. Kevin Baker, Mr. Ross Johnson, Jr., Mr. James Carbin, Jr., Mr. Dan Hosie, Mr. Scott Then, Mr. Robert Jasper, Jr., Mr. Robert Jasper, Sr., Mr. Wayne N. Seguin, Mr. Wayne E. Seguin, Mr. Samuel Ricotta, Mr. Richard Bilson, Mr. Richard Silvaroll, Mr. Michael Kiff, Mr. Herbert Meyer, Mr. Chris Hillman, Ms. Victoria Baker, Mr. Ralph Salvagni, Mr. Richard Wayne, Mr. Robert Conn, Mr. James Volkosh and Mr. Barry Kobrin.

#### TRIBUTE TO GLENN J. WINUK

**HON. PETER T. KING**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. KING. Mr. Speaker, I rise today to honor the memory of Glenn J. Winuk, a heroic citizen who sacrificed his life on September 11th to save the lives of others. Glenn served the Jericho community for 19 years as an attorney, an EMT, and commissioner of the Jericho Fire District.

Immediately after the World Trade Center Towers were attacked on September 11th, Glenn, a partner in the law firm of Holland & Knight LLP, helped evacuate tenants of his office building at 195 Broadway, about a block away from Ground Zero. He then identified himself as a rescue professional to other rescue workers on the scene, borrowed a mask, gloves, and First Response medic bag to assist others as the South Tower fell minutes later. His remains were recovered, medic bag by his side on Wednesday, March 30th, 2002.

Glenn Winuk was an attorney, but his real passion was firefighting. His passion and bravery were displayed on many occasions, such

as rendering aid in 1993 when terrorists bombed the World Trade Center and in 1990 at the Avianca plane crash on Long Island.

On September 11th, Glenn ran to Ground Zero as a volunteer firefighter and EMT worker. He acted quickly and without regard for his own life, only for those in trouble. It was not Glenn's responsibility to put his life on the line for others that terrible day. But he had the training to help and was in the position to do so. Glenn Winuk paid the ultimate price while saving the lives of others, and his memory will serve as a testament to his bravery. Let us honor the life he gave, and the heroic legacy he left behind.

#### THE CONTRACTOR ACCOUNTABILITY ACT OF 2002

**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 introduce legislation that will fortify the current Federal debarment system. The United States is the largest consumer in the world and invests over \$215 billion in goods and services annually.

Yet the Federal government's watchdogs, the Federal suspension and debarment officials, currently lack the information they need to protect our business interests. We have no central way of accounting for the performance of our purchases. Beyond a listing of currently debarred or suspended persons, officials are limited to their individual agency's knowledge of an entity's track record, press reports and personal contacts with other agencies. The American public's knowledge is limited even further. Often times this allows Federal contractors and assistance recipients to repeatedly violate Federal law yet still receive millions of dollars from the Federal government. In a time when corporate accounting scandals are being revealed at an unprecedented pace, isn't it wise to have a full accounting of the Federal government's investments?

A recent report conducted by the Project on Government Oversight (POGO) discovered that 16 of the 43 top Federal contractors (based on total contract dollars received) have a total of 28 criminal convictions. The top 4 contractors have at least 2 criminal convictions since 1990.

The Contractors Accountability Act of 2002 establishes a centralized database on actions taken against Federal contractors and assistance participants, requiring a description of each of these actions. This will provide debarment officials with the information they need to protect the business interests of the United States. It places the burden of proving responsibility and subsequent eligibility for contracts or assistance on the person seeking contracts or assistance should they have been previously convicted of two exact or similar violations that constitutes a charge for debarment. Additionally, it improves/clarifies the role of the Interagency Committee on Debarments and Suspension and provides for retention by the prosecuting Federal agency of fines paid by offender for reimbursement of costs associated with suspension and debarment activities.

#### LATINO CHILDREN AND HEALTH DISPARITIES

**HON. CHARLES B. RANGEL**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. RANGEL. Mr. Speaker, I rise to call to the attention of my colleagues the growing health problems of Latino children.

The Journal of the American Medical Association reports that Latino children have suffered from "a disproportionate number of health problems that have been poorly studied." Diabetes, obesity, and asthma are disproportionately prevalent in the Latino community. Additionally, about 30% of the Latino population are uninsured and of those that do have health insurance, many have problems gaining proper access to medical attention.

Language barriers often continue to exist despite the executive order issued by President Clinton in August 2000 "mandating that physicians who receive Medicaid and Medicare funds provide interpreter services for patients who do not speak English." Yet citing cost, national medical associations are opposed to implementing these services.

Far too little health research has been conducted within minority populations. This fosters a lack of clarity in the etiology of common diseases among minority communities.

As a result, medical practitioners are hampered in developing culturally sound intervention that promotes the well-being of minority individuals. For example, why do Latino children tend to receive less pain medication than white or African-American children while hospitalized for limb fractures?

Access to health care, quality of care, health insurance coverage, environment, and lifestyle are most likely the contributing factors, but we do not understand the dynamics of why minorities, especially children, are not benefiting from our health care system.

Eliminating health disparities in minority communities has been a major goal since the year 2000. In that year, the Office of Research on Minority Health (ORMH), originally established in 1990, was elevated to the National Center on Minority Health and Health Disparities (NCMHD). This effort was encouraged by Congress to "promote minority health and to lead, coordinate, support, and assess the NIH effort to reduce and ultimately eliminate health disparities" and to "reach out to minority and other health disparity communities."

It is imperative that we begin to envision this country as a place where all populations have equal opportunity to live long, healthy, and productive lives. More research on health disparities in minority populations must be conducted and doctors, health officials, and the American people must recognize that these disparities are a very real problem.

We must take a stand to seriously address the health disparities within Latino children and other minority populations.

[From the New York Times, July 26, 2002]

#### HEALTH PROBLEMS OF LATINO CHILDREN

One in every six American children is Hispanic, but it's hard to find them in the research on child health. According to the Journal of the American Medical Association, Latino children suffer from a disproportionate number of health problems that have been poorly studied. Diabetes is on the rise,

and Latino boys have the highest rates of obesity among young people, but researchers don't know why. They also don't know why Puerto Rican children have rates of asthma higher than those in any other region.

Many of the statistics pose mysteries that go beyond the fact that Hispanic children are less likely to be covered by health insurance than are children in other ethnic groups. For instance, Latino children who are hospitalized with limb fractures receive less pain medication than do white or African-American youths. No one seems to know why, and data is hard to collect because Hispanic children are often included in the categories of white, black or "other" in medical research. Many researchers also ignore these children and their parents by excluding non-English-speakers from their studies.

Much more research is clearly necessary. Meanwhile one obvious place to start narrowing the health gap for Latino children is the language barriers. President Bill Clinton issued an executive order in August 2000 mandating that physicians who receive Medicaid and Medicare funds provide interpreter services for patients who do not speak English. The rules are flexible, but the national medical associations have opposed them as being too costly. Given the disturbing data on the state of Latino children's health, their objections send the wrong message.

#### CELEBRATING SALVADORAN DAY

**HON. MICHAEL M. HONDA**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. HONDA. Mr. Speaker, I rise today to applaud the California State Legislature for its efforts to recognize a day that celebrates the contributions of the Salvadoran community in the State of California. On August 6, 2002, the State of California will officially celebrate El Dia del Salvadoreño (Salvadoran Day) for the first time. There are more than 275,000 Salvadorans in California, the majority of whom reside in Los Angeles County. Many of these individuals have actively participated in the professional and political arenas, as well as many other fields. It is my hope that the strengths, struggles and triumphs of this culturally-rich community can be remembered and passed on for generations to come.

Salvadoran communities throughout California and El Salvador currently celebrate Salvadoran Day on August 6 as an act of remembrance and celebration. This year's celebration is expected to draw up to thirty thousand people. Historically speaking, the official founding of Villa de San Salvador occurred on August 6, 1525, in the Valle de las Hamacas (Valley of the Hammocks). In this place, the indigenous peoples of Central America fought historic battles against the Spanish conquistadors. The spirit of those indigenous warriors lives on in the Salvadoran people today and is evident in their will to survive and fight to better the lives of their families and communities.

The Salvadoran American National Association (SANA) should be commended as well for its actions on behalf of Salvadoran communities across the country. SANA is a multi-ethnic peace and reconstruction organization founded by Salvadoran-American citizens who have been involved in the community for over 25 years.

Mr. Speaker, I am very proud of the California Legislature and SANA for their contributions to the Salvadoran community. Having served two years as a Peace Corps volunteer in El Salvador, I am especially touched by this issue because of my close ties to the people there and to the Salvadoran community in California. I will forever remember the generosity and friendship of the Salvadoran people, and I am proud to celebrate with them this Dia del Salvadoreño.

JUNIOR ACHIEVEMENT VOLUNTEER OF THE YEAR DAVID SCHRADER

**HON. PETER HOEKSTRA**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. HOEKSTRA. Mr. Speaker, I rise today in recognition of a distinguished resident of Michigan's Second Congressional District who is being honored by an organization that has had an immeasurable impact on America. David Schrader, of Baker College in Muskegon, is Junior Achievement's National High School Volunteer of the Year.

Mr. Schrader, a resident of Whitehall, Michigan, has volunteered for 2 years and taught 34 JA classes in that time. Each class encompassed an hour of time and focused on the teaching of fundamentals of business and economics to students. Having started his own accounting firm, and through his work as a professor at Baker College, Mr. Schrader was able to share his professional insights and experiences with the students he instructed.

Mr. Schrader brings a unique energy and enthusiasm to the classroom, and he always goes above and beyond in his efforts. He has volunteered to teach students at the elementary, middle and high school levels, and he has volunteered in rural parts of Michigan, so that young people in those areas can share in the important business and economic educational programs supported by JA as well.

Founded in 1919 as a collection of small, after-school business clubs for students in Springfield, Massachusetts, Junior Achievement serves as a testament to the human spirit and American ingenuity. Mr. Schrader is one of the more than 100,000 volunteers who assist JA in spreading the free enterprise message of hope and opportunity to young people across America.

Mr. Speaker, David Schrader represents the proud and longstanding tradition of volunteerism in the State of Michigan. I wish to congratulate him on his accomplishments and for his outstanding service to Junior Achievement and the students of Michigan.

ON THE PROGRESS OF FUEL CELLS AND THE CONTINUING NEED FOR ALTERNATIVE ENERGY SOURCES

**HON. MICHAEL R. McNULTY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. McNULTY. Mr. Speaker, on Tuesday of this week, at the Town Hall in Babylon, Long

Island, located in New York's Second Congressional District and represented by my colleague, Mr. ISRAEL, without much fanfare, we saw into the future.

A device was switched on, Mr. Speaker, that—by converting natural gas to hydrogen—produces both useable electricity and useable heat. The heat is captured and reused to warm the building, and the electricity is harnessed and channeled to supplement the structure's power supply. And no contaminants or particulates of any kind are, or will be, released into the atmosphere or water supply at any point in the process.

This device is the first of its kind in use in the State of New York to provide the combined supplemental heat and electricity for a building. This device is called the "GenSys5C" and is produced by Plug Power in Latham, New York—which, I am proud to say, is located in my Congressional District. This device, Mr. Speaker, is called a fuel cell.

Last year, I joined a number of my colleagues from both sides of the aisle to introduce H.R. 1275, a bill to provide tax incentives for the development and production of fuel cells and related technologies.

Wisely, this tax credit was included in both the House-passed and Senate passed versions of the energy bill. As our colleagues on the conference committee meet to resolve the differences, I encourage them to support the preservation of this provision in the final report.

Fuel cells, Mr. Speaker, represent the future of energy efficiency, the future of clean and renewable heat and electricity energy sources for our Nation.

There are solutions to our energy crisis that avoid the continued depletion of our natural resources and destruction of the environment, and fuel cell technology is one of them. I am proud to call attention to the milestone reached on Long Island by Plug Power. I call upon my colleagues to continue to support research and development in this field, in order to ensure that success stories will continue to be told. As those present at the Babylon Town Hall already know, the future is now, and it is exemplified in the production of clean, efficient energy using fuel cell technology.

RECOGNITION OF RETIREMENT OF MILDRED PARSONS FROM THE FEDERAL BUREAU OF INVESTIGATION

**HON. ALBERT RUSSELL WYNN**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. WYNN. Mr. Speaker, I would like to honor Mildred C. Parsons, a constituent in my district who recently retired from the Federal Bureau of Investigation. With the recent controversial security revelations and the new reorganization of the Homeland Security Department, we have not heard much positive news about our Nation's security agencies.

Despite what we often hear or see in the media, there are many dedicated individuals who are working diligently within these agencies. In particular, I would like to commend Ms. Mildred Parsons of Takoma Park, Maryland, affectionately called "Millie" by her co-workers, for her tremendous service. Ms. Par-

sons, who retired from the FBI in June at the age of 88, was recognized with an article in the Washington Post, which I would like to enter into the official House RECORD. In 62 years, 9 months, and 2 days, Ms. Parsons never once called in sick to work and retired in June with over 6,000 hours in sick leave.

She has been called an "institution within an institution" by her former supervisor at the field office. I would like to again thank Ms. Parsons for her wonderful and diligent service, and wish her a wonderful retirement. Judging from the article on her, she still has a lot of spunk left.

I think all of us can learn a lot from Ms. Parsons' spirit, hard work, and determination. Thank you Ms. Parsons, your hard work is the foundation upon which our Nation was built.

[From the Washington Post, June 29, 2002]

NOT A SINGLE SICK DAY IN 62 YEARS

(By Allan Lengel)

Mildred Parsons, bucking the very laws of nature, worked as an FBI secretary in Washington for 62 years, 9 months and 2 days—never once calling in sick.

Yesterday, clad in a bright-pink dress suit adorned with a white corsage, Parsons, 88, the longest-serving employee in FBI history, retired. Her final day on the job included a visit to the office of the director, Robert S. Mueller III, and a party, during which former and current co-workers showered her with hugs and unbridled adulation.

"No, I'm not going to cry," she told well-wishers. "It is sad, but at the same time, it's nice. Everyone has to retire sometime. It's time for me to leave."

In nearly 63 years on the job, Parsons, known as Millie, had a headache or two and a cold, but no ailment serious enough to make her stay home.

"I may have sneezed or something, or had a little bit of a cold," she said. "If I had a headache, I just went in there. If I was around people, I would forget."

Parsons said she doesn't take vitamins or use secret herbs. "I eat whatever I want," she said. "I eat a lot of TV dinners, whatever sounds good or looks good at the time."

She gets some exercise. There's ballroom dancing and the six-block walk to the bus to stop each workday, and back again, from her home in suburban Maryland.

But she credited her good health to the joy of "being around people."

Parsons's sick-free record became a matter of pride—and legend—at the FBI. In the early 1990s, FBI agent Frank Scafidi pulled a prank, altering her pay-check stub to reflect an hour of sick leave. Furious, she got on the phone to FBI headquarters—then learned it was a joke.

Her boss, Van Harp, who heads the FBI Washington field office near Judiciary Square, called her "an institution within an institution." Co-workers described her as witty, with a good sense of humor but also a serious side. She liked to take charge, they said, and she paid great attention to detail.

"She was a stickler for everything. . . . You have to have every comma in place, every 'i' dotted," said Donna Cummings, administrative assistant to Harp. "But she liked to party and have a good time."

After graduating from high school in Frederick in 1930, Parsons worked at the old Woodward & Lothrop department store in the District. In 1939, she took a job as a clerk-typist at FBI headquarters, moving to the Washington field office in 1940.

By the end of her career yesterday, she had worked under six FBI directors and 30 bosses at the field office.

"People ask who my favorite boss was," she said. "That's something I do not discuss."

I enjoyed working for the majority of them. Everyone had a little different style, which made it more interesting."

Some notable moments included being summoned to the office of J. Edgar Hoover, who wanted to give her a 10-year anniversary pin for her service.

"He was very, very nice, very formal," recalled Parsons.

She also remembers the time she spoke with Shirley Temple. Her boss in the early 1950s, who was from California, had friends in Hollywood. One day, he asked her to get the address on the phone.

"I gave her my name. I said, 'I think I've seen all your movies.' . . . I had to tell her that."

Parsons was always discreet about discussing her work. She wouldn't even share FBI information with her husband, who drove her to work every day until his death in 1967.

With leisure at hand, she plans to continue with ballroom dancing and keep up with her favorite television program, "JAG."

Other than that, "I have no plans. . . . I can't help but miss [the FBI]. I mean, I've been here for over 62 years. It will probably take a while to get adjusted."

#### COMMENDING MS. SUSAN FULLER

### HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. HONDA. Mr. Speaker, I rise today to express gratitude to Santa Clara County's outstanding librarian, Susan A. Fuller, who has announced her retirement after 37 years serving Santa Clara County. Susan has performed her duties with great dedication and leadership. Her work will be missed, but always appreciated.

During Susan's service as County Librarian, the library was ranked first in the nation for its size in Hennen's American Public Library Index for the year 2000. Susan had the responsibility of working with the staff and elected officials of ten jurisdictions to restructure the County Library after tax shifts that caused a 40 percent revenue loss.

One of Susan's most notable accomplishments was her ability to build library use from 2,500,000 materials in circulation in 1985 to nearly 8,450,000 materials in 2001. Her loyalty during a time of great stress in California libraries reflects her enthusiasm and strength. Furthermore, her welcoming personality enabled her to develop trusting relationships with ten district jurisdictions.

During her time with the library, Susan showed her interest in improving library services through renovation and increased electronic services. She was honored with Library Journal's title of National Librarian of the Year 1998. In 1995, she received both the "Outstanding Public Administrator of the Year" and "Outstanding Public Program of the Year" awards from the Santa Clara Valley Chapter of the American Society of Public Administrators. In 1991, Susan also negotiated two highly politicized censorship issues: the rights of minors to access material on video and through the Internet.

Susan has been a true role model for the community, and has excelled in many facets of her job since she earned her Masters in Library Science from the University of California

at Berkeley. Susan has, however, made many intangible contributions during her career as well. She has always demonstrated a firm commitment to the principle of protected access to knowledge and information, access she believes should be equally available to all citizens. She has stood firm in the face of censorship, and has fought for freedom of speech when it has been attacked by not only lawmakers but also from others within the library system who would compromise this important cornerstone of American democracy. Her work is commendable, and the ideals that drive her are equally remarkable.

Mr. Speaker, it is my great pleasure to honor Susan Fuller before the House. I extend my congratulations and warmest wishes to Susan for her commendable contributions.

#### HONORING JAKE SCHEIDEMAN FOR BEING WORLD CITIZEN OF THE YEAR

### HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. THOMPSON of California. Mr. Speaker, I rise today to honor Jake Scheideman for his humanitarian work in Nicaragua and his dedication to both his local community and the world. As a resident of my hometown of St. Helena, California, Jake has inspired the people around him as well as the people of Nicaragua. He has been recognized as one of St. Helena's World Citizens of the Year.

Jake Scheideman has spent the last decade traveling between the United States and Nicaragua on a mission to build a baseball field in the small town of Matagalpa, Nicaragua. He has raised over \$50,000 for the project and has brought dozens American volunteers to Nicaragua to assist with the building of the dugouts and backstops. He has been helped by General Charles Wilhelm, General Carrion of the Nicaraguan Military, Ambassador Oliver Garza as well as many others. The involvement of so many distinguished people attest to Jake's ability to motivate and inspire.

However, where Jake's mark is most visible is in the community where he worked. The residents of Matagalpa, Nicaragua and its surrounding areas have come to call the project the "Field of Dreams." An American Flag flies beside the Nicaraguan Flag and is proudly raised at every game.

Jake Scheideman received a Bachelors Degree in Business Management from Pacific Union College in 1991. After graduation Jake moved to St. Helena where he quickly became involved in the community. He was a Parks and Recreation Commissioner for six years, a member of the Napa Valley Conference and Visitors Bureau Board for four years and was President of the St. Helena Merchant Association. He has been active in the St. Helena Chamber of Commerce, serving as its President in 1999. He also founded important community events and organizations. Jake has been a Volunteer Firefighter and Emergency Medical Technician for the St. Helena Volunteer Fire Department for twelve years.

Mr. Speaker, please join me in recognizing the achievements of Jake Scheideman. At a time when this country is feeling the repercussions of the inhumane acts of September 11th

and needs positive inspiration, Jake Scheideman reminds us of the humanity and compassion that is still out there.

#### UNITED WE STAND

### HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. HYDE. Mr. Speaker, I would like to bring to your attention today an exemplary poem written by a wonderful young American, Kristina McLain. It is a forceful poem that I believe will inspire other young people in our wonderful country. I am grateful that her proud grandmother, Jacqueline McLain, took time to forward this poem to me, and I hope my colleagues will take time to read these moving words.

#### UNITED WE STAND

An Attack on our country  
Up way in the skies  
Planes into towers  
As we say our goodbyes  
Stranded at the top  
Are so many lives  
So many running  
Striving to survive  
Through fear and pain  
So many lives will be changed  
With such a catastrophe like this  
So many will be missed  
Did they notice  
How many lives were torn  
Did they notice  
That a whole new nation was born  
We need to fight back  
And know that we can  
After this dreadful attack  
United we stand

#### NATIONAL NIGHT OUT: AMERICA'S NIGHT OUT AGAINST CRIME

### HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. STUPAK. Mr. Speaker, I rise today to express my strong support for a highly successful community-based crime prevention program known as National Night Out. NNO, which will occur on August 6, 2002, is widely known as America's night out against crime where people in thousands of communities take to the streets to support their communities.

Since 1984, the NNO has promoted neighborhood watch programs and established police community partnerships in the fight against crime. It has expanded from a program involving 2.5 million people in 400 communities in 1984 to nearly 33 million people in 10,000 communities in 2002. National Night Out, which receives part of its funding from the Byrne Grant program, is one of the fastest growing, cost effective community anti-crime programs in the nation.

National Night Out was created by the National Association of Town Watch (NATW), a nonprofit, community crime prevention membership organization in Wynnewood, PA. NATW develops relationships between the local community and law enforcement officers

in order to build safer and more secure neighborhoods to reduce crime, decrease local violence, and lower the demand for drugs. NATW provides information, program support and technical assistance to its associated members, which include Neighborhood, Crime, Community, Town and Block Watch groups, law enforcement agencies, state and regional crime prevention organizations, businesses, civic groups, and community volunteers.

I greatly support the mission of NATW and National Night Out, and in past Congresses have introduced resolutions in recognition of NNO, and have supported continued funding for the program. The House passed resolutions in support of National Night Out in 2000 and 2001.

This year I have again introduced a resolution expressing support of the House for this important event. H. Res. 437 commends National Night Out and encourages the President and his administration to focus appropriate attention on neighborhood crime prevention and community policing, and to coordinate federal efforts to participate in "National Night Out", including supporting local efforts, neighborhood watches and local officials to provide homeland security.

I am grateful to Chairman SENSENBRENNER and the Judiciary Committee for last week's voice vote passage of this resolution, and I thank Chairman SENSENBRENNER for his great help on this issue.

Recently the Senate passed Senators BIDEN and SPECTER's companion resolution on NNO, S. Res. 284. The Senators have also authored an op-ed that appeared in several newspapers, highlighting NNO, neighborhood watch, volunteerism and community-crime prevention. I commend the op-ed written by Senators BIDEN and SPECTER and request that it be included in the RECORD.

Neighborhood Watch and community crime prevention are especially important in the aftermath of September 11th and I encourage my colleagues to participate in NNO on August 6th.

#### HOW NEIGHBORS CAN HELP THWART TERRORISM

(By Joseph R. Biden and Arlen Specter)

Remember when neighbors knew neighbors? Remember front porches? Remember hot summer nights when families sat on the front stoop and talked over the fence?

On Aug. 6 of this year, more than 33 million people in 9,700 communities from all 50 states will participate in the 19th-annual National Night Out to revitalize the America's neighborhood spirit and remind us of a time when neighbors routinely looked out for one another, and everyone knew the cop on the beat. This year, as our nation recovers from the shock of Sept. 11, we encourage everyone to participate.

This will be a National Night Out Against Crime, and we urge every citizen from coast to coast to turn on outside lights, to look over the fence and open the gates, get to know your neighbors, meet with local police, and participate in block parties and parades.

In concert with the National Association of Town Watch, National Night Out has been at the forefront of community crime prevention and neighborhood watch for nearly two decades, encouraging citizens to become active supporters and caretakers of their communities.

The effort involves citizens in all 50 states who volunteer to make a difference by leading anti-crime efforts in their communities—restoring the sense that we are all members

of a community and that our common concerns and shared values are as important as individual rights. When we act together, and look out for one another, our communities become safer and fundamentally better places in which to live and raise our families.

One of the reasons we so strongly support the concept of neighborhood watch is that it literally grew up in our back yard. The seeds of National Night Out were planted in our tri-state area of Pennsylvania, New Jersey, and Delaware nearly two decades ago.

What began in a few mid-Atlantic states has now grown to become a national grassroots event supporting communities organized in local chapters to fight crime year round. It is an amazing event when you consider that currently one out of every nine Americans participates.

We believe in a neighborhood watch concept because it works. Studies show that 95 percent of all police arrests are the direct result of a citizen phone call. They also show that neighborhood watch programs effectively lower crime rates.

Neighborhood Watch programs, like those championed during the National Night Out event, have been a valuable part of crime and drug prevention for decades. Today, crime watch programs also can play an important role in heightening awareness to combat terrorism and uniting neighborhoods to respond and assist one another in the event of emergencies.

At a time when homeland security is on the minds of everyone, we support every effort to bring Americans together by persuading them to volunteer in their communities.

With the nation on a permanent terror alert, neighborhood volunteers can play a crucial role in identifying potential dangers and, if need be, alerting law enforcement and emergency officials. Psychologically, the knowledge that trusted members of our community are providing an extra measure of security should reassure everyone.

We applaud every effort to support Neighborhood Watch because it is about building community, preventing crime, and, now, thwarting terrorism. Working side by side with local law enforcement, neighborhood crime watch groups are an invaluable resource.

The tragic events of last Sept. 11 reminded us of the importance of family and friends, faith, neighbors, and communities. It also reminded us how closely all of America's communities are linked.

Every year, National Night Out serves as a great opportunity for Americans to get to know their neighbors, become involved in their communities, and show their sense of patriotism.

This Aug. 6, National Night Out will bring Americans together again to help make a difference, one doorstep at a time. Let's all be part of it.

#### COMMEMORATING THE AMERICAN MUSEUM OF ASIAN HOLOCAUST OF WWII (1931-1945)

**HON. MICHAEL M. HONDA**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. HONDA. Mr. Speaker, I rise today to congratulate Eugene Wei on the grand opening of the American Museum of Asian Holocaust, located at 400 Taylor Avenue in Falls Creek, Pennsylvania. The museum came about as a result of Mr. Wei's vision. I com-

mend Mr. Wei for having the foresight to create such an important learning institution.

The mission statement of the museum is "to remember those events of World War Two in Asia, preserve them through photographs, written word and multimedia, and to educate the public now and in the future so that the wounds of the past may be healed through repentance of the perpetrators and forgiveness from the victims and their families."

This museum will have photographic exhibits of the Asian Holocaust of World War Two, which was perpetrated by the invading and occupying forces of Japan in Asian countries including China, Korea, the Philippines, Singapore, Indonesia, and Malaysia, as well as stories of the American defense of Bataan and Corregidor. The museum will tell the story of the plight of the American POWs who were forced to work for Japanese companies as slave laborers in coal mines, shipyards, copper mines and steel mills and their horrible hell ships experiences.

Existing exhibits made by the Alliance for Preserving the Truth of Sino-Japanese War (APTSJW) on the Rape of Nanking, Comfort Women, and Japanese Unit 731 biological and chemical warfare, will be on display at the museum as well. A special display on anthrax attacks in China by Japan during the years 1942-1944 will also be shown.

I commend Eugene Wei for educating the public about the atrocities that took place in the Pacific Theater during World War Two. This is not an easy history to tell, but it must be told so that we do not repeat it in the future. Mr. Speaker, I encourage all those who have the opportunity, to visit this important museum.

#### MINNESOTA'S 10TH ANNUAL STAND DOWN

**HON. BETTY MCCOLLUM**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Ms. MCCOLLUM. Mr. Speaker, I rise today in support of Minnesota's 10th annual Stand Down, held August 1-4, 2002.

Minnesota Stand Down is an annual event that provides homeless veterans and their families with a break from the daily struggles of unemployment, personal issues, and medical and legal problems. Over the past nine years, 3900 volunteers have gathered on the banks of the Mississippi River to give their time and energy serving thousands of homeless and near homeless veterans and their families. The unified efforts of these volunteers provide a brief, yet welcoming, respite for those veterans who face the struggles of the street and the despair of poverty.

I am proud to be a cosponsor of a bill recognizing the merits of Stand Downs and increasing the number of Stand Downs in America. H.R. 3271, the Bruce Vento Stand Down Act, will enact a pilot program authorizing the Secretary of Veterans Affairs to conduct and participate in at least one Stand Down in every state. This effort will also increase the number of Stand Downs in America through a partnership between the Department of Veterans Affairs, veterans' service organizations, and community volunteers in coordinating Stand Down events for our nation's homeless veterans.



The Minnesota Stand Down is a fitting and worthy event, recognizing the efforts of the veterans in our community and providing needed relief from the difficulties of day-to-day life. As a state legislator, I was especially proud to represent veterans in Minnesota and champion their patriotism, courage and honor. As a Member of Congress, I will continue supporting Stand Downs across the country and I encourage my colleagues to do the same.

RECOGNIZING NORMAN AND LINDA  
MANZER FOR BEING WORLD  
CITIZENS OF THE YEAR

**HON. MIKE THOMPSON**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. THOMPSON of California. Mr. Speaker, I rise today to honor Norman and Linda Manzer for being named St. Helena World Citizens of the Year 2002. As residents of St. Helena for over 30 years, they have continued to make positive contributions to my hometown.

Norm and Linda Manzer have dedicated their lives to making their city, their country and the world better through community service. Norm and Linda have made thirteen trips to Russia in the past decade for humanitarian work with Rotary International, which is an organization of business and professional leaders united worldwide who provide humanitarian service, encourage high ethical standards in all vocations and help build goodwill and peace in the world. Norm and Linda have been instrumental in Rotary International's Children of Russia Project. Norm and Linda's tireless work to improve the lives of the Russian people has been invaluable.

Norm has worked as a General Insurance Agent for 29 years. His insurance office has grown along with the St. Helena community to provide for over 1200 families. He has volunteered his time to a number of organizations. He served as President of the Silverado Chapter of the American Red Cross, President of the St. Helena Chamber of Commerce. He is a member of the Napa County Farm Bureau and the co-founder of Friends of Napa Valley. He has lectured at Pacific Union College and St. Helena High School.

Linda has dedicated her life to her family and community. In addition to her community service work, she and Norm raised two wonderfully successful children.

Mr. Speaker, please join me in recognizing the achievements of Norm and Linda Manzer. The town of St. Helena, the entire Napa Valley, and our nation should aspire to achieve the success of these two great Americans.

LORI BERENSON

**HON. CAROLYN B. MALONEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mrs. MALONEY of New York. Mr. Speaker, for almost seven years, Lori Berenson, an American, has been imprisoned in Peru under exceptionally harsh conditions that have seriously affected her health. From the beginning, many of us have said that Lori's convictions

were based on extremely flawed trials in which she was denied due process. Her first conviction by a hooded military tribunal was so tainted that it was thrown out by Peru. Earlier this month, the Inter-American Commission on Human Rights announced that her second trial was also flawed, determining that the Peruvian government violated Ms. Berenson's rights.

Indeed, much of the evidence used against Lori was gathered during her discredited military trial, in many cases from witnesses who had been subjected to torture. Most of the witnesses have since recanted their earlier statements. The only witness against Lori at the second trial received a reduced sentence in return for his initial testimony condemning Lori and, on the eve of Lori's second trial, was given a new trial so that he can get another reduction in sentence. Furthermore, court proceedings clearly show that the judges had decided the verdict long before this trial began. How fair is a trial in which a judge proclaims a defendant guilty while witnesses are still being heard? Even this badly tainted court admitted that Lori was innocent of terrorist acts or of belonging to a terrorist organization. Further, the law under which Lori was convicted has been widely condemned by the international community for its broad scope and outrageously heavy penalties.

The Inter-American Commission has spoken and Peru should listen. Lori has condemned terrorism and has said that she opposed the violence and deaths there have been. Peru embarrasses itself by continuing to keep her in prison based on a flawed trial and an indefensible statute.

She has been in prison for far too long. It is time for Lori to come home.

COMMENDING MR. DENNIS  
DEMELOPINE

**HON. MICHAEL M. HONDA**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. HONDA. Mr. Speaker, I rise today to commend Mr. Dennis DeMelloPine, and to wish him and his fiancée, Miss Pattie Christman, the very best on the occasion of their marriage. A native of Santa Clara, California, Mr. DeMelloPine has devoted a tremendous amount of time and energy to community leadership, labor leadership, and charitable causes. His greatest contribution, however, has been his professional career—thirty years of dedicated service to the Bay Area as a firefighter.

Dennis's love for aviation as a young man led him to become a United Airlines mechanic, in which capacity he perfected the skills that would eventually help him become a licensed pilot. But Dennis decided to make aviation an avocation rather than a career, and in 1972, he joined the Santa Clara County Fire Department. Over the course of the next decade Dennis served in several different communities, and became a Fire Captain in 1979. A few years later, he settled in permanently at the University Avenue Station in Los Gatos, where he has served for the last twenty years. His fellow firefighters could not have been happier about that decision: when Dennis is not out on a job he is busy cooking his company some of the best meals to be found in town.

Considering the long hours required of a firefighter, and how strenuous those hours can be, it is amazing how much Dennis has contributed to our community outside of his firefighting duties. For fourteen years, Dennis served as President of the International Association of Fire Fighters Local 1165, bringing improved working conditions and increased benefits to his peers while working to maintain a strong labor-management partnership. He has also helped the Department procure governmental relief from budget problems, and has played a major role in making the County Fire Department more efficient and accessible. He not only understands the needs of the employees in his own community, but also works effectively between community fire departments by using his managerial savvy to facilitate mergers. From every point of view, he has made an invaluable contribution to the fire departments of the Bay Area.

Dennis received a letter of commendation in 1997 for fighting the "Cats" fire in Los Gatos and a Merit Award for outstanding service in 1999, but Dennis has done much more for the community that goes largely unnoticed. He is a coach in the local PONY baseball and softball league, and he is an organizer and active participant in local fundraisers for charity and labor concerns. Much to my delight, Mr. DeMelloPine is also a strong and active supporter of the Democratic Party.

Dennis's commitment to family is every bit as strong as his commitment to the community and to his career. He has close relationships with his brothers, cousins, aunts and uncles, relationships serving as an important balance to the demanding nature and stressfulness of his job. Most importantly, Dennis's mother has been a good friend and a great parent to her son for his whole life, and much of the success Dennis has enjoyed in life can be attributed to this wonderful woman.

Mr. Speaker, I commend Mr. Dennis DeMelloPine and wish him and his lovely fiancée, Miss Pattie Christman, all the best on the occasion of their wedding. They have both brought much happiness and security to our community, and may they now do the same for each other.

TRIBUTE TO THE LIFE SERVICE  
OF MARION P. CARNELL

**HON. LINDSEY O. GRAHAM**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. GRAHAM. Mr. Speaker, I rise today to honor Mr. Marion P. Carnell of Ware Shoals, South Carolina. Mr. Carnell has lead an extraordinary life, more than half of which has been dedicated to our state in the capacity of a state legislator. I am proud to represent him in the United States Congress.

Mr. Carnell graduated from Ware Shoals High School in 1945. Among his many accomplishments are an Honorary Doctor of Law Degree from The Citadel in 1993 and an Honorary Ph.D. of Law from Lander University in 1999. Currently Mr. Carnell is a successful retail merchant and President of Piggly Wiggly Stores in the towns of Ninety-Six and Ware Shoals, South Carolina. Mr. Carnell and his wife of 52-years, Sara, are the proud parents of Marion Ray and the late Toni Lynn. They

are also the proud grandparents of five grandchildren.

Since being elected to the General Assembly in 1961, Mr. Carnell has diligently worked to improve the health care system in South Carolina, taking extra steps to advocate for the mentally and physically disabled.

On several occasions many organizations have named Mr. Carnell Legislator of the Year. The Greenwood Area Chamber of Commerce inducted Mr. Carnell into the Greenwood County Hall of Fame for his contribution to the economic prosperity and quality of life in Greenwood County. In 1962 he was named the Woodman Outstanding Man of the Year, in 1990 he was awarded the Special Service Award, and in 1995 and 1999 the S.C. Citizens and Merchants Association honored him as an Outstanding Legislator. These are just a few of his many accomplishments that have set him apart and are a testament to his service to South Carolina.

I am exceptionally proud to note that Mr. Carnell has recently received the Order of the Palmetto. Awarded by the Governor of South Carolina, this award is the state's highest civilian honor. Mr. Carnell rightly deserves this great honor for his 40 years of hard work and dedication in ensuring a bright future for our state.

Mr. Speaker, I hope this body will join me today in honoring Mr. Marion P. Carnell for his hard work and dedication to the people of South Carolina.

#### EXTRADITION TREATY WITH MEXICO

#### 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 bring an issue to the floor of great importance to every member of this body and to the entire nation. Throughout my career on Capitol Hill I have worked hard to ensure that criminals who flee our borders are returned to face our justice system. Unfortunately, many criminals are never returned to the United States, particularly those who flee to Mexico. Too many criminals are running south where, in violation of our bilateral extradition treaty, the government refuses to extradite criminals who may face a penalty of life imprisonment or the death penalty. This is an outrage! Why should hardened criminals with no respect for human life be allowed to serve lesser penalties in Mexico or even be set free in direct violation of our treaty? They should not. They should be returned to face our legal system.

This is a problem that has tormented many prosecutors and plagued many states, including my home State of Florida. I recognized the need for extradition reform after Jose Luis Del Torro killed a mother of four in Sarasota, Florida and fled to Mexico. After an enormous amount of negotiation, we were able to bring Del Torro to justice. But instead of a possible death sentence, arrangements were made for Del Torro to spend the rest of his life in a jail cell.

In May of this year, David March, a dedicated 33-year-old Los Angeles County Sheriff's Deputy, was shot to death during a routine

traffic stop in Irwindale, California. The prime suspect in the cold-blooded execution style murder of this police officer is a known and repeated violent criminal and is believed to have fled to his native Mexico. If arrested in Mexico, there is no guarantee that Deputy March's killer will ever be brought to justice. Current Mexican policy would prevent extradition for any future prosecution in the United States for the murder of Deputy March—a crime that under California law requires at least a potential life sentence.

For years criminals have fled our southern border to evade our justice system, and we now have a case where a cop killer is believed to have done the same.

Mr. Speaker, Mexico claims that no matter what the crime, a criminal can in fact be rehabilitated and thus does not respect our penalties. Our penalties, however, are the way we, the United States, send a message to those who disdain our laws and way of life. I strongly urge everyone in this room to support extradition reform and ensure that cop killers do not flee to Mexico to escape justice.

#### HONORING THE BLUE CROSS OF CALIFORNIA STATE SPONSORED PROGRAMS FOR THEIR DEDICATED SERVICE

#### HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. THOMPSON of California. Mr. Speaker, I rise today to honor the Blue Cross of California State Sponsored Programs (BCC SSP) for their dedicated service to the citizens of California. The BCC SSP has had a tremendous impact on over one million low-income Californians who would otherwise be without health insurance. BCC SSP is the largest commercial health plan provider involved in California's Medi-Cal Managed Care and Healthy Families Programs, and is the only health plan that serves every county in the state.

One of the primary challenges that the BCC SSP has faced is the vastly different ethnic and regional characteristics of California. To meet the challenge of serving this diverse population, the BCC SSP has created Community Resource Centers in eleven counties. These centers are staffed by local professionals who have a deep understanding and commitment to the community. Using this regional approach ensures that every community gets the most appropriate and helpful health care services it needs.

The BCC SSP has received awards from the California Department of Health Services for quality improvement and clinical quality of care standard assessment studies. In 2001 the American Association of Health Plans recognized five of BCC SSP's innovative member service programs as Best Practices, including: the Asthma Management Program, the Prenatal Program, its AIDS Program, the Fire Safety Program and the statewide Telemedicine Program. The BCC SSP has received numerous awards for its innovation in health care.

Mr. Speaker, it is appropriate at this time that we recognize the Blue Cross of California State Sponsored Programs for the tremendous

services that they provide for the people of California. The programs are true assets to the State of California and its communities and I speak on behalf of the people of California when I thank the BCC SSP for its services.

#### THE LAW ENFORCEMENT PARTNERSHIP TO COMBAT TERRORISM ACT

#### HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. SAXTON. Mr. Speaker, I rise today to introduce the Law Enforcement Partnership to Combat Terrorism Act. This legislation seeks to designate 25 percent of available COPS grant funding for the hiring and training of intelligence officers and analysts by state and local police departments, in an effort to further promote our nation's anti-terrorism efforts.

Much has changed since September 11, 2001. With a heightened awareness of the devastating effects of terrorism, our nation is undergoing change on every level, in order to ensure that National and Homeland Security are at the forefront of our agenda.

As the Chairman of the House Armed Services Special Oversight Panel on Terrorism, I have played an active role in many of these initiatives. While many important steps have already been taken in fighting the war of terrorism, I believe that more can be done to ensure a concentrated, connected, nation-wide effort.

To this end, I feel that it is imperative to enhance the anti-terrorism efforts of our police departments, as opposed to simply providing funding for the traditional community policing efforts. Designating 25 percent of available COPS funding to increase the number of law enforcement officers involved in activities that are focused on intelligence efforts is an important step in this direction.

The Law Enforcement Partnership to Combat Terrorism Act states that specialized training will be provided for one intelligence officer and one analyst officer per grant recipient. Such training will include enhancing the officers' observation, information gathering, foreign language, and analytic skills necessary to spot terrorist threats in their communities. These officers, in turn, will be able to share their skills with the other members of their police force. In addition, my legislation directs the Attorney General to ensure that all intelligence and analyst officers have top secret security clearances. Such security clearances will allow these State and local law enforcement officers to share information with Federal officials, facilitating a concentrated effort.

By providing the necessary funding, we can further promote coordination among Federal, State, and local law enforcement officers to ensure an interconnected, concentrated effort in our war on terrorism. I am confident that these efforts will be successful in allowing state and local law enforcement officers to play a vital role in the enhancement of our Homeland Security.

CONDEMNING THE HUMAN RIGHTS  
VIOLATIONS AGAINST WEST  
PAPUA BY THE INDONESIAN  
GOVERNMENT

**HON. ROBERT A. UNDERWOOD**

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. UNDERWOOD. Mr. Speaker, I rise today to bring attention to a problem of growing concern in Southeast Asia. I want to inform my colleagues of the human rights violations committed by the Indonesian government against the people of West Papua. For the last forty years, West Papuans have lived under the rule of a government that has virtually declared martial law on people who only want to participate in the determination of their own destiny. Like in East Timor before their independence from Indonesia, the military and local law enforcement officials continue to violate the human and civil rights of West Papuans.

West Papua has been under the rule of foreign governments for almost three hundred years, beginning with colonization by the British in 1793 to the Dutch in the mid twentieth century. In the early 1960s, West Papuans almost realized their dream of self determination with a Dutch-sponsored election for a local government called the West New Guinea Council. Unfortunately, the results of the Dutch plan were rejected by the United Nations. The Indonesian military subsequently invaded West Papua. After nearly a decade of uncertainty, the U.N. in 1969, supervised a vote for the so called "Act of Free Choice" which gave representatives a vote between independence or continued rule under the Indonesian government. This vote did not truly reflect the opinions of the West Papuans because only 195 out of the 1,026 elected representatives actually voted. As reported in New Internationalist Magazine, most of those votes were cast under pressure by military leaders.

Over the years, the people of West Papua formed an independence movement coordinated by the Papuan Council under the leadership of Mr. Theys Hijo Eluay. I am sad to report that Mr. Eluay, a revered figure among his people, was assassinated last November. According to a report published by the Institute for Human Rights Study and Advocacy, Mr. Eluay's death was caused by asphyxiation. While this report only moderately implies that the military and police were responsible, it recognizes that the assassination may be part of a military strategy to quell the independence movement. Other tactics used include arbitrary executions, random detention, torture, kidnap and rape have been frequently used by the military. The Indonesian government has declared that any protest or congregation of dissident groups would be seen as treason and stopped immediately.

A few weeks ago, I had the pleasure of meeting with Mr. Thom Beanal, Acting Chairman of the Presidium of the Papuan Council and Mr. Willy Mandowen, Facilitator for the Dialogue for the Presidium of the Papuan Council. These men and their colleagues, who are proponents of independence and human rights, advocate their cause through peaceful means, yet they continue to face threats of physical harm by the military who oppose the independence movement.

I ask my colleagues to imagine living each day under the threat of violence. Imagine living with the knowledge that at least one member of every family in your town has experienced a loss of a loved one at the hands of the Indonesian militia. Imagine living with the fear that your child may be kidnaped by armed gunmen, only to be found burned and buried in a shallow grave. West Papuans don't have to imagine. They live with this every day.

We acted in the case of East Timor and the results have been spectacular. Since it became a sovereign nation on May 20, 2002, the people have regained the rights and liberties which all people are entitled to. Had Congress not intervened when East Timorians were under heavy rule by the Indonesian government, surely they would not be celebrating the new freedoms that they enjoy today.

Mr. Speaker, our actions in East Timor helped give birth to the world's newest democracy that thrives today. We must continue to note the events in West Papua and take action when it is necessary. For too long, we have remained silent on the issues of human and civil rights around the world. It is time for us to take a stand. I urge my colleagues to join me in condemning the actions of the Indonesian government. A peaceful resolution to West Papuan independence is possible, but it must be with the cooperation of the Indonesian government and military.

HONORING ELI SIEGEL

**HON. ELIJAH E. CUMMINGS**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. CUMMINGS. Mr. Speaker, I rise today to honor a great Baltimorean poet, educator, and founder of Aesthetic Realism, Eli Siegel.

Mr. Siegel was born in 1902 and grew up in Baltimore, Maryland where his contributions to literature and humanity began. Mr. Siegel founded the philosophy Aesthetic Realism in 1941, based on principles such as: man's deepest desire, his largest desire, is to like the world on an honest or accurate basis, and that the world, art, and self explain each other: each is the aesthetic oneness of opposites.

Mr. Siegel explained that the deepest desire of every person is, "to like the world on an honest basis." He gave thousands of lectures on the arts and sciences.

Mr. Siegel's work continues at the not-for-profit Aesthetic Realism Foundation in New York City, where classes, lectures, workshops, dramatic presentations, and poetry readings are offered. In addition, a teaching method, based on aesthetic realism, has been tested in New York City public schools. The teaching method has been tremendously successful. Understanding and using the teaching method may be used as an effective tool to stop racism and promote tolerance; because it enables people of all races to see others with respect and kindness.

In 1925, Eli Siegel won the esteemed "Nation" Poetry Prize for "Hot Afternoons Have Been in Montana," which brought him to national attention. "Hot Afternoons," Mr. Siegel said, was affected by his thoughts of Druid Hill Park. And so, it is fitting that on August 16, 2002, the city of Baltimore will dedicate the Eli Siegel Memorial at Druid Hill Park on a site

near the Madison Avenue entrance, not far from his early home on Newington Avenue. The bronze memorial plaque, designed by students of Aesthetic Realism, includes a sculptured portrait and poetry.

Mayor Martin O'Malley has designated August 16, 2002 as 'Eli Siegel Day' in Baltimore. At this time, I would like to insert the Mayor's proclamation and a few of Eli Siegel's poems found in the June 5, 2002 of the Aesthetic Realism Foundation magazine for the record.

Eli Siegel died in 1978, but his poetry and the education of Aesthetic Realism will be studied in every English, literature, and art classroom across the nation for years to come.

I would like to end this tribute by reciting a poem Eli Siegel wrote honoring Dr. Martin Luther King, Jr.:

SOMETHING ELSE SHOULD DIE: A POEM WITH  
RHYMES  
(By Eli Siegel)

In April 1865

Abraham Lincoln died.

In April 1968

Martin Luther King died.

Their purpose was to have us say, some day;  
Injustice died.

Eli Siegel wrote poems for more than six decades. These poems expressed his thoughts on people, feelings, everyday life, love, nature, history. I am proud to offer this tribute.

Thank you.

[From Aesthetic Realism Foundation, June 5, 2002]

THE RIGHT OF AESTHETIC REALISM TO BE  
KNOWN

BALTIMORE REPRESENTS THE WORLD—  
CONTEMPT CAUSES INSANITY

Dear Unknown Friends: In this issue we reprint the text of a public document that is beautifully important in the history of culture and justice. It is a proclamation by the Mayor of Baltimore, the city in which Eli Siegel spent his early years. Mr. Siegel was born on August 16, 1902, and the proclamation is a formal honoring of him on his centenary: an expression of pride in and gratitude for his work, by this major American city. It describes truly some of Mr. Siegel's greatness and the principles of the philosophy he founded, Aesthetic Realism.

The mayoral proclamation was first read publicly on April 28 in the Wheeler Auditorium of Baltimore's distinguished Enoch Pratt Free Library. It began an event hosted by the Library in partnership with the Aesthetic Realism Foundation, "The Poetry of Eli Siegel: A Centennial Celebration."

I and others have written much about the horrible anger Mr. Siegel met from persons who resented the vastness of his knowledge, the fullness of his honesty, the newness of his thought. The Baltimore Proclamation stands for what is natural and just: if something or someone is great—and Eli Siegel is—we should rejoice.

When a public document is mighty it is because, while impersonal, it embodies the deep feelings of people, their beating hearts, and the careful judgment of their minds. This Proclamation does. It resounds and is warm. With its legal structure, it stands, for example, for my own love of Mr. Siegel, my intellectual opinion of him: it represents people now and for all time.

In honor of Baltimore as representing the world, and to show something of Eli Siegel early in his life, we include here two writings by him from the *Baltimore American*. After his winning the *Nation* Poetry Prize in February 1925, Mr. Siegel was a columnist for the *American*, a major newspaper of the time.

First, we reprint a column about the firemen of Baltimore. The way of seeing people that is in it stands for who Mr. Siegel was, and is central to Aesthetic Realism. Fifty years later, in his Goodbye Profit System lectures of the 1970s, he said with ringing clarity that the most important question for America is "What does a person deserve by being a person?" That is the big question today, in 2002: it cries to be asked plainly and answered honestly. It was at the basis of the kind, passionately logical thought of Eli Siegel at age 22 as he wrote about Baltimore's firemen.

In his teaching of Aesthetic Realism, Mr. Siegel showed that there are two aspects to what every person deserves. He was beautiful and uncompromising about people's need for both, and we see both in this article: 1) Every person deserves to live with dignity—deserves sufficient money, just compensation for his labor, respectful working conditions. And 2) a person deserves to be comprehended, his thoughts and feelings understood. In Aesthetic Realism, Mr. Siegel provided the means by which every person, in all our dear individuality, can be understood to our very core.

The second writing in the 1925 paper concerns a memorial hall, just opened to the public in Baltimore, honoring soldiers of that city who died during World War I. Under the heading "War Is Remembered," Mr. Siegel writes four poems from the points of view of four different people, each of whom sees the memorial differently. His justice to people is such that their feelings come to us now; the mother of a dead soldier, and an unemployed man of 1925, are immortal and musical. And Mr. Siegel is the philosopher who would explain at last the cause of war: the human desire for *contempt*.

Humanity needs the knowledge and honesty of Eli Siegel. These exist now and forever in Aesthetic Realism.

—Ellen Reiss, Class Chairman  
of Aesthetic Realism

PROCLAMATION BY MAYOR MARTIN O'MALLEY  
DESIGNATING AUGUST 16, 2002 AS "ELI  
SIEGEL DAY" IN BALTIMORE

Whereas, the people of Baltimore are proud to join with the Enoch Pratt Free Library, Congressman Elijah E. Cummings, Maryland Historical Society, Coppin State College, Eubie Blake National Jazz Institute, Morgan State University, former Mayor Kurt L. Schmoke, and others in honoring the centenary of the great Baltimorean poet, philosopher, and educator Eli Siegel (1902-1978), who in 1941 founded the philosophy Aesthetic Realism; and

Whereas, Eli Siegel grew up in Baltimore, and his contributions to world thought began with writings completed in this city, some appearing in such Baltimore publications as *Horizons* of Johns Hopkins University, the *Modern Quarterly*, his columns in the *Baltimore American*; and

Whereas, he won the esteemed Nation Poetry Prize in 1925 for his "Hot Afternoons Have Been in Montana," which he said was affected by thoughts of Druid Hill Park, and about which William Carlos Williams wrote, "I say definitely that that single poem, out of a thousand others written in the past quarter century, secures our place in the cultural world"; and

Whereas, the honesty, kindness, and greatness of mind Eli Siegel possessed were described in the *Baltimore Sun* by Donald Kirkley: "Baltimore friends close to him at the time [that he won the Nation prize] will testify to a certain integrity and steadfastness of purpose which distinguished Mr. Siegel. . . . He refused to exploit a flood of publicity. . . . He wanted to investigate the

whole reach of human knowledge . . . to discover in its labyrinth some order or system"; and

Whereas, Eli Siegel showed that (1) the deepest desire of every person is to like the world honestly, (2) humanity's largest danger is *contempt*, "the addition to self through the lessening of something else," (3) "The world, art, and self explain each other: each is the aesthetic oneness of opposites"; and his scholarship and historic comprehension are in his books, beginning with *Self and World*, the classes he taught which changed people's lives magnificently, his thousands of lectures on the arts, sciences, and history; and

Whereas, this education he founded, enabling people to see the world and others with the respect and kindness they deserve, including people of different races and nationalities, is continued by Class Chairman Ellen Reiss and the faculty of the not-for-profit Aesthetic Realism Foundation, and is used as a Teaching Method with unprecedented success by educators in public schools—we salute Eli Siegel for his great contributions to knowledge and humanity beginning in the City of Baltimore.

NOW, THEREFORE, I, MARTIN O'MALLEY, MAYOR OF THE CITY OF BALTIMORE, do hereby proclaim August 16, 2002 as "Eli Siegel Day" in Baltimore, and do urge all citizens to join in this celebration.

IN WITNESS WHEREOF, I have hereunto set the Great Seal of the City of Baltimore to be affixed this twenty-eighth day of April, two thousand two.

[SIGNED] MARTIN O'MALLEY, MAYOR

[From the Baltimore American, February 12, 1925]

CITY TREATS FIREMAN UNFAIRLY, DUE MORE  
PAY, ASSERTS SIEGEL

(By Eli Siegel)

The talented young poet, Eli Siegel, who joined the American staff this week, turned the light of his open-minded genius yesterday on the lives of the Baltimore firemen. He went out and discovered hitherto unrevealed duties which they perform. In the following article he tells what he saw and heard and what he thinks about it all. The fireman's life is strange and it ought to be known more; the fireman's work has to be known before people can see what's coming to him.

Most people think the life of a fireman is one where he fights fires, has adventures, gets in danger some of the time and the rest of the time hangs around the engine house doing whatever he can to make the time pass well. It isn't so. The fireman may be an adventurer, a man who runs all sorts of risks; but he's also a "housewife" or if you like "houseman." He cooks his meals, he makes the bed, he cleans the engine house, he keeps the engine house in good order and such things; the one thing he does not do which some housewives do (of course not all) is launder his own clothes. Yes, the fireman's life is strange; he's a cook, janitor, handy man at the same time that he risks his life seeing to it that fires die instead of live, and fires are terrible and rude things; they don't mind if men never put them out.

The fireman has his time off, but who wants time off if you can't get out of the place you work in? The fireman's time is measured by periods of eight days, not a week. In these eight days he's supposed to be on duty at least ninety-six hours; in other words, he works ninety-six hours out of one hundred ninety-two. He now works under the double-platoon system: three days of the eight he works ten hours a day; three nights he works fourteen hours; and then for one day he works the whole twenty-four hours, leaving him one day, or twenty-four hours to be free. At any time he's on duty he may be

called on to fight some fire, and fighting fires is a risky thing. Insurance companies are pretty slow in giving insurance to firemen. Then he is on the watch, every man of the force in the engine house, from one to two hours a day. So although the fireman's life may be romantic, it's work all right, too, and work isn't romantic at all.

The fireman has a lot of annoyances. While sleeping he may be awakened at any time by the ringing of the gong, for an alarm is heard in more than one engine house at one time. When the gong rings, out of bed he gets and slides down a pole; and if you saw that pole you'd think it a dangerous thing to slide down on the middle of the night just after you have awakened. When a fireman sleeps he doesn't know what may happen next; he can't say, as many people do when they go to bed, "Well, nothing to worry about until tomorrow." Morning and night don't mean much to a fireman.

The fireman gets \$1500 a year, \$125 a month, about \$30 a week. A fireman gets married and has a family; these families live on \$30 a week. That is, they have to live on it.

The fireman needs to be paid much more; no getting away from that. The city could pay it if it stopped doing fool business and hurtful business in paying big sums to officials who have high sounding titles, but don't do anything much in the way of useful work. The fireman is a man it pays to keep contented; and when a man can support himself and his family without worrying greatly doing it, he can be contented; but \$30 a week won't do it, and ought not to do it. Every fireman, when approached by me, seemed to think he was dealt with unjustly by the city. He is willing to do his job well, but he feels he could do it better if he didn't have to worry about making a living.

. . . If a fire keeps on after working hours, of course he works on. He gets a pension more than likely if he's injured, and his wife gets one if he's killed; but a sound uncrippled body is worth many, many pensions. Pensions are unsatisfactory things when one gives a leg, or one's eyesight or one's health or life in exchange. And anyone may see, who reads the newspapers, that very often a company of firemen go out to fight a fire and don't come back the way they went out.

There are now about 1500 men in the Fire Department of Baltimore City. These men are doing the city a public service as great as any. They fight fires, but they do many other things. There's much injustice in this world; and there's very much injustice that politicians or men who govern cities, states and nations do. Of this injustice the fireman get their share. Since justice is a good thing (as most people say), the firemen's lives need to be understood better and their services paid for better both in the way of honoring them and giving them more money.

[From the Baltimore American, April 5, 1925]

WAR IS REMEMBERED BY ELI SIEGEL

1. A mother who lost her son in the war sees the War Memorial Hall

He is in his grave  
Which I have never seen  
And I am here,  
In this great building that looks so well.  
His grave must be small, and people  
I'm sure never look at it.  
Look at that great man make a speech;  
He's talking about my son, in this way.  
I like the looks of this place,  
But I'd rather see Tom's grave.  
And, Oh, God, I'd like to see him.

2. A seventeen-year-old girl sees it.

Say, Ed, it sure looks good, doesn't it?  
I've seen men working on it days and days,  
when I used to ride by on the car.

I'll have to tell Lucy about it, you know,  
that New York girl,  
Who thinks she's much, just because she  
comes from the big town.  
We can't get in, can we?  
I wish we could.  
What will this place be for?  
Well, Lucy will hear of this place,  
I tell you.  
She'll know she doesn't see everything just  
because she's in New York.  
Say, Ed, what's that woman crying about  
anyway?  
Oh, yes, I guess you're right; she must have  
lost her son in the war.

3. *A sonneteer poet sees it.*

This, our great house of stone, is for our  
war's dead,  
Our dead; they died away from us; far away  
In France, they, fighting, died. There, this  
very day,  
Their bodies lie. Yet, let it not be said,  
Ever, that mem'ry of their dying has now  
fled.  
This white, great house is for them, and O,  
may  
It serve their cause well and long. It is they  
Who made, own it. And so, let us dread  
Our miscue of their dying. Let this, our hall,  
This hall so noble with its cool, white stone,  
Bring to our minds that wars may, yet may,  
be.  
Let not men by millions in grief and death  
atone  
For our uncaring and unknowing. Let us all  
Know war, hate war. This is our dead men's  
plea.

4. *One of the jobless warriors of once sees it.*

This place is swell, no getting away from  
that,  
The walls so white and tall and clean.  
The place is so big, I'd be scared to sleep in  
it.  
I guess May and I will be moving soon,  
Whether we like it or not.  
Our three rooms could get in a corner of this,  
And the plaster is falling off in places.  
But they were pretty comfortable.  
I was in one of those French places men-  
tioned on the wall,  
And I was glad to get back.  
Now I'm not so glad.  
I wish I could live in a place I'd like and  
could pay for.  
Those three rooms of ours aren't anything  
fancy at all,  
But they cost too much for me now,  
Who isn't working.  
It's all right for people to have this hall, to  
remember the way by,  
But I wish they'd remember all about it.

RECOGNITION OF NATIONAL COM-  
MUNITY HEALTH CENTER WEEK

**HON. MIKE THOMPSON**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. THOMPSON of California. Mr. Speaker, August 18th will mark the kick-off of National Community Health Center (CHC) Week—a time to raise awareness about and pay tribute to the vital services that our community health centers provide to our communities.

Community health centers are local, non-profit health care providers that serve our poorest and our medically underserved rural and urban communities. Often they are the sole source of care for these Americans.

Last year, our community health centers served almost 12 million people in over 3,000

communities nationwide. Almost 5 million were uninsured; 650,000 were migrant and seasonal farmworkers; 5.4 million lived in rural areas; and almost 8 million were people of color. California's community health centers provided service to 15 percent of that population—almost 1.8 million people.

In California's First District, over 100,000 people sought the services of our 18 community health centers on over 300,000 separate occasions. These CHCs play an especially vital role in the rural areas of my district, given the financial and geographic constraints of these populations. Approximately 20 percent of the people served by our CHCs are farmworkers and over 80 percent are either uninsured or on Medicaid. Over 65 percent earn less than the federal poverty level each year. Were it not for the critical services our CHCs provide, many Northern Californians would have gone to the emergency room or they would have gone without any care altogether.

In this way, CHCs are a cost-saver for our health care system—by providing a significantly cheaper alternative to emergency room care for basic treatment—and they improve overall community health. They deliver care to those that would otherwise go without and they target that delivery to their service population. This means that patients receive care when they need it, where they need it and in a way that makes them comfortable and that they understand.

To accommodate different schedules, centers offer daytime, weekend and after-hours care. To accommodate language barriers—in some areas of my district Latino patient loads are as high as 62 percent—most centers offer services in both Spanish and English. And, to accommodate those who cannot travel to receive services, many centers operate mobile units. These “clinics-on-wheels” travel to our schools, migrant camps, community centers and homeless centers.

CHCs provide a truly comprehensive range of care, with basic services including adult and pediatric primary care, obstetrical and gynecological care, immunizations, medical case management, nutrition and dietary instruction and mental health counseling. In addition, some clinics are also able to offer dental care, tobacco cessation programs and HIV care. Outreach and education campaigns are an integral component of their service delivery and all community health centers help those who are eligible to enroll in California's Medicaid and CHIP programs.

I thank the community health centers of Del Norte, Humboldt, Mendocino, Lake, Napa, Sonoma and Solano counties for their dedication to the health and welfare of the residents of the First District of California. As we move towards National Community Health Center week, I urge my colleagues to help raise awareness of the important services that their local CHCs provide. Undoubtedly, many more Americans would lack access to care were it not for the commitment of our nation's community health centers to the service of the poor and medically needy.

INTRODUCING LEGISLATION TO  
REESTABLISH THE U.S. PAROLE  
COMMISSION

**HON. PATSY T. MINK**

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mrs. MINK of Hawaii. Mr. Speaker, Congress voted to abolish the parole system when it passed the Sentencing Reform Act of 1984.

In the rush to close the revolving door for repeat offenders, Congress slammed the door on all non-violent offenders. Today, individuals in prison have little hope. Many serve 5, 10, 20, and even 30-year sentences without the possibility of parole. They have no encouragement to take classes or any other steps to improve themselves.

Congress needs to find a way to help individuals who have paid their debt to society and were given excessive sentences due to mandatory sentencing laws.

I urge my colleagues to consider the case of Terri “Chrissy” Taylor. As a teenager, Chrissy fell prey to the will of a man nearly twice her age. Chrissy became a pawn of this man, and he used her to obtain the chemicals he needed to manufacture methamphetamine. Chrissy never dealt, trafficked, or manufactured drugs. She was convicted of purchasing legal chemicals with the “intention” of using them to manufacture methamphetamine. Under the mandatory minimum sentencing guidelines, the judge had no choice but to give Chrissy a 20-year sentence.

We need to make sure no one is forced to spend years in prison without any hope.

My bill reestablishes the U.S. Parole Commission. The commission will grant parole to reformed prisoners who have earned parole. This is not an open door policy. Rehabilitated prisoners shall be eligible for parole only after serving one third of their term or after serving ten years of a life sentence.

Shortly after sentencing, the commission will give prisoners tentative release dates. The commission can change or revoke the release date based on the prisoners' institutional conduct record. This will be a “hook” to encourage prisoners to rehabilitate themselves. Additionally, judges will have the ability to send criminals to prison without the possibility of parole. This make sure judges have the power to ensure meaningful prison sentences for criminals who commit the most egregious crimes.

I urge my colleagues to cosponsor this bill and give individuals a chance to rehabilitate themselves and rejoin our society. This bill will free the hands of judges who are forced to assign excessive mandatory minimums to individuals whose sentences do not match their crimes.

VETERANS HEALTH CARE  
FUNDING GUARANTEE ACT OF 2002

**HON. CHRISTOPHER H. SMITH**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. SMITH of New Jersey. Mr. Speaker, on behalf of America's 25 million veterans, I am introducing H.R. 5250, the Veterans Health Care Funding Guarantee Act of 2002, along

with my friend and the Ranking Member of the Committee on Veterans' Affairs, Mr. Evans, that would change funding of the Department of Veterans Affairs (VA) health care system from discretionary to mandatory spending.

We are introducing this bill in recognition of the continually frustrating annual struggles to obtain sufficient funding to provide access to quality care for the nation's veterans in VA health care facilities. The current discretionary appropriations process subjects these veterans' health care needs—needs of the heroes who won the Battle of the Bulge, endured as prisoners of war in Bataan and Corregidor and survived human-wave assaults in the frozen Chosin Reservoir—to annual health funding competition with federal highway funding and sewage treatment projects. This reality alone vividly illustrates the inherent weakness in the discretionary appropriations process for VA health care and the need to reform it.

Mr. Speaker, 2 years ago, we passed TRICARE for Life, a new program to guarantee lifelong health care for military retirees and their families. I was proud to support that program for hundreds of thousands of military families, who are now assured of free health care services sponsored entirely by the government. The bill we are introducing today would extend the same kind of guarantee to the remainder of America's veterans, to assure their continued access to the VA health care system.

H.R. 5250 would establish a formula to fund the VA health care account directly from the U.S. Treasury with a method similar to that used by Congress to provide funding for TRICARE for Life. Veterans' disability compensation payments are already funded through mandatory formulas, and our legislation would apply the same priority to meeting the health care needs of our veterans.

The bill we are introducing today would establish a base funding year, calculate the average cost for a veteran using VA health care, and then index the cost for inflation. Multiplying this average cost by the number of veterans who are enrolled each year on July 1st, would determine the funding allotment for the Veterans Health Administration for the next fiscal year.

It should be noted that H.R. 5250 would neither take away the Secretary's power to manage the VA health care system nor to curtail the Secretary's control of enrollments in VA. And unlike TRICARE for Life, it would not extend benefits to family members of veterans.

Mr. Speaker, for at least the past five years, veterans' usage of VA health care services surpassed Administration estimates. Just this past week, we received a revised workload estimate for FY 2003 from VA showing an increase of 500,000 veteran patients; and that's on top of the 700,000 increase in patients estimated in the budget submission made only five months ago. VA now estimates that there will be 4.9 million unique veteran patients in FY 2003, versus the 3.7 million veterans that had been projected one year ago for FY 2002—a 31.5-percent increase overall.

Mr. Speaker, the continuing rise in demand for VA health care services is driven by many factors, including the growth of new and convenient VA community-based outpatient clinics, improved safety and quality of care, as well as available prescription drug benefits. VA has increasingly become a supplier of prescription drugs to veterans, particularly for senior veterans.

Further evidence of the urgent funding needs of VA health care comes from a new report issued this month by VA measuring the amount of time veterans are waiting for medical services. According to VA's report, there are at least 300,000 veterans waiting for medical appointments, half of whom are waiting 6 months or more; and the other half having no appointment at all. This is the first attempt to measure a situation about which we have all heard from our constituents, and we suspect that the scale of the problem is actually greater, since this estimate only counts those veterans already enrolled in the VA health care system.

Mr. Speaker, we have a sacred obligation to ensure that our nation's veterans receive the honors and benefits that they have earned through their service to this nation. In the past decade, more and more veterans have turned to the Department of Veterans Affairs for medical services, particularly World War II and Korean War veterans. We have attempted to meet our obligation to them by passing record VA budgets for two years in a row. As our colleagues may recall, the House-approved budget resolution for fiscal year 2003 contained a substantial \$2.6 billion increase in the funding of medical care for our nation's veterans.

However, the demand for services continues to outpace the supply of federal funding of VA health care. In the supplemental appropriations bill we passed, Congress included \$417 million for additional health care funding to try to meet the current year's shortfall, and that was based upon the older workload estimates.

Mr. Speaker, it is becoming increasingly clear that Congress needs to look at new methods and sources for veterans' health care funding, and the Committee on Veterans' Affairs has been seeking additional ways to match resources to the growing demand. Working with the Committee on Armed Services, we attached an amendment to the Department of Defense (DOD) authorization bill that would seek to increase health care resources sharing between the DOD and VA health care systems, and we hope it will see final passage this year. Also we have sought to increase third-party collections through the VA Medical Care Collections Fund with more aggressive oversight and legislative improvements.

In addition, earlier this month the Committee examined ways to improve coordination and allocation of resources between Medicare and VA, since about half of the veterans receiving VA health services are also Medicare-eligible. Yet, despite all of these efforts, VA continues to struggle each year to provide all the funds needed for the tasks it faces in caring for millions of frail, elderly veterans.

Mr. Speaker, with the introduction of H.R. 5250 we hope to begin an important debate on the future of veterans' health care and its funding needs. We will shortly request Administration views on the bill, and cost information from the Congressional Budget Office. We intend to meet with colleagues on both the Committees on the Budget and on Appropriations to obtain their views; and it goes without saying that we will be consulting with veterans organizations in the months ahead in order to learn whether this approach or a combination of other changes will solve this vexing problem confronting America's veterans and the health care system serving them.

We urge all our colleagues to examine H.R. 5250 and work with us to find a means to provide dependable, stable and sustained funding for the health care needs of veterans of our armed forces. They deserve no less from a grateful nation.

#### RECOGNIZING THE SERVICE OF TONY HALL

**HON. JOHN S. TANNER**

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. TANNER. Mr. Speaker, I wish to join our colleagues today in recognizing the work of my friend, the Honorable TONY HALL, as he prepares to leave this House of Representatives to pursue a great endeavor that will call on his practiced leadership skills to help people around the world.

Over the years, Mr. HALL's work in this body has proven that his compassion stretches far beyond the Third District of Ohio. He has shown through his tireless fight against world hunger that he possesses a genuine concern for his fellow man, and I know that quality will continue to guide his work from this point forward.

I am honored to have had this opportunity to work with TONY, who is an exceptional leader, an honorable man and a good friend. All our best wishes go with TONY as he continues his noble work in this new capacity.

#### HONORING THE 150TH ANNIVERSARY OF THE CITY OF FERNDALE, CALIFORNIA

**HON. MIKE THOMPSON**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. THOMPSON of California. Mr. Speaker, I rise today in recognition of the 150th anniversary of the founding of the Victorian Village of Ferndale, Humboldt County, California.

In 1852, brothers Seth and Stephen Shaw and their companion Willard Allen, traveled through the Eel River plain exploring a wilderness of ferns and redwood trees. Desiring to farm the fertile land, they constructed cabins which eventually became the village of Ferndale.

Situated near the Pacific Ocean, surrounded by dairy farms, Ferndale has preserved its architectural heritage, attracting thousands of tourists who cross the historic Fernbridge over the Eel River and step back into another era.

Named one of America's "Dozen Distinctive Destinations," the National Trust for Historic Preservation added Ferndale to its 2002 list of the best-preserved and unique communities in the nation. The Trust cited well-managed growth, a commitment to historic preservation and interesting and attractive architecture as influential in its choice of The Cream City for the designation.

Seeking historically accurate locations, filmmakers have discovered that Ferndale is an ideal place to make motion pictures. The citizens of Ferndale have enthusiastically supported the use of their city as a film site and fill the scenes as "extras."



Ferndale will welcome visitors with an old-fashioned birthday party in celebration of this historic anniversary on August 23rd and 24th, 2002. The art galleries, parks and beautiful houses that grace the city make Ferndale a delightful place to live and to visit.

Mr. Speaker, it is appropriate at this time that we recognize the City of Ferndale, California on the occasion of its 150th anniversary.

#### MEDICARE BENEFICIARY ASSISTANCE IMPROVEMENT ACT OF 2002

**HON. JOHN D. DINGELL**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. DINGELL. Mr. Speaker, today my colleagues and I are introducing a bill that will make significant and long-overdue improvements in the programs that provide assistance to low-income Medicare beneficiaries. Medicare provides coverage to all 40 million elderly and disabled beneficiaries, regardless of income, but the cost of uncovered services, premiums, and cost-sharing is a serious burden on those with the lowest incomes.

More than 40 percent of Medicare beneficiaries have incomes below 200 percent of poverty (a little more than \$17,000 a year). These low-income beneficiaries are nearly twice as likely as higher-income beneficiaries to report their health status as fair or poor, but are less likely to have private supplemental insurance to cover the cost of uncovered services or Medicare cost-sharing. Poor beneficiaries also bear a disproportionate burden in out-of-pocket health care costs, spending more than a third of their incomes on health care compared to only 10 percent for higher-income beneficiaries.

Medicaid, through what is known as the "Medicare Savings Programs," fills in Medicare's gaps for low-income beneficiaries, providing supplemental coverage to 17 percent of all Medicare beneficiaries. Millions of beneficiaries, however, who are eligible for assistance under the Medicare Savings Programs are not enrolled. For example, only half of the beneficiaries below poverty who are eligible for assistance are actually enrolled. Lack of outreach, complex and burdensome enrollment procedures, and restrictive asset requirements keep millions of seniors from receiving the assistance they desperately need.

The Medicare Beneficiary Improvement Act of 2002 takes a number of steps to address these problems. First, the legislation improves eligibility requirements for these programs. It raises the income level for eligibility for Medicare Part B premium assistance from 120 percent to 135 percent of poverty. This expansion was originally enacted in 1997 but it expires this year; it is simple common sense to make this provision permanent. The bill also ensures that all seniors who meet supplemental security income (SSI) criteria are automatically eligible for assistance. Currently, automatic eligibility is only required in certain states, meaning that beneficiaries in other states may miss out on critical assistance unless they know enough to apply. The bill also eliminates the restrictive asset test that requires seniors to become completely destitute in order to qualify for assistance. Most low-income Medicare

beneficiaries have limited assets to begin with—85 percent of beneficiaries with incomes below the poverty level have fewer than \$12,000 in assets—but the asset restrictions are so severe, a beneficiary could not keep a fund of more than \$1,500 for burial expenses without being disqualified from assistance.

Second, the legislation eliminates barriers to enrollment. The legislation allows Medicare beneficiaries to apply for assistance at local social security offices, encourages states to station eligibility workers at these offices (as well as at other sites frequented by senior citizens and individuals with disabilities), and ensures that beneficiaries can apply for the program using a simplified application form. In addition, this bill will ensure that once an individual is found eligible for assistance, the individual remains continuously eligible and does not need to re-apply annually.

Third, the legislation improves assistance with beneficiary out-of-pocket costs. It provides three months of retroactive eligibility for "qualified Medicare beneficiaries" (QMBs). All other groups of beneficiaries have this protection currently. In addition, it prohibits estate recovery for QMBs for the cost of their cost-sharing or benefits provided through this program. The fear that Medicaid will recoup such costs from a surviving spouse is often a deterrent for many seniors to apply for such assistance.

Finally, the legislation funds a demonstration project to improve information and coordination between federal, state, and local entities to increase enrollment of eligible Medicare beneficiaries. This demonstration would help agencies identify individuals who are potentially eligible for assistance by coordinating various data and sharing it with states for the purposes of locating and enrolling these individuals. In addition, the legislation provides grant money for additional innovative outreach and enrollment projects for the Medicare Savings Programs.

All told, this legislation should go a long way in making sure that the Medicare Savings Programs are working as they should to provide assistance with health care cost-sharing and premiums for vulnerable low-income seniors. As Congress addresses Medicare issues this year, we must ensure that in addition to addressing provider payments, we also address these important beneficiary protection issues as well. I look forward to working with my colleagues to pass this legislation.

#### H.R. 5250—VETERANS HEALTH CARE FUNDING GUARANTEE ACT OF 2002

**HON. LANE EVANS**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. EVANS. Mr. Speaker, today, I want to end my support as an original cosponsor of the "Veterans Health Care Funding Guarantee Act of 2002" being introduced by the Chairman of our Committee, CHRIS SMITH. The bill, supported by all of the major veterans' service organizations, would create a mandatory spending stream for veterans' health care and medical construction in the Department of Veterans Affairs.

VA medical care is one of the biggest domestic discretionary accounts in the federal

budget. While Congress has historically improved upon inadequate Administration budget requests, VA has still suffered from ebbs and flows in its funding streams that often have little to do with the number of veterans served or the cost of the services they receive. We, in Congress often must work within artificially constrained budget limitations that do not allow the growth in funding VA needs or our veterans deserve.

This has been particularly difficult in recent years in which the growth in veterans seeking care in the system, often for the first time, has been unprecedented and unpredictable. A mandatory funding stream, such as that which the Chairman of our Committee proposes, will bring increased stability and predictability in funding the health care system designed to meet the needs of our nation's veterans.

The Chairman's bill would use medical inflation and growth in the VA's enrollment to ensure that these uncontrollable factors are appropriately addressed. The bill would also require a one-time "bump" of twenty percent in the appropriation to adjust VA's baseline, deemed by our major veterans' service organizations to be significantly under-funded for the last several years.

Our veterans' health care system is struggling to accommodate significant growth in use by veterans. Finding that VA is a source of inexpensive prescription drugs, aging middle-class veterans have recently enrolled in record numbers. About five years ago, lower priority veterans (those who are not service connected or medically indigent) constituted about 2–3 percent of the veterans' patient population; they now constitute about 30 percent of the 6 million veterans enrolled in the system.

Appropriations have simply not kept pace with veterans' increased demand for VA health care. As a result VA has unmanageable waiting times and is neglecting its core population—the veterans with service-connected conditions, with certain exposures or service or the veterans who are considered medically indigent. I recently received data from the Secretary of Veterans Affairs that indicates that there are more than 300,000 veterans either waiting for their first VA appointment or who have waited longer than six months for care. I believe that all veterans deserve access to their health care system, but we cannot pretend that they have this access simply because we allow it. The system must be funded to ensure that it is able to meet the demand veterans produce.

I believe the Chairman's bill will address the problems Congress has chronically been unable to redress. I applaud his innovation and look forward to working with him on this bill.

#### PERSONAL EXPLANATION

**HON. LUIS V. GUTIERREZ**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. GUTIERREZ. Mr. Speaker, I was unavoidably delayed on June 26th and was absent for a journal vote. I would like the record to reflect that had I been present, I would have voted "yea" on rollcall vote 261.

I was also unavoidably absent from this chamber on July 12, 2002. I would like the

record to reflect that had I been present, I would have voted "yea" on rollcall votes 295, 296, 297, and 298.

Further, I was unavoidably absent from this chamber on Monday, July 22, 2002 and I would like the record to show that had I been present in this chamber, I would have voted "yea" on rollcall votes 324 and 325.

I was also unavoidably delayed on Thursday, July 25, 2002. I would like the record to show that had I been present in this chamber, I would have voted "yea" on rollcall vote 347.

#### TRIBUTE TO TEXICO, NEW MEXICO ON ITS 100TH ANNIVERSARY

**HON. TOM UDALL**

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to pay tribute to Texico, New Mexico, as its citizens celebrate their centennial anniversary this month. Texico is a small community on the New Mexico-Texas border. It is known for its rich history and abounding sense of community, which has, over the years, sustained the town's traditional values, superb educational standards, intellectual strengths and high quality of life in Curry County.

I want to offer my sincere congratulations to Mayor Jerry Cunningham and all the residents of Texico on this happy occasion. On Saturday, July 27th, 2002, Texico, New Mexico, will celebrate its 100th anniversary. A parade beginning in Texico and ending in Farwell, Texas, its twin city, will lead citizens to Farwell Park, where craft shows, food booths, and class reunions will commemorate "Border Town Days." I know how excited everyone is about this special event.

Texico is located in what has been described as the "Golden Spread." This southwestern edge of the Great Plains is filled with the spirit of pioneers, who faced excitement, adventure, hardship, hope, fulfillment, disappointment, sadness and happiness as they moved West. Those that chose to found Texico gave the town the distinction of being the oldest community in Curry County.

In 1902, settlers moved into the area after railroad officials were considering Texico as a possible site for a railroad cutoff to Belen. The federal government and the New Mexico territorial government passed homestead laws in an effort to settle the eastern region of New Mexico. Soon settlers swarmed the area, and on either side of a muddy street, buildings soon formed a line of merchant shops and pioneer stops. Rooms for over-night visitors were quite reasonable—only twenty-five cents per night or \$1.40 per week. Harry's Café offered the best steaks, lamb-chops, fresh oysters, and eggs in town, and after dinner the dancing hall offered entertainment.

The bank ranked as the most important institution, but close behind was the Cozy Cottage Hotel. The hotel served as Texico's only two-story building, which was very distinct. A church was later built, along with a one-room schoolhouse, to which students would ride their mules every morning. By 1925, the graduating class had increased to nine students.

Today, Mayor Jerry Cunningham governs a total of about 1,065 citizens. The true charm of Texico is the fact that not much has

changed in its 100-year existence. People have come and gone and businesses have opened and closed; but the warmth, friendliness and character have remained intact. Agriculture and its support services have always been the backbone of the community, and the wholesome rural nature has been preserved. The citizens of Texico, and Curry County in general, should be very proud of that status.

Mr. Speaker, in closing, with all the historical grandeur Texico boasts, we have great reason to celebrate today. Accordingly, I extend my warmest congratulations to my friends in Texico on its 100th Anniversary. Texico most certainly has distinguished itself through its historical and social presence, and I call upon my colleagues to join me in applauding 100 years of excellence.

#### RECOGNIZING DAVID C. DARLING FOR HIS THIRTY-ONE YEARS OF LAW ENFORCEMENT SERVICE

**HON. MIKE THOMPSON**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize David C. Darling as he retires from the St. Helena Police Department. Officer Darling has spent the last thirty-one years of his career serving the people of St. Helena, California.

As a native of St. Helena, I can attest to the strong embodiment of law enforcement, that David provides on a daily basis. His dynamic experience also includes stints as a Campus Police Officer at Napa College and a Police Reserve Officer for the City of Calistoga. As an officer for the St. Helena Police Department, he was recognized as St. Helena's Police Officer of the Year in 1987. David has served as the President of the St. Helena Police Officers Association for more than ten years and also served as the President of the Napa County Peace Officers Association.

In addition to these many accomplishments, Officer David Darling has built a reputation as being reliable and truly dedicated to his work. He often served as acting sergeant and shift supervisor. Officer Darling could be called on for any assignment. He made a name for himself in his relentless and noble campaign against drunk driving. For many years Officer David Darling was the uncontested champion of removing drunk drivers from our streets and securing their convictions. He was dedicated to the cause well before it was taken up as a public campaign.

Mr. Speaker, it is appropriate at this time that we recognize David C. Darling for his tremendous work for the people of the Napa Valley. He is a true asset to our community, and I speak on behalf of the people of St. Helena when I thank Officer David C. Darling for his service.

#### LEGISLATION TO CREATE A 2,800- ACRE PARK IN JOHNSON COUNTY

**HON. DENNIS MOORE**

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. MOORE. Mr. Speaker, on April 22, 2002, I introduced legislation in celebration of

Earth Day that would create a 2,800-acre park in Johnson County on the former site of the Sunflower Army Ammunition Plant. Senator PAT ROBERTS has truly been a leader on this issue by inserting the language from our bills (S. 2107/H.R. 4544) into the National Defense Authorization Act for Fiscal Year 2003. As the House and Senate go to conference to mitigate the differences between our two bills, I would like to strongly encourage the conferees to keep this important language in the final authorization bill.

I have been working on this issue since I was sworn into office in January 1999. Johnson County has experienced rapid growth in recent years making it even more important that we set aside areas for parks and nature preserves now, before they are developed. The transfer would expand the borders of the 850-acre Kill Creek Park in Olathe, which opened last year.

The greatest gift we can give to future generations is acres and acres of local parks and nature trails. I have four grandchildren; I would love nothing more than to be able to take them to play in the parks like the one this authorization language would create. By transferring this land from the federal government to local control, we'll continue to add to our local system of parks and recreation areas.

#### TRIBUTE TO LT. GEN. P.K. CARLTON UPON HIS RETIRE- MENT FROM THE UNITED STATES AIR FORCE

**HON. CIRO D. RODRIGUEZ**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. RODRIGUEZ. Mr. Speaker, I would like to take a moment to pay tribute to Lieutenant General Paul K. Carlton, Jr., Surgeon General of the Air Force, on the occasion of his retirement.

On December 1, 2002, General Carlton will end 37 years of extraordinary military service. A distinguished graduate of the U.S. Air Force Academy in 1969, General Carlton completed medical school at the University of Colorado and launched a spectacular career as an Air Force surgeon.

I have personally come to know General Carlton since he was commander of Wilford Hall Medical Center in San Antonio, Texas. Then, as now, Wilford Hall Medical Center is a major presence in our community. Under his leadership and support, the 311th Medical Systems Wing at Brooks AFB has become a worldwide leader in research, development and training for bioterrorism surveillance, detection, and response. The Air Force medical professionals in San Antonio have been active leaders in that city's remarkable successes in developing a disaster response plan.

Over the last 2 years as Surgeon General, General Carlton has revolutionized the Air Force Medical Service's readiness mission to fully reflect the Air Force doctrine of shape, respond, and prepare. This has not been an easy undertaking—as with any change, it means upsetting the status quo. General Carlton's leadership and perseverance has prevailed, giving the United States Air Force, and this country, a medical response second to none. The light, lean, mobile medical capability that General Carlton championed has literally brought state-of-the-art medical care to

our forward-deployed troops. This approach to responsive medical capability has much to offer our nation as we address homeland security issues.

We are privileged in this country to have patriots like General Carlton who devote their lives to the defense and betterment of this country. On behalf of the state of Texas and this nation, I extend to General Carlton our gratitude and sincerest best wishes.

#### PERSONAL EXPLANATION

### HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. DeFAZIO. Mr. Speaker, on rollcall No. 351, passage of H.R. 4946, Improving Access to Long-Term Care—because of a family emergency I was not present to vote.

Had I been present, I would have voted "No."

### VELÁZQUEZ-ISSA-WILSON AMENDMENT TO H.R. 5005

SPEECH OF

### HON. DARRELL E. ISSA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 25, 2002*

Mr. ISSA. Mr. Speaker, I rise today to voice my support for the Velázquez-Issa-Wilson amendment. I would like to thank the gentlewomen from New York and New Mexico for joining me in introducing this amendment that is so important to America's small businesses.

Small businesses are the backbone of our nation's economy. They represent over 99% of all companies in the United States and employ over half of the nation's workforce. The Department of Homeland Security should facilitate a competitive purchasing atmosphere where high quality goods provided by small businesses can assist in the critical mission of this new agency.

The Velázquez-Issa-Wilson amendment will require the Department of Homeland Security to adhere to the same minimum procurement goals as other federal agencies. Additionally, the amendment puts accountability into the hands of procurement officials by making goal attainment an element of worker performance evaluations.

It is critical that government support American small businesses, which is why Congress created statutory goals for small business procurement.

Support the Velázquez-Issa-Wilson amendment and let us secure a place for small businesses in Homeland Security's procurement market.

### CONFERENCE REPORT ON H.R. 3763, SARBANES-OXLEY ACT OF 2002

SPEECH OF

### HON. JOHN E. SUNUNU

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 25, 2002*

Mr. SUNUNU. Mr. Speaker, no one in the corporate world should ever believe that their

position puts them above the law or outside the bounds of ethical responsibility. Those who do should be held accountable, those who break the law should go to Jail.

Today, the House will vote for the third time this year to hold corporate America to the highest of standards. Our action today will inform executives that their actions will be scrutinized, with the threat of real penalties for violations of their legal responsibilities to shareholders and the public.

The citizens of my state, and indeed all Americans, have watched the stock market tumble as accounting scandals have shaken investor confidence. Investors have watched as the values of their portfolios have fallen. They want—and deserve—tough action against fraud and malfeasance. In short, they want Wall Street to abide by the common sense principles that guide Main Street, and the public deserves nothing less.

This conference report, which I am proud to support, includes key provisions from our House-passed legislation that will improve disclosure, impose tougher penalties, and better protect investors in such cases of fraud.

By establishing for the first time a requirement for real-time corporate disclosure, the bill will better protect investors. Companies will now have to disclose any information that would materially affect the company's financial health. That is the kind of information that can never be—and should never be—withheld from the public. Accurate and clear financial disclosure will enable better investment decisions to be made based on a company's true financial performance.

Second, by strengthening the penalties for corporate fraud, the bill will act as a better deterrent to those seeking to stretch or test the boundaries of the law. This conference report provides double the jail time that was included in the Senate bill—up to 20 years—for corporate criminals who defraud the public, destroy documents or obstruct justice.

Finally, the investor restitution provision in this bill will enable investors who lose money in the markets as a result of corporate malfeasance to reclaim the gains of corporate criminals. Under the FAIR provision, a fund will be established to collect civil penalties and other funds from executives who violate the laws and defraud investors.

Mr. Speaker, I want to commend the conferees for working quickly to develop a bill that can win bipartisan support. I am confident that passage of this conference report will send a clear message to the corporate world that Congress and the American people expect them to play by the rules or face the consequences.

### NURSE REINVESTMENT ACT

SPEECH OF

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mrs. MALONEY of New York. Mr. Speaker, I rise in strong support of the bipartisan Nurse Reinvestment Act. I applaud the hard work of Congresswoman Capps and thank her for her dedication to this important public health issue.

Today's nurses are overworked, period. And despite their best efforts, the nursing shortage is impacting patient care.

Included in this bill's many worthy provisions, are measures to provide incentives for young Americans to decide to become nurses. Keeping our nurses in the workforce, while recruiting new staff will be critical to reversing these startling shortages.

Our nation's nurses are stressed and overworked. More and more, the stress and the work conditions have caused many nurses to stop practicing. According to a U.S. Department of Health and Human Services report, 19 percent of New York's registered nurses were not practicing in 2000, up 4 percent since 1996.

Worse yet, three quarters of nurses feel the quality of nursing care at the medical facility at which they work has decreased over the last two years, in large part do to under staffing. In New York, the nurse patient ratio violations have become so frequent that the New York Professional Nurses Union has put the hotline to report these violations on the front of their webpage, right next to instructions on how to take a sick day, or a vacation day. When nurse patient ratio violations are as common as a sick day, health care is clearly hurting.

Again, I applaud the hard work of Mrs. Capps and her colleagues. Thank you, Mr. Speaker.

### IMPROVING ACCESS TO LONG-TERM CARE ACT OF 2002

SPEECH OF

### HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in support of the Improving Access to Long-Term Care Act because it is an important first step in encouraging personal responsibility for planning for and financing one's own LTC needs. Nearly 40% of us will need some form of LTC during our lives, but few of us plan for its costs. If we are going to slow the growth of Medicaid spending—currently, the primary payor of LTC expenses—and ease the burden of government on our children's generation, we must focus on developing sound private insurance products so families can provide for their own futures by protecting their assets to support them and giving them choices in LTC services.

This bill will encourage the expansion of the LTC insurance market and strengthen consumer protections in LTC insurance policies. The market in this area is not mature, and these protections are extremely important to its development. Qualified LTC policies will have to meet requirements designed to protect purchasers, particularly seniors. Suitability standards, for example, attempt to assure that policies are suited to the purchaser's resources and needs.

One aspect of this bill caused me concern and it is my hope that we will be able to re-evaluate the income guidelines for claiming the deduction and the limits on the deduction amount. For example, when this bill is fully phased in, a person with \$20,000 income will get 7.5 cents in subsidy for every premium dollar spent on LTC insurance. That's assuming they meet the asset test under the suitability requirements and that—at \$20,000 income—they have sufficient tax liability for a deduction to matter.

Because of the looming tidal wave of baby boomers that will age into the need for LTC services, I have been introducing LTC insurance premium deductibility legislation for over four years. My previous bills have also included a tax credit to offset the costs of caregiving for families that provide LTC assistance for a family member.

HIAA and the AARP have been strong supporters of that legislation. They have educated Members and 205 of you have co-sponsored that bill. While I will continue to fight for passage of a deduction that is not limited to lower income, and for a full credit for caregiver expenses, I support H.R. 4645 tonight because it is a first step toward that goal. In addition, it will put in place the consumer protections we need in the LTC insurance market, and these protections will be available to all purchasers of LTC insurance who access one of the other tax code incentives that incorporate the definition of "qualified LTC insurance policy".

This bill will encourage personal responsibility for private financing of LTC expenses and support the development of the LTC insurance market.

CONFERENCE REPORT ON H.R. 3763,  
SARBANES-OXLEY ACT OF 2002

SPEECH OF

**HON. EDWARD J. MARKEY**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 25, 2002*

Mr. MARKEY. Mr. Speaker, I rise in support of the conference report on the corporate accountability bill. Make no mistake about it, Mr. Speaker: This conference report is the result of investors' refusal to be fooled by empty speeches, photo-ops and weak proposals that failed to go far enough to fix the crisis of confidence in the marketplace.

Mark Twain used to say, "A cat, once burned, won't get on a hot stove again. But it won't get on a cold stove either."

Despite intense lobbying efforts to weaken the Sarbanes bill passed unanimously by the Senate, investors recognized that only tough new reforms would fix the problems plaguing corporate America. The average investor thinks the financial market is rigged, so trust is hard to come by. Trust is to the economy is what oil is to a machine—without it, it will break down.

This conference report contains tough provisions that were omitted from the timid bill that the House passed earlier this year. The conference report contains:

A strong structural separation, a bona fide Chinese Wall, between stock analysts and investment bankers, so that investors can have confidence in the recommendations they receive.

A strong independent oversight board for the accounting industry. Corporate auditors will no longer be policing themselves, but instead will be subject to an independent accounting oversight board.

Bans on accounting firms offering a menu of non-audit services to their audit clients. The big accounting firms will not have an incentive to look the other way at shady accounting just to preserve their consulting contracts. The accountants, for too long, have been able to be

the referees and the players in their game of finance. This leads to conflicts of interest that prevent a level playing field for market participants.

Mr. Speaker, while this conference report is an important step forward, it is shameful that a strong accounting reform bill was fought tooth and nail by the industry and its friends in Congress.

During this struggle for financial reform, markets plunged and millions of investors saw their 401(k)s cut in half to 201(k)s as hard-earned savings evaporated.

Today we have the opportunity to pass an important reform bill. This bill is a key first step to restoring confidence in the markets—which has been badly damaged as weak half-measures proposed since the Enron collapse fell far short of what the market needed. I support this conference report and will continue to monitor the regulatory implementation of the provisions contained in the report.

WE FILLED THE PRESCRIPTION

**HON. FORTNEY PETE STARK**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. STARK. Mr. Speaker, Dan Rostenkowski, former chairman of the Ways and Means Committee, recently wrote an op-ed in the Washington Post that I commend to my colleagues. It follows.

In 1998, I served as Chairman of the Ways and Means Health Subcommittee. Essentially, I was the pharmacist who filled his prescription for the Medicare Catastrophic Coverage Act.

I share his sentiment that if that law had stayed in effect, we would not be here more than a decade later trying to figure out who to get a prescription drug benefit into Medicare—it would already be there. The law may not have been perfect, but we had a drug benefit and we snatched defeat from the jaws of victory.

WE FILLED THE PRESCRIPTION

I have a prescription drug plan for you. Here's what it does:

It pays 80 percent of drug costs after a \$710 deductible has been met, and it costs a relatively modest amount—a \$4-a-month premium for 40 percent of beneficiaries and a maximum of \$800 a year for the richest 5 percent.

It's never happen, you say. Well, it already has. Just such a plan was enacted by Congress and signed into law by President Reagan in 1988. Unfortunately, mistakes were made in implementing the plan, and it was repealed a year later. But the concept behind it is worth another look today, as we contemplate huge new federal expenditures for prescription drugs for the elderly.

Of course, if we attempted something similar now, the numbers would be different. Because of inflation, the basic monthly premium would be nearly \$8, the maximum premium would be in the \$1,600 range and the deductible would rise to nearly \$1,100.

It's important to note that the original program was designed to cost the federal government nothing. It was to be self-financed by the elderly population. That was a big issue back then, when people were concerned about big deficits and the need to bring the budget back into balance.

Priorities have changed. Today we see dueling plans that would, over the next dec-

ade, cost our government \$350 billion to \$800 billion. That's not chump change, especially considering that the Medicare program is already unstable and expected to run out of money fairly early in this century unless some big changes are made.

In today's free-spending atmosphere, the promised benefits are also a bit more liberal than those offered by the old program, kicking in after only \$100-\$250 is spent, depending on the plan. Obviously my successors have learned one lesson: Proposing an insurance program that doesn't promise benefits to most of the people who pay premiums can be a provocative and dangerous act.

Nevertheless, the odds are very long indeed against any of the plans now on Capitol Hill actually becoming law. This is especially true for the GOP plan, which requires private sector providers to bid. Some of us remember what happened when we invited private firms to provide Medicare coverage: Few took the challenge, and many that did failed to stay the course, deterred by government reimbursement that was less generous than what they had anticipated.

The plan we passed 14 years ago providing Medicare drug coverage was repealed by legislation signed in 1989 by the first President Bush. I'm convinced that had we stayed the course until 1992, when the benefits would have been fully phased in, the program would still be operating.

One of the mistakes we made was collecting the premiums immediately while adding the benefits only slowly. This was the fiscally responsive thing to do, of course—ensuring that money would be available to pay the promised benefits. But it was a big political mistake.

To be sure, if the program we enacted had survived, it would have changed over time, much as the tax system changes or the Medicare program has evolved in response to cost pressures. Perhaps it would be a bit less generous. Maybe there would be a formula to push patients toward the drugs that are most cost effective; the government has gotten quite sophisticated at squeezing other Medicare providers to as to maintain benefits while controlling cost increases.

But in any event there would be a program, however imperfect, helping a lot of people who need the aid—something we don't have now. Personally, I'd be surprised to see any Medicare drug benefits paid until the latter half of this decade, if then. And if the fiscal health of Medicare declines further, the entire issue may be put on hold.

More than 300 House members voted for the prescription drug program in 1988. More than 300 voted for repeal the following year, a drastic switch strong enough to induce political whiplash. In the interim, I was reminded once again of how no good deed goes unpunished: Unhappy seniors blockaded my car when I tried to exit a meeting called to discuss the issue. That was temporarily embarrassing for me, but they're the ones who are feeling the long-term pain. I suspect they wonder where the benefits are now that they need them.

After that failure, the issue became politically radioactive and went virtually untouched by Congress for a dozen years.

Will Washington be smart enough to learn from the past so that America's elderly will get the help they need in the future? My fear is that we're witnessing an unrealistic debate that will, at best, yield nothing more than a crop of partisan and empty talking points.

IN TRIBUTE TO TAVIS SMILEY

**HON. EVA M. CLAYTON**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mrs. CLAYTON. Mr. Speaker, three years ago, many of the communities in my Eastern North Carolina District were devastated and nearly destroyed by a succession of hurricanes and floods that swept through. Lives were shaken or lost, and the hopes of many nearly dashed. Particularly hard hit was historic Princeville, North Carolina—settled and incorporated by former slaves. When you live in a rural area it is sometimes easy to feel alone. One of the early sources of inspiration and hope to my constituents was the voice of Tavis Smiley—whom Newsweek profiled as one of the “20 people changing how Americans get their news.”

In the immediate aftermath of the storms, Tavis Smiley surely demonstrated that he is one of the nation’s “captains of the airwaves,” calling attention to the plight of the people in Princeville through his national radio audience and in appearances on national television, ranging from The Tavis Smiley Show from NPR, The Tom Joyner Morning Show, BET Tonight, and CNN among others.

Tavis Smiley is one of the few powerful voices in America’s mass media today who makes the term “advocacy journalist” something to be proud of. One of the most successful African-Americans in the media today, Mr. Smiley is also the founder of the Tavis Smiley Foundation, a nonprofit organization whose mission is to encourage, empower and enlighten Black youth.

His role in rallying Americans to understand the magnitude of the incredible natural disasters that befell Princeville and other communities in Eastern North Carolina had an enormous impact on our ability to cope and have hope, and his efforts created a groundswell of support from around the country to rebuild and revive. In the hearts and minds of Eastern North Carolinians, he’s not just a “captain of the airwaves,” he is a Prince of Public Service.

CONGRATULATING EBBY  
HALLIDAY ACERS**HON. RALPH M. HALL**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. HALL of Texas. Mr. Speaker, I rise today to honor one of Texas’s most respected and most successful businesswomen—Ebby Halliday of Dallas—on the occasion of her 91st birthday. Her countless community activities, successful business venture and endless enthusiasm make her truly a remarkable woman.

Ebby Halliday Realtors, the company that she founded 57 years ago, has grown from its infancy into a nationally known entity. This company that began with one office has now expanded to become one of the world’s largest independently-owned residential realty firms. And at the age of 91, Ebby still works 9-hour work days. Ebby Halliday Realtors assisted some 17,500 home buyers last year, and

Ebby’s remarkable business acumen is evident in the many awards that she has received from her industry and peers.

In 1996 Ebby was introduced into the Texas Business Hall of Fame. She was the recipient of the Distinguished Service Award from the National Association of Realtors and the International Real Estate Federation. Ernst and Young named her the regional Entrepreneur of the Year in 1997, and she was inducted into the Dallas Business Hall of Fame in 1999. In 2000, Ebby received the Lifetime Achievement Award in Real Estate from Texas A&M’s Real Estate Center and was named Most Influential Woman in the Business and Professional Category by the Ft. Worth Business Press. Ebby was the first recipient of the Executive Women International’s Executive Excellence Award—an award that will carry her name in the future—and she was conferred the Degree of Doctor of Humanities by Dallas Baptist University.

Aside from running a successful business, Ebby has selflessly devoted time and resources to local civic organizations. She has served as chairperson of the Thanksgiving Square Foundation, served on the boards of St. Paul Medical Foundation, the Communities Foundation of Texas, the Dallas Community College District Foundation, and the Better Business Bureau. She has also supported the Alexis de Tocqueville Society for the United Way, the Dallas Symphony Orchestra Guild, the Plano Symphony and the State Fair of Texas. She has been president of the North Dallas Chamber of Commerce and of the Greater Dallas Planning Council and served as a member of the Dallas Park and Recreation Board. In addition, the St. Paul Medical Center Foundation was dedicated to Ebby and her husband, Maurice Acers, in honor of their service.

Ebby’s remarkable energy and philanthropy are a testament to her devotion to her career and to her community, and the State of Texas is grateful for her many significant contributions. Mr. Speaker, it is an honor for me to recognize an outstanding citizen for her remarkable lifetime of achievement and philanthropy—my dear friend, Ebby Halliday Acers.

A TRIBUTE TO THE KNIGHTS OF  
COLUMBUS, ST. CABRINI COUNCIL  
#3472 ON THEIR 50TH ANNIVERSARY**HON. ADAM B. SCHIFF**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. SCHIFF. Mr. Speaker, I rise today to honor the Knights of Columbus, St. Cabrini Council #3472 on the occasion of their 50th Anniversary. On Saturday, June 29, the Knights of Columbus will celebrate this auspicious occasion with an anniversary dinner.

In 1882 Father Michael J. McGivney founded the Knights of Columbus on the four principles of charity, unity, fraternity and patriotism and I am happy to say, that the St. Cabrini Council #3472 has embodied these virtues for 50 years. Formed on November 14, 1951, by 45 charter members, the St. Cabrini Council #3472 has grown steadily and now boasts a membership of over 160 Catholic men. This fraternity has dedicated itself to selfless serv-

ice not only to the Catholic Church, but to service groups throughout the community in which they live.

As many of the groups’ members worship at Catholic parishes throughout Burbank and Sun Valley, many of the Knights of Columbus’s efforts are focused on making these parishes more friendly and inviting places in which Catholics from throughout Burbank and the San Fernando Valley can come to worship. By involving themselves in parish events such as festivals, dinners, spiritual groups and carnivals, the organization continues to commit itself to creating a stronger and more vibrant Catholic community.

The Knights of Columbus have also adopted a number of community groups which they have supported throughout the years. Each year, the group is responsible for raising between \$6,000 to \$8,000 for charitable groups throughout Los Angeles County. Most notably, the Knights have been recognized for their funding of organizations that assist the mentally handicapped and for their efforts on behalf of Rancho San Antonio Boys Town of the West, a residential facility run by the Holy Cross Brothers and open to boys up to 18 years old who find themselves in conflict with the law.

Additionally, the Knights of Columbus have been active in offering scholarship opportunities to students in Catholic grade schools and high schools to assist these students in their pursuit of education. Their efforts have also extended to local Boy Scouts of America Troops in the way of sponsorship and financial contributions.

I ask all Members of the United States House of Representatives to rise today and honor the Knights of Columbus, St. Cabrini Council #3472 on the occasion of their 50th Anniversary and for all that they do for our community.

## IN TRIBUTE TO SHIRLEY CAESAR

**HON. EVA M. CLAYTON**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mrs. CLAYTON. Mr. Speaker, three years ago, many of the communities in my Eastern North Carolina District were devastated and nearly destroyed by a succession of hurricanes and floods that swept through. Lives were shaken or lost, and the hopes of many nearly dashed. Particularly hard hit was historic Princeville, North Carolina—settled and incorporated by former slaves. When you live in a rural area it is sometimes easy to feel alone. One of the early sources of inspiration and hope to my constituents was a very special lady whose clarion voice and spirituality powerfully invoke the universal language of music—Shirley Caesar.

Shirley Caesar’s mesmerizing musical talents have enthralled and uplifted millions of Americans over a career spanning more than thirty years. She is the winner of ten Grammys and numerous other awards for her heartfelt renditions of gospel, soul, and rhythm and blues music. Her music is part and parcel of her role as Pastor of Shirley Caesar Outreach Ministries, and a substantial portion of her concert and recording proceeds support her ministerial activities. Hers is an incredible example of triumph over adversity, exceeding

others' expectations, finding her voice and her calling—helping the needy in her own community and anywhere help was needed.

In the immediate aftermath of the hurricanes and floods that almost washed Princeville away, Shirley Caesar came to our community and gladdened the hearts of saddened souls in need of uplift, hope and revival, singing such stirring songs as "You're Next in Line for a Miracle." Her efforts supported the rejuvenation of Princeville and other Eastern North Carolina communities rocked by the rains and ruin. She not only speaks to what is right and good, she sings it. Princeville will always be grateful for her "amazing grace."

HONORING REPRESENTATIVE  
TONY HALL

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. HALL of Texas. Mr. Speaker, I join my colleagues in bidding a fond farewell to our esteemed colleague, the gentleman from Ohio, Representative TONY HALL, whom President Bush has selected to carry out the Nation's work as United States ambassador to the United Nations organizations that coordinate international hunger relief efforts. I can think of no other person more qualified or more deserving of appointment to this position than our friend, TONY HALL.

Throughout his years of service in the House of Representatives, TONY has distinguished himself for his work on behalf of the hungry throughout the world. He has been an eloquent spokesman and a tireless worker in fighting hunger and providing help to the needy, and he will be a most effective advocate for these international outreach efforts as our ambassador.

TONY also has been a tremendous advocate and representative for his constituents in the Third Congressional District of Ohio, who elected him to twelve consecutive terms to the House. His constituents will be proud, as we are, that he will continue to serve his country in this new and expanded role. I join my colleagues in extending to him our best wishes as he continues his service to our Nation and to those in need.

TRIBUTE TO CHILDREN WITH DIABETES AND THE CHILDREN WITH DIABETES FOUNDATION

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. SCHIFF. Mr. Speaker, I rise today to honor Children with Diabetes and the Children with Diabetes Foundation. On July 18, 2002 the foundation will welcome hundreds of families, doctors and experts from around the nation and world to the 3rd Annual "Friend for Life" National Children with Diabetes Conference in Pasadena, California.

Children with Diabetes, an online community for children, families, doctors and researchers, was founded by Mr. Jeff Hitchcock shortly after he learned that his young daughter had

contracted Type I diabetes, often known as juvenile diabetes. At the time, Mr. Hitchcock, knowing little about diabetes, was ill prepared to help his daughter cope with its affects and demands. In order to help prevent this feeling of helplessness for himself and for other parents like him, Mr. Hitchcock launched the Children with Diabetes website.

Since 1995 the Children with Diabetes website has become a clearinghouse of information for juvenile diabetes. Children and their parents have access to information from physicians, dietary suggestions, treatment suggestions and a myriad of other services that have proved helpful to those living with the daily affects of diabetes. The site has also become a useful tool for physicians and researchers who now have the ability to share information about new treatments and cutting edge research from across the globe.

While Children with Diabetes continues to act as an informational resource for juvenile diabetes, the Children with Diabetes Foundation acts to assist people financially living with diabetes and supports physicians and researchers around the world who are working towards a cure. Each year, the Children with Diabetes Foundation raises and awards thousands of dollars in scholarships and grants to researchers who are moving closer to a cure each day and to families working hard to live with this disease.

That is why this week's national conference is so important. It will bring together people from around the world who are working, in their own way, to eradicate this disease. The conference will include speeches by Dr. Francine Kaufman, President of the American Diabetes Association, small group workshops, community forums, and appearances by Olympian Gary Hall and Miss America 1999 Nicole Johnson. The conference will culminate in the display of a quilt assembled by children suffering from diabetes.

I ask all Members to rise and join me in congratulating and thanking Children with Diabetes and the Children with Diabetes Foundation for all that they do to fight against the negative affects of diabetes, especially juvenile diabetes, throughout the world. I am sure that through their efforts, we will one day find a cure for this disease.

A DEMOCRATIC PALESTINIAN  
STATE

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. KNOLLENBERG. Mr. Speaker, A democratic government is the foundation of a stable, peaceful society. This is because of democracy's proven ability to effectively promote human rights, equity, and economic growth, while diminishing the probability of conflict between countries.

That is why greater democracy is necessary in order for the Palestinian people to realize definitive rights overseen by an independent judiciary. Democracy will lay the groundwork for security arrangements with Israel, Egypt, and Jordan. Greater democracy in the region will lead to economic development with support from the international community. Only then will we realize a feasible Palestinian state.

I support a two state solution to the Israeli-Palestinian conflict. But a Palestinian state can exist only in a new democracy with leaders who fully embrace peace.

I sincerely hope the Palestinian people strive to create a democracy with leaders who enact the reforms necessary for stability.

IN HONOR OF JIMMY WARFIELD

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. KUCINICH. Mr. Speaker, I rise today in recognition and remembrance of Jimmy Warfield. As a trainer with the Cleveland Indians since 1971, Mr. Warfield will be remembered for his unrivaled dedication to the professional baseball community. But most importantly, Mr. Warfield will be remembered as a beloved husband, caring father, wonderful son, cherished brother, and an unforgettable friend.

A native of Hershey, Pennsylvania, Mr. Warfield grew to develop a strong love not just for baseball, but for Penn State football, one of his passions. Though a graduate of Indiana University, he never forgot his childhood team, and constantly followed and defended his heroes, including Penn State coach Joe Paterno.

In 1971, Mr. Warfield joined the Cleveland Indians' professional baseball organization. For six years he worked as an assistant trainer under Head Trainer Paul Spicuzza. Following Mr. Spicuzza's departure six years later, Mr. Warfield took the position as Head Trainer, a position with which he was honored to hold for twenty-six years. Arriving early in the morning, and staying at the field until late at night, Mr. Warfield, called "Bruiser" by former Indians' manager Pat Corrales, and "Daddy Warbucks" by former manager Mike Hargrove, not only used his skill and experience to help ballplayers recover from injury, but he also helped them in their personal lives. He was always there to add a soothing word, or a calming piece of advice.

A tolerant, amiable, and wise man, Mr. Warfield has touched hundreds of lives. Though he will be greatly missed, his life—a life dedicated to friends and family—is cause for recognition and celebration. Mr. Warfield is a man commonly considered to be the most beloved figure in the history of the Indians' organization.

Mr. Speaker and colleagues, please join me in honor and remembrance of a truly outstanding individual, Jimmy Warfield, whose kind, compassionate and thoughtful nature profoundly impacted so many lives, in and out of the Indians' clubhouse. His unforgettable spirit will be a shining legacy which will live on forever.

4-H 100-YEAR ANNIVERSARY

HON. ROB SIMMONS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. SIMMONS. Mr. Speaker, I rise to wish the National 4-H Program a happy 100th birthday. This is a wonderful milestone in the life of this national institution.



The 4-H program began as a series of clubs for boys and girls in rural America. The 4-H taught young people a variety of skills related to farming by using a learning-by-doing strategy. The program has grown tremendously in scope and today encompasses a broad range of subjects, but hands-on learning remains at the center of the 4-H.

Another constant for the 4-H is the organization's continued commitment to the 4-H's in its name—Head, Heart, Hands and Health. For 100 years this organization has provided opportunities for thousands of young people in my district and my state and to millions across the country. The 4-H teaches young people the importance of learning, kindness, a healthy lifestyle and helping one's neighbors. Those are great characteristics to instill in our young people.

In my state of Connecticut, New London County's 4-H camp was founded in 1947 on 24.5 acres, in Franklin, as an education and recreational facility. The camp is open to any and all youth ages 16 to 17, and campers do not have to be members of the 4-H to attend. The camp provides these young people with an experience in group living in the great outdoors. Through a wide variety of activities that focus on self-development, environmental awareness and a concern for safety and health, campers develop a greater understanding of themselves, others and the world around them.

The Middlesex County 4-H camp was established in 1962, on 90 acres in Moodus. This educational/recreational facility offers a mixture of traditional camping and innovative programs for young people. A variety of camp sessions offer programs for children between the ages of 7 and 14 and a Teen Camp is available for youths ages 13 to 16. From traditional sports to horsemanship to archery and creative arts, the camp achieves its mission to strengthen and uplift the youth's social, mental and physical development.

The Windham-Tolland 4-H camp has served families since 1954. Located in Pomfret Center, the camp's 270 acres contains woodlands, cabins, recreational areas and a beautiful lake. Campers enjoy a variety of sports, arts and crafts, woodworking, canoeing and campouts. Like all 4-H camps, the staff at Windham-Tolland focuses on fostering leadership skills, enhancing self-esteem and increasing each camper's individual potential.

In Connecticut, and across our nation, the 4-H continues to exemplify the very best of our youth and of America. I am pleased to wish them a Happy 100th Birthday.

#### TRIBUTE TO THE JET PROPULSION LABORATORY

**HON. ADAM B. SCHIFF**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. SCHIFF. Mr. Speaker, it is my pleasure to rise today to honor the Jet Propulsion Laboratory, located in California's 27th Congressional District, and pay tribute to for the enormous success of the Voyager Mission. On September 7, 2002, JPL will celebrate the 25th Anniversary of the Voyager Mission—one of America's most successful space exploration endeavors.

In the summer of 1977, the Jet Propulsion Laboratory launched twin spacecrafts, Voyager 1 and Voyager 2 on a mission to conduct close-up studies of Jupiter and Saturn, Saturn's rings and the larger moons of the two planets. In order to accomplish this mission, the spacecraft were built to last five years, but as the mission went on, and with the successful achievement of all of its objectives, the additional studies of the two outermost giant planets, Uranus and Neptune, proved possible. Thus, their two planet mission became four and their five year lifetime expectancy has stretched to 25 years and more.

At the final completion of their mission, Voyager 1 and 2 will have explored all the giant outer planets of our solar system, 48 of their moons, and the unique systems of rings and magnetic fields those planets possess. Currently, the two Voyagers are headed towards the outer boundary of the solar system at a speed that would move them from New York to Los Angeles in less than four minutes. They are in search of the heliopause—the region where the Sun's influence gives way to interstellar space. The heliopause has never been reached by any spacecraft; the Voyagers may be the first to pass through this region, which is thought to exist somewhere from 5 to 14 billion miles from the Sun.

The accomplishments of the Voyager Mission are a testament to 25 years of excellence by the staff at the Jet Propulsion Laboratory. From the scientists that worked on the mission in 1977 to today's mission specialists, JPL staff has shepherded Voyager to the farthest reaches of our solar system and in the process Voyager has unlocked mysteries that have revolutionized the science of planetary astronomy.

I ask all Members to please join me in congratulating the Jet Propulsion Laboratory on the 25th Anniversary of the Voyager Mission. It stands as a shining example of American ingenuity and our commitment to exploring and understanding the far reaches of our solar system.

#### IN HONOR OF GEORGE DURINKA

**HON. DENNIS J. KUCINICH**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. KUCINICH. Mr. Speaker, I rise today in recognition of George "Bullwinkle" Durinka, for his outstanding service to our country both as a soldier and as a veteran. For the 2002–2003 year, Mr. Durinka has been selected to be the State of Ohio Commander for the Veterans of Foreign Wars.

Mr. Durinka joined the V.F.W. in 1968 following subsequent tours in Vietnam from 1968 to 1970. While overseas, he demonstrated his patriotism by earning, among others, the Vietnam Service Medal, Vietnam Campaign Medal, and the National Defense Medal, for his honorable service as a fuel specialist in the US Air Force.

Currently serving his post as Judge Advocate of the Lake Erie VFW Post 1974, from 1990 to 1994, Mr. Durinka was elected Post Commander and was named an All-State Post Commander. In 1995, he was elected District 7 Commander, serving as the Athlete-of-the-year Chairman, the POW/MIA chairman, and

the Color Guard. At the national level, Mr. Durinka has served as a member of the National VFW MIA/POW Committee, the National Veterans Service Resolutions Committee, the National Youth Development and Recognition Committee, and the National Veterans Employment Committee.

Outside of the V.F.W., Mr. Durinka is employed by J.G.D. Associates, working as a civil engineering draftsman. Mr. Durinka enjoys training in the Martial Arts. Author of a 1985 Martial Arts book, and since 1979 the Chief Martial Arts instructor for the Western Campus of the Cuyahoga Community College, Mr. Durinka is a 4th Degree blackbelt in Tae-Kwan-Do. A family man, Mr. Durinka has the full support of his wonderful wife Judy, and the love of his two daughters, Kelly and Michelle.

Mr. Speaker, please join me today in tribute to George Durinka for his exemplary record of service, and for his unrivaled dedication to the Veterans of Foreign Wars, May his upcoming opportunity to serve as State Commander prove to be an incredible and memorable part of his career serving the both the V.F.W. and America in general.

#### HONORING SRI LANKA PRIME MINISTER RANIL WICKREMESINGHE

**HON. FRANK PALLONE, JR.**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. PALLONE. Mr. Speaker, I would like to take this opportunity to express my warm regards towards the Honorable Ranil Wickremesinghe, Prime Minister of Sri Lanka. His visit this week to the United States, the first visit by a Sri Lankan leader since a civil war broke out 19 years ago, confirmed that Sri Lanka is a valued friend and partner of the United States and an important ally in the campaign against international terrorism. The United States and Sri Lanka have enjoyed a strong friendship based on common values such as democracy and religious freedom.

For the past 19 years, there has been civil strife between the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam (LTTE) that has unfortunately cost an estimated 65,000 lives and displaced an estimated 1,000,000 lives. In a breakthrough brokered by Norway, the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam (LTTE), an agreement on a cease-fire was signed by both parties and went into effect February 23, 2002.

These peace talks are set to begin in August in Thailand and at this time, I would like to commend the Prime Minister of Sri Lanka for his great effort to steer his country towards peace talks and for working on resolving the current conflict at the negotiating table with LTTE leader, Velupillai Prabhakaran. I applaud the Prime Minister's belief that a comprehensive and lasting peace solution is a priority and I support his denunciation of all political violence and acts of terrorism in Sri Lanka.

During talks this week between President Bush and Prime Minister Wickremesinghe, the Prime Minister emphasized that consistent U.S. diplomacy and international assistance will be critical in ensuring peace in Sri Lanka. In addition, the Prime Minister requested expansion of a military training program and improved economic ties between the U.S. and Sri Lanka.

As the founder and co-chair of the Congressional Caucus on Sri Lanka and Sri Lankan Americans, I would like to express my willingness for the U.S. to play a constructive role in supporting the peace process. In addition, I plan to encourage the Bush administration to take the steps necessary to support Sri Lanka during the peace process and to take the steps necessary to strengthen ties between the U.S. and Sri Lanka.

Mr. Speaker, I am encouraged by the leadership and dedication to peace so clearly exemplified by Prime Minister Wickremesinghe. I am pleased that his visit to the U.S. was a success and it is now time for the U.S. to proceed and actively support peace and reparation in Sri Lanka.

#### NATIONAL NIGHT OUT

#### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. SCHIFF. Mr. Speaker, I rise today to show my strong support for National Night Out. This year, over 30 million people in 9,700 communities in all 50 states will celebrate National Night Out. Each year, National Night Out is our nation's night to say no to crime and help take back and preserve the safety of our neighborhoods.

In 1984, the Executive Director of The National Association of Town Watch, Matt A. Peskin, introduced National Night Out. Searching for a way to heighten the awareness and strengthen participation in local anti-crime efforts, Mr. Peskin believed that a high profile, high-impact crime prevention event was needed.

In the first year of the event, over 2.5 million Americans in 400 communities across 32 states participated by turning on their porch lights. Today, while the front porch vigil remains a custom, National Night Out now includes block parties, cookouts, parades, festivals, neighborhood walks, safety fairs, rallies and safety meetings. This year's event will prove to be a bigger success than ever and I am pleased to announce that many of the communities of California's 27th Congressional District will be proud participants.

The communities of my district will call on their residents to participate in this national show of solidarity. Whether it is through large gatherings, community walks, small neighborhood vigils or a lighted porch light, the residents of the 27th District have always made a commitment to safe neighborhoods and streets.

Such an evening proves an opportune time to celebrate and thank our local police and fire departments. The men and women of these departments spend each day helping to ensure our safety and it is only with their help that we will be able to ensure the long-term safety of our children and our neighborhoods. On this night in particular, they deserve our respect and our praise for their dedication to serving all of us.

It is with all this in mind, that I ask all Members to join me in their strong support of National Night Out—America's night to support safe neighborhoods and safe communities.

#### A SPECIAL TRIBUTE IN HONOR OF TEN YEARS OF INCORPORATION FOR THE TOWN OF AWENDAW, SOUTH CAROLINA

#### HON. HENRY E. BROWN, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. BROWN of South Carolina. Mr. Speaker, small towns are God's little wonders and today I would like to recognize the small town of Awendaw in my district. Awendaw is known as the "land of the Seewee Indians." It has a rich history that included a visit from the 1st President of the United States, George Washington while on a southern tour in 1791. During the 16th century, records show four Indian tribes that inhabited the land—the Samp, Santee, Seewee and the Wando. Agriculture was their way of life. In 1670, English colonists came to South Carolina at Port Royal in Beaufort. They traveled down the coast until they sighted what is now called Bull's Bay. They were captivated by the beauty of the unspoiled beaches, tall trees and dense forest. As the colonists approached the shore, Indians were waiting with bows and arrows. But the crew yelled out an Indian calling "Appada" meaning peace and the Indians withdrew their bows and welcomed them to shore. The Indians shared their food and the English colonists gave them goods such as, knives, beads and tobacco. Auendaugh-bough was the name of the settlement when the English colonists arrived but the name was later shortened to Awendaw.

Awendaw is a special place. The arms of nature surrounds it and radiates its beauty. The Cape Romain Wildlife Refuge, the Francis Marion Forest and the Santee Coastal reserve create a natural wall of protection around the area. Hunting and fishing are still a means of getting food just as it was for the Seewee Indians.

The Churches of the Awendaw community are a "testimony of their faith." The Ocean Grove (formerly Pine Grove), Mt. Nebo A.M.E., Ocean Grove United Methodists and First Seewee Missionary Baptist are all historical churches that play a significant role in the lives of the people who live there.

In November 1988, the people of Awendaw began its fight to become a town. For four years, the people gathered once a month at the Old Porcher Elementary School to plan, organize and share information with the people. There were many hurdles set before the people of Awendaw by the Justice Department. In 1989, Hurricane Hugo interrupted the process, but it was resumed in 1990. The Awendaw community made two unsuccessful attempts to incorporate. Finally, after the third try, the Secretary of State granted a certificate of Incorporation on May 15, 1992. On August 18, 1992, the town of Awendaw elected its first mayor the Rev. William H. Alston. The first town council were Mrs. Jewel Cohen, Mrs. Miriam Green, the Rev. Bryant McNeal and Mr. Lewis Porcher (deceased).

This year the town of Awendaw will celebrate ten years of incorporation. The town has grown from 175 to over 1000 in population. Over the last seven years, the town of Awendaw has become famous for its annual Blue Crab Festival. This grand celebration brings thousands of people from neighboring communities to share in the festivities.

Mr. Speaker, I ask that my colleagues would join me in a salute to one of God's little wonders, the Town of Awendaw, South Carolina. "Thank God for small towns and the people who live in them."

#### PROJECT VARELA

#### HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. PALLONE. Mr. Speaker, I rise today to once again draw attention to important developments in Fidel Castro's continued oppression of the Cuban people.

Needless to say, this summer has proved to be a memorable one for Fidel Castro.

It began on Friday, May 10, when over 11,000 citizens of Cuba took a courageous stand and petitioned the Cuban National Assembly to hold a nationwide referendum vote on guarantees of human rights and civil liberties. Named for the 19th-century priest and Cuban independence hero, Padre Felix Varela, the Varela Project was the first-ever peaceful challenge to Castro's four-decade long control of the island. Varela received no funding or support from foreign organizations or foreign governments and is a grassroots effort by the Cuban people to call on their government to provide them with internationally accepted standards of human and civil rights.

In an attempt to negate the effects of Varela, Castro scrambled to respond. Exactly one month to the day that Varela was delivered to the Assembly, Castro and his regime organized mass demonstrations all over Cuba in a sign of so called "support" for Cuba's socialist form of government. Castro began his own petition effort that asks members of the Cuban National Assembly to adopt an amendment to the Cuban constitution that stipulates that Cuba is a "socialist state of workers, independent and sovereign, organized with all and for the good of all, as a unified democratic republic, for the enjoyment of political liberty, social justice, individual and collective well-being and human solidarity." Castro has supposedly "obtained" the signatures of approximately 98% of Cuba's voting population.

However, Castro's poorly veiled attempt to erase the impact of the Varela Project has only backfired. As we near the middle of summer, Castro continues to strong-arm Cuban citizens into signing his petition, and word of the Varela Project continues to spread. Oswaldo Paya, Varela's organizer, continues to collect signatures and continues to garner the world's attention for his efforts.

It is critical that we continue to draw attention to and commend the efforts of Paya, his fellow organizers and all those who have signed Project Varela. Castro cannot continue to hide behind his forced petition and continue to ignore Project Varela. If Castro is so assured of his having the support of the Cuban people, then he must schedule a referendum on Varela's reforms and allow the true voices of the Cuban people to be heard.

## THE SYCAMORES

**HON. ADAM B. SCHIFF**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. SCHIFF. Mr. Speaker, I rise today to honor one of Pasadena's finest community organizations, The Sycamores. On September 29, 2002, The Sycamores will celebrate its 100th anniversary as one of the nation's premier mental health agencies serving California's children and families.

In 1902, Fannie Rowland, wife of John Rowland, the first President of the Tournament of Roses, called a meeting of thirty prominent Pasadena community leaders. She wanted to discuss the "advisability of establishing a home for the care of needy children." From that meeting, the Pasadena Children's Training Society was founded. Initially, the Society's two-story yellow building served as a home for "door-step" babies—infants left on the facility's front steps.

It was from the front steps that this agency grew. By the mid-1960s the Society had outgrown its home and moved to the neighboring community of Altadena. With the new home came a new name—The Sycamores—a moniker selected in honor of the many trees surrounding the new campus. As the physical location and name of the Society changed, so did its focus. What began as a small orphanage, bloomed into a residential treatment center by the 1960s.

Since then, The Sycamores has increased its capacity to help. Its board of directors purchased additional properties, developed a state-certified school, offering family and adoptive services, a neighborhood family resource center and expanded mental health and transitional living programs.

Over the years, The Sycamores, as one of the area's most acclaimed and capable facilities, has cared for some of the most troubled and needy children in California. The extraordinary staff uses innovative and effective methods to help children and families learn to live productive, but more importantly, happy lives. It is their dedication that makes The Sycamores a vibrant and valuable asset to the community.

I ask all Members to join me in congratulating The Sycamores for 100 years of service and thank them for all that they do for the children of our community.

## INTRODUCTION OF THE INCREASED CAPITAL ACCESS FOR GROWING BUSINESSES ACT

**HON. SUE W. KELLY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mrs. KELLY. Mr. Speaker, today I am introducing the Increased Capital Access for Growing Businesses Act. In 1980 Congress enacted changes to the securities laws to allow for the creation of Business Development Companies (BDCs)—publicly traded companies that would invest in small and medium sized business that needed access to capital. Today there are about 20 active BDCs that are in the business of providing capital and

management expertise to grow companies into larger success stories.

There have been many success stories as a result of the BDC legislation. Companies that would never have had access to capital to grow and expand today owe their success to the securities law structure that was enacted more than twenty years ago. However, after twenty years it is important for Congress to modernize and update the BDC provisions.

In order to maintain status as a BDC, in general a company must invest at least 70 percent of its assets in securities issued by something called "eligible portfolio companies." There are different categories in the law of companies that qualify for status as an "eligible portfolio company." However, the principal category on which BDCs rely for eligibility of their portfolio companies are companies that do not have a class of securities on which, "margin" credit can be extended pursuant to rules or the Federal Reserve. According to the legislative history of the 1980 Amendments, it was estimated that the definition of eligible portfolio company would include two-thirds of all publicly held operating companies.

Since 1980 when Congress adopted the definition of eligible portfolio company, the Federal Reserve has changed the requirements for marginability, and, effective January 1, 1999, margin securities include any securities listed on the Nasdaq Stock Market. This change has dramatically decreased the number of eligible portfolio companies.

The proposed legislation would allow BDCs to provide financing to a larger number of companies that are in dire need of capital and which cannot access the public markets or obtain conventional financing, consistent with the policy of the 1980 law. Specifically, it would add to the definition of "eligible portfolio company" any company with a market capitalization of not more than \$1 billion. It would not, however, affect the requirement that the securities must be acquired in privately negotiated transactions.

Today more and more companies are finding that credit is simply unavailable. The ability for companies to grow and increase jobs is dependent on their ability to tap the capital markets. While this legislation may not be the answer for every small and medium sized company, it offers an opportunity for many companies that would otherwise find the capital market doors closed.

I urge my colleagues to join me in supporting this important legislation.

## A SPECIAL BIRTHDAY TRIBUTE TO MRS. NANCY DINWIDDIE HAWK

**HON. HENRY E. BROWN, JR.**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. BROWN of South Carolina. Mr. Speaker, I rise today in celebration of the 80th birthday of a great American and an even greater South Carolinian, Mrs. Nancy Dinwiddie Hawk. Nancy Hawk was born on July 31, 1922. She is the proud mother of nine children and was the recipient of the "National Mother of the Year Award." Nancy was a stay at home mom who always put family first. It was not until after her children were grown that she decided to pursue her dream to become an attorney.

At the age of 55, Nancy Hawk graduated from the University of South Carolina Law School. Nancy is a natural leader, she was chairwoman of the South Carolina Republican Party for a number of years. She continues to be an inspiration to me and all who are fortunate enough to cross paths with her.

Please join me in wishing Mrs. Nancy Dinwiddie Hawk a Happy 80th Birthday.

## PERSONAL EXPLANATION

**HON. JOE KNOLLENBERG**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. KNOLLENBERG. Mr. Speaker, on July 24, 2002 and July 25, 2002, I was unavoidably absent due to the death of my sister and missed roll call votes 339–351. For the record, had I been present, I would have voted: No. 339—Nay; No. 340—Yea; No. 341—Yea; No. 342—Nay; No. 343—Yea; No. 344—Yea; No. 345—Nay; No. 346—Yea; No. 347—Nay; No. 348—Yea; No. 349—Yea; No. 350—Yea; No. 351—Yea.

## RECOGNIZING THE TRICENTEN-NIAL OF ALLEN, MARYLAND

**HON. WAYNE T. GILCHRIST**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. GILCHRIST. Mr. Speaker, I rise today to recognize the Village of Allen's 300th birthday. This Maryland community is located in the First Congressional District, which I have the distinct honor of representing. Established in 1702, I recognize this village for its longevity, and through that longevity, for influencing the unique flavor of Maryland's Eastern Shore.

Allen sits in Wicomico County, along Wicomico Creek. Central to its establishment was the Grist Mill, which was originally built and operated by the Brereton family. The mill was fully operational until 1919 when, after 217 years, it finally closed. The mill dam formed Passerdyke Pond, still a local landmark, and it was the spillway, or trap, that gave the settlement its first name. Trap eventually became Upper Trappe, and then it was changed to Allen in 1882, named after a prominent resident at the time that was a storekeeper and served as postmaster.

With the mill and its location on the lower Eastern Shore, Allen developed into a considerable market during the 18th and 19th centuries. A post office helped give it status, along with the several general stores that have operated throughout its history and the introduction of the canning industry. And like most settlements on the Delmarva Peninsula, agriculture drove the local economy, and Allen residents have found fame over the years with strawberries, apple and peach orchards, tomatoes, and especially string beans.

The Asbury Methodist Church is another important Allen institution. Founded in 1829, the present sanctuary was built by local carpenter Caleb Twilley in 1848. In 1999, the church was placed on the National Register of Historic Places. The first African-American

church, formed in 1864 as a community of freed slaves led by Roger Dutton and Rufus Fields, settled in the area. The county provided a public school for the African-American community in the 1870s.

Of course, it is people, not buildings, that really form a community, and the people of Allen have been clearly successful in that regard. Without local family heroes—the Breretons, the Allens, the Pollitts, the Messicks, the Huffingtons, the Twilleys, the Polks, the Duttons, the Fields, and the Malones, to name but a few—Allen surely couldn't have survived its 300 years.

The people of Allen not only helped to develop a thriving village, but also shared their talents with greater Maryland. From within Allen's boundaries have grown community and regional leaders, sports heroes, and successful business entrepreneurs; Allen's people have served Maryland for centuries. In fact, Allen's citizens began establishing and building a community before the birth of the United States.

Allen is a true American village. It represents community, tradition, heritage and permanence. Peppered with historic buildings, Allen's pride in its history is evident, a history I honor today. Allen, however, is much more than its history; it is a thriving residential village with strong leadership and an active community. Contributing to the strength of Allen's community spirit are the Lion's Club, the Allen Volunteer Fire Company, the Allen Historical Society and the Asbury and Friendship United Methodist Churches. These organizations preserve history while moving Allen forward into its fourth century.

Allen is certainly one of Maryland's hidden treasures, so please join me in recognizing and celebrating the history of Maryland's charming Village of Allen in this it's 300th year.

#### CLARENCE SURGEON: A POINT OF LIGHT FOR ALL AMERICANS

##### HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. OWENS. Mr. Speaker, I am proud to salute Clarence M. Surgeon who will be honored on Saturday, July 27th for his past service to his country and the community; and for his continuing activism on behalf of worthwhile causes. Mr. Surgeon is a POINT-OF-LIGHT for all Americans.

Clarence M. Surgeon had a distinguished 39-year career with the New York Police Department. He was appointed to the force in April 1955 as a Police Officer and rose to the rank of Detective 1st Grade. Clarence has received many citations for excellence in the performance of his duties. He is a native of Brooklyn, New York, still residing in the neighborhood of his youth. He is one of five children of Bessie and Lesline Surgeon. His siblings are Lesline Ethel, Aubrey and Winifred. He was married to the late Helen Mayfield. He honorably served in the United States Army during the Korean War and rose to the rank of Sergeant First Class. He was discharged from the Army in 1953 after two years of service. He is an accomplished pilot and enjoys membership in the Negro Airmen International.

In 1979 Clarence earned a Masters Degree in Public Administration from Long Island University, NY. He is a member of the National Honor Society for Public Affairs and Administration (PI Alpha Alpha). As a student in pursuit of his bachelors degree at John Jay College of Criminal Justice, Clarence had the opportunity to go abroad to study and patrol with the London Police Department. In high school he was a football player and earned recognition for his athletic ability. Upon entering the criminal justice profession, Clarence continued to exhibit his tenacious ability, now as a criminal investigator. He successfully completed the Criminal Investigator's Course commanded by the Federal Bureau of Investigation. He served as a Commander of the Confidential Investigation Unit and was responsible for the development of documentation designed to prevent internal theft from various state and local revenue collecting agencies; and represented the NYPD as a criminal investigator in many federal, state and city inter-agency investigations. His knowledge as a criminal investigator qualified him to lecture on behalf of the NYPD in various cities such as Atlanta, Boston and Washington, D.C. His civic activities include: serving as a marshal at the March on Washington, August 28, 1963; representing the Cerberian Society (Now the New York City Police Guardians) standing alongside Dr. Martin Luther King Jr. at the Lincoln Memorial, as he delivered his now famous "I Have A Dream" speech. In 1983, he founded and served as Director of the Guardian Association and Anti-drug program located in Community School District 16, (Bedford-Stuyvesant). In 1985 Clarence founded and coordinated the National Black Police Association and the Grand Council of Guardians-NYPD Inquiry Panel. The panel was formulated to review procedures used by the city to hire minority candidates to the position of police officer. In his community, he is an activist involved in all aspects of service to improve the quality of life for his neighbors. He is a member of the Black Community Council of Crown Heights; the Steering Committee for the 11th Congressional District; President of the 100 Men for Congressman Major Owens; a member of the Vanguard Independent Democratic Association and the NAACP. For youths of the community, one of his activities included Founder and Commissioner of the Interborough Youth Sports Complex which included approximately 1100 youths in the tri-state area. Other organizational affiliations include: National Black Police Association (NBPA) Northeast Region; Past Chairperson and Past Vice-chairperson; Transit Guardians, NY—Past Secretary, Recording Secretary and Sergeant-at-Arms; Grand Council of Guardians, NY—Historian. Clarence was affiliated with the National Conference of Black Lawyers.

Clarence states: His main purpose is to fight for the rights of Black people, keeping in mind, "now is the time tomorrow is not promised."

We particularly salute Clarence Surgeon for his continuing volunteer activities despite a series of personal hardships. After enduring several serious operations and experiencing the death of his wife, Clarence has returned to the arena to continue working for the less fortunate and the community. For being a great role model for unselfish dedication we are proud to salute Clarence M. Surgeon as a POINT-OF-LIFE for all Americans.

#### HONORING THE LIFE OF TIMOTHY WHITE

##### HON. MARY BONO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mrs. BONO. Mr. Speaker, I rise today in remembrance of Timothy White, a man whose legacy will remain strong both here on Capitol Hill and in the music industry. Tragically, Tim passed away recently at an age and time of life when he was at the height of his abilities and influence.

In his years as Editor in Chief of Billboard Magazine, Tim's innovative work greatly impacted the arena of music media. His passion for music and artists was evident in his writing for Billboard, but it was not enough for Tim to express his boundless passion through written words alone. Tim demonstrated his unparalleled commitment to the music world by championing the rights of musicians on Capitol Hill. I consider myself fortunate to have known Tim; he deeply impressed me with his tireless spirit and concern for the protection of artists' rights.

Tim's commitment to the First Amendment freedom of speech, and intellectual property copyright protection for artists was absolute. He skillfully and passionately advocated on behalf of his fellow artists, even if it was at the expense of his own career opportunities. John Mellencamp said it well when he remarked, "With the passing of Timothy White, rock'n'roll no longer has a conscience." We will remember Tim for his dedication to his cause, and for the integrity of his advocacy.

The recording artist Sting has accurately described Tim as being "known, loved, and admired for his conscience, his courage, and his loyalty," and this sentiment is shared by all that were touched by his work. Timothy White will be missed, but the memory of his strong integrity and passion continue to inspire.

#### HONORING BILL LAIRD FOR HIS COMMITMENT TO YOUTH

##### HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. GORDON. Mr. Speaker, I rise to speak today about a distinguished member of my district who is being honored by an organization that has had an immeasurable impact on America. Bill Laird, a retired employee of Willis Corroon, is Junior Achievement's National Middle School Volunteer of the Year.

He has volunteered for nine years and taught 25 JA classes in that time. Mr. Laird always goes above and beyond his classroom duties, using his work and life experiences as a way to educate young people about business, economics and the free-enterprise system.

The history of Junior Achievement is a true testament to the indelible human spirit and American ingenuity. Junior Achievement was founded in 1919 as a collection of small, after school business clubs for students in Springfield, Massachusetts.

Today, through the efforts of more than 100,000 volunteers in classrooms all over

America, Junior Achievement reaches more than four million students in grades K–12 per year. JA International takes the free enterprise message of hope and opportunity even further to nearly two million students in 113 countries. Junior Achievement has been an influential part of many of today's successful entrepreneurs and business leaders. Junior Achievement's success is truly the story of America—the fact that one idea can influence and benefit many lives.

Mr. Speaker, I wish to extend my heartfelt congratulations to Bill Laird of Franklin for his outstanding service to Junior Achievement and the students of Tennessee. I am proud to have him as a constituent and congratulate him on his distinguished accomplishment.

#### TRIBUTE TO CONGRESSMAN TONY HALL

#### HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. HINOJOSA. Mr. Speaker, I am honored to join my colleagues in paying tribute to my good friend, TONY HALL.

When I heard the news that TONY had been selected to become the U.S. Ambassador to the United Nations Food and Agriculture Organization, I immediately thought that there could be no one more qualified for this job. TONY's passion for improving nutrition and ending hunger and homelessness is legendary. He not only talks tirelessly about the need to solve the problems of hunger, but he also acts on his beliefs. He has led hunger fasts and countless vigils to bring national attention to the needs of the homeless and the hungry. He has traveled repeatedly to developing countries to see first-hand the ravages of hunger and provide his excellent counsel to governments trying to deal with this enormous problem.

I have been proud to work with TONY on issues of child nutrition and today, largely due to his efforts, every child in this country gets at least one nutritional meal through their school. With the expansion of the School breakfast program, thousands of children now receive two meals. I will sorely miss his advice and counsel, but know he is moving on to even greater things. The United Nations will give him a global forum to continue his mission of bringing real help to those in need.

TONY, God speed and good luck.

#### PROPOSAL FOR THE "CESAR CHAVEZ POST OFFICE" IN SAN DIEGO, CA

#### HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. FILNER. Mr. Speaker, I rise today to introduce legislation (H.R. 5256) to rename the Southeastern Post Office, in San Diego, California, the "Cesar E. Chavez Post Office."

In San Diego, as well as across the Nation, the name Cesar Chavez symbolizes dignity, admiration, and devotion to equality and human rights.

This man dedicated his life to ameliorating human rights in our country. In the 50s and 60s, when minorities were given little to no respect or rights, Cesar Chavez cleared the path for equality.

In the early 50s, after fighting in World War II, Chavez began his involvement in battling racial and economic discrimination against Chicanos. His passion and commitment to this cause led him to serve as the national director of the Community Service Organization. But as his attention and personal interest focused on the poor working conditions of farm workers, he realized that his dream was to start an organization to aid these workers.

Having been a farm worker himself, he was far too familiar with the inhumane working conditions farm workers were forced to endure. And in the early 60s, he founded the National Farm Workers Association. As the National Farm Workers Association started to gain support, he started organizing peaceful demonstrations to bring attention to the farm worker's conditions. His slogan, *Si Se Puede!*, Yes, We Can!, became known worldwide.

National attention to the farm worker strikes came in 1968 when Senator Robert Kennedy visited Cesar Chavez in California after Chavez lead a 25 day fast. Kennedy was right when he called Cesar "one of the heroic figures of our time."

Cesar continued to organize boycotts and strikes around the world against table grape growers in California. His efforts paid off in the 70s when legislation to help agricultural workers was established.

Cesar Chavez is remembered today for his continual efforts and dedication to justice and equality. As Cesar said, "There are many reasons for why a man does what he does. To be himself he must be able to give it all. If a leader cannot give it all, he cannot expect his people to give anything." The people of San Diego thank Cesar Chavez for Always giving his all.

I urge my colleagues to support H.R. 5256—legislation that recognizes such an honorable man!

#### RESOLUTION PAYING TRIBUTE TO MR. OTIS LEAVILL COBB

#### HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. DAVIS of Illinois. Mr. Speaker, Otis Leavill was a friend of mine and a man that I admired and greatly respected. He was known to his fans for his smooth tenor voice, but Otis' greatest gift was his ability to simply be himself and in spite of fame as an entertainer and producer, he lived in what we fondly call the hood, the Garfield Park Community, and he was instrumental in helping a number of younger artists launch and develop their own careers.

Otis Leavill Cobb, was born in Dewey Rose, GA. He arrived in Chicago as a youngster with his family. He lived on the westside, where his father was a minister and he and his siblings sang in a gospel group. By the late 50's and early sixties, Mr. Leavill Cobb was making his own mark, singing new R&B music under the name Otis Leavill, with a gospel feel. He was one of the people who put Chicago on the

map in the soul music industry said W.L. Lilliard a television talk show host/producer and businessman, as well as a close friend of Mr. Leavill's.

Bob Pruter, the author of the book, "Chicago Soul," said, when I was doing research for my book, I went to him because he knew everybody,

Mr. (Leavill) Cobb wrote dozens of songs, and gained National attention in 1964 for singing, "Let her Love Me," written by Billy Butler and produced by Major Lance, himself a noted recording artist. Two other singles, "I Love You," and "Love Uprising," made National charts.

Mr. Leavill simply loved people and was happy to work behind the scenes, often teaming up with Carl Davis, Gus Redmond, W.L. Lilliard and other "homeboys" to make things happen. He was also an avid fan of gospel music and the church. He was sort of a folk hero and loved by his community. Mr. Cobb was a police officer in Maywood, and owned his own business.

We extend best wishes to his family, wife, Minnie; his daughter, a son, Derrick, a sister, Evelyn Williams; three brothers, Maurice, Kenneth and Billie; and a granddaughter.

Otis Leavill Cobb, a good entertainer, a Great American.

#### PERSONAL EXPLANATION

#### HON. MARK R. KENNEDY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. KENNEDY of Minnesota. Mr. Speaker, on rollcall No. 349 I was at a meeting in the Capitol basement and did not hear the bells. Had I been present, I would have voted aye.

#### TRIBUTE TO JANELLE GARCIA

#### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. UDALL. Mr. Speaker, I rise today to extend my deep appreciation for the hard work and professionalism of Janelle Garcia, a member of my staff, and to wish her the very best in all of her future endeavors.

Janelle has been my district scheduler since January 2001. She will be leaving my office in August to work with the Colorado State Fair. Still a young woman, Janelle Garcia has already established a formidable career in public service. Before coming to my office, she worked as the Program Administrator in the Governor's Office of Economic Development and International Trade. She has worked for the Colorado Tourism Board, Colorado Ski Country USA and was the scheduler for Colorado's former Governor, Roy Romer.

Scheduling a member of Congress can be an extraordinarily challenging job. In my case, I am aware that my staff "fondly" refers to the phenomenon of "Udall time." While I am not sure it really exists, I have heard "Udall time" is different from normal time by not running at an even rate. In fact, I have heard it described as being characterized by fits and starts so erratic they would baffle even the most accomplished physicist. In any event, Janelle always

was able to make any necessary adjustments to keep the ship running smoothly.

I speak for everyone on my staff when I say that I hold a deep respect and admiration for Janelle, as a professional and as a human being. The quiet strength and grace with which she has faced incredibly challenging times is something for which we are all very proud. Even in the depths of her deepest struggles, she never lost her spirit, integrity and professionalism. She has made a deep and lasting impression on each of us. Her caring heart and infectious laugh will be dearly missed.

I would like to personally thank Janelle on behalf of my family and myself. Janelle has worked with extraordinary effectiveness and patience to ensure that the demands of my service don't come at the expense of my family.

I ask my colleagues to join me in honoring Janelle Garcia today. All of my best thoughts are with her and her daughters as they open this next chapter in their lives.

#### INTRODUCING LEGISLATION TO PROVIDE HEALTH CARE COV- ERAGE AND FOOD STAMPS TO THE UNEMPLOYED

**HON. PATSY T. MINK**

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mrs. MINK of Hawaii. Mr. Speaker, today I introduce legislation to provide health care insurance and food stamp benefits to the unemployed.

There are 8.4 million unemployed Americans. These Americans live week to week by depleting their savings and relying on meager unemployment compensation payments. They live in fear of emergencies that could send themselves, or one of their children, to a hospital. In this desperate situation, how can a family pay for health insurance, which costs an average of \$4,358 per year?

To help these people through a difficult period in their life, I am introducing legislation to provide health care and food stamp benefits to the unemployed.

Most people who receive unemployment compensation cannot obtain food stamps. The food stamp program treats unemployment compensation as "income" even though the unemployed are not really earning income. To prevent the wealthy from abusing this benefit, the bill retains the food stamp asset test. The asset test prevents people with large savings, stocks, etc. from receiving food stamps. To receive food stamps an eligible household's liquid assets may not exceed \$2,000. This asset test excludes the value of a residence, business assets, household belongings, and certain other resources.

The bill provides a subsidy to cover laid-off workers' COBRA premiums. The COBRA program will allow individuals to continue to use the insurance plans they know and trust. For unemployed workers who do not qualify for COBRA, the bill includes language to provide Medicaid coverage for the uninsured and their spouses and dependents.

I urge my colleagues to cosponsor this legislation and provide a helping hand to unemployed workers.

#### TRIBUTE TO REPRESENTATIVE TONY HALL

**HON. MARK UDALL**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. UDALL of Colorado. Mr. Speaker, as a junior Member of Congress, I have not known TONY HALL nearly as long as many of our colleagues who have spoken with such eloquence of his accomplishments and his record as a leader in the fight against hunger.

But even in the brief time I have known him, I have been greatly impressed with his deep commitment to trying to make life better for people throughout the world. And I have also greatly appreciated the way he has helped me to do a better job in representing my constituents and to be a better and more effective Member of the House of Representatives.

In particular, I have benefited from his co-operation and assistance with my efforts to expedite the cleanup and closure of Rocky Flats—a former DOE nuclear-weapons site in my District—and to assist the people who work there to make the transition to new careers or secure retirement. Because of his own first-hand experience with a site in his District, Tony understood the challenges and opportunities at Rocky Flats. And because of his generosity and readiness to help, great progress has been made in meeting those challenges and making the most of those opportunities.

So, Mr. Speaker, I want to join our colleagues in praising TONY HALL for his leadership and breadth of vision and in wishing him every success in the important new duties he will be assuming. And I also want to add a personal note of thanks and to say that I deeply respect him and am very glad to have had the chance to benefit from our brief time together here in the House of Representatives.

#### PROVIDING FOR CONSIDERATION OF H.R. 5005, HOMELAND SEC- URITY ACT OF 2002

SPEECH OF

**HON. RON PAUL**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 25, 2002*

Mr. PAUL. Mr. Speaker, I do not oppose this rule because I would like to consider this important issue, but I am very concerned with the process of bringing this legislation before this body.

Mr. Speaker, since we began looking at proposals here in the House of Representatives, more questions have arisen than have been answered. We have put this legislation on a "fast track" to passage, primarily for reasons of public relations, and hence have short-circuited the deliberative process. It has been argued that the reason for haste is the seriousness of the issue, but frankly I have always held that the more serious the issue is, the more deliberative we here ought to be.

Instead of a carefully crafted product of meaningful deliberations, I fear we are once again about to pass a hastily drafted bill in order to appear that we are "doing some-

thing." Over the past several months, Congress has passed a number of hastily crafted measures that do little, if anything, to enhance the security of the American people. Instead, these measures grow the size of the Federal Government, erode constitutional liberties, and endanger our economy by increasing the federal deficit and raiding the social security trust fund. The American people would be better served if we gave the question of how to enhance security from international terrorism the serious consideration it deserves rather than blindly expanding the Federal Government. Congress should also consider whether our hyper-interventionist foreign policy really benefits the American people.

Serious and substantive questions about this reorganization have been raised. Many of these questions have yet to be resolved. Just because a bill has been reported from the Select Committee does not mean that a consensus exists. Indeed, even a couple of days before consideration, this bill it was impossible to get access to the legislation in the form introduced in the committee, let alone as amended by the committee.

In the course of just one week, the President's original 52-page proposal swelled to 232 pages, with most members, including myself, unable to review the greatly expanded bill. While I know that some of those additions are positive, such as Mr. ARMEY's amendments to protect the privacy of American citizens, it is impossible to fully explore the implications of this, the largest departmental reorganization in the history of our Federal Government, without sufficient time to review the bill. This is especially the case in light of the fact that a number of the recommendations of the standing committees were not incorporated in the legislation, thus limiting our ability to understand how our constituents will be affected by this legislation.

I have attempted to be a constructive part of this very important process. From my seat on the House International Relations Committee I introduced amendments that would do something concrete to better secure our homeland. Unfortunately, my amendments were not adopted in the form I offered them. Why? Was it because they did not deal substantively with the issues at hand? Was it because they addressed concerns other than those this new department should address? No, amazingly I was told that my amendments were too "substantive." My amendments would have made it impossible for more people similar to those who hijacked those aircraft to get into our country. They would have denied certain visas and identified Saudi Arabia as a key problem in our attempt to deal with terrorism. Those ideas were deemed too controversial, so they are not included in this bill.

I also introduced four amendments to the bill itself, including those that would prohibit a national identification card, that would prohibit the secretary of this new department from moving money to other agencies and departments without congressional oversight, that would deny student visas to nationals of Saudi Arabia, and that would deny student and diversity visas to nationals from terrorist-sponsoring countries. All of these amendments, which would have addressed some of the real issues of our security, were rejected. They were not even allowed onto the floor for a debate. This is yet more evidence of the failure of this process.



## HOMELAND SECURITY ACT OF 2002

SPEECH OF

**HON. SAXBY CHAMBLISS**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 25, 2002*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 5005) to establish the Department of Homeland Security, and for other purposes:

Mr. CHAMBLISS. Mr. Chairman, the Federal Law Enforcement Training Center in Glynco, Georgia, provides critical training for a range of federal law enforcement personnel as well as state, local, foreign, and private sector security personnel. I want to associate myself with the remarks of my colleague from Georgia, Mr. KINGSTON, who has so effectively lead the effort to ensure that FLETC has adequate resources and support to continue to do its job so well.

In the war on terrorism, FLETC's role will become even more important. Training at the center has grown significantly since it first opened in 1970 and now serves the training needs of over 70 federal agencies in all three branches of government with 25 thousand graduates annually. The proposal we are discussing today will put nine law enforcement and security functions in the Department of Homeland Security. FLETC trains security personnel in each of these agencies and through its well-established network offers a unique training resource to all levels of federal, state, and local law enforcement. Newer roles for FLETC include training our air marshals and, hopefully, our pilots to provide an additional layer of aviation security.

I strongly support the Kingston amendment. We need to ensure that we have a robust law enforcement and security force that can effectively provide security for our nation. The men and women who conduct this critical training at FLETC are an integral part of our national security. While the bill transfers FLETC to the Department of Justice, this important amendment will ensure that we minimize the impact to its operations as much as possible and allow the important work taking place at FLETC to continue. I hope that my colleagues will join us in doing all we can to enhance the ability of FLETC to quickly and flexibly respond to the new training demands of the war on terrorism.

## HONORING THE FOUNTAIN OF PRAISE

**HON. KEN BENTSEN**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. BENTSEN. Mr. Speaker, I rise to congratulate the members of the congregation of the Fountain of Praise, of the South Post Oak Baptist Church in Houston, Texas, for celebrating the dedication of their new church facility on July 28, 2002. The Fountain of Praise family has been a pillar of the community, effectively ministering to its members for more than four decades.

South Post Oak Baptist Church was organized October 4, 1959 as a separate entity of

Almeda Baptist Church and was incorporated in 1961. From its humble beginnings, the church has been a viable point of spiritual reference for the community. Under the leadership of Rev. Remus E. Wright, the membership of the church has grown rapidly, from 300 in 1991 to more than 6,500 members in eleven years, making it the fastest growing church in southwest Texas.

In 1998, South Post Oak Baptist Church purchased 19 acres of land in preparation of their next phase of ministry. The new facility will accommodate more than 2,400 parishioners per service and will host a number of programs aimed at developing a strong spiritual foundation for its members and visiting guests.

In 2000, the members of South Post Oak adopted the name, the Foundation of Praise as a reflection of their commitment to God and their love of worship. The Church's focus has been on building stronger the families; the responsibilities of men; fulfilling the needs of our senior citizens; and uplifting youth. The Foundation of Praise is a catalytic force, which seeks to empower both its members and the surrounding community through numerous ministries, and community service projects, such as, capital improvement projects, food drives, and neighborhood cleanups. In the wake of one of Texas' most devastating natural disasters, the Fountain of Praise family opened its doors to their neighbors who fell victim to Tropical Storm Allison. Without hesitation they allowed the church facilities to become a satellite office of the Federal Emergency Management Agency to ensure that area residents devastated by the event could get the relief they needed. Other times the church has opened its doors for the community's use such as the many town hall meetings my office has conducted. The tremendous strength of Rev. Wright and South Post Oak's leadership over the years is a testimony to the success of their efforts to address the needs of the congregation and surrounding community.

Mr. Speaker, it has been said that a congregation is only as effective as its leader, the Foundation of Praise serves as a symbol of strength in the Greater Houston community, under the leadership of Rev. Remus Wright. Rev. Wright has proven to be one of the most dynamic young preachers in Houston, who will leave a long legacy in the development of Southwest Houston in the name of his congregation and his faith. Since its beginnings four decades ago through the last 10 years of unprecedented growth, the Fountain of Praise should be commended for its dedication to God and commitment to the needs of its congregation and surrounding community.

## CELEBRATING THE 12TH YEAR OF THE ADA

**HON. CONSTANCE A. MORELLA**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. MORELLA. Mr. Speaker, today Americans throughout the country will celebrate the 12th anniversary of the Americans with Disabilities Act (ADA). The landmark 1990 civil rights law for people with disabilities.

The disability community will come together in our Nation's Capital to pay tribute and cele-

brate the life of Justin Dart Jr., one of the fathers of the ADA. Justin Dart passed away on June 22nd at the age of 71.

As founder and Co-chair of the Bipartisan Disabilities Caucus this celebration of the ADA makes me proud to be an American. It was one of my proudest moments as a Member of the U.S. Congress to be at the White House 12 years ago and see President Bush sign the ADA into law.

President Bush said it best at the signing of ADA, he said:

"This Act is powerful in its simplicity. It will ensure that people with disabilities are given the basic guarantees for which they have worked so long and so hard. Independence, freedom of choice, control of their lives, the opportunity to blend fully and equally into the right mosaic of the American mainstream."

It was a defining moment to hear President Bush proclaim "I now lift my pen to sign the Americans with Disabilities Act and say, let the shameful wall of exclusion finally come tumbling down".

Justin Dart was right by the President's side.

Mr. Speaker, Justin Dart Jr. was an activist who for more than three decades worked to champion the cause of people with disabilities. For his tireless efforts, In 1998 Justin Dart was awarded the Presidential Medal of Freedom.

I believe that it is only fitting that Congress honor this civil rights activist with the Congressional Gold Medal, this is why I have introduced H.R. 5188.

Let Congress, too, celebrate the life and death of Justin Dart; let Congress reaffirm its commitment to the civil rights of all Americans with disabilities, by honoring this true American hero with the Congressional Gold Medal, and I urge my colleagues to cosponsor H.R. 5188.

A WARRIOR IS GONE, BUT STILL LIVES: A TRIBUTE TO JUDGE CARL WALKER, JR.

**HON. SHEILA JACKSON-LEE**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am touched and honored to have the opportunity to be on the floor today to celebrate and remember the life of Judge Carl Walker, Jr. of my hometown Houston, Texas. Judge Walker, Jr. passed away last week, leaving behind a loving wife and a host of bereaved relatives and friends. We have all lost enormously with the passing of this great warrior in the struggle for justice. Through his example, he exalted all of us to be unrelenting as we strive for excellence, justice, and fairness.

I knew Judge Walker very well and admired his dedication and perseverance in the face of great odds. It brought me great sadness to hear of his death. I stand before you today to give public acknowledgement and offer a heartfelt commemoration of the achievements of this eloquent, fearless and peerless man.

Carl Walker, Jr. was born in Marlin Falls County, Texas. After graduating from Booker T. Washington High School in Houston, TX, he was drafted into the U.S. Army Air Force in 1943. He received an honorable discharge in 1946, and used his G.I. Bill to enter Texas

Southern University where he earned a Bachelor of Science degree and later earned a Master's degree in economics in 1952.

His pinnacle academic achievement came when he earned a law degree from the Thurgood Marshall School of Law, at Texas Southern University.

This degree led him to blaze the trail and knock down doors for those of us who would follow. His law degree allowed him to become an Assistant U.S. Attorney appointed by Attorney General Robert F. Kennedy. Marking yet another first, Judge Walker was the first African-American U.S. Attorney for the Southern District of Texas.

When not busy upholding the law, the Honorable Carl Walker, Jr. was involved in a number of civic and religious organizations in Houston, Texas.

He held positions with the Civic League, Eldorado Social Club, and the South Central YMCA Board of Managers. Mr. Walker served as President of the Harris County Council of Organizations, the Houston Chapter of the U.S.O., the Texas Southern University Alumni and Ex-Students Associations, and the Houston Business and Professional Men's Club. He also served on the board of directors of the American Red Cross.

He had a number of professional affiliations including the United States Supreme Court, the Houston Bar Association, the State Bar of Texas, the Texas Bar Foundation, the United States Tax Court, Federal Bar Association, Fifth Circuit of Appeals, and the Texas Judicial Association.

I was humbled by an invitation to give a special tribute to Carl Walker, Jr. at his passing. I hold our men and women who have used their lives to better our country in the highest regard and take great pride in commemorating the extraordinary life of the Honorable Carl Walker Jr. It is because of Carl Walker's good works that not only the Congressional District but all of Houston and America could have an improved quality of life. He was a tremendous moral force who will be sorely missed as we look to his example in the struggle for justice and integrity in our country today.

#### A BILL FOR EXTERNAL REGULATION OF NUCLEAR SAFETY AND OCCUPATIONAL SAFETY AND HEALTH AT DOE

**HON. JERRY F. COSTELLO**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. COSTELLO. Mr. Speaker, I rise today to introduce a bill that provides for the external regulation of nuclear safety and occupational safety and health at the Department of Energy civilian laboratories. This bill, which draws from the work of my friends and colleagues Congressman TIM ROEMER, Congressman KEN CALVERT and former Congressman TOM BLILEY, would push the Department of Energy to take a step that virtually everyone agrees is overdue: get the Department of Energy out of the business of regulating itself in the areas of nuclear and worker safety.

Discussion of external regulation at the labs is an old idea. It received an official boost in 1993 when then Secretary of Energy Hazel

O'Leary announced that she would seek to implement external regulation of worker safety. Then, in 1994, legislation was introduced forcing DOE to stop self regulating their nuclear facilities. DOE responded to these legislative initiatives by launching advisory groups to lay out a path to external regulation. In 1996, DOE embraced a ten-year plan to implement external regulation.

For many outside of the Department, this ten-year plan appeared too cautious. However, to those in the Department, it appeared too ambitious. In 1997, then Secretary Pena decided to take a step away from that commitment and run a 2-year pilot program to determine the costs and benefits of external regulation. With the end of that pilot program, Secretary Pena's successor, Secretary Richardson, decided that external regulation would be unworkable.

Curiously, the two participating regulatory agencies involved in the pilot came to a very different conclusion. Both the Nuclear Regulatory Commission (NRC) and the Occupational Safety and Health Administration (OSHA) concluded the pilot to have been successful. I was the ranking member on the Energy Subcommittee of the Science Committee when the pilot was completed and we had an elaborate hearing on this issue. I came away convinced that while there were some questions about implementation, the overwhelming evidence was that external regulation would provide more safety to workers and communities near labs while allowing the labs themselves to focus more on the science and technology.

It is for this reason that laboratory managers also favor external regulation. They believe that external regulation would free up overhead costs involved in self-regulation and allow them to redirect resources towards doing more science. From the labs' perspectives DOE is an inconstant regulator with changes in standards, reporting requirements, and interventions. The NRC and OSHA are both professional regulatory bodies that provide a clearer regulatory regime with significant cost savings to those subject to their regulatory guidance.

Recently, the Energy and Water Appropriations Subcommittee here in the House has taken a leading role in pushing the Department towards external regulation. Yet, the Department continues to resist external regulation. Just yesterday, the Energy Subcommittee of Science held a hearing in which the Director of the Office of Science said they are moving towards another study of external regulation. They are planning an elaborate study involving OSHA and NRC with preliminary results due next year. After nine years of studying this issue, we already know that external regulation is the right answer; yet, DOE insists that another study is needed.

There is a consensus everywhere outside of DOE that the labs should be subject to external regulation. GAO holds that position. The Labs hold that position. The potential regulators hold that position. I believe the workers, the communities near the labs and the taxpayers all deserve to see this happen sooner rather than later. As a Member of the Science Committee—an authorizing Committee of jurisdiction—this bill is intended as another signal to DOE that foot-dragging and endless studies will not satisfy this Congress.

#### H.R. 3763, THE CORPORATE AND AUDITING ACCOUNTABILITY AND RESPONSIBILITY ACT

SPEECH OF

**HON. TOM UDALL**

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 25, 2002*

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in strong support of the Conference Report on H.R. 3763. I would like to commend the hard work of the conferees on this critically important legislation. The recent string of accounting scandals has badly damaged the confidence of many Americans in our nation's corporations and markets. This legislation is a strong step toward restoring their confidence and stabilizing our nation's economy.

It seems like every day we hear a new story of executives who misled their investors and their workers and stole millions of dollars. These executives are called irresponsible; they are accused of mismanagement or unorthodox business practices. But these corporate leaders aren't unorthodox; they are criminals, plain and simple. They have stolen more money than any thieves I've ever heard of, and their crimes have real victims.

The victims of these corporate crimes are workers, like the workers at Enron who just wanted an honest job with a fair expectation of job security. For all their hard work, these workers got 10 minutes to clear out their desks. In some cases they were even denied their severance packages if they refused to sign documents giving up the right to sue Enron for defrauding them. Defrauding workers and forcing them to give up their legal rights isn't irresponsibility; it is a crime.

Even workers who never had anything to do with Enron were hurt by the collapse of that company. As Enron declared bankruptcy, public employees in 30 states lost anywhere from \$1.5 billion to \$10 billion from their pension plans. Stealing money from public employee pension plans is not irresponsibility; it is a crime.

Even those of us who had absolutely nothing to do with the Enrons or Worldcoms of the world are hurt by corporate crime. The unethical behavior of the executives at Worldcom, which was recently forced to admit it had invented \$3.8 billion in earnings, has had a devastating effect on that company's stock price. But the stock market as a whole has also suffered from the lack of confidence created by widespread corporate abuse. Less than 3 percent of all publicly traded companies misstate their earnings, but this small group casts doubt on the statements of other, more ethical businesses.

A free-market system cannot function if investors do not trust executives, and therefore the crimes of Worldcom and Enron are crimes not only against their stockholders, but against the very system that allowed these companies to flourish.

Even after the collapse of Enron and the exposure of billions in fake earnings at Worldcom, many in Congress were working to protect their corporate patrons from any real accountability. The initial House-passed version of this legislation, sponsored by Mr. OXLEY, did nothing to protect against corporate abuse and bring back public confidence in corporate governance. In some cases, the

bill even would have made it more difficult to enforce auditing regulations. In its most glaring failure, Mr. OXLEY's legislation left the wolf in charge of the henhouse by ensuring that no independent agency had the power to effectively police the internal auditing industry to prevent conflicts of interest and protect investors.

The Senate version of this legislation, however, responded much more effectively than the House leadership to corporate crime. A proposal introduced by Senator PAUL SARBANES for auditing the auditing industry goes much farther than either the sham House bill or the June 20 proposal for revamping the SEC. The Sarbanes bill would create an independent board to oversee accounting practices. It would prohibit accounting firms from destroying documents. Most importantly, the Sarbanes bill would prevent conflicts of interest by preventing auditors from selling other services to the companies they are supposed to be regulating. I wish this House were able to vote up or down on Senator SARBANES' bill.

Fortunately, the House-Senate conference report adopts several key elements of the Senate proposal. The conference agreement, in addition to including the provisions mentioned above, also bars auditors from performing most other services to the same companies they audit, requires corporate officers to reimburse their companies for any bonuses or profits made from stock sales if their misconduct resulted in the firm issuing a revised financial statement. It also generally bars corporations from providing loans to any of its executive officers, just to name a few of the provisions included in the agreement.

While it is not a perfect bill, it is far stronger than the original House bill. The American people want to feel confidence in the market system that has brought so much prosperity. It is our responsibility to fix the system so we can move forward to a time when workers and investors are secure, and corporate crime is a thing of the past. Voting yes on this conference agreement is a step in that direction. I urge my colleague to support this agreement.

#### TRIBUTE TO GOV. JOHN C. WEST

##### 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 the State of South Carolina's 109th Governor, John Carl West, who I am honored to count among my dear friends and of whom I am proud to be a protégé. Born on August 27, 1922, former Governor West will celebrate his 80th Birthday during the upcoming August recess.

John C. West began his public service as a Member of the South Carolina Highway Commission from 1948—1952. In 1955, he was elected to the South Carolina State Senate from Kershaw County where he served for 11 years. His campaign was based entirely on the need for improved health care for the citizens of South Carolina.

In his first statewide election in 1967, Governor West was elected Lieutenant Governor of South Carolina. He held this position until 1971, when he was elected South Carolina's 109th Governor.

Constitutionally limited to one term, Governor West nevertheless made his mark on our State in ways that still benefit us today. Among his many legacies are the integration of the Governor's Executive staff, and creation of the South Carolina Human Affairs Commission, the State's fair employment, fair housing, and affirmative action agency. Both were firsts for a southern state. He also created the South Carolina Housing Finance Authority, which developed pioneering programs in affordable housing.

After his distinguished service as Governor, he reentered the practice of law, but that was short lived. In 1977 President Jimmy Carter appointed him United States Ambassador to Saudi Arabia. His distinguished service as an Ambassador stretched from 1977—1981.

Mr. Speaker, on August 24, 2002, Governor West's wife Lois and their children have invited other family members and friends to join them in celebration of the Governor's 80th Birthday. My family and I look forward to joining them on that occasion, and I ask you and my colleagues to join me in wishing him good luck, Godspeed, and a very Happy 80th Birthday.

#### HONORING SKIPPER LEE FRAZIER

##### HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. BENTSEN. Mr. Speaker, I rise in honor of Skipper Lee Frazier as he celebrates his 75th birthday and 45 years in gospel radio. In recognition of Mr. Frazier, Windsor Village United Methodist Church will be hosting a "Roast and Toast," on July 29, 2002.

An accomplished businessman, radio personality, and dedicated community advocate, Skipper Lee Frazier has touched the lives of many Houstonians.

Born in Magnolia Springs, Texas, Skipper Lee Frazier has dedicated his life to building a successful career in radio, while embarking on a number of business ventures. Mr. Frazier began his radio career at KYOK, where he served as a part time disc Jockey while hosting record hops and talent shows. After his tenure at KYOK, Mr. Frazier's love for music and radio led him to KCOH, where he first brought Houston the "Mountain of Soul," becoming the trademark personality that effect the lives of many. His career in radio helped propel him into the record industry, where he distinguished himself as a manager and promotor of local talent. He promoted and managed the careers of such artists as The Masters of Soul, Mark Putney, Conrad Johnson, Beau Williams, and Sugar Bear. During that time, Mr. Frazier also managed two groups that brought him and the city of Houston national acclaim, Archie Bell and the Drellis and the TSU Tornadoes. Their big hit was the popular dance tune "Tighten Up," which was written by Mr. Frazier.

Throughout his involvement in the music industry, Skipper Lee earned the opportunity to promote shows for such legendary artists as James Brown, B.B. King, Wes Montgomery, and the O'Jays. With Mr. Frazier's efforts, the Kool Jazz Festival, presented in cities throughout the country, proved a resounding success.

During his earlier years, Mr. Frazier employed a tremendous sense of determination

and drive to succeed, often working more than one job in his quest for success. His remarkable efforts and strong will have paid off, in the Eternal Rest Funeral Home he owns and manages with his son. While the funeral business is incredibly difficult, Mr. Frazier's business brings great comfort and ease to families in their time of need. The fact that many families have returned to Mr. Frazier's business when the need arose testifies to the strong sense of confidence his community has in him and his business.

Mr. Speaker, I am pleased to join Windsor Village Methodist Church, Skipper Lee Frazier's family and friends, and all those he has inspired in honoring him on the occasion of her 75th birthday and commending him on his 45 years in radio. May the coming years bring good health, happiness, and prosperity.

#### BEST WISHES TO REP. TONY HALL

##### HON. BRIAN BAIRD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. BAIRD. Mr. Speaker, it is a privilege to honor my colleague, Representative Tony Hall, as he embarks on a new path in a long journey. Ambassador Hall has worked diligently for years to curtail the hunger that plagues the people of our country and the world. Hunger is an evil that strikes at the very core of our needs as human beings. Its causes must be addressed and suffering eradicated.

My wife, Dr. Rachel Nugent, has worked with the United Nations Food and Agricultural Organization. We both believe that Ambassador Hall will be an outstanding ambassador on behalf of the United States. His perspective and experience will complement the UN food and agriculture organization and help them to carry on the difficult work of alleviating hunger and promoting justice.

I wish Ambassador Hall much continued success in his new position and know that he will bring relief and comfort to those in need. It has been an honor to serve with him in this body. His example and selflessness will remain with me throughout my tenure and beyond.

#### CORPORATE RESPONSIBILITY

SPEECH OF

##### HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 25, 2002*

Ms. JUANITA MILLENDER-McDONALD. Mr. Speaker, I rise in support of the conference report, in support of H.R. 3763, and most importantly in support of all those investors, employees, and retirees who have fallen victim to the criminal acts of corporate wrongdoers. This report not only agrees with, but also adds to the preventions and penalties that would be put in place by the Senate passed legislation. We in the Congress must take the lead on this issue and protect the everyday citizens who have been duped by corporations and their managers, through manipulation of the equity markets, into believing

that their welfare and their life savings are in good hands.

Corporate Responsibility Standards need to be mapped out so that a universal code of conduct is in place to penalize those who have committed these crimes, and prevent others from following in their footsteps.

The quick and accurate disclosure of financial information is needed to close the loopholes that have allowed these manipulations to occur.

The re-authorization of the monies needed to reinforce the job already being done by the SEC is critical to insure that its enforcement and investigation capabilities are top of the line.

This bill sets the tone for all of these initiatives to be accomplished and to put an end to the manipulation of finances, and the greed driven practices of those who can only be described as common criminals.

#### TRIBUTE TO AN AMERICAN PATRIOT

#### HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise this evening to pay special tribute to one of the finest public servants in the history of Pennsylvania politics.

I was deeply saddened to learn that the Dean of the Pennsylvania Senate and my State's longest serving member, Senator Clarence Bell, passed away today at the age of 88.

Senator Bell, a tireless advocate for his constituency and working families across Pennsylvania will be fondly remembered and sorely missed.

Senator Bell served a total of 48 years in the Pennsylvania legislature. First serving in the Pennsylvania House Representatives in 1954, Clarence Bell was elected to serve as a Senator in 1961. Serving under 11 Governors, Senator Bell served as a member of the Appropriations, Rules, Transportation, State Government Committee, Military and Veterans Affairs Committee and most recently Chairman of the Senate Consumer Protection and Professional Licensure Committee and the chairman of the Joint Legislative Budget and Finance Committee.

Senator Bell led the effort to construct the Commodore Barry Bridge spanning the Delaware river and connecting Pennsylvania and New Jersey. However, the Senator took the most pride in his unyielding desire to remain in touch with each of his constituents—he always referred to them as his “neighbors”. The Senator personally signed each piece of mail answering his “neighbors” questions or addressing their concerns, congratulating them on their graduations or additions to their families. Throughout his career he also personally wrote a weekly newsletter. A man of incredible energy and determination, Senator Bell chaired a committee hearing as recent as this past Tuesday.

Before his career as a politician in Harrisburg, Clarence Bell served for five-and-a-half years in active duty in World War II and was also a Major General in the Pennsylvania National Guard. Senator Bell served a total of 38 years in the military.

Born in Upland, Pennsylvania in 1914, Senator Bell attended and graduated from Swarthmore College and Harvard Law School, Senator Bell's constituency in the 9th Senatorial District encompassed portions of Delaware and Chester Counties. Throughout his career Clarence Bell was a visible and accessible legislator that was responsive and approachable to those he served.

A member of numerous professional and service organizations, Senator Bell was regularly recognized by these organizations and countless others that valued his input and leadership during his life as a public citizen.

A dedicated husband, father of two children, grandfather and great-grandparent three times over, I call upon my colleagues to recognize the unselfish commitment to public service that Clarence Bell possessed. I would also like to extend my deepest sympathies to the Bell family, especially his wife Mary James, his friends, staff and the residents of the 9th Senatorial District. We have lost a true champion in Harrisburg, however, Pennsylvania is a better place thanks to the extraordinary life and wisdom of Clarence Bell.

#### COMMENDING JOHN REYNOLDS ON HIS RETIREMENT FROM THE NA- TIONAL PARK SERVICE

#### HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Ms. PELOSI. Mr. Speaker, I rise today to express my deep appreciation for the work of Mr. John Reynolds, regional director for the western region of the National Park Service, Region IX.

With John's retirement on August 3, the national parks will lose a dedicated, innovative leader.

John Reynolds has devoted his entire career to our national parks, joining the park service while still a student in 1961 and rising through the ranks to become director of the Pacific West Region in 1997. In this position, he held responsibility for 56 national parks in Hawaii, Idaho, Nevada, Oregon, Washington and the islands of the outer Pacific. These parks include many of our country's greatest natural and cultural treasures—majestic redwood groves, active volcanoes, historic ships and forts, sweeping seashores, and mountains and valleys of stunning beauty.

John's contributions to the national parks, and especially the western region, have been myriad. He has actively promoted new and innovative ideas, and has fostered unique and creative problem-solving in the parks under his jurisdiction. He has done so much to bring the national parks to the people, especially in urban areas.

He has served as a calming and effective presence in dealing with controversies over park stewardship. He has always worked to achieve balance among the many purposes and uses of national parks, while first and foremost remaining dedicated to preserving the parks for future generations.

I wish to give John heartfelt thanks, on behalf of my constituents in San Francisco, for his oversight of the Golden Gate National Recreation Area, his support for the San Francisco Maritime National Historical Park and the

historic ships, and his crucial role in establishing the Presidio as a new national park.

In its spectacular location at the Golden Gate, the Presidio is one of America's great natural and historic sites. As general manager of the Presidio from November 1996 to May 1997, John stepped up to the plate at the beginning of its transition from Army base to national park. Subsequently, as regional director, he provided steady support and guidance for the Presidio as it continued to develop in its unique role as the only national park required to become fully self-supporting.

John was born in Yosemite National Park, so perhaps it was inevitable that he should dedicate his life to protecting and promoting national parks. We will miss him greatly, and we wish him and his family all the best for the future.

#### LORI BERENSON'S UNJUST IMPRISONMENT

#### HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Ms. WATERS. Mr. Speaker, I am outraged and appalled by the continuing incarceration of Lori Berenson on charges of collaborating with terrorists in Peru. Lori Berenson is not a terrorist, nor has she ever collaborated with terrorists. She is an intelligent and caring young woman who is committed to justice.

The Inter-American Commission on Human Rights recently vindicated Lori Berenson. The Inter-American Commission came to the following conclusion:

“The Peruvian State is responsible for the violation of the right to judicial guarantees, of personal integrity, and of the right concerning the principle of legality to the detriment of Berenson, having judged her in the military court, submitting her to inhumane and degrading conditions of detention, starting a new trial conforming to Legal Decree 25475 (antiterrorist law), and permitting the evidence collected during the first [military] process with a value of proof in said [second] trial.”

Lori Berenson has been unjustly imprisoned in Peru for nearly seven years under the harshest possible conditions. She has never had a trial that respected her rights or met international standards of fairness and due process. Not only has Lori never wavered in her insistence that she is innocent of the charges against her, she was charged under the antiterrorist laws that the Inter-American Commission has deemed unacceptable.

The Peruvian government is challenging the decision of the Inter-American Commission by filing a lawsuit against the Inter-American Commission at the Inter-American Court of Human Rights. Peru's lawsuit is mean-spirited and frivolous and will only result in the unnecessary further incarceration of Lori Berenson. In similar cases, the Inter-American Court of Human Rights has confirmed the rulings of the Inter-American Commission that Peru's antiterrorist laws violate the American Convention on Human Rights. These court decisions have resulted in the release of the defendants whose rights were violated.

Lori Berenson's health has been damaged by her wrongful imprisonment. The Inter American Commission on Human Rights concluded

that the conditions of her incarceration are "degrading and inhumane." Continued incarceration while awaiting a decision of the Inter American Court will cause her needless additional suffering.

Legal and humanitarian considerations require that Lori Berenson be released immediately. I urge the Peruvian government to set her free.

HONORING PASTOR KIRBYJON H.  
AND SUZETTE TURNER CALDWELL

### HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. BENTSEN. Mr. Speaker, I rise today to honor Pastor and Mrs. Kirbyjon Caldwell for their years of service and dedication to the Windsor Village United Methodist Church in Houston, Texas. In honor of Pastor and Mrs. Caldwell, the Windsor Village Community hosted the "20th Anniversary Celebration: Recognizing Their Spiritual Leadership" on July 19, 2002.

A native Texan, Pastor Caldwell was educated in the Houston public school system, earned a Bachelor of Arts Degree in Economics from Carleton College in 1975, and a Masters Degree in Business Administration from the University of Pennsylvania's Wharton School of Business in 1977. After graduate school, Pastor Caldwell began a promising career in investment banking. But, in an effort to fulfill God's purpose for his life, Pastor Caldwell enrolled into Southern Methodist University, Perkins School of Theology, where he received a Masters Degree in Theology in 1981. While completing his theology degree, Pastor Caldwell was appointed Associate Pastor of St. Mary's United Methodist Church in Houston and in less than a year he was appointed Senior Pastor of Windsor Village United Methodist Church.

Since his first sermon at Windsor Village in 1982, Pastor Caldwell has dedicated himself to addressing the needs of his congregation. The growth and success that Windsor Village has experienced under Pastor Caldwell's leadership reveals a pastor who is truly connected to his community and committed to the church's prosperity. Under his pastorate, the Windsor Village membership has grown from 25 to over 14,000, and the average worship attendance has increased from 12 to 6,450. The Church includes over 120 ministries, which serve the community seven days a week.

The spiritual leadership at Windsor Village serves as a beacon for the Houston community. With such facilities as the Power Center, the Prayer Center and the Family Life Center, the congregation's sense of community activism and outreach provides an ideal model of service to the surrounding community. The Power Center, developed in conjunction with the Windsor Village Church Family and the Pyramid Community Development Corporation, houses numerous services and entities, such as the Imani School, J.P. Morgan Chase Bank, Houston Community College's Business Technology Center, the University of Texas-Hermann Hospital Clinic, W.A.M. Inc, and 27 business suites. Additionally, the church recently broke ground for a 234 acre master-

planned community which will consist of a 452 single family home residential community with a 12 acre community park, a YMCA, an independent living facility, the Comprehensive Wellness Center, the Zina Garrison Tennis Center, and two museums.

Pastor Caldwell's contributions extend far beyond his pastoral duties. He is the author of the best seller, *The Gospel of Good Success*, which serves as a road map to spiritual, emotional, and financial wholeness. Newsweek identified Pastor Caldwell as a member of "The Century Club," and the magazine's 100 people to watch in the 21st century. Throughout his years of service to his ministry and the community, Pastor Caldwell has received numerous accolades, including Community Partners' Father of the Year, Texas Monthly's Twenty Most Influential Texans, the FBI Director's Community Leadership Award, and the Bishop's Award for Outstanding Leadership in Evangelism.

Aside from the monumental work he has done for Windsor Village, Pastor Caldwell, is involved in a number of civic and business ventures that impact the community. He serves on the board of the National Children's Defense Fund, the Greater Houston Partnership, Continental Airlines, Southern Methodist University, and Baylor College of Medicine, to name a few.

Pastor and Mrs. Caldwell have been married for 11 years and are the proud parents of Turner, Nia and Alexander Caldwell. Mrs. Suzette Caldwell graduated from the University of Houston with a Bachelor of Science in Industrial Engineering, where she is currently pursuing a graduate school in social work. Mrs. Caldwell's professional career as an environmental engineer in the public and private sector spans over 17 years.

Suzette Caldwell has made her own significant imprint upon the Windsor Village community. Presently, she serves as a local pastor and the Director of the Supernatural Services. In addition, she serves as the Chairman of the Board of Directors for the Kingdom Builders' Prayer Institute, a non-profit community-based organization that focuses on teaches people how to pray and the effectiveness of prayer. Among others, she serves as a member of the Children's Museum of Houston Advisory Board, a member of the Teach for America Advisory Board, and member of the National Coalition of 100 Black Women. Her dedication to service is exemplified by the numerous recognitions she has received over the years, including, The National Association of 100 Black Women's Makeda Award, The Suburban Sugar Land Women's Community Service Award, The Samaritan Center's Samaritan Spirit Award, Philanthropy In Texas' Hall of Fame, and the US Army Corps of Engineers' Achievement Award for Special Acts of Service.

Mr. Speaker, throughout Kirbyjon and Suzette Caldwell's service to the Windsor Village United Methodist Community, their wisdom, enthusiasm, and vision, have served their congregation and its surrounding community well. Their dedication to the community and commitment to their neighbors sets them apart as the spark that keeps faith aglow. I want to congratulate the Caldwell's on their twenty years of service to the Windsor Village Methodist Church and thank them for their service to our community, state and nation.

HIV

### HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mrs. MORELLA. Mr. Speaker, I rise to introduce legislation that will help patients who received HIV infected blood products and transplants. The humanitarian relief fund, modeled on the bipartisan Ricky Ray Hemophilia Relief Act of 1998, honors Steve Grissom, the North Carolina resident infected with HIV while undergoing treatment for leukemia. What happened to Steve Grissom and the thousands of people like him is a national tragedy.

It is my hope that this legislation can help victims of tainted transfusions. Steve's story is not unique. An estimated 12,000 Americans contracted HIV from tainted blood and blood products. Others got the disease through tissue and organ transplants.

In the early 1980s, the U.S. government is believed to have known about the risks of HIV infection, but may have failed to do enough to warn recipients or to institute safe blood practices, according to a report by the Institute of Medicine.

In 1995, legislation was introduced to help hemophiliacs who contracted HIV through such transfusions. The bill passed with overwhelming support, and was fully funded in 2001. However, the bill did not include funding for people like Steve Grissom, who received blood or transplants for other reasons.

This legislation would provide needed relief for Steve and people like him. For it is the right thing to do.

### H.R. 5005, HOMELAND SECURITY ACT

### HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Ms. DeGETTE. Mr. Chairman, I rise to vehemently oppose the Rogers amendment to H.R. 5005. This is a dangerous amendment that would create a slippery slope, eroding the intent and protection of the Posse Comitatus Act. Mr. ARMEY plans to offer a manager's amendment that includes a sense of Congress re-affirming the intent of the Posse Comitatus Act, yet, it would have no legal impact. Furthermore, if the Rogers amendment is included in the final version of H.R. 5005, the sense of Congress will provide absolutely no protection against the dangers of the Rogers amendment. It is currently illegal for the military to conduct law enforcement, and Congress must not threaten this principle by passing the Rogers amendment.

For 124 years, the Posse Comitatus Act has protected the American public from the power and reach of the military in the enforcement of the law. The authors of the Declaration of Independence rallied against the power of King George's army in the affairs of the civil government, and, in America's earliest years, the public rightly feared the strength of a standing army in times of peace. The military is not trained to protect individual rights or the principle of innocent until conviction. Nor should they be. The military is charged with the protection of the nation against armed attack by

foreign hostile regimes. We should never allow the military to become entangled in the enforcement of our civil laws.

The Rogers amendment would give the military a permanent position within the Department of Homeland Security to make changes to our government's law enforcement structure. Should the Rogers amendment be included in the final version of the Homeland Security Act, the military would be able to influence civilian use of the Internet, agricultural inspection activities, and customs enforcement, among others. We do not want generals in the Pentagon influencing civilian use of the Internet. We do not want the Pentagon issuing visas and standing on our borders watching who comes and who goes. We do not live in a Communist state and the military should not be enforcing our civil laws.

While Mr. ARMEY will offer an amendment to re-affirm the intent of the Posse Comitatus Act, it will have no legal effect. The Rogers amendment would. Vote no on the Rogers amendment.

#### CLEANING UP CORPORATE ACCOUNTING PRACTICES

**HON. JANICE D. SCHAKOWSKY**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Ms. SCHAKOWSKY. Mr. Speaker, the House of Representatives yesterday finally passed tough corporate and auditor accountability legislation. After voting unanimously to oppose almost the same bill in April, House Republicans finally joined Democrats in taking the first step to restore investor confidence by cleaning up corporate accounting practices. I want to emphasize that is only a modest first step if we are to restore investor confidence and protect workers and pension holders from corporate greed.

We could have passed strong reforms months ago, but now we are playing catch up. Our work will not be finished until there is pension security, stock options reforms, and government corporate watchdogs who are not tied to Enron and other corporate thieves. I strongly encourage the President to fire Harvey Pitt, to hire regulators who are independent from the industries they regulate, and to aggressively pursue those reforms.

I am pleased that this legislation will stop loans to corporate insiders, extend the statute of limitations for financial fraud from three to five years, force corporate insiders to disclose within two days, and strengthen whistleblower protections for corporate employees.

However, I am disappointed that we have not acted ourselves or directed the Financial Accounting Standards Board to account for stock options as an expense. Stock options packages have been used to deceive investors and workers as to the true financial condition of a corporation. At a recent Berkshire Hathaway annual meeting, Warren Buffet stated, "If options aren't a form of compensation, what are they? If compensation isn't an expense, what is it? And, if expenses shouldn't go into the calculation of earnings, where in the world should they go?" We need to create rules that will restore integrity to our markets.

I am also disappointed that we are not doing more to make sure that workers, pen-

sion holders, and investors are compensated by corporate wrongdoers and their accomplices. They suffered great losses; and through this legislation, they are not totally compensated for those injuries. Accountants, lawyers, and banks that aid and abet corporate fraud are not held liable at all for damages under current law. In order to restore integrity to our financial markets, all parties will need to be held responsible for their actions. Clearly, our work is far from over.

#### BANKRUPTCY REFORM (H.R. 333)

**HON. JOSEPH CROWLEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. CROWLEY. Mr. Speaker, I rise in support of the Conference Report for the Bankruptcy Abuse Prevention and Consumer Protection Act.

I can give my colleagues one reason to support this legislation—fairness.

This bill will restore fairness to our nation's bankruptcy laws for those Americans who work hard and pay their bills on time.

A few days ago, representatives from a number of credit unions came to my office, including Rob Nemeroff of the Melrose Credit Union in Woodside, Queens in my Congressional District.

He detailed about how the hard working, middle class people of his credit union—and of my District—continually have to pick up the tab for those who file bankruptcy—whether legitimately, as many do, or irresponsibly, as far too many do.

This bill will provide them some fairness—something that my constituents do not often get from this Congress.

H.R. 333 provides fairness to the victims of criminal corporate executives by mandating that these corporate pirates can no longer shield their multi-million dollar homes from defrauded investors seeking to reclaim some of their lost assets.

It provides fairness for those families who suffered losses in the terror attacks of last year by walling off any of the compensation paid to them through the Victims Compensation Fund or other victims' funds from being considered as income for repayment plans.

And this bill provides fairness for women and children in their ability to collect child support and alimony obligations.

And for those who do file for bankruptcy, this bill includes numerous new protections for them and their families.

This bill permits filers to keep their homes and provide health insurance for themselves and their families before taking their assets into account for repayment plans.

This bill states that low income debtors will be exempt from many of the provisions of this bill if their median family income is below the average for their state.

This legislation represents a fair, common sense approach towards tackling the important yet complicated issues surrounding the issue of bankruptcy in a way that will benefit those working Americans who pay their bills while providing for those who cannot.

Finally, I applaud my colleague from New York, Senator CHARLES SCHUMER for his tireless battle to include tough penalties for the

people who try to discharge debt from clinic protesting.

This was the right thing to do, and I applaud him for including it in this bill.

Overall, this bill is about fairness and I am pleased to support this Conference Report.

#### H.R. 5005 MANAGER'S AMENDMENT

**HON. SHERWOOD L. BOEHLERT**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. BOEHLERT. Mr. Chairman, I rise in support of the Manager's Amendment. I want to thank the Majority Leader and his staff, Margaret Peterlin, Steve Rademaker and Hugh Halpern, for working so cooperatively with us on these items.

The Manager's Amendment includes language making clear the Department's responsibilities to work with states, localities and the private sector to help them improve the security of their computer systems. The Amendment also establishes a volunteer corps of computer experts, who, upon request, could help localities recover from cyber attacks.

The Amendment also includes two important provisions we worked out with the Energy and Commerce and Government Reform Committees, and I want to thank Chairman TAUZIN and Chairman DAVIS and their staffs for their work on these issues.

The first provision, based on Chairman Davis's Federal Information Systems Management Act, will help improve the security of federal computer systems.

The second provision will ensure that the government can take advantage of unsolicited ideas from entrepreneurs and inventors who are working on ways to enhance homeland security. After the anthrax attacks, Americans came forward with an avalanche of ideas to counter bioterrorism, and found that the government had no way to avoid simply being buried by the incoming information. That has to change, and the Department of Homeland Security has to be the instrument to change it.

The Department must have a way to receive unsolicited suggestions, evaluate them, and either move with them, refer them to other appropriate federal agencies, or reject them. The language will require the Department to do just that.

This is such a clear need for the Department to do this—advocated by the National Academy of Science, among others—that the Science Committee, the Energy and Commerce Committee and the Government Reform Committee each reported out a version of language to meet this need.

In our Committee, Congresswoman LYNN RIVERS offered helpful language to expand on the ideas in our base bill, and particularly, to promote coordination with the Technical Support Working Group, an inter-agency group that currently tries to shift through unsolicited ideas.

I'm pleased that our three Committees were able to merge our approaches, and that Chairman ARMEY included that agreement in the Manager's Amendment.

I urge support of this Amendment, which clearly improves the bill.



TORT REFORM PROVISIONS IN  
THE HOMELAND SECURITY BILL

**HON. ROSA L. DeLAURO**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Ms. DELAURO. Mr. Chairman, I rise in strong support of this motion to strike. The irresponsible liability protections added into this bill are unnecessary and dangerous to the public health and safety.

This provision would give the new Secretary of Homeland Security unprecedented executive authority to exempt from civil liability any product that is deemed "anti-terrorism technology." Even willful misconduct would be excused. That means that people injured by a product put out by a company trying to profit from the war on terrorism would be unable to seek recourse of any kind. None.

In fact, the only period during which injured parties can seek recourse for fraud or willful misconduct is, and I quote, "during the course of the Secretary's consideration." Essentially, once a product is approved, the public is left with no protection or remedy at all.

Not only does this provision severely restrict the ability of claimants to recover for their injuries, it also fails to provide for any alternative form of recourse, leaving people who have been injured through no fault of their own to fend for themselves.

Mr. Chairman, no one here wants frivolous lawsuits. We simply want the tools to hold accountable corporations who have abused the public trust and would unduly profit from the war on terror. This bill is about protecting the public, protecting the health and safety of our citizens. It's not about giving a free ride to corporations who take advantage of the system. Let us not compromise these noble, bipartisan goals with a misguided provision added at the last minute.

I urge my colleagues to support this motion to strike.

OPPOSITION TO THE CONFERENCE  
REPORT ON THE BANKRUPTCY  
REFORM BILL

**HON. JOHN D. DINGELL**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. DINGELL. Mr. Speaker, I rise in opposition to the Conference Report on the Bankruptcy Reform bill (H.R. 333). The goal of the legislation, to ensure that debt that can be repaid is indeed repaid, is meritorious. However, the devil is in the details and many of these details are particularly devilish. This legislation will neither prevent more bankruptcies from occurring nor protect consumers. But it will sanction the continued predatory and abusive lending practices of the credit card industry, which has pressed hard for this legislation.

It is important to note that there is no consumer bankruptcy crisis in America. Despite the rascality perpetrated by the credit card industry, including the solicitation of minors, seniors and pets, personal bankruptcies are not increasing. In fact, even as the average household debt burden has continued to climb over the past few years, bankruptcies have dropped by around fifteen percent.

The only bankruptcy crisis we have in America is from companies like Enron and WorldCom. These corporations engaged in fraudulent accounting practices and then filed for bankruptcy to protect themselves from their creditors. These companies destroyed the lives and life savings of not only their employees, but investors everywhere. This conference report would not do anything to protect investors and employees from corporate wrongdoing such as this.

It is important to note, however, that this legislation will protect the large banks and other financial institutions that engage in predatory lending practices. This is wrong. Studies show that irresponsible and overly aggressive lending practices were behind the high level of bankruptcies in the mid 1990's. However, the industry has not learned its lesson. Even as the industry continues to experience high profits, it refuses to take responsibility for its poor lending practices and increases its marketing and credit extensions. Two years ago, the credit card industry increased its mail solicitations by about fourteen percent. Additionally, total credit extended, which includes unused credit lines and debt incurred by consumers, has approached three trillion dollars for the first time ever.

This outrageous behavior should not be rewarded. Unfortunately, the credit card industry has succeeded in winning enough support for a bill that encourages predatory lending at the expense of our most at risk citizens. Although a few helpful provisions were added to the bill, such as language to ensure that persons who use violence against clinics cannot shield their assets by filing for bankruptcy, on the whole, the bill hurts the poor and middle class. Americans deserve better, especially at a time when the economy has slowed and people's jobs are in jeopardy. As such, I urge all of my colleagues to oppose this wrongheaded piece of legislation.

OPPOSITION TO CONFERENCE  
AGREEMENT ON BANKRUPTCY  
REFORM

**HON. JANICE D. SCHAKOWSKY**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Ms. SCHAKOWSKY. Mr. Speaker, I rise in opposition to the conference report on H.R. 333 "The Bankruptcy Abuse Prevention and Consumer Protection Act." This legislation puts the interests of politically powerful credit card companies ahead of the interests of seniors and working families. That is why this conference report is opposed by every major consumer rights organization, over twenty women's right organizations, and the AFL-CIO. This is flawed legislation that could not come at a worse time. I urge my colleagues to reject this conference report.

Last year, a record 1.45 million people filed bankruptcy. Experts attribute this to deteriorating economic conditions and rising consumer debts. Research shows that nine in ten bankruptcies are triggered by the loss of a job, high medical bills or divorce. Yet this legislation would not allow a bankruptcy judge to take into account whether a debtor is blameless for his or her financial problem when deciding whether the person can declare

chapter 7 bankruptcy unless the debtor is a victim of terrorism. This will make it very difficult for consumers to escape debt.

This legislation will have especially harsh impact on senior citizens and women. According to research by the Consumer Bankruptcy Project at Harvard University, seniors are the fastest growing group in bankruptcy. About 82,000 Americans over 65 years-of-age filed for bankruptcy in 2001, up 244 percent since 1991. We will put seniors at the mercy of price-gouging card companies.

Women represent the single largest group in bankruptcy, with households headed by women accounting for about 40 percent of all bankruptcies today. This legislation will make it harder for them to escape debt and poverty by creating new types of "nondischargeable" credit card debts. The legislation puts banks in competition with women trying to collect child support from a former spouse after bankruptcy. Debtors will have to pay back more money in credit card debts after clearing bankruptcy, leaving less money for child support and alimony. Proponents of the conference report claim that this legislation gives top priority to women trying to collect child support when distributing assets in Chapter 7 cases. However, more than 90 percent of all chapter 7 debtors have no assets to distribute. They have no protection at all.

Amazingly, this conference report expands the most egregious abuse of the bankruptcy system by expanding the scope of the luxury home loophole to all fifty states. In five states, a debtor can hide all their resources in their home. Unless a debtor is guilty of a very narrow range of fraud or felonies, is declaring bankruptcy within 40 months of buying a home or has moved in from another state in the last two years, the loophole remains. This legislation will allow debtors to export the unlimited homestead exemptions for two years. This means that corporate thieves like former Enron CEO Ken Lay can move to my district and escape paying investors and workers. Ken Lay comes from Texas. Texas is one of the five states that does not have a cap on their homestead exemption. At the same time a laid-off worker from a state like Delaware that does not have a homestead exemption will lose a home that has as little equity as \$30,000. This is an outrageous double standard.

This legislation is also noticeably silent when it comes to the role of credit card companies in increasing consumer debt and filed bankruptcies over the past decade. Credit card companies sent out five billion solicitations last year. Credit card companies target college students. College students lack independent means and have a high credit risk. Yet this legislation does not curb these practices in any significant way. Language to require responsible lending to college students has been severely weakened.

Also this bill does nothing to curb the practices of predatory lenders, who will be able to collect debts regardless of how they deceived consumers. This bill allows most lenders to provide only a general statement on the credit card bill about the risks of paying at the minimum rate and a toll-free number. Most consumers will not receive information that details the long-term risk of accumulating credit card debt.

This legislation lets wealthy debtors and credit card companies off the hook while it

makes it more difficult for working families and laid off workers to make ends meet and avoid debt. Please join me in rejecting this anti-consumer conference report. This conference report is bad for consumers and it should be opposed.

**SUPPORT OF MOTION TO GO TO  
CONFERENCE ON H.R. 3210, TER-  
RORISM RISK PROTECTION ACT**

**HON. JOSEPH CROWLEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. CROWLEY. Mr. Speaker, I rise in support of the Motion to Go to Conference.

As a Representative from New York City, I have seen and heard first hand the massive need for such a Federal backstop.

While our nation has plunged into a recession over the past 2 years—the economic conditions of New York City are even more precarious.

For example, between August 2001 to May 2002 while unemployment rates have risen 13 percent in the U.S. they have increased by 20 percent in New York City.

While there are a number of factors for this decline, one is the lack of new construction and building.

This dearth of investment and new construction is due to a lack of financing by banks that will not provide lending to a project that cannot get commercial property and casualty insurance.

Furthermore, for those few businesses that can obtain limited insurance coverage often do not have adequate coverage and are paying drastically higher prices for such limited coverage.

This again saps vital and badly needed resources out of New York's and all of America's economy.

Providing a Federal backstop is good for workers and good for the economy.

Additionally, while in conference, I also hope that the Conferees will give serious consideration to an issue I brought up with Chairman Oxley during Committee mark up—that of providing a backstop to personal lines of property and casualty insurance lines as well.

While personal P&C insurance carriers now claim they can handle any claims for unthinkable terrorist attacks that could effect personal property and casualty holders, such as homeowners, we heard this same thing about commercial lines pre-September 11.

No one can predict the future, and we need to be prepared for anything.

Could personal lines provide for a large-scale attack on a neighborhood using nuclear, biological or chemical terrorism?

We don't know, and that is why I brought this issue up at mark-up and am hopeful for some work on this issue in conference.

Additionally, I am hopeful that the Conferees will work to provide a real backstop and strip out an extra legislative riders such as the damaging tort reforms added by the Republicans leadership to the House bill in the dark of night.

These riders threw a red herring into this debate and slowed Congressional action on this issue—not a lack of trying by the Senate, including Senator Schumer of New York, a leading proponent of backstop legislation.

America needs a Federal backstop for both commercial and personal lines or property and casualty lines and we need to keep such a bill clean for extraneous amendments that are divisive and bad for our economy.

I wish the Conferees well and yield back the balance of my time.

**OPPOSING THE CHINESE GOVERN-  
MENT'S PERSECUTION OF FALUN  
GONG PRACTITIONERS**

SPEECH OF

**HON. DAVID E. BONIOR**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. BONIOR. Mr. Speaker, for years, Falun Gong practitioners have been persecuted at the hands of the Chinese government. Tens of thousands of these individuals have been tortured in prisons, labor camps, and mental hospitals for practicing their peaceful form of personal belief. I have been appalled by the stories I have heard from Falun Gong members in Michigan of the horrific acts of violence towards Falun Gong practitioners. I believe we must do all we can to stop this persecution.

The United States needs to take a stand against these atrocities, and send the message to the Chinese government that these terrible acts of violence will not be tolerated. We need to urge the Chinese government to release from detention those Falun Gong practitioners who are guilty of nothing less than practicing their faith. We must put an end to these abhorrent human rights abuses.

I am a cosponsor of H. Con. Res. 188, which expresses the sense of Congress that the Government of the People's Republic of China should cease its persecution of Falun Gong practitioners. This measure passed the House overwhelmingly on July 24, 2002. I regret that I was unable to cast a vote on this resolution, as I was detained in my home state of Michigan when the measure came to the House floor. I would have voted "yes" on this resolution, and I am glad that the House acted in unity to condemn persecution of the Falun Gong.

**CIVIL SERVICE AMENDMENT FOR  
HOMELAND SECURITY LEGISLA-  
TION**

**HON. ROSA L. DeLAURO**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Ms. DeLAURO. Mr. Chairman, I rise in strong support of this amendment. As currently written, H.R. 5005 would needlessly undermine civil service protections for one hundred and seventy thousand federal workers in the new department—both union and non-union.

At a time when we need to attract and retain the best and the brightest to this new department, it makes no sense at all to strip its workers of their most basic civil service protections. What happens to the federal workers who transfer to this department and find that the benefits of civil service are suddenly gone?

For instance, are these dedicated, loyal federal workers simply supposed to accept the fact that they can be fired without even so much as an explanation? Are they supposed to simply accept that their pay has been unceremoniously cut by a third? Is that the message we want to be sending to the rank-and-file preparing to protect the nation at this new department?

We have in place rules and regulations that have worked for decades, rules that were put in place to not only protect workers but also to ward off political patronage and corruption. A Homeland Security Department is not the place to reinstate either.

Mr. Chairman, our civil service protections are good enough for the Defense Department. They are good enough for the CIA, the FBI and virtually everyone else in the Federal government. I fail to see how they are not good enough for the one hundred and seventy thousand workers who will be working in the new Homeland Security Department.

Again, I strongly urge my colleagues to support this amendment.

**H. RES. 443: TO EXPRESS THE SUP-  
PORT OF THE HOUSE FOR PRO-  
GRAMS AND ACTIVITIES TO PRE-  
VENT PERPETRATORS OF FRAUD  
FROM VICTIMIZING SENIOR CITI-  
ZENS**

**HON. DANNY K. DAVIS**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to speak about an epidemic. It's not one that you'll read about in a medical book, and unfortunately, it's probably not one that a lot of people know enough about, in general. But, we need to respond to this problem, just as we would if it were a public health situation—by launching a vigorous public awareness campaign.

Let me give some examples of what I'm talking about:

Two individuals pleaded guilty to charges of mail fraud in connection with a scheme soliciting elderly individuals to invest in silver and gold coins. The victims, who were promised a high rate of return on their investments, were coerced into paying 200 to 300 percent more than the coins were worth.

A group defrauded 200 elderly investors nationwide of an estimated \$34 million from the offer and sale of fraudulent promissory notes and other fraudulent securities. The majority of the victims were senior citizens who were convinced to liquidate safe retirement accounts and transfer those funds to risky investments.

An independent insurance agent obtained over \$508,000 from twelve senior citizens whom he promised a 10 percent return on their money in an investment opportunity. None of the funds were ever invested.

Elderly victims were falsely told that bond companies were in possession of a \$25,000 bond in the name of the victims, which they could receive after they paid the bond companies a fee ranging from \$100 to \$3,000 for "research" or "paperwork." None of the victims ever received a valuable bond, but elderly victims sent the bond companies approximately \$1.6 million.

I wish these anecdotes were isolated incidents, but unfortunately they are just the tip of the iceberg.

In fiscal year 2001 alone, the U.S. Postal Inspection Service responded to 66,000 mail fraud complaints, arrested 1,691 mail fraud offenders, convicted 1,477 of such offenders, and initiated 642 civil or administrative actions, recovering over \$1.2 billion in court ordered restitution payments. If these figures weren't distressing enough, the number of complaints is on the rise. The Postal Inspection Service has already responded to 68,000 mail fraud complaints this year to date—pointing to a possible 27 percent increase in complaints by the end of this fiscal year.

According to AARP:

"Older Americans are the targets of a new kind of criminal. This criminal holds you up in your own home, but not with a gun. This criminal's weapon of choice is the telephone.

"There may be more than 10,000 fraudulent telemarketing operations calling hundreds of thousands of American consumers every day. Older Americans are a prime target of these crooks . . .

". . . 56 percent of the names on 'mooch lists' (what fraudulent telemarketers call their lists of most likely victims) were aged 50 or older.

"Many of the older people preyed upon by dishonest telemarketing companies are well-educated, with above-average incomes, and they are socially active in their communities."

Therefore, the sales pitches these companies use are appropriately sophisticated. They include: "phony prizes, illegal sweepstakes, sham investments, crooked charities, and 'recovery rooms' where victims are scammed again by the telemarketers with promises that, for a fee, they will help them recover the money they have lost."

The National Consumers League, the oldest nonprofit consumer organization in the United States, reports that: "It's estimated that there are 14,000 illegal telemarketing operations bilking U.S. citizens of at least \$40 billion dollars annually." They believe that "[t]he first step in helping older people who may be targets of fraud is to convince them that the person on the other end of the line could be a crook!"

In order to "to express the support of the House for programs and activities to prevent perpetrators of fraud from victimizing senior citizens," and "to educate and inform the public, senior citizens, their families, and their caregivers about fraud perpetrated through mail, telemarketing, and the Internet," please join Representative JOHN MCHUGH, and me in passing House Resolution 443.

Our colleagues in the Senate have passed a resolution designating the week beginning August 25, 2002 as "National Fraud Against Senior Citizens Week." We will be able to collaborate with them, the U.S. Postal Inspection Service, and numerous advocacy groups in raising public awareness about this epidemic of fraud and deception against senior citizens and hopefully prevent future incidents of fraud.

## 2002 WORLD BASKETBALL CHAMPIONSHIPS

HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Ms. CARSON of Indiana. Mr. Speaker, I rise today to bring to the attention of the House that the United States will be playing host to the World Basketball Championship for the first time in the event's 50 year history. For 11 days from August 29 to September 8, 2002, 16 teams from all over the world will compete for the title of World Basketball Champions, and appropriately they will be competing for that title in what is known as the basketball capitol of the world, Indianapolis, Indiana.

Long before basketball was a world game, it was an Indiana game, in fact it was THE Indiana game. There is no place in the world that follows basketball with more passion, devotion, support, and adoration than in Indiana. The term for this basketball craze is fondly called "Hoosier Hysteria." A hysteria that allows Indiana to have over 30 high school gymnasiums with seating capacity over 5,000, including one arena that seats 5,600 people, not too surprising until you find out that the town's population is only 5,000.

Indianapolis is also no stranger to major international sporting events. It is preparing for what is expected to be about 150,000 to 175,000 visiting basketball fans.

Indianapolis not only hosts the three largest single day sporting events in the world in it's three races, but it has also hosted 4 NCAA Men's Final Fours, 14 United States Olympic Team Trials, the 2001 World Police and Fire games, and is slated to host many events in the near future.

Indianapolis hopes that its Hoosier Hysteria will shine through and take on a new international light to warmly welcome the many international visitors. It is in this spirit of support and international goodwill that the entire Indiana Delegation is introducing House Concurrent Resolution 443, a resolution supporting the 2002 World Basketball Championships and welcoming the visiting teams from Algeria, Angola, Argentina, Brazil, Canada, China, Germany, Lebanon, New Zealand, Puerto Rico, Russia, Spain, Turkey, Venezuela, and Yugoslavia.

International sporting events such as the 2002 World Basketball Championship play an important role in continuing to foster positive international relationships between participating teams and fans. This event provides an opportunity for not only residents of Indiana, but for all Americans to unite behind their national team and also welcome the players and fans from all the visiting teams. Therefore, Mr. Speaker, I ask that Congress join me in supporting the 2002 World Basketball Championship for Men welcoming the 16 international teams to the United States by supporting this resolution.

SUPPORT FOR H.R. 3612, THE MEDICAID COMMUNITY ATTENDANT SERVICES AND SUPPORTS ACT (MICASSA) ON THE 12TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. DAVIS of Illinois. Mr. Speaker, I rise to recognize the 12th anniversary of the Americans with Disabilities Act and to request support for H.R. 3612, the Medicaid Community-Based Attendant Services and Supports Act, also known as MICASSA. It is fitting that we give special attention to the merits of this important bill as we recognize the twelfth anniversary of the Americans with Disabilities Act. On July 26, 1990 President George Bush signed the Americans with Disabilities Act into law. This landmark civil rights legislation ushered in a new era of promise for a segment of our population whose talents and rights as American citizens have been too long ignored. It established a new social compact that seeks to end the paternalistic patterns of the past that take away our rights if we become disabled. It says that people with disabilities have the right to be active participants integrated into the everyday life of society.

Much like the promise of the 1965 Civil Rights Act, however, the promise cannot become a reality until we roll up our sleeves and do the work necessary to eliminate the barriers, which still hinder its full implementation. While some recent decisions of the Supreme Court have threatened the scope of the ADA, I would like to call our attention to a Supreme Court ruling that reaffirms the fundamental principle that people with disabilities have the right to be active participants integrated into the everyday life of society. In 1999, the Court ruled in the Olmstead case that states violate the Americans with Disabilities Act when they unnecessarily put people with disabilities in institutions. The problem is that our Federal-State Medicaid Program has not been updated and has a built-in bias that results in the unnecessary isolation and segregation of many of our senior citizens and younger adults in institutions.

In the case of Medicaid beneficiaries who need long-term support services, the only option currently guaranteed by Federal law in every State is nursing home care. Too often decisions relating to the provision of long-term services and supports are influenced by what is reimbursable under Federal and State Medicaid policy rather than by what individuals need and deserve. Research has revealed a significant bias in the Medicaid program toward reimbursing services provided in institutions over services provided in home and community settings. Other options have existed for decades but their spread has been fiscally choked off by the fact that 75% of our long term care dollars go to institutional settings, in spite of the fact that studies show that many people do better in home and community settings.

Only 27 States have adopted the benefit option of providing personal care services under the Medicaid program. Although every State has chosen to provide certain services under home- and community-based waivers, these

services are unevenly distributed within and across the States, and reach just a small percentage of eligible individuals. In the words of Howard Dean, the Governor of Vermont who also happens to be a physician and who recently testified on Capitol Hill on behalf of the National Governors Association, "We can provide a higher quality of life by avoiding institutional services whenever possible. . . . We will still need quality nursing home care for the foreseeable future, but we can maintain the necessary level of needed nursing home care while growing home and community based services if Congress will give the States the tools."

The MICASSA bill is precisely the tool both the States and consumers need to obtain more cost effective long-term services in the most appropriate setting for the individual. Instead of creating a new entitlement, MICASSA makes the existing entitlement more flexible. It amends Title 19 of the Social Security Act and creates an alternative service called Community Attendant Services and Supports. This allows individuals eligible for Nursing Facility Services or Intermediate Care Facility Services for the Mentally Retarded, regardless of age or disability, the choice to use these dollars for "Community Attendant Services and Supports."

These attendant services and supports range from assisting with activities of daily living, such as eating, toileting, grooming, dressing, bathing and transferring, as well as other activities including meal planning and preparation, managing finances, shopping and household chores.

Quality assurance programs, which promote consumer control and satisfaction, are also included in this bill. The provision of services must be based on an assessment of functional need and according to a service plan approved by the consumer. It also allows consumers to choose among various service delivery models including vouchers, direct cash payments, fiscal agents and agency providers.

Some have argued that such a flexible and consumer friendly option would bring people who need these services "out of the woodwork" and make our Medicaid costs skyrocket. This bill has been put together based on what we have learned from pilot programs and best practices throughout the States. Oregon and Kansas have data to show that fear of skyrocketing costs is blown out of proportion. While there may be some increase in the number of people who use this option at first, savings will be made on the less costly community based services and supports, as well as the decrease in the number of people going into institutions. The bill also allows states to limit the total amount spent on long-term care in a year to what the state would have spent on institutional services.

Whether a child is born with a disability, an adult has a traumatic injury or a person becomes disabled through the aging process, we can and must do better in offering our citizens the kind of long term care services they need and deserve. I can think of no better way to honor the memory of our departed disability rights leader, Justin Dart, who died on June 22nd and was known by many as the father of the Americans with Disabilities Act than to support passage of H.R. 3612.

## INTRODUCTION OF THE NATIONAL DEFENSE RAIL ACT

**HON. JULIA CARSON**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Ms. CARSON of Indiana. Mr. Speaker, I rise today to talk about the important issue of passenger rail in America, and the future of Amtrak.

The passenger rail system suffers from gross neglect of our investment.

We have actively engaged in financing, developing, and preserving the infrastructure of all other modes of transportation. Whether bailing out the airline industry, federally funding and fixing the interstate highway system, or subsidizing airport construction.

It is imperative that we build a world class passenger railroad system in the United States. We cannot wait for highways and airports to become so overwhelmed that they can no longer operate, and we cannot continue to hold the millions of Americans who rely on rail service in limbo while we refuse to provide Amtrak with adequate funding.

This is why yesterday I introduced H.R. 5216, the National Defense Rail Act, which will mirror legislation introduced by Senator ERNEST HOLLINGS.

This legislation provides a blueprint for the future of passenger rail in the United States. The bill will help develop high-speed rail corridors, long distance routes, short distance routes, security and life-safety needs, and will provide Amtrak with the tools and funding it needs to operate efficiently.

Mr. Speaker, we consider subsidies to airlines and roads be worthwhile investments in our economy and our quality of life. We must make the same investment to create a world-class passenger rail system in order to see the same kinds of benefits.

I urge my colleagues to join me by cosponsoring this bill, and show your support for a strong national passenger rail system.

## CORPORATE ACCOUNTABILITY HEARING

**HON. RICHARD A. GEPHARDT**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 26, 2002*

Mr. GEPHARDT. Mr. Speaker, I submit the attached document, which is the transcript of the corporate accountability hearing conducted by Members of the House of Representatives, for printing in the CONGRESSIONAL RECORD.

### OPENING STATEMENT BY HOUSE DEMOCRATIC LEADER HON. RICHARD A. GEPHARDT

Mr. GEPHARDT. Thank you all for being here. If I could, I would like to make an opening statement, and then we will get to our first panel, with appreciation for all of our panelists for their time and effort to be here with us today for this important hearing.

We are honored to have with us today some very talented and special guests, an all-star team of experts on the issue of corporate accountability and responsibility that has become one of the most important issues in our country.

I think many of us are tired of the old left-right political debates because, to my mind,

the issue before us is not about politics but about what's right for our country and how to restore people's trust and faith in our economic institutions. This is a discussion about enacting strong safeguards that will protect investors, protect consumers, and move every American forward with an agenda that gives everyone a chance to succeed. We need to apply our values to governing. Our values tell us that accountability and responsibility must be operating principles in our markets, especially for the corporations that form the bedrock of our capitalistic system.

Sensible rules that enable our companies to function effectively will grow the economic pie for every American taxpayer and every American family. Too many times in the last 7 or 8 years the special interests and extremist voices that would like to get rid of almost all regulations have triumphed in the face of common sense and the sentiment of the majority of the American people. Too often these voices have had a real and, I would submit, destructive impact on our laws and our economic health.

So today we are here to listen and to learn, not simply to what went wrong but, more importantly, to figure out how to make it right.

Democrats in Congress have spent months seeking solutions to this crisis, and we are prepared to go to any part of this country to figure out what happened, why it happened, and the best way to fix the problem.

This week, as you all know, the Senate unanimously passed—and I'll say it again, unanimously passed, and that's a rare occasion—a crucial bill that would attack the current crisis of confidence. The Sarbanes bill would bring about structural changes in our auditing system, making sure that audits are objective and independent, while imposing stiff criminal penalties on bad actors and actresses.

We in the House have been working for months to pass a strong initiative that would also protect people's pensions and restore investors' faith. We have offered a financial services bill, a criminal penalties bill, and an offshore tax havens bill as part of a much more comprehensive business Investors' and Employees' Bill of Rights.

Unfortunately, the leadership in the House in the Republican Party—and, therefore, the leadership—has blocked these proposals. We have faith that these problems can still be fixed. We have the most ingenious entrepreneurs, the brightest minds leading our way to innovation. And we have the hardest working, most resilient, most resourceful people on the face of the Earth. And for that, we are all grateful.

And today we pledge to continue to work together in order to do what's simply right for the people that we all represent.

We thank our guests, and especially my brave colleagues in the Congress who every day speak up for the American people and who helped build this country into the greatest nation that's ever existed.

### PANEL 1: PENSIONS, WALL STREET AND CORPORATE FRAUD

Mr. GEPHARDT. I'd like to introduce our first panel.

What can I say about Eliot Spitzer. He was at this a long time before any of us were focusing on these problems of corporate abuse and accountability. At the State level, he helped to launch a national reform effort to close loopholes and to hold people who don't play by the rules accountable.

The same goes for Richard Moore, State Treasurer in North Carolina. Richard Moore has worked hard to protect the pensions of all the people in his State. He's understood the fundamental truth, that without transparency and clear rules of the road, our investors get hurt, employees suffer, and our

economy does not reach its potential. We're lucky to have him with us today, and we thank him for coming.

Finally, William White is the CEO of WEDGE Group, an investment firm based in Houston. He's been a private executive elsewhere. He served in the Clinton administration as Deputy Secretary of Energy. He has a broad range of experience that he brings to the table in both the private and public sector, and we look forward to having the perspective of someone with considerable experience in both private and public life.

I am surrounded by many of my colleagues, who I have enormous admiration for. All of them have been deeply involved in all of these issues of trying to increase responsibility and accountability. And I would like to be able to have the time here today to have them all make an opening statement, but I know our guests are on a short time leash, so we're going to go right to our testimony. And then we'll open this up for some questions.

Attorney General Spitzer, would you lead us off? Thank you for being here.

STATEMENT OF ELIOT SPITZER, NEW YORK  
STATE ATTORNEY GENERAL

Mr. SPITZER. Thank you, Congressman Gephardt, for that kind introduction, and thank you for your leadership in protecting small investors and the integrity of our financial markets.

Investors must often rely on the judgment and good faith of others to assist them as they make their investment decisions. They rely on the research and recommendations of their brokers. They rely on the judgment of the executives running the companies in which they invest. And they rely on independent auditors to ensure that they are receiving an honest accounting of those companies' profits and losses.

During the past few months, many investors have learned that their trust was sorely misplaced.

Research analysts recommended stocks to investors even as they knew those companies were poor investments. Corporate executives cooked the books to enrich themselves at the expense of their shareholders. And accountants who were supposed to provide an independent audit and review of those books and accounts disregarded their duty in search of greater fees from the companies they were auditing.

Our Nation's economy has been the engine that has brought unprecedented wealth to millions of Americans and their families. Our free market system which allows businesses and entrepreneurs to flourish without excessive government regulation and intervention is unrivaled anywhere in the world.

But our great economic engine is fueled by a belief that the market participants play by the rules. As companies compete in our free market, we have required them to operate within certain boundaries delineated by carefully articulated rules, standards of conduct, and disclosures. And if those rules cease to address the realities of an evolving marketplace, or if they're easily exploited, we must put into place new rules that prevent the exploitation of investors.

Throughout our economic history, we have been willing to implement new marketplace rules to address investor concerns. And the lesson that history teaches us is that new rules furthered our economic interests.

In the early 20th century, when trusts were exploiting the marketplace and undermining the ability of the markets to function, Teddy Roosevelt responded with new rules that restricted the ability of trusts to function. As he said then, "We draw the line against misconduct, not against wealth."

And a few decades later, when massive stock market fraud drove investors from the

marketplace, we responded with the formation of the Securities and Exchange Commission and the implementation of the Securities Act of 1933 and the Securities and Exchange Act of 1934.

The role of government is properly to define the boundaries and rules of fair play in the marketplace. And especially at moments when the rules appear to be broken, government must step back and evaluate the rules themselves. As important as punishing those who break the rules is ensuring that the rules themselves are properly structured.

With that framework, I want to discuss some of the specific proposals that have been advanced by both parties and to talk about how a national market must respond to the challenges that arise when its rules no longer provide the necessary protections sought by investors.

It has become increasingly apparent that the Democratic congressional proposals recognize the structural flaws that have been allowed to develop in our marketplace and offer meaningful reforms that would protect small investors. The Republicans' response has been to ignore and deny the true scope of the problems and to measure any reforms by their distance from current practice, rather than their proximity to appropriate standards of behavior.

Today, the Republicans in Congress are accepting deviancy in the markets and are willing to define marketplace standards by what has become common practice instead of by what is good practice. Hundreds of investment bankers have said to me: "Market pressures force us to the lowest common denominator. We will feel compelled to sink lower and lower in our behavior unless government defines standards for us." That is the proper role for government and the proper response to market pressures that will otherwise define deviancy down.

The difference between the Democratic and the Republican approaches is perhaps best illustrated by comparing the competing responses to my office's investigation that uncovered Wall Street analysts too often recommend companies to investors based on the investment banking fees that those companies generate instead of the underlying investment value.

Our investigation revealed that Merrill analysts writing stock reports function as sales representatives for the firm's investment bankers, using promises of positive research coverage to bring in new clients and stock offerings. We uncovered evidence demonstrating that a key factor in setting annual compensation for analysts was their success in generating or facilitating the generation of investment banking fees and not the accuracy of their buy/sell recommendations to the public.

While our investigation in New York is still ongoing, it is fair to say that these practices were not unique to Merrill Lynch. In response to concerns about the conflicts of interest driving research analyst recommendations, Congressman LaFalce proposed a substitute to H.R. 3763 which would require analysts to be evaluated and compensated based on the quality of their research and would insulate analysts from the demands of the investment banking business.

In short, the LaFalce bill would ensure that analysts serve their true clients, the investors, not the investment bankers.

The Republican bill, sponsored by Representative Oxley, does not require the investment banks to change their practices but merely directs the kinder and gentler Securities and Exchange Commission to study the issue and report back, and the SEC that has already dawdled and stalled, hesitated and malingered.

The refusal of the Republican majority to address the investing public's concerns about

the conflicts infecting the research recommendations that they receive will simply result in the public's hesitation to reenter the market. That will damage our markets, damage the companies that turn to the capital markets for financing, and delay if not deny the economic turnaround that we so desperately need.

Beyond a failure to act, the House Republicans have been actively critical of my office's efforts to crack down on analyst conflicts of interest. Indeed, Congressman Oxley has attacked my office's efforts, charging that I have "burned investors in Merrill," who have seen Merrill Lynch's stock price fall.

Congressmen Oxley and Baker publicly stated in a letter to all attorneys general that if investigations such as mine continued, they would introduce legislation that would prohibit State regulators through law enforcement officials from seeking substantive relief from investment bank analysts who continue to mislead the investing public. Such an amendment circulated in the Senate during consideration of the Sarbanes bill and could still become a matter that could be brought up in the conference committee.

Let me state very clearly that State enforcement of securities laws is absolutely crucial to protecting the investors' rights in the marketplace. Preempting State activities in this area, removing the cops from the beat, would further undermine investor confidence.

I will also note in passing the supreme irony of having the so-called States rights advocates crafting amendments that would restrict the ability of State regulators and law enforcement officials to address wrongdoing in their States.

For years, the Republicans have invoked principles of federalism as they rallied for a smaller, less active Federal Government and advocated for the devolution of power from the Federal Government back to the States. But now that the States have begun to vigorously exercise the powers handed to them, Republicans have undergone a devolution evolution and want their powers back.

The Republican supporters of these anti-State amendments pay lip service to the need for uniform Federal standards governing our securities markets. Congressman LaFalce, in his legislation, has proposed just such a standard, one that will go a long way toward ensuring that the advice that investors receive is advice that is in their best interest.

And so I say to the Republicans in Congress: You have asked for uniform standards. Congressman LaFalce has proposed a uniform standard. You should enact the LaFalce legislation.

Analyst conflicts are only one part of the problem. The collapse of Arthur Andersen and Enron and the massive overstatement of earnings at Global Crossing, WorldCom, and other corporations demonstrate the need for new rules of corporate governance and new standards for the accounting industry.

The Sarbanes bill would require accounting firms to return to their roots as auditors and separate their auditing function, where they stand at arm's length from their clients, and their consulting practices, where the client's interest is paramount.

Finally, the corporate reporting scandals illustrate that too many public companies are placing the interests of the executives who run the companies before the interests of their shareholders and employees. The decades' long shift of power from shareholders to CEOs created an era of the imperial CEO so dominant that neither boards nor shareholders could really control either executive compensation or decision-making.

It is time to restore to boards and institutional shareholders the obligation of serious participation in corporate governance. We need to insist that public companies report results that reflect reality and not clever gamesmanship, and that allow investors to understand their true financial position. And we need to strictly punish corporate executives who falsely certify their companies' financial statements.

These reforms are not only vital to the integrity of our markets, they are necessary if we are going to achieve the economic recovery that we all seek. Taken together, the reforms we are discussing today will signal to a disenchanted and distrusting public that we will no longer tolerate the betrayal of trust. These reforms will tell investors and stockholders that the markets are governed by rules, and those rules are geared to protect their interests.

The immediate goal must be passage of the Sarbanes bill without allowing Republican Members to water it down in the conference committee. But once that is accomplished, there is still much more work to be done, much of it embedded in Congressman Gephardt's Investors' and Employees' Bill of Rights. Congress must address the conflicts created when research analysts are required to service their investment banking colleagues instead of the investing public.

The Securities and Exchange Commission has failed to act on analysts' conflicts of interest. And in his speech last week, President Bush indicated his support for the SEC's weak rulemaking in that area. It is now up to Congress to mandate that analysts who claim to serve the investors' interests actually do so.

We are now at a crossroads. Democrats have recognized how far the standards of behavior have deviated from what used to be accepted norms and have proposed reforms to raise those standards. We must continue to fight for real reforms that will raise the standards governing the conduct of analysts, accountants, and corporate executives. And we must continue to battle attempts to accept fraud and irregularities in the marketplace.

Thank you for the invitation to appear here today.

Mr. GEPHARDT. Thank you, General, very much, for a very cogent and well put together statement. We appreciate it. We'll come back with questions in just a moment.

Richard Moore from North Carolina, we're pleased to see you here, and you can carry forward.

#### STATEMENT OF RICHARD MOORE, NORTH CAROLINA STATE TREASURER

Mr. MOORE. Thank you, Representative Gephardt. And I would also like to start out by saying hello to Representative Watt and Representative Etheridge from North Carolina. Thank you all very much for this chance to be here.

I come before you today as North Carolina's elected guardian of the State Treasury and the sole trustee and fiduciary of \$62 billion in public funds, most of which is represented by the pension funds of 600,000 active and retired public workers in the great State of North Carolina.

Before I get into specific points, two general points to put this situation into context:

In my prepared remarks, I have several quotes, starting with Alexander Hamilton, George Washington's first speech to the Congress, Woodrow Wilson, and Teddy Roosevelt. All of those go back to make the simple point that we as Americans have always understood that a free market is not the best market in the truest sense of the words. We have always sought to make sure that our

markets were bridled in the name of fairness. And this is something that has been a bipartisan issue. It's been understood since the founding of this republic.

The second obvious point that I believe needs to be made—and also, I must take just a second here of personal privilege. I'm a big student of history, and we always seem to go in cycles. The last time we had a tremendous loss of confidence in the public markets was the Great Depression. And the Great Depression brought about the passage, as my good friend Eliot Spitzer has already recited, of the Securities acts of 1933 and 1934, and the passage of the Glass-Steagall Act. I'm extremely proud that my grandfather, Frank W. Hancock Jr., as a business-oriented member of the House Banking Committee, played a significant role in drafting and championing many pieces of the necessary reforms.

The second general and obvious point, but a point that I really think that this body needs to make in the next couple of weeks, is to remember that we are addressing regulations that apply only to public companies. And I want to say that again because it's so obvious that it's missed: They apply only to public companies, and no one forces a company to become public. The choice to do so means that its corporate leaders voluntarily give up some of their autonomy and agree to be regulated. The tradeoff, which has been incredibly significant over the last 20 years, is that those companies may have access to capital at an incredibly discounted rate, which has been a wonderful thing for everyone.

But even today, most businesses in America, those located across the Main Streets that you all represent, are not publicly regulated. And when they need additional capital for their businesses, they pay a premium for it. It's an obvious point, and one that I think needs to be stressed more.

The conclusion is that publicly traded companies have been and must be regulated to make sure that the individual investor, who I am here to represent in a large way today, but the individual investor can properly value his or her risk before an ownership decision is made. This, again, is an obvious point that has been overlooked by those who are afraid that additional government regulation will foul the market.

Who is the stock market today? The stock market is representative of 80 million Americans who have decided to take part in these public markets. Either directly or indirectly through mutual funds and other pension plans, they have placed their hard-earned savings in these marketplaces. And that in itself is remarkable.

They have been enticed—and I will use that word again—they have been enticed through tax policy and professional advice to participate and share in the American dream.

Now, it is not your job, nor is it the job of corporate America, to ensure that that dream comes true. However, it is your job to make sure that the marketplace is fair to all so some don't profit and others lose from the exact same investment—from the exact same investment.

Our markets today hold about \$12 trillion in assets; \$2.2 trillion are held in pension funds like the one that I run. Approximately \$8 trillion in the marketplace is controlled by mutual funds. And what a lot of people don't realize is most pension funds are the largest clients of mutual funds. So we have tremendous clout in the marketplace, clout that I don't think that we have learned how to use yet, and we're not equipped at this point to do it.

The reason for that is that institutional ownerships have evolved over the last 30

years. As a result, we as institutions find ourselves collectively the largest single shareholder in virtually every major company in America. The founders of those companies, or the founders' descendants, in many instances are no longer seated around the board tables advocating in their own self-interests for the rights of the shareholders.

It is truly today often a setting like government, the arena that we all work in, where people spend other people's money.

We, as institutional owners, must act like the owners that we have become. However, we cannot do it alone. We need your help. We need Congress and the administration to make sure that we can properly exercise our prerogatives of ownership. We need your help to make sure that we can tell whether the interests of management and shareholders are properly aligned. We need your help in making sure that we as investors can properly price risk. We need your help in making sure that the cop on this particular beat has the resources and tools to do their job.

We need your help now more than ever. The last few months have shown that our system is currently missing effective and necessary checks and balances to ensure that the fine line between proper incentive and destructive greed is not crossed.

While I firmly believe that the vast majority of today's corporate managers are smart and honest, it has been disconcerting to see so many unmasked not as captains of industry but as captains of greed with callous disregard for the welfare of the people whose money grows their companies.

Simply put, where I come from, we know that the fox cannot guard the henhouse. No matter how honest, no matter how well-meaning the fox, at some point the temptation to gouge is going to prevail.

Without proper regulation, history has shown, that hardworking Americans always pick up the tab: the Great Depression; the savings and loan debacle, which I served as a Federal white-collar prosecutor during that and we didn't have anywhere near the resources to do it right 10 years ago; and most recently, what you're dealing with, the power shortage in California.

In carrying out my fiduciary duty to the 600,000 beneficiaries in my funds, last month, with Eliot Spitzer's help, we began to be more aggressive owners. In conjunction with the Treasurer of California, Phillip Angelides, and the Controller of New York, Carl McCall, we announced important investment protection principles. These proposals embodied simple, common-sense market-based solutions to some of the problems that we face.

We as owners are exercising our ownership rights. We're putting new terms on the table. If you want our money, this is what we've got to have from you. We are demanding that broker-dealers and money managers eliminate actual and potential conflicts of interest from the way they pay their analysts and conduct their affairs, or we will no longer do business with them.

We are asking our money managers that we utilize to look closer into the areas of financial transparency and corporate conduct. But we, once again, need your help.

As fiduciaries, we must and will become more assertive in our ownership role. Since we've announced these principles, we have been joined by numerous other States and numerous pension funds. We now have almost \$700 billion backing this simple set of principles. And I believe, with your help, we will make a huge difference.

One final thing: In some areas, we need specific prohibitions. And I believe, Representative Gephardt, what was announced yesterday and what's been going on with the



Sarbanes bill will go a long way toward answering those problems.

In other areas, where specific prohibitions may be unwise, do make disclosure standards tougher. If you're having a tough time with options and other issues, do just as you've done in cigarette packaging, food labeling: make it, in a prudent and appropriate way, required that certain financial information be prominently displayed in plain language in proxy statements and annual reports.

If you will help the large and the small investor alike learn how to find the information needed to properly price option overhangs and option run rates, we as the market will go a long way in ridding ourselves of truly abusive practices.

I would also urge you to take a closer look at the difference between defined benefits and defined contribution plans. I think we went way overboard on defined contributions.

I run them both in North Carolina. I was stopped by groups yesterday, one retired school teacher in particular, who had \$300,000 in her 401(k) that is now worth \$120,000. She was in tears, and she was thanking me that the management of the traditional retirement fund that I also ran had not suffered anywhere near those kinds of losses, because we were properly diversified.

I appreciate the opportunity to be here today. And in closing, I must say that I was taken aback by the President's comments a couple of days ago that this was nothing more than a hangover. For many citizens, the people who I have been entrusted to protect, maybe unlike the executives at these companies, they won't be fine by lunchtime. It's going to take years and years of financial rehab for them to be back to normal.

Thank you.

Mr. GEPHARDT. Thank you, Richard, very much. You gave very eloquent testimony, as did Eliot. And I really appreciate you taking the time to be here.

We're now joined by William White from Houston. As I said, he has a distinguished career in the public and private sector. Thank you, Bill, for being here, and we're ready to hear your testimony.

STATEMENT OF WILLIAM WHITE, CEO, WEDGE GROUP

Mr. WHITE. Mr. Chairman, and distinguished Members, I've really looked forward to this because of the perspective that I'll share with you.

I'm blessed to run a number of large businesses. Not only do we own private firms, but we are the first or second largest shareholder in five public companies, where our stakes range from 9 to 60 percent. Some businesses I've built, and we've been pretty successful by any financial measure.

In a prior life, before I started in the private sector, for more than a dozen years, I was a public interest lawyer, specializing in accounting fraud and securities fraud, including getting the largest verdict and judgment in Federal securities law history against an accounting firm.

I've served on the board of a number of public companies, many on the New York Stock Exchange.

And so you can appreciate that I've been thinking about some of these issues a little bit. And I want to tell you, Mr. Chairman, this is a serious issue, this issue of confidence and the reliability of our financial system. It's not something that we can just sweep under the rug, and I'll tell you why. Because of the chronic trade deficits that this country has—it's the way that our economy has operated for a long time—we depend in this economy, for its strength and its growth, on being able to attract international investment to our economy. If that slows down, we're in a very serious situation.

And one reason why we get that foreign investment is because we are a Nation of laws, and we are perceived to have a transparent and fair financial system. Moreover, as the outstanding witnesses have pointed out, we do right now rely very heavily in our pension and retirement system on the individual savings and investments of ordinary Americans.

We, the people of the United States, do own the public companies, when you look at the distribution of stock ownership.

And during the period of the 1990s, there was an amazing transformation as so much household wealth was built up, and the increased worker productivity, and savings and wealth in our families.

If we do not have confidence in this system, it is the most serious problem that I can think of in our domestic economy for a long time.

So let me share with you a thought about our response to this and, if nothing more, a way to look at this. I'll be happy to answer questions on some specifics that I have, but my statement focuses on an approach, if you will, because this could take awhile for us to develop, not just instant legislation. But in the future, we need to be thinking about these things.

Now, we can't exaggerate the abuses. There are a lot of good people who are executives and in management in the American system. More than any other country in the world, people have worked their way to the top. Our ancestors all came here with nothing, and that's true with corporate executives, many of whom have worked their way to the top through hard work.

But this is more than a case of a few bad apples. I think what you've had is a crisis of leadership. What does leadership really mean? In business or in politics or in our families and churches, leadership means giving more than you take. Leadership means giving credit to others and being first to accept responsibility. Leadership for corporations should mean holding yourself as a CEO—and I'm a CEO—to a higher standard than anyone who reports to you. That's what leadership is. It is servant leadership.

And too often we've had a situation in this country where CEOs and corporate leaders take credit for whatever happens good in their company. And then when something bad happens, it's the fault of somebody else or the economy or the press.

Let me give you an example of that. I was with somebody who was an hourly worker on a factory floor, and we were having a discussion about some trade legislation. Now, I will tell you that I'm an advocate for freer trade legislation, and this person, who is a friend of mine, disagreed with me, and I was probing this difference. And this is what he said to me, he said, "Every time my company announces that there are good earnings or higher profits, it's because of management's strategy and plans, and they get multimillion dollar bonuses. But every time our profits and earnings have gone down, it's because of foreign competition, and workers are fired and bonuses are cut on the working people down the line."

So it's a good example of where we've had a failure of corporate leadership. Leadership does not mean giving yourself bonuses and making yourself wealthy when the organization you're leading is performing poorly. And it doesn't mean failing to accept responsibility when things go wrong, and that includes legal responsibility.

Mr. Chairman, as someone who has both sat on corporate boards and led corporations, and also enforced our existing securities laws in courtrooms before juries of Americans, I want to tell you that laws are important. Values are important. Ethics may be even more important than laws and values, but laws are important.

And it's simply not true that they will stifle the free enterprise system.

Look at the difference between this country and Russia, and I'll give you an example. I served in the administration and have had different private business dealings in Russia. Russia in the 1990s had democracy. There was freedom of expression, a lot of freedom of expression. There was free enterprise. But what there was not were laws and fair enforcement and impartial enforcement of those laws regardless of whether somebody is wealthy and powerful. And that's why their economy went down.

So it's every bit as important for this country as any other country. Strict enforcement of laws does not destroy the free enterprise system. Good business ethics and strong laws are the underpinnings of a successful market economy, as we've seen from nations across the world when those very things are lacking.

I'd like to make two final notes, Mr. Chairman.

One is about my own business community of Houston, Texas. For a while there, looking at the television or reading the newspapers, somebody might have thought, "Oh my gosh, what's going on in Houston, Texas? Is there a problem with business ethics in that one community?" And it's a community of which I'm proud. But we found that it's not just a matter of one community. It's not just a matter of one industry. It's something that's occurred systematically throughout a number of companies in our economy.

And I want to tell you, we can't stereotype a community. We can't stereotype an industry. We can't stereotype CEOs. The Democratic Party is a party that has fought stereotypes in all the best days of its existence. But we've got to start with business ethics and values, and reinforce those with strong and predictable laws. This is something that's affected workers and communities throughout this Nation.

And, Mr. Chairman, in the questions, if people have specific questions, I'm prepared to address issues concerning the governance structure of corporations, pension reform, avoiding conflicts of interest. And just on that, there's usually no good reason for an institutionalized conflict of interest, okay?

And fourth, how we rebuild the accounting profession, because it's not just what we do with accountants who are wrong, but how do we rebuild an accounting profession so that we have professionals who can enter this profession with dignity and respect?

On all those issues, the one that may be with us longer than many people suspect may be this issue of pensions and retirement plans. Many people have had unrealistic expectations not simply about what would happen when their 401(k) was invested in something bad, but whether their 401(k)s currently are sufficient. There have been surveys about this. Americans who are busy going about their daily work, and who read financial planning journals or watch the TV programs, may think that their \$80,000 401(k) may provide more retirement security than its worth.

There was a survey of individual investors in 401(k) plans concerning what their expectations of returns were. Over 20 percent of them thought they were going to be 50 to 100 percent a year, and another 20 percent thought they were going to be over 20 percent a year.

And corporations, as Warren Buffet, no socialist, has pointed out, have systematically overstated the returns on their pension investments. They're not making conservative assumptions concerning their returns on pension investments. If those assumptions were made more conservative, those pension funds would be underfunded.

These are issues that I hope this Congress can address. Thank you, Mr. Chair.

PANEL II: THE SEC, ACCOUNTING INDUSTRY AND ECONOMY

Mr. GEPHARDT. I'd like to first thank our distinguished former Federal Reserve Chair Paul Volcker for appearing here today. You all know that he is not only a brilliant economist, but he also has loads of realistic experience in all the areas we're focusing on today. And we're glad to have him with us and have his expertise on these issues.

Lynn Turner is a front-line fighter if there ever was one. He learned these issues inside and out from 1998 to 2001, when he served as chief accountant for the Securities and Exchange Commission. He fought with Arthur Levitt to strengthen the SEC's enforcement hand to go after companies that wrongly puffed up their earnings. And through his voice and leadership, he successfully shined a spotlight on these issues in recent months. And we thank him for his service and for being here.

Bevis Longstreth was an SEC commissioner under President Reagan, where he focused on all the issues that we're talking about today. More recently, he served on independent panels focusing on auditing effectiveness. He's been a professor at Columbia Law, written numerous articles, published a book on investment management, and he's a true public servant in every sense of the word.

Nancy Smith has considerable experience from her time at the SEC. As director of the Office of Investor Education and Assistance, she worked closely with Arthur Levitt. She's worked in the House of Representatives, which is always a good idea to us, where she focused, among other things, on the SEC and issues of accounting and corporate conduct and standards. And finally, she has a Web site, [RestoreTheTrust.com](http://RestoreTheTrust.com), where investors are able to e-mail their Senators and ask them to support the Sarbanes bill to reform the auditing industry.

We're very pleased to have this panel. This is a distinguished panel, and I know they are all on a tough schedule, and we deeply appreciate their willingness to come here and be with us.

Paul Volcker, thank you for being here. It's good to see you again. You look great, exactly as you did when I last saw you here some years ago, so you're doing something right.

Mr. VOLCKER. I'm afraid I've gotten older. Mr. GEPHARDT. I doubt that.

STATEMENT OF THE HON. PAUL VOLCKER, FORMER CHAIRMAN, FEDERAL RESERVE BOARD  
Mr. VOLCKER. You will be relieved to know, I hope, that I have no prepared statement that I will belabor you with. I did give a long speech on this problem at Northwestern—ironically, in the Arthur Andersen Hall—about accounting and auditing. And I had a rather dismal story from the standpoint.

It's clear that we face not just an individual problem but something of a systematic problem with this rash of difficulties in auditing, accounting, corporate governance, conflicts of interest in investment banking, which are not exactly a new phenomenon but which have shone brightly in recent months.

My message to you is very simple, that there is a clear need for action. But the priority at the moment is that bill you are getting, from the Senate, the Sarbanes bill, which is directed, I think, at an acute part of the problem in a realistic way. It is the reflection of some considerable hearings and discussion in the Senate and elsewhere. And it deals particularly effectively, I think, with two problems related to the fact that the auditing industry has chronically been unable, I think, to regulate itself despite many efforts over the years.

It would provide a strong oversight body with the kind of discipline and powers that I think are necessary, somewhat analogous to what we've been used to for many years in the securities industry itself. In that sense, it's not a radical change, but it is certainly a change that I think would bring needed discipline to the auditing industry that has been under great pressure and has not handled that pressure, frankly, very effectively.

And secondly, it deals with what I believe and what many other people believe are obvious conflicts of interest in the practice of auditing by removing large elements of the consulting practice from the auditing practice.

And I think the combination of those two remedies will go a long way toward providing a kind of backbone of professionalism intent in the auditing profession that's necessary to bring some of the problems that we've seen so evidently under control.

I would urge you, given that priority, that bill which will be before you in conference that deals with those problems in a rather comprehensive way, that you should go ahead and get that enacted as rapidly as possible without too much extraneous additions, subtractions, or whatever.

I think in part, in that connection, on the question of stock options, which has attracted a lot of attention, I am not a fan of stock options. I think they have been more abused than used in any appropriate way. I think they give very capricious results. They often reward the unjust and don't reward the just in terms of their effect on the market. But this does not seem to me the time and the place for the Congress to command particular treatment. There are bodies that have that under review.

I am the chairman of the board of trustees of the International Accounting Standards Committee, which appoints an international accounting standards board. Its overall effort is to get some commonality, some convergence, in accounting standards around the world. By coincidence, yesterday or the day before, they sent out for public comment their proposal for the expensing of stock options. But whether it's the international board, which is obviously at work, or FASB, our own board, it seems to me that the way that is treated is a technical matter which we ought to leave to the accountants and the board.

And I have to remind you, the last time Congress got interested in this subject, about 8 years ago, they took the opposite position and, in effect, overruled what the accountants wanted to do and prevented the expensing of stock options. So I would suggest that that problem will be dealt with in an appropriate way in a quite different atmosphere today.

I think your priority ought to be to deal with the bill in conference, with the bill that has passed the House, but make sure that what comes out of that does achieve the essential purpose of a really effective oversight board for the profession and deals with that conflict of interest and also deals with some other matters as well. But I think that is the essential part of that bill that should be preserved and enacted as soon as you can manage it.

Mr. GEPHARDT. Thank you very much. We appreciate you taking the time to be here.

Lynn?

STATEMENT OF LYNN TURNER, FORMER CHIEF ACCOUNTANT, SECURITIES AND EXCHANGE COMMISSION

Mr. TURNER. Thank you, Congressman, for inviting me here. It's actually great to be back in D.C.

I just flew back in from the West where I had actually gone out fishing in the back-

woods, if you will. It was interesting, as I got a call about the hearing last week, and I was literally walking out the door with my fly-fishing rod to get away from what seemed to be an all-consuming issue here.

And we got out on the river the first morning with the guide, and keep in mind that we're in a place where there's no New York Times, no Washington Post, no Wall Street Journal, even the BlackBerry wouldn't work.

The guide asked, "What do you do for a living?" And I said, "Well, I'm an accountant." I admitted it. I figured I was safe. I mean, no papers, not even a daily paper. And he turns around and he looks to me and he says, "You know, you guys aren't doing very well these days. Have you considered a career change, Mr. Turner?" [Laughter.]

And so I spent 3 days on the river with this guide. So it's nice to be back to civilization. [Laughter.]

But I think what that points out, though, is that there a lot of Americans in all necks of the woods out there that are very concerned about what has transpired here and how it has impacted them and their savings and their families, whereas maybe 10 or 20 or 30 years ago, it wasn't as important as it is today, given that there has been a significant change. We now have 85 million Americans in the markets, either in stocks or mutual funds; that's one out of every two voting Americans. That's significant.

And they had a third of their wealth at the height of the markets tied up in the stock market. For the first time ever, it was more than they had in the equity in their homes. So the amount of damage that can be done if we don't get significant reforms is quite incredible.

If you think about Enron itself, the losses were twice what the losses were from the unbelievable tragedy of 9/11, six times the losses Hurricane Andrew when Miami was wiped out, in just one of these tragedies.

So it is as important, as Chairman Volcker said, that we get this thing fixed.

But the facts are in today. And in 2001, we had a record number of restatements, 270 restatements; 1,089 over the past 5 years. These numbers really do prove that there are more than just a few bad apples out there in the orchard, if you will, that President Bush would have led us all to believe in his speech last week.

And the accounting profession's refrain that we've heard for years and years here in this building, that 99.9 percent of the audits are okay, is also no longer credible, when you think about the fact that Rite Aid and WorldCom and Xerox and Enron were all part of that 99.9 percent at one point in time.

And also, the accounting profession would like you to think that, dingdong, the witch is gone now, with Andersen falling by the wayside, despite heroic efforts by Paul Volcker to save that firm, and that they were really the problem. But that isn't true. If you look Rite Aid, it was audited by KPMG, as was Xerox; MicroStrategy and WR Grace by PricewaterhouseCoopers; Deloitte did Adelphi; and Candiant was done by Ernst & Young.

So each of the firms, and certainly this was my experience at the commission, had their problems. And they were significant problems. The auditors have been investing the cash that they generated from a very profitable audit practice into the consulting practices. They've been writing broad principles-based auditing standards that have been so general that an independent panel chaired by the former chairman of Pricewaterhouse, of which a member was former Commissioner Bevis Longstreth here to my right, they issued 200 recommendations to the profession. To date, many have yet to be implemented as noted in a GAO report of just the last month or so.

So the profession itself has not done very well. And in fact, on some of these audits—if you looked at the audit of MicroStrategy, the problems there were detected in a magazine article that was written about their accounting. And the problems on Rite Aid were detected by a desktop review by an SEC staffer. And it's phenomenal that, on WorldCom, an internal auditor can find the problem that the external auditors never found. On a case like Rite Aid, a desktop review hundreds of miles away found a problem that couldn't be found on site. And in the case of MicroStrategy, a business article turned up something that people onsite couldn't find.

And at the same time, as we heard from Attorney General Spitzer, certainly the analysts have been a big problem. They've been rewarded for doing marketing rather than analysis, it seems, which the investment bankers, quite frankly, appreciated, as they saw themselves boosted by the analysts' exaggerated research reports and road shows.

And I'd be remiss if I said—during the last 3 to 4 years, as Chairman Levitt tried to get some of the reforms enacted, that some Members of Congress also opposed and vehemently opposed some of those reforms.

And if it wasn't for some people like Congressman LaFalce and Congressman Markey, whose support was absolutely fantastic and wonderful as we fought those battles—in fact, I don't think Arthur or I could have survived if it hadn't been for the support that we got from those Representatives.

We did get some reforms done, but certainly not as many as should have been done at that point in time, given the problems that were out there and problems that were ignored by other Members of Congress who, quite frankly, could have stepped in, I think, at that point in time and help fix the problem.

As Paul Volcker mentioned, I do think the solution here is in the Sarbanes bill. Congressman LaFalce had a similar bill here in the House that unfortunately the Republicans didn't give the Democrats a chance to bring to a full thumbs-up or thumbs-down vote. And I think Congressman LaFalce's bill, much like Senator Sarbane's, is one that provides a systemic solution for what is truly a systemic problem.

But now with the Sarbanes bill, it is my hope that, through conference, we'll get that bill out without weakening it. So while it may not have the LaFalce name on it, it will have the LaFalce intent and heart behind it.

We need to ensure that we have an adequately funded and independent SEC. The funding, there is no question that the handcuffs that were put on us at the SEC prevented us from doing our jobs. When I walked into the SEC in July of 1998, we had a total of 15 accountants to do all the enforcement cases against 240 enforcement cases at the time. They physically were not able to do it.

And in fact, as we went through those enforcement cases, we knew we had a number of good cases that, quite frankly, we had to drop and couldn't prosecute, because you just didn't have enough hours in the day. And that was directly due to the lack of funding, that we had received and the handcuffs that had been put on us. So we need to get that fixed.

We need to allow them to have enough people to review the filings last year. There was one staff accountant at the SEC for each 1,000 to 1,100 filings that come in. Many of these filings are a foot thick. So, again, physically, you can't work enough hours in a day. Unless you extend the days by an act of Congress to about 48 hours, we're just not going to be able to get the job done with \$776 million in funding in the Sarbanes bill, which is sorely needed.

And it's interesting to note that finally this administration and Chairman Pitt are coming around and starting to look like they might support some additional funding, which is great. I only wish they had done that when they submitted their original budget to Congress in February, which actually reduced the number of budgeted positions for the SEC well after Enron and Global Crossing had come to light.

We also need to make sure that we get adequate funding for the Justice Department. It is the Justice Department that has to bring all of these criminal prosecutions. The SEC will not bring one of those. And as the guide on the fishing trip said, he wanted to know, would we see these people, if they're found culpable of a wrongdoing, brought to justice. Well, the only way they'll be brought to justice is if we give Justice the tools and resources to do it. Absent doing that, we might as well turn around and put a 55 mile an hour speed limit sign out there on I-95 with a sign about 5 feet behind it, saying "No police for the next 100 miles." And you know everybody is going to be in the fast lane.

That's, in essence, what we're doing with the Justice Department and the SEC, unless we give them additional funding.

As in the Sarbanes bill, without a doubt we need to increase and improve upon the independent auditors, banning them from providing the services that really do impact their economy, regardless of size. It doesn't matter if it's a small company or a big company; you need to have integrity in the financial statements.

We need that strong oversight board. Restatements of the magnitude of \$3.8 billion on WorldCom and \$1.6 billion on Rite Aid, \$6 billion on Xerox—as I tell my students in class these days, if you can't get the numbers any closer than the nearest billion bucks, you're not going to pass this class. [Laughter.]

We need to get that fixed. That board needs to have the ability to set the standards by which we measure the performance of the auditors. The auditors I know have been up here saying, "Well, if you don't have auditors doing it, how can you get good standards?" Well, Congressmen, we've had knowledgeable standards written by knowledgeable auditors for the last 60 years, and it hasn't got the job done. What we found is those knowledgeable auditors have been writing standards that protect their interests in case of litigation and have dismally failed to protect the interests of investors and the integrity of numbers.

And as for the analysts, as Attorney General Spitzer said I think very eloquently, we need to go further than President Bush proposed when he suggested sticking with the rules the stock exchanges have already adopted. Those rules absolutely fail to provide analysts with protection from the very retribution of executives and underwriters who might be displeased by a negative research report.

We need to definitely strengthen the corporate governance. It has failed us. We need good, independent corporate boards, just like we need good, independent analysts and good, independent auditors.

And finally, we need good, independent accounting standard-setters with adequate funding and trustees who are representatives of the public, not trade organizations.

It's interesting to note that former Chairman Volcker brought up the issue of stock options. As a former executive, I actually think stock options can be a very good tool, if used properly and governed right within a corporation. There's nothing wrong with that. But I hear people say, "Well, you can't adequately measure them." Having been an executive of a large, international semicon-

ductor company, I would tell you that if an executive can't figure out what he's compensating employees, including with the stock options, if he can't measure them, he shouldn't be an executive there in the first place.

We all participated in the same surveys. We all knew what they were worth. And we all turned around and calculated that number using standard methodologies. It can be done. And people just need to put their heart behind it and get it done. In fact, a survey of approximately 2,000 analysts last year showed that 80 percent of them feel that the accounting standards for stock options are deficient and don't provide them enough information to do their job. We need to fix that so that the analysts can get the job done right and so investors can make informed decisions.

And the market I think has responded to President Bush's call for a crackdown on corporate fraud, but it has rejected his proposals as too little, too late, when it was shown in the market to where it dropped over 400 points in just the first 2 days after his speech before I went on my fishing trip. And since then, I've seen it's dropped more.

Legislation proposed by Senator Sarbanes advances the ball much further than the President's plan or the legislation the House has adopted or the proposals from Chairman Harvey Pitt. Sarbanes' bill is the only one to ensure the independence of auditors, corporate boards, and analysts. It provides effective and timely discipline, and it offers the funding necessary for the SEC and accounting standard-setters to do their job. It's a good start to solving what ails the market.

Congress needs to find the will to pass it without weakening it anymore, and send it on to the President. And if not, I can tell you that I've heard many an angry American investor that says they will vote for reform in November.

Thank you.

Mr. GEPHARDT. Thank you, Lynn, very much.

I failed to ask you if you caught any fish on this trip. [Laughter.]

Did he take you to anyplace where you caught anything?

Mr. TURNER. We did very well.

Mr. GEPHARDT. Good. Well, we'll try to get this bill passed so that you can retain his confidence and he'll take you back. [Laughter.]

Professor Longstreth, we appreciate you being here, and we're ready to hear you.

STATEMENT OF BEVIS LONGSTRETH, FORMER MEMBER, SECURITIES AND EXCHANGE COMMISSION

Mr. LONGSTRETH. It's a pleasure to be here. And it's a pleasure to be in this room. The last time I testified on this subject before the House, it was in the House Commerce Committee, and I was so far away from you, I wasn't sure you were really there. [Laughter.]

So this is a very intimate gathering, and I appreciate the chance to communicate.

S. 2673, the Sarbanes bill, is a critically important piece of legislation that, in my judgment, should be passed by the House and placed on the President's desk without delay. Nothing I can think of would do more to restore the public's trust in our financial markets than the simple adoption by the House of this bill, and make it the House's own bill.

The need for this bill to become law transcends party. To its credit, the Senate confirmed this fact by its vote of 97-0.

While my roots are in the Democratic Party, what I want to say today is intended to be completely bipartisan. I would say precisely the same thing if this were a Republican Caucus. It's designed to appeal to both

sides of the aisle and to get the objective I just stated done.

There's much to applaud in the Sarbanes bill. But I'm going to concentrate on the very heart of that bill, the most important parts of it, which should not be compromised and must be adopted. These measures I'm going to talk about relate to the creation and the empowerment of an oversight board to regulate auditors of public companies.

For decades, the auditing profession claimed that despite the obvious conflicts of interest it could effectively regulate itself. It has now become evident to just about everybody in the country, outside a tiny circle of leaders in that profession, that self-regulation has been a failure. It's not a new failure, for it has never worked. But the failure now is of such magnitude in terms of cost to the investing public that it can no longer be ignored.

It's not being ignored by the SEC. In its recent release proposing a public accountability board, it based that proposal on a scathing account. I was shocked and delighted to read the scathing account in that release on the profession's efforts over decades to self-regulate itself.

The Wall Street Journal quoted Chairman Pitt as saying, "The era of self regulation by the accounting profession is over." So the SEC is basically on board with Sarbanes in that statement and in that release.

The OMB, for its part, on July 9, in its statement of administration policy regarding Sarbanes, said, "A two-tiered regulatory framework is necessary to protect investors." That's not what Congressman Oxley seemed to be saying as of 2 days ago.

And the OMB went on to conclude that "a newly established, independent accounting oversight board should set, oversee, and enforce professional audit, quality control, and ethics standards."

Now, we have the Senate, and they've spoken to the same effect and in appropriate detail with care, clarity, and the force of unanimity.

So now it's the House's turn. And with all this agreement afoot as to the need for an effective oversight board, one could reasonably ask, what's the problem? Why are we here? The problem is found in a very fundamental difference of opinion as to what it takes to assure that the oversight board will be effective.

Chairman Pitt and the administration believe the SEC itself could create an effective board by administrative action. Professors Coffey and Seligman and I strongly disagree, and the specifics of that disagreement are in a letter that I am going to attach to this testimony to give you. We gave that letter to Chairman Sarbanes.

The Oxley bill was passed some time ago, before WorldCom created a tailwind behind real reform. And it is woefully deficient in arming the oversight board with powers sufficient to permit it to function effectively.

Now, I think everyone would agree that effectiveness in creating any government agency is essential. It's not useful to spend taxpayers' money on going through motions that don't accomplish anything, ab initio don't have a prospect of accomplishing anything.

Nothing could do more harm to investor confidence than the passage of a bill that has only a patina of reform allowing legislators to claim victory when in fact it fails to provide the tools needed to get the job done. An already skeptical public can be counted on to punish anyone engaging in that kind of sham.

Without going into detail on Oxley, let me mention a few of the most glaring problems. Oxley would allow the profession to control the oversight board; it would allow the pro-

fession to control the oversight board. That's the same defect that is in the Pitt proposal in the administrative version. And we pointed that out in our letter.

In reality, the Oxley bill as it is now written would simply dress in new clothes the failed system of self-regulation. Watchdogs selected by those whom they are intended to watch will do nothing to restore investor confidence in the audit function. To the contrary, it will further erode it.

Second, Oxley would not assure funding for the board free of influence or control by the profession. In the past, this profession has not hesitated to withdraw funding from entities itself had created to carry out self-regulation when those entities dared to do something that the profession didn't like.

The third point: Oxley would deny the oversight board the power to prohibit a firm from providing non-audit services to its audit clients. Even the nature and/or amount of such services would impair the auditors' independence.

In his testimony before the Senate this week, Chairman Greenspan said, wisely, I think, humans haven't become any more greedy than in generations past. He said the problem was "that the avenues to express greed had grown so enormously."

And indeed they have. As applied to the audit profession, the immense growth in non-audit services has become a super-highway for the expression of greed. Today over 70 percent of all fees paid by public companies to their auditors are for non-audit services. For the oversight board to have a chance to be effective in taming the profession's infectious greed, to borrow the chairman's newly minted phrase, the board must have the power to prohibit non-audit services.

The fourth point: Oxley fails to grant the oversight board adequate investigative enforcement and disciplinary powers. Without a set of powers at least comparable to what the NASB and the New York Stock Exchange enjoy with respect to broker-dealers, the oversight board is doomed to ineffectiveness.

There are lots of other deficiencies which a careful side-by-side comparison with the Sarbanes bill would quickly reveal.

I think a legislatively empowered oversight board is so important to restoring investor trust, transcendentally important in terms of the other things in that bill. The reason for that is found in the audit function itself.

Since 1934, public companies have been required to have independent public accountants vouch for their numbers. The auditors are the last line of defense against management's inclination to fudge the numbers. Unlike the companies they examine, auditors are simply not supposed to be taking risks. They're not entrepreneurs. And yet with the enormous growth in consulting and other non-audit services rendered to management, they became co-venturers with management to such a degree that their independence as auditors was often compromised.

They put themselves in a severe conflict of interest when they perform non-audit services, on the one hand trying to woo management to be retained to perform highly profitable services that management could easily procure elsewhere, while on the other hand trying to serve the audit committee and the company shareholders by being questioning and skeptical of management in reviewing the numbers.

The cause and effect of allowing this conflict to persist any longer is no secret, even to those untrained in finance. Listen to what R. L. Butler, a retired clergyman in Denver, said, as quoted on the front page of the New York Times yesterday. "The worst thing now is you can't even trust the earnings reports.

When you find the auditors in bed with the managers, there's nobody to believe."

Mr. Butler understands this, and so does a rapidly growing number of very angry investors who have lost much of their life savings in stock markets and all of their faith in audited numbers.

And these people vote. They want their trust restored. Congress has a chance to accomplish that, and it can be done through legislation, ensuring a system by which companies present their financial condition and that that system is worthy of trust.

S. 2673 is the vehicle. It's sitting there ready and waiting. My dream is to watch bipartisan leadership in the House get behind the wheel, drive that vehicle over to the White House, and park it on the President's desk.

Mr. RANGEL. Thank you, Mr. Longstreth. That's our dream, too.

Those bells indicate that there is a vote taking place on the floor. In the interests of time, this hearing will continue. Members can vote and return.

But it's my privilege to recognize Ms. Nancy Smith. And thank you once again for taking the time to share your views with us.

STATEMENT OF NANCY SMITH, FORMER DIRECTOR, INVESTOR EDUCATION AND ASSISTANCE, SECURITIES AND EXCHANGE COMMISSION

Ms. SMITH. Thank you very much. It's a pleasure to be back in the House of Representatives and see so many faces that I remember from when I worked here. And thank you for inviting me to be on the panel today.

I am the director of the RestoreTheTrust.com. RestoreTheTrust.com is a nonpartisan campaign dedicated to educating the public about accounting reform and to make sure that real reform is signed into law. The Web site was created to give individual investors a place to go to learn about what is at stake and to voice their support for the only true reform proposal on the table, the Sarbanes bill.

At the Web site, you can send an e-mail in support of the Sarbanes bill and real reform to your Members of Congress, the President, and SEC Chairman Harvey Pitt.

We launched the Web site just weeks ago on July 1. In that short time, individuals have sent 46,000 letters in support of the Sarbanes bill to decision makers.

Individual investors have suffered enormous losses because our lax regulatory system overseeing auditors let them down. We hear from investors who have suffered enormous losses. Some retirees wonder how they are going to make ends meet now that their retirement funds have been slashed by a third or more.

To say people are angry is an understatement. People expect the market to go up and down. As one investor wrote to us, "I can understand losing when things like the economy and certain markets sour. But now I'm losing largely because the information on which I depended turned out to be false. I guess I was naive. I thought the American system of corporate reporting was basically honest."

We all know that restoring trust in our stock market is critical. The health of corporate America, their ability to raise capital and raise jobs, drives the well-being and financial security of every American. When investors don't trust corporate America to tell the truth about their financial health, it means investors don't give corporations the money they need to grow and prosper. And as a result, our economy suffers.

One investor who wrote to us brought this point home. "I will not invest any more of my hard-earned money to line the pockets of thieves."

It's imperative that we make sure the numbers tell the truth and that people believe they are truthful. So how do we do that? Increasing penalties for lying and stealing, and sending corporate executives and their auditors to jail, sounds great. But strong enforcement is only half the answer. You can't pay the mortgage or the grocery bill with the satisfaction of seeing some tycoon sitting behind bars. We must prevent these accounting frauds and the losses they cause from happening again.

It's unbelievable that we let the auditors police themselves. The lax regulatory system we have in place today has got to go. It needs to be replaced by the sensible and effective regulatory system in the Sarbanes bill that provides independent oversight of the accounting industry and prohibits auditors from consulting for the companies they audit.

The litmus test for true reform is twofold: create a full-time independent board free from industry control to oversee auditors and punish wrongdoers; and, two, restrict auditors from providing lucrative consulting services to the firms they audit. Auditors should not be tempted to get cozy with management. They can't get consulting fees and fight hard for audits that protect investors.

The Senate bill is the only bill to restore investors' trust and prevent future scandals. Investors want real reform in the Senate bill, and they want it now. They will know if any backroom deals allow industry lobbyists to water it down.

There's a basic problem with the House bill, the Oxley bill: It doesn't meet the litmus test, and it doesn't fix the problem. There's a reason the accounting industry supports it over the Senate bill; the House bill keeps the accounting industry firmly in control.

We've learned a costly lesson: When the accounting industry polices itself, they get themselves and investors in big trouble.

The auditors cooked the books; don't let them cook the legislation. The House bill is just a warmed-over version of the status quo.

There's no time to waste. The Senate voted 97-0 for a bill that gives us a sensible regulatory system that is designed to work. Let's follow the lead of Democrats and Republicans in the Senate and get the Sarbanes bill to the President for his signature right away.

Thank you very much.

Mr. GEPHARDT. Let me ask one question, and then we'll end.

And, again, I deeply appreciate all of you being here. I wish all of America and all these investors that we worry about here could have heard this panel. I think their confidence, just by hearing you, would have been enormously restored.

It's always reassuring to me, as a citizen of this country, that we have people like each of you, who is willing to give a large part of your career to public service, so that the greatest system that's ever been devised in the history of the world of democracy and capitalism can work properly. So I hope to get your testimony out to as wide an audience as we can.

My question is really a follow-on. I think Paul's answer is what I certainly agree with, that we've got this thing in front of us now. It got a unanimous vote in the Senate; that rarely happens. So we have to seize the moment and try to get this bill through without interrupting it or diluting it or changing it dramatically and watering it way down.

My question is this: Do any of you think that further legislation, assuming we get this done, on the stock option question—Paul talked about it, and I think Lynn talked about. And I understand that the International Accounting Standards Board made a recommendation today or yesterday.

Mr. VOLCKER. More than a recommendation.

Mr. GEPHARDT. Yes, they did it.

There is, I'm told, a Levin-McCain bill now that would ship this off to the new independent board, or the FASB, I'm not sure which, and ask them to reconsider a lot of rules and to come back with recommendations within a year. I'd like to have your thoughts about that.

And I'd like to have your thoughts about the pension issues, profit-sharing issues. Some of those George Miller brought up. Do you think that we should try to get a bill done there? We did do a bill here. It had some deficiencies in it, from my viewpoint. The Senate is going to try to deal with it. What do you think is the heart of anything that needs to be done in that area, if anything?

Those are the two questions.

Mr. VOLCKER. Well, on the pension side of things, let me say that I think there probably is a need for some legislation there, in order to better protect the pensioner himself. But that is a classic case of something has its own complications and should not be added to the current bill.

Mr. GEPHARDT. Right.

Mr. VOLCKER. I think that is something you have to think about a little more, about how to do it. But I think there is good reason to proceed.

I am not so sure about the stock option question. I think we have a designated arrangement for dealing with that question. It's hard to object to a bill that tells FASB to reconsider it. I think they will reconsider it anyway, whether there's a bill or not.

My hesitancy is, I don't want to create a precedent that Congress is going to write the accounting rules. And that's—

Mr. GEPHARDT. That would not be a good idea. [Laughter.]

Take my word for it.

Mr. VOLCKER. That's what you would be doing in this particular case, and I don't want to see that precedent. I feel quite confident that the board that I am involved with—I may agree or disagree with the very specific action they take, but they have that problem well in mind. And they're trying their best to come up—they've expressed their view that it should be expensed. The question is how it should be expensed. And I would leave that question up to them, frankly.

Mr. LONGSTRETH. I have one comment on the stock options. I agree completely with Paul that Congress ought not to legislate either on expense or non-expense. And that gets back to the history of this. They really overruled FASB.

And I think FASB, once burned in that way, even with the present situation, may be reluctant to take it up. I have no expertise on that, but I think there are so many people in this country who argue strenuously, and they're bright people, and some of them are highly motivated people, for not expensing options. And I feel so strongly they should be expensed that I think that—I don't see a problem, Paul, with having the Congress undo the damage it did earlier by simply saying we encourage or even direct, but I think you could—a sense of Congress to invite and encourage FASB to revisit this issue would be, I think, a good idea, because it would give FASB the cover, the sense of direction, that they may need.

I mean, this market can turn around again, and the momentum will be gone. But it won't be gone for those people who have an enormous stake in hiding these numbers.

Mr. VOLCKER. I think it's a little naive to suggest that Congress could suggest that and pass such a law without it carrying the implication that you'll do this. And I don't think it's appropriate.

FASB will be forced to take it up if the international takes it up and passes it. I didn't say they're going to do anything, but they can't sit there. They're either going to have to say yes or no.

Mr. LONGSTRETH. Okay, that's a good point.

Mr. TURNER. Let me jump in between these two distinguished gentlemen and stay down low. [Laughter.]

First of all, back to the Sarbanes bill, quite frankly, this is a very, very simple issue: You're either for reform or you're not. You're either for the Sarbanes bill or you're not.

The Oxley bill, the Pitt program, and the 10-point President's program all have some good things in there, but they fall a mile short. They are not reform.

And I think the House could just vote for the Sarbanes bill. To have to beat this to death in conference and perhaps water it down is not being for reform. If the House leadership wants to demonstrate that it's clearly for reform, it will have the Members vote on the Sarbanes bill straight up and get it to the President's desk before the end of the week, tomorrow.

And I feel passion about that. This is very simple. America wants a simple answer. Let's just get reform. Let's get it down.

So I commend you, Representative Gephardt, for holding this hearing, because I think it's important that the public understands who is for reform and who is against.

With respect to the two pieces of legislation, again, having run a company where we had many employees, many pension programs, I would agree with Paul Volcker, that you should do some additional legislation there to protect the employees in those situations. Again, do it in a separate bill outside of Sarbanes.

As far as the stock option issue, the reason we're in the dilemma we're in, to some degree, is because of congressional interference with the FASB in the past. I mean, we would have had a good standard if it hadn't been for that interference.

So I do agree with Bevis Longstreth that it doesn't do harm, in this case, if you undid the damage that you did in the past. But you should not legislate what the accounting should be. I think to ask the FASB to put it on the agenda, and then let them go through their normal due process, is fine.

I saw earlier drafts of some legislation over in the Senate, though, where some people wanted FASB to conduct a study, but it was almost biased from day one.

I think if you asked the FASB to do something, it should be simple and should not have a bias. It should just be, "Would you consider putting it back on your agenda? And then go do whatever you think is right," and leave it at that, nothing more, nothing less.

I have been on panels with two of the members of the FASB where they have been very adamant. Given the tremendous fight and the difficulty that they went through the first time, both of these members vowed that they would not, absent some outside support, they absolutely would not put it back on their agenda, including if the ISB undertook the project.

And if the ISB undertakes the project and gets something out—as Paul indicated, the exposure draft is out there—and gets something done, I think that the opposition from the American business community may still present an obstacle to the FASB ever putting it back on its agenda, given what happened 8 years ago.

So I would have no problem, if you kept it simple. I think it would actually be good if you asked them to put it back on the agenda and reconsider it, because it may get us to

convergence on international standards, and that would be very helpful, as long as people let the process run the way it should turn around and run. And I'd encourage you to do that.

Mr. GEPHARDT. Thank you.

Nancy, do you have a last thought here?

Ms. SMITH. Well, I agree with what the gentlemen have said. I think the bottom line is the American people want to hear the truth.

And when we look at these issues, what our guide should be is: Are we telling the truth about these numbers? Are we shading the profitability of a company by what we're doing on stock options? That doesn't serve the investing public. That's what the investing public is upset about right now.

So let's restore the trust. Let's tell people the truth. That's all people want.

Mr. GEPHARDT. Thank you again. This has been a fabulous panel. I have really benefited from hearing you. You have enormous experience and practical advice to give us, and we have benefited from it enormously. And we'll try to get your testimony as widely spread as we can.

Thank you very much.

[Whereupon, at 4:00 p.m., the hearing was adjourned.]



## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 30, 2002 may be found in the Daily Digest of today's RECORD.

## MEETINGS SCHEDULED

## JULY 31

9:30 a.m.

Commerce, Science, and Transportation  
To hold hearings on the nomination of Rebecca Dye, of North Carolina, to be a Federal Maritime Commissioner.

SR-253

Energy and Natural Resources

Business meeting to consider pending calendar business.

SD-366

Foreign Relations

To hold hearings to examine threats, responses, and regional considerations surrounding Iraq.

SD-419

9:45 a.m.

Commerce, Science, and Transportation  
Surface Transportation and Merchant Marine Subcommittee  
To hold hearings to examine railroad shipper issues.

SR-253

10 a.m.

Environment and Public Works  
Superfund, Toxics, Risk, and Waste Management Subcommittee  
To hold oversight hearings to examine the Environmental Protection Agency Inspector General's Report on the Superfund Program.

SD-406

Judiciary

To hold hearings to examine class action litigation issues.

SD-226

Health, Education, Labor, and Pensions

Business meeting to consider S. 2328, to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to ensure a safe pregnancy for all women in the United States, to reduce the rate of maternal morbidity and mortality, to eliminate racial and ethnic disparities in maternal health outcomes, to reduce pre-term, labor, to examine the impact of pregnancy on the short and long term health of women, to expand knowledge about the safety and dosing of drugs to treat pregnant women with chronic conditions and women who become sick during pregnancy, to expand public health prevention, education and outreach, and to develop improved and more ac-

curate 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 Medication Board.

SD-430

Governmental Affairs

Oversight of Government Management, Restructuring and the District of Columbia

Subcommittee

To hold hearings to examine consumer safety and weight loss supplements, focusing on the extent of the use of supplements for weight loss purposes, the validity of claims currently being made for and against weight loss supplements, and the structure of the current federal system of oversight and regulation for dietary supplements.

SD-342

1:30 p.m.

Judiciary

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.

SD-226

2:30 p.m.

Foreign Relations

To continue hearings to examine threats, responses, and regional considerations surrounding Iraq.

SD-419

Energy and Natural Resources

Water and Power Subcommittee

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 construct the Rocky Boy's North Central Montana Regional Water System in the State of Montana, to offer to enter into an agreement with the Chippewa 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 Fre-

mont-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.

SD-366

Intelligence

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.

SDG-50

3 p.m.

Armed Services

To hold hearings to examine the status of Operation Enduring Freedom.

SD-106

## AUGUST 1

9 a.m.

Armed Services

To resume open and closed (in Room SR-222) hearings to examine the implications of the Strategic Offensive Reductions Treaty (Treaty Doc. 107-8).

SD-106

9:30 a.m.

Foreign Relations

Business meeting to consider pending calendar business.

SD-419

Agriculture, Nutrition, and Forestry

Business meeting to mark up proposed legislation providing for agricultural disaster assistance, and to consider the nomination of Thomas C. Dorr, of Iowa, to be a Member of the Board of Directors of the Commodity Credit Corporation, and to be Under Secretary of Agriculture for Rural Development.

SR-328A

10 a.m.

Indian Affairs

To hold oversight hearings to examine the Secretary of the Interior's Report on the Hoopa Yurok Settlement Act.

SR-485

Foreign Relations

To hold hearings to examine national security perspectives regarding Iraq.

SD-419

Finance

To hold hearings on the nomination of Pamela F. Olson, of Virginia, to be an Assistant Secretary of the Treasury.

SD-215

Judiciary

Business meeting to consider pending calendar business.

SD-226

2 p.m.

Indian Affairs

To hold oversight hearings to examine problems facing Native youth.

SR-485

Judiciary

To hold hearings on pending judicial nominations.

SD-226

2:30 p.m.

Banking, Housing, and Urban Affairs  
International Trade and Finance Sub-  
committee

To hold oversight hearings to examine  
the role of charities and non-govern-  
mental organizations in the financing  
of terrorist activities.

SD-538

Foreign Relations

To continue hearings to examine na-  
tional security perspectives regarding  
Iraq.

SD-419

AUGUST 2

2 p.m.

Indian Affairs

To hold hearings on S. 958, to provide for  
the use and distribution of the funds

awarded to the Western Shoshone iden-  
tifiable group under Indian Claims  
Commission Docket Numbers 326-A-1,  
326-A-3, 326-K.

SD-106

## CANCELLATIONS

JULY 31

9:30 a.m.

Foreign Relations

Business meeting to consider pending  
calendar business.

SD-419

## POSTPONEMENTS

JULY 31

9:30 a.m.

Finance

To hold hearings to examine the Report  
of the President's Commission to  
Strengthen Social Security.

SD-215

10 a.m.

Indian Affairs

To hold oversight hearings to examine  
the application of criteria by the De-  
partment of the Interior/Branch of Ac-  
knowledgment.

SR-485

# Daily Digest

## Senate

### Chamber Action

*Routine Proceedings, pages S7445–S7504*

**Measures Introduced:** Seven bills were introduced, as follows: S. 2812–2818. **Page S7469**

**Measures Reported:**

S. 1961, to improve financial and environmental sustainability of the water programs of the United States, with an amendment in the nature of a substitute. (S. Rept. No. 107–228) **Page S7469**

**Measures Passed:**

**Persian Gulf War POW/MIA Accountability Act:** Senate passed S. 1339, to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, after agreeing to a committee amendment. **Pages S7502–03**

**Greater access to Affordable Pharmaceuticals Act:** Senate resumed 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: **Page S7462**

Pending:

Reid (for Dorgan) Amendment No. 4299, to permit commercial importation of prescription drugs from Canada. **Page S7462**

McConnell Amendment No. 4326 (to Amendment No. 4299), to provide for health care liability reform. **Page S7462**

A unanimous-consent-time agreement was reached providing for further consideration of the bill at 11:30 a.m., on Tuesday, July 30, 2002. **Page S7503**

A motion was entered to close further debate on Reid (for Dorgan) Amendment No. 4299, listed above and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a cloture vote will occur on Wednesday, July 31, 2002. **Page S7462**

A motion was entered to close further debate on the bill and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a cloture vote will occur on Wednesday, July 31, 2002. **Page S7462**

**Authority for Committees:** All committees were authorized to file executive and legislative reports during the recess/adjournment of the Senate on Wednesday, August 28, 2002, from 10 a.m. to 2 p.m. **Page S7503**

**Nominations Confirmed:** Senate confirmed the following nominations:

By unanimous vote of 95 yeas (Vote No. EX. 194), Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit.

**Pages S7452–55, S7504**

By unanimous vote of 96 yeas (Vote No. EX. 195), Joy Flowers Conti, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania. **Pages S7455–57, S7504**

By unanimous vote of 96 yeas (Vote No. EX. 196), John E. Jones III, of Pennsylvania, to be United States District Judge for the Middle District of Pennsylvania. **Pages S7457, S7504**

Fred L. Dailey, of Ohio, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

Grace Trujillo Daniel, of California, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

Lawrence A. Greenfeld, of Maryland, to be Director of the Bureau of Justice Statistics.

J. Russell George, of Virginia, to be Inspector General, Corporation for National and Community Service.

Naomi Shihab Nye, of Texas, to be a Member of the National Council on the Humanities for a term expiring January 26, 2006. (Reappointment)

Jeffrey D. Wallin, of California, to be a Member of the National Council on the Humanities for a term expiring January 26, 2006.

Michael Pack, of Maryland, to be a Member of the National Council on the Humanities for a term expiring January 26, 2004.

Wilfred M. McClay, of Tennessee, to be a Member of the National Council on the Humanities for a term expiring January 26, 2006.

Thomas Mallon, of Connecticut, to be a Member of the National Council on the Humanities for a term expiring January 26, 2004.

Robert Davila, of New York, to be a Member of the National Council On Disability for a term expiring September 17, 2003.

Marcos D. Jimenez, of Florida, to be United States Attorney for the Southern District of Florida for the term of four years.

Anthony Dichio, of Massachusetts, to be United States Marshal for the District of Massachusetts for the term of four years.

James Thomas Roberts, Jr., of Georgia, to be United States Marshal for the Southern District of Georgia for the term of four years.

James Robert Dougan, of Michigan, to be United States Marshal for the Western District of Michigan for the term of four years.

Miriam F. Miquelon, of Illinois, to be United States Attorney for the Southern District of Illinois.

Peter J. Hurtgen, of Maryland, to be Federal Mediation and Conciliation Director.

Michael Lee Kline, of Washington, to be United States Marshal for the Eastern District of Washington for the term of four years.

Earl A. Powell III, of Virginia, to be a Member of the National Council on the Arts for a term expiring September 3, 2006.

George Breffni Walsh, of Virginia, to be United States Marshal for the District of Columbia for the term of four years.

Pages S7502, S7503–04

Messages From the House:

Page S7465

Executive Communications:

Pages S7465–69

Additional Cosponsors:

Pages S7469–70

Statements on Introduced Bills/Resolutions:

Pages S7470–S7502

Additional Statements:

Pages S7464–65

Notices of Hearings/Meetings:

Page S7502

Record Votes: Three record votes were taken today. (Total—196)

Pages S7454–55, S7456–57, S7457

Adjournment: Senate met at 4 p.m., and adjourned at 7:37 p.m., until 10:30 a.m., on Tuesday, July 30, 2002.

## Committee Meetings

(Committees not listed did not meet)

### NON-PROLIFERATION REGIMES

*Committee on Governmental Affairs:* Subcommittee on International Security, Proliferation and Federal Services concluded hearings to examine certain measures to strengthen multilateral nonproliferation regimes, including efforts to impede the spread of weapons of mass destruction, missiles for their delivery, and advanced conventional weapons, after receiving testimony from Marshall Billingslea, Deputy Assistant Secretary of Defense; and Vann H. Van Diepen, Director, Office of Chemical, Biological, and Missile Nonproliferation, Department of State.

# House of Representatives

## Chamber Action

The House was not in session today. Pursuant to the provisions of S. Con. Res. 132, the House stands adjourned for the Summer District Work Period until 2 p.m. on Wednesday, September 4, 2002.

## Committee Meetings

No committee meetings were held.

### COMMITTEE MEETINGS FOR TUESDAY, JULY 30, 2002

(Committee meetings are open unless otherwise indicated)

#### Senate

*Committee on Armed Services:* Subcommittee on Emerging Threats and Capabilities, to hold hearings to examine the report of the General Accounting Office on nuclear pro-

liferation and efforts to help other countries combat nuclear smuggling, 2:30 p.m., SR–232A.

*Committee on Banking, Housing, and Urban Affairs:* 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, 2 p.m., SD–538.

*Committee on Commerce, Science, and Transportation:* 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.

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.

*Committee on Energy and Natural Resources:* 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.

*Committee on Environment and Public Works:* to hold hearings to examine the effectiveness of the current Congestion Mitigation and Air Quality (CMAQ) program, conformity, and the role of new technologies, 9:30 a.m., SD-406.

*Committee on Finance:* 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.

*Committee on Foreign Relations:* 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 a.m., SD-419.

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.

*Committee on Governmental Affairs:* 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.

*Committee on Indian Affairs:* to hold hearings on proposed legislation concerning the Department of the Interior/Tribal Trust Reform Task Force; and to be followed by S. 2212, to establish a direct line of authority for the Office of Trust Reform Implementations and Oversight to oversee the management and reform of Indian trust funds and assets under the jurisdiction of the Department of the Interior, and to advance tribal management of such funds and assets, pursuant to the Indian Self-Determinations Act, 10 a.m., SD-106.

*Committee on the Judiciary:* Subcommittee on Crime and Drugs, to hold hearings to examine criminal and civil enforcement of environmental laws, 2:15 p.m., SD-226.

## House

No committee meetings are scheduled.

## Next Meeting of the SENATE

10:30 a.m., Tuesday, July 30

## Senate Chamber

**Program for Tuesday:** After the transaction of any routine morning business (not to extend beyond 11:30 a.m.), Senate will continue consideration of S. 812, Greater Access to Affordable Pharmaceuticals Act.

*(Senate will recess from 12:30 p.m. until 2:15 p.m., for their respective party conferences.)*

## Next Meeting of the HOUSE OF REPRESENTATIVES

2 p.m., Wednesday, September 4

## House Chamber

**Program for Wednesday:** To be announced.

## Extensions of Remarks, as inserted in this issue

## HOUSE

Andrews, Robert E., N.J., E1427  
 Baird, Brian, Wash., E1463  
 Ballenger, Cass, N.C., E1419  
 Barrett, Thomas M., Wisc., E1423  
 Bentsen, Ken, Tex., E1461, E1463, E1465  
 Berkley, Shelley, Nev., E1416  
 Bilirakis, Michael, Fla., E1416  
 Boehlert, Sherwood L., N.Y., E1466  
 Bonior, David E., Mich., E1468  
 Bono, Mary, Calif., E1458  
 Brady, Kevin, Tex., E1414  
 Brown, Henry E., Jr., S.C., E1456, E1457  
 Burton, Dan, Ind., E1417, E1428  
 Carson, Julia, Ind., E1469, E1470  
 Chambliss, Saxby, Ga., E1461  
 Christensen, Donna M., The Virgin Islands, E1435  
 Clayton, Eva M., N.C., E1415, E1453, E1453  
 Clyburn, James E., S.C., E1414, E1418, E1420, E1463  
 Costello, Jerry F., Ill., E1462  
 Cramer, Robert E. (Bud), Jr., Ala., E1422  
 Crowley, Joseph, N.Y., E1466, E1468  
 Cummings, Elijah E., Md., E1445  
 Davis, Danny K., Ill., E1411, E1459, E1468, E1469  
 DeFazio, Peter A., Ore., E1451  
 DeGette, Diana, Colo., E1412, E1465  
 DeLauro, Rosa L., Conn., E1467, E1468

Dingell, John D., Mich., E1421, E1449, E1467  
 Eshoo, Anna G., Calif., E1421  
 Evans, Lane, Ill., E1421, E1449  
 Filner, Bob, Calif., E1459  
 Gephardt, Richard A., Mo., E1470  
 Gilchrest, Wayne T., Md., E1457  
 Gillmor, Paul E., Ohio, E1418  
 Gordon, Bart, Tenn., E1424, E1458  
 Graham, Lindsey O., S.C., E1443  
 Green, Mark, Wisc., E1413, E1416  
 Gutierrez, Luis V., Ill., E1449  
 Hall, Ralph M., Tex., E1453, E1454  
 Hastings, Alcee L., Fla., E1429, E1432  
 Hilleary, Van, Tenn., E1430  
 Hinojosa, Rubén, Tex., E1459  
 Hoekstra, Peter, Mich., E1440  
 Holt, Rush D., N.J., E1407, E1413  
 Honda, Michael M., Calif., E1439, E1441, E1442, E1443  
 Horn, Stephen, Calif., E1407  
 Houghton, Amo, N.Y., E1418  
 Hoyer, Steny H., Md., E1425  
 Hyde, Henry J., Ill., E1441  
 Issa, Darrell E., Calif., E1451  
 Jackson-Lee, Sheila, Tex., E1461  
 Johnson, Nancy L., Conn., E1451  
 Kelly, Sue W., N.Y., E1457  
 Kennedy, Mark R., Minn., E1459  
 Kennedy, Patrick J., R.I., E1432, E1434  
 King, Peter T., N.Y., E1438  
 Knollenberg, Joe, Mich., E1428, E1454, E1457

Kucinich, Dennis J., Ohio, E1454, E1455  
 Lampson, Nick, Tex., E1427  
 Larson, John B., Conn., E1424  
 LoBiondo, Frank A., N.J., E1418  
 McCollum, Betty, Minn., E1442  
 McInnis, Scott, Colo., E1414, E1416, E1417, E1419, E1422, E1423  
 McKinney, Cynthia A., Ga., E1426  
 McNulty, Michael R., N.Y., E1440  
 Maloney, Carolyn B., N.Y., E1427, E1439, E1443, E1451  
 Markey, Edward J., Mass., E1452  
 Menendez, Robert, N.J., E1435  
 Millender-McDonald, Juanita, Calif., E1463  
 Miller, Dan, Fla., E1428, E1444  
 Miller, George, Calif., E1433  
 Mink, Patsy T., Hawaii, E1447, E1460  
 Moore, Dennis, Kansas, E1450  
 Morella, Constance A., Md., E1423, E1461, E1465  
 Ney, Robert W., Ohio, E1424  
 Norton, Eleanor Holmes, D.C., E1429, E1431  
 Oberstar, James L., Minn., E1419  
 Owens, Major R., N.Y., E1458  
 Pallone, Frank, Jr., N.J., E1415, E1455, E1456  
 Paul, Ron, Tex., E1460  
 Pelosi, Nancy, Calif., E1431, E1435, E1464  
 Pence, Mike, Ind., E1418  
 Petri, Thomas E., Wisc., E1416

Pitts, Joseph R., Pa., E1435, E1437  
 Rangel, Charles B., N.Y., E1420, E1430, E1432, E1434, E1436, E1439  
 Reynolds, Thomas M., N.Y., E1438  
 Rodriguez, Ciro D., Tex., E1450  
 Ros-Lehtinen, Ileana, Fla., E1428  
 Rothman, Steven R., N.J., E1437  
 Sanchez, Loretta, Calif., E1422  
 Saxton, Jim, N.J., E1444  
 Schakowsky, Janice D., Ill., E1466, E1467  
 Schiff, Adam B., Calif., E1453, E1454, E1455, E1456, E1457  
 Serrano, José E., N.Y., E1433  
 Simmons, Rob, Conn., E1454  
 Smith, Christopher H., N.J., E1447  
 Stark, Fortney Pete, Calif., E1433, E1452  
 Stupak, Bart, Mich., E1441  
 Sununu, John E., N.H., E1451  
 Tanner, John S., Tenn., E1448  
 Thompson, Mike, Calif., E1441, E1443, E1444, E1447, E1448, E1450  
 Tiberi, Patrick J., Ohio, E1424  
 Udall, Mark, Colo., E1459, E1460  
 Udall, Tom, N.M., E1450, E1462  
 Underwood, Robert A., Guam, E1445  
 Waters, Maxine, Calif., E1464  
 Weldon, Curt, Pa., E1464  
 Woolsey, Lynn C., Calif., E1413, E1422  
 Wynn, Albert Russell, Md., E1440  
 Young, Don, Alaska, E1411



# Congressional Record

provisions of Title 44, United States Code, and published for each day that one or both Houses are in session, excepting very infrequent instances when two or more unusually small consecutive issues are printed at one time. ¶Public access to the Congressional Record is available online through *GPO Access*, a service of the Government Printing Office, free of charge to the user. The online database is updated each day the Congressional Record is published. The database includes both text and graphics from the beginning of the 103d Congress, 2d session (January 1994) forward. It is available on the Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is [http://www.access.gpo.gov/su\\_docs](http://www.access.gpo.gov/su_docs), by using local WAIS client software or by telnet to [swais.access.gpo.gov](http://swais.access.gpo.gov), then login as guest (no password required). Dial-in users should use communications software and modem to call (202) 512-1661; type swais, then login as guest (no password required). For general information about *GPO Access*, contact the *GPO Access* User Support Team by sending Internet e-mail to [gpoaccess@gpo.gov](mailto:gpoaccess@gpo.gov), or a fax to (202) 512-1262; or by calling Toll Free 1-888-293-6498 or (202) 512-1530 between 7 a.m. and 5 p.m. Eastern time, Monday through Friday, except for Federal holidays. ¶The Congressional Record paper and 24x microfiche will be furnished by mail to subscribers, free of postage, at the following prices: paper edition, \$165.00 for six months, \$325.00 per year, or purchased for \$2.75 per issue, payable in advance; microfiche edition, \$141.00 per year, or purchased for \$1.50 per issue payable in advance. The semimonthly Congressional Record Index may be purchased for the same per issue prices. Mail orders to: Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954, or phone orders to (202) 512-1800, or fax to (202) 512-2250. Remit check or money order, made payable to the Superintendent of Documents, or use VISA, MasterCard, Discover, or GPO Deposit Account. ¶Following each session of Congress, the daily Congressional Record is revised, printed, permanently bound and sold by the Superintendent of Documents in individual parts or by sets. ¶With the exception of copyrighted articles, there are no restrictions on the republication of material from the Congressional Record.

The public proceedings of each House of Congress, as reported by the Official Reporters thereof, are printed pursuant to directions of the Joint Committee on Printing as authorized by appropriate