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House of Representatives

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. SIMMONS).

DESIGNATION OF SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
March 11, 2003.

I hereby appoint the Honorable ROB SIMMONS to act as Speaker pro tempore on this day.

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

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. BALLENGER) for 5 minutes.

COLOMBIAN COFFEE CRISIS

Mr. BALLENGER. Mr. Speaker, to most Americans coffee is nothing more than a morning pick-me-up, a drink over which to socialize, or an excuse to reacquaint ourselves with old friends or even to make new ones. But to Latin America, our neighbors down there, coffee is a way of life, a key to survival, and a hope for the future.

As many of my colleagues may know, coffee prices are at a record low. Latin American families who once made a good living at farming coffee are now being forced to leave the farm to find other work. Oftentimes, that means risking life and limb to emigrate to the United States or to engage in the illegal production and trafficking of narcotics just to survive.

As a businessman, I fully comprehend the ebbs and flows of commodity trading and the effects that oversupply can have on a market. But there is much more to the current coffee situation than profit margins. Latin Americans produce the highest-quality coffee anywhere in the world, but they cannot make a living from it. Without immediate action, the consequences will be felt well beyond the coffee fields.

It is important to remember that democracy is still young and fragile in Latin America. Growing poverty and an increasing lack of real economic opportunities are now threatening the very democracy that thousands of Latin Americans have risked, and sometimes lost, their lives to establish. Over the years, I have worked with Latin leaders to promote economic opportunities that would strengthen new democracies and improve the lives of their citizens. The production of real quality coffee, for instance, once brought unheard of prosperity to many of the communities in Central and South America. But with the price of quality coffee falling to historic lows, the flood of lesser- and cheaper-quality coffee entering the global market, these very communities are now left destitute and questioning the benefits of democracy.

Last July, the Subcommittee on the Western Hemisphere, which I chair, held a hearing on what some have termed the ''coffee crisis.'' Some may refute the premise that there is such a crisis. The abandoned coffee plantations of El Salvador, Nicaragua, Colombia, and elsewhere, coupled with the thousands of people who are now out of work, tell a different story. There is a crisis.

During the hearing, witnesses testified that the trade in coffee is negatively affecting the local, national, and regional economies of our hemisphere. The overproduction of coffee is the result of unrestricted imports from places like Vietnam, where coffee is not a traditional crop and the farmers are heavily subsidized by the communist government. In a span of just a few years, Vietnam has emerged as the second leading exporter of coffee in the world. This oversupply has driven coffee prices to their lowest level in 30 years, to just a fraction of what they were a few years ago.

As a result of this hearing, the gentleman from California (Mr. FARR) and I cosponsored House Resolution 604, along with eight other Members of Congress. The resolution simply expresses the sense of the House that the United States should adopt a global strategy with coordinated activities in Latin America, Africa, and Asia to address the short-term humanitarian needs and long-term rural development needs of countries affected by the collapse of coffee prices. It encourages the President to explore measures to support and complement multilateral efforts to respond to the global coffee crisis. But more importantly, it urges the private sector coffee buyers and roasters to work with the United States to seek their own solution to the crisis which is economically, socially, and environmentally sustainable.

Numerous foreign firms are already helping farmers move away from drug production and improve the local economies. A French grocery company, CarreFour, entered into a contract with the Colombian organic and specialty coffee farmers to buy their coffee at slightly higher prices to be marketed in CarreFour stores. While I am not prone to say anything really nice about the French, especially recently, this is the type of corporate citizenship

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that should be emulated. This simple act of corporate citizenship is providing coffee consumers the best coffee available while giving the farmers and their families a way to earn a living without having to produce drugs. I also understand that Starbucks and Green Mountain engage in outreach programs for the Latin coffee farmers that allow them to purchase quality coffees for their shops.

In conclusion, if we stand by and allow the crisis to worsen, we are committing ourselves to more drastic action in the medium to long term when the crisis will have spiraled to our further detriment. As the crisis deepens, so do the problems at the U.S. border, such as massive migration and the inflow of more illegal drugs like cocaine and heroin. Although there are efforts under way to address this problem, more action must be taken. I encourage my colleagues to join me in solving this crisis.

IMPLICATIONS OF WAR WITH IRAQ MUST BE EXPLAINED BY ADMINISTRATION

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from Ohio (Mr. BROWN) is recognized during morning hour debates for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, the administration continues to assert rightly that Saddam Hussein is an evil dictator, but the administration fails to explain how a preemptive war is in the best interest of the American people.

On February 25 I introduced House Joint Resolution 24 with the gentlewoman from California (Mrs. TAUSCHER) and the gentleman from Pennsylvania (Mr. HOEFFEL.) The resolution requires the President to submit a new report to Congress that answers eight specific questions. It includes a sense of Congress clause that requests the President present the report before a public joint session of Congress.

It is our duty in Congress on behalf of the American people to ensure that if the President authorizes military force against Iraq, that he first give Congress a full accounting of the potential cost and the potential consequences.

The two reports submitted to Congress by the administration under requirements of the October resolution have failed to communicate the President's plans for Iraq. The administration in reports included no indication of the potential financial costs of the war and its aftermath, no indication of how weapons of mass destruction will be secured, and no discussion of blowbacks, the CIA term for terrorist actions against the United States.

The second report clearly acknowledges the magnitude of the task of reconstructing and stabilizing Iraq, calling it a massive undertaking. Unfortunately, the report fails to explain how this challenge will be overcome, what level of financial, what level of political, what level of military commitment that the administration is willing to make in Iraq after the war.

Before the U.S. initiates a preemptive strike, something we have never done before, without the consensus of the U.N. Security Council and in the absence of a clear, imminent threat to the United States of America, the administration must clearly explain to the American people the short- and long-term implications of attacking Iraq. H.R. 24 asks, and the administration should answer to the American public and to Congress:

Have we exhausted every diplomatic means of disarming Iraq?

Will America be safer from terrorism if we attack Iraq?

How will we deal with the humanitarian crisis that inevitably will follow this war?

How will the war with Iraq affect our already weak economy?

What will reconstruction of Iraq and providing humanitarian assistance to that country cost? And how long will it take, how long will American troops and civilians be stationed there and at what cost?

How will attacking Iraq prevent the proliferation of weapons of mass destruction, when Korea and Libya and other countries, and Iran, for instance, are much further along with nuclear development, we know, than Iraq is?

What will preemptive war do to the stability of the Middle East?

Are we ready to commit to a decade of military troops policing Iraq and the billions of dollars needed to rebuild and stabilize that country and make that country, in the words of the President, into a democracy?

These important questions need to be answered to the American public before President Bush decides preemptively, without U.N. support, to attack another country.

The Washington Post reported today: ''The greatest source of concern among senior army leaders is the uncertainty and complexity of the mission in postwar Iraq, which could require U.S. forces,'' and get this, ''to protect Iraq's borders, referee clashes between ethnic and religious groups, ensure civilian security, provide humanitarian relief, secure possible chemical and biological weapon sites, and govern hundreds of towns and villages.'' Simply put, we could be in the middle of a civil war.

How has the administration responded to these concerns? With silence. There are no legitimate plans for reconstruction that anyone has seen. There are no cost estimates for the conflict or the post-conflict occupation. There are no casualty estimates. These are concerns we must address.

Retired Army Major General William Nash commanded the first peacekeeping operation in the Balkans in 1995. After the Gulf War in 1991, he occupied the area around the Iraqi town of Safwan on the Kuwaiti border almost 2 years ago. He told The Post that during this time his troops dealt with recurring murders, attempted murders, ''ample opportunity,'' in his words, ''for civil disorder,'' and refugee flows they could never fully fathom. He went on to say that 200,000 U.S. and allied forces will be necessary to stabilize Iraq. Two hundred thousand.

Note that he uses the term ''allied forces'' in that total. If we continue on the course we are on, there will be few allied forces. Maybe Great Britain, maybe a few Turks, if we pay them enough, maybe a few Spaniards, maybe a few Italians, but overwhelming almost all of those 200,000 will be Americans and we will be footing the bill alone.

The civilian leadership at the Pentagon and the Department of Defense continually refuse to acknowledge the enormity of the challenge in post-conflict Iraq. They respond to inquires with delay tactics and uncertain estimates.

I am certain of one thing, Mr. Speaker. Any action against Iraq will be difficult, costly, and dangerous if we do not go to the U.N. Security Council.

DOMESTIC VIOLENCE

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from North Carolina (Mr. COBLE) is recognized during morning hour debates for 5 minutes.

Mr. COBLE. Mr. Speaker, I rise to discuss a very important issue: domestic violence. Last week marked the second annual ''Stop Violence Week in Washington.'' A series of events were held here to encourage men and women to come together to stop violence.

As chairman of the House Judiciary Subcommittee on Crime, Terrorism and Homeland Security, this issue is of particular concern to me. In the 108th Congress, our subcommittee will be tackling important issues relating to violence prevention. The Bureau of Justice statistics estimate that in 1998 about 1 million crimes were committed against persons by their current or former spouses, boyfriends, or girlfriends. These types of crimes are generally referred to as ''intimate partner violence,'' and women are the victims in about 85 percent of the cases. In 1998, in excess of 1,800 murders were committed by persons against their intimate partners.

Although these statistics are shocking, we have made great strides in the last 2 decades at increasing awareness of this problem, which is half the battle. Congress has taken an active role in addressing the problem by authorizing expiring grant programs and establishing new grants to more effectively target violence and abuse. Federal grant dollars are available through the Department of Justice and the Department of Health and Human Services to be used by State and local authorities to assist their communities and schools in fighting violence. For example, grants may be used by local

authorities to aid law enforcement officers and prosecutors in gathering evidence and building cases to bring violent criminals to justice.

These grants also may be used to operate training programs for victim advocates and counselors. Many victims of domestic violence and sexual assault are afraid to retell their stories to friends, family or a counselor. Training people to know how to assist victims of domestic violence is a necessary tool in fighting this epidemic and preventing future abuse.

The 2000 reauthorization of the Violence Against Women Act created new grants to be used to address violence issues on college campuses. It also authorized new grant monies to assist victims of violence with legal concerns and to address violence against the elderly and disabled.

Continuing its commitment to fighting violence and domestic abuse, Congress provided generous monies again this year to the Department of Justice's Office on Violence Against Women.

It is important to recognize the work and dedication as well of groups committed to increasing awareness surrounding domestic violence through education campaigns, intervention, and counseling.

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Mr. Speaker, the National Network to End Domestic Violence, the National Coalition Against Domestic Violence and the National Center for Victims of Crimes are just a few groups that are active in ridding our Nation, our homes, of violence. Many State and local groups across the country also work day to day to prevent violence, aggressively enforce penalties, and counsel victims of violent crimes.

Mr. Speaker, I hope that the Congress will continue to fund outreach and education programs and encourage individuals to work together to change attitudes towards these crimes. It is clear that we are making progress in this area, but we must continue to work together to eradicate violence against women. To all of those working at the local, State and Federal level to eliminate domestic violence and sexual abuse, we express our thanks to them for their selfless efforts and dedication. We hope that our support in the Congress will assist them in this very important battle and fight.

HONORING 100TH ANNIVERSARY OF UNIVERSITY OF PUERTO RICO

The SPEAKER pro tempore (Mr. SIMMONS). Pursuant to the order of the House of January 7, 2003, the gentleman from Puerto Rico (Mr. ACEVEDO-VILÁ) is recognized during morning hour debates for 5 minutes.

Mr. ACEVEDO-VILÁ. Mr. Speaker, this week Puerto Rico is celebrating the 100th anniversary of the University of Puerto Rico, our oldest and most prominent higher education institution. One hundred years ago, the University of the Puerto Rico was founded as a training center for teachers, and opened its doors with just 173 students. Since then, the UPR has evolved to become the foremost Hispanic-serving institution in the United States, and one of the leading universities in the Spanish-speaking world. Today the UPR offers 485 academic programs in practically all areas of learning and has a student body of about 70,000 students.

The political, cultural and economic development of Puerto Rico has been closely linked to the UPR. From governors, Supreme Court judges, and NASA engineers to world-renowned authors and poet laureates, all can be found in the UPR alumni. I am proud to be one of thousands of alumni of the UPR that today pay tribute to our alma mater. We look forward to another 100 years of excellence.

Mr. Speaker, congratulations to the people of Puerto Rico, to the University of Puerto Rico, to its students, and to its alumni on its 100-year anniversary.

COVER THE UNINSURED WEEK

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, this week is Cover the Uninsured Week where lawmakers, the media, and our constituents will consider how we can help provide health care coverage for some 35 million Americans. No doubt some will pronounce that the answer lies in a single payer, universal health care coverage program. I say there are better ways. Why? Let us look at countries that do have national health care in place and see its problems.

Let me share with Members a story I read in a February 13 article in the New York Times about the growing lag on the Canadian health care system. According to this article, a Canadian government study shows that 4.3 million Canadians, 18 percent of those who saw a doctor in 2001, had a problem getting tests or surgery done in a timely fashion. Three million could not find a family physician. Canada spends $86 billion on the health care. Only the United States, Germany and Switzerland spend more as a proportion of economic output, but budget cuts since the early 1990s have impeded efforts to keep health care up to date.

Waiting lines have also increased because an aging population is placing more demands on the system. A study by the Fraser Institute recently concluded that patients across Canada experience waiting times of 16.5 weeks between receiving a referral from a general practitioner and undergoing treatment in 2001–2002, a rate 77 percent longer than in 1993.

Mr. Speaker, can Members imagine an insured American putting up with a wait for 4 months? As Members can imagine, those with the means to seek other options do not, due to what the Canadians call ''line jumping'' by the affluent and well-connected.

While the goal of many who recommended socialized health care is egalitarian, equal health services for all, that is exactly what they get, an equally long wait for all. But if a Canadian has money, they just fly south to a private physician in the United States. My State of Florida is notoriously a haven for Canadian snowbirds to winter in and seek medical care.

Last month I had members of various Canadian provincial governments visit me asking how they could work out an arrangement and fee schedule with physicians in Florida to provide services to them.

And to point out another example of the erosion of egalitarian goal that national health care is supposed to provide, there is an ad for an up-scale maternity service in London's Portland Hospital. It points out women do not have to be famous to give birth there, they just need to have money. Deluxe private suites, champagne, and a beauty salon are just among some of the amenities. I thought all English women could receive quality, timely obstetrical care in their assigned hospital. But why then would the Duchess of York and supermodel Jerry Hall choose to have their babies outside the socialized system, because those who can afford to pay want choice, and we should provide nothing less for all Americans.

To seek a legacy in his final years of office, Canada's Prime Minister Jean Chretien has agreed to spend $9 billion more over the next 3 years. Fortunately for Canadians, the system's shortfalls have opened the way for tentative but growing movements toward privately managed medical services.

Let us resolve today to promote choice and opportunity for the uninsured to obtain the health care plan that works best for them. One of the major ways is to institute a tax parity into health insurance. The 90 percent of us who receive our health insurance through our employers are receiving a substantial tax benefit. We should extend this to those in the individual market also.

When this Congress convened on January 7, I introduced my bill, H.R. 198, that would allow any tax filer to deduct 100 percent of the cost of their health insurance as well as nonreimbursed prescription drugs. Currently, only the self-employed can deduct 100 percent, but what about the unemployed or the retired? H.R. 198 would help them also. Likewise, many of my colleagues have introduced legislation to provide tax credits for Americans to use for purchasing health care. These are all ways we can help cover the uninsured and enable them to purchase the health insurance of their choice.

LONG LINES MAR CANADA'S LOW-COST HEALTH CARE

(By Clifford Krauss)

TORONTO. Feb. 11—During a routine self-examination last May, Shirley Magee found

a lump on her breast. Within weeks she had it and some lymph modes removed. So far so good, until it came to the follow-up therapy.

Mrs. Magee, a 55-year-old public school secretary, researched her condition on the Internet, and read that optimally, radiation treatment should begin two weeks after surgery. But the local provincial government clearinghouse that manages the waiting time for radiation therapy told her she had to wait until the end of September—nearly three months after her surgery—to begin treatment.

''I was supposed to feel lucky I got in so quickly,'' said Mrs. Magee, still viscerally annoyed though she has since successfully completed her radiation regime. ''It's a horrible feeling that something in your body is ticking that you have no control over. If I were a politician's wife I wouldn't have had to wait.''

Long heralded for giving all Canadians free health insurance and paying for almost all medical expenses, the health care system founded in the 1960's has long been the third rail all of Canadian politics; not to be touched by private hands, nor altered by Parliament.

But growing complaints about long lines for diagnosis and surgery, as well as widespread line-jumping by the affluent, and connected, are eroding public confidence in Canada's national health care system and producing a leading issue for next year's national elections.

A recent government study indicated that 4.3 million Canadian adults—or 18 percent of those who saw a doctor in 2001—reported they had difficulty seeing a doctor or getting a test or surgery done in a timely fashion. Three million Canadians are unable to find a family physician, according to several private studies, producing a situation all the more serious since it is the family doctor who refers patients to specialists and medical testing.

''The sky isn't falling, but things are not rosy,'' said Dr. Dana W. Hanson, president of the Canadian Medical Association. ''Nevertheless if things are not fixed, the sky may fall.''

Canada spends $86 billion a year on health care—only the United States, Germany and Switzerland spend more as a proportion of total economic output—but budget cutbacks since the early 1990's have impeded efforts to keep health care up to date. A recent report by the Senate's Standing Committee on Social Affairs. Science and Technology indicates that well over 30 percent of the country's medical imaging devices are obsolete.

Overworked technology is one reason for the long lines; others include a shortage of nurses and inefficient management of hospital and other health care facilities, according to several studies.

Waiting times have also increased because an aging population has put more demands on the system, while the current generation of doctors is working fewer hours than the last.

Waiting can occur at every step of treatment. A study by the conservative Fraser Institute concluded that patients across Canada experienced average waiting times of 16.5 weeks between receiving a referral from a general practitioner and undergoing treatment in 2001–2002, a rate 77 percent longer than in 1993. The recent Senate report noted that waiting times for M.R.I., CT. and ultrasound scans grew by 40 percent since 1994.

''Waiting lists are the hornets' nests that are jeopardizing the system,'' said Dr. Tirone E. David, professor of surgery at the University of Toronto. He noted that Ontario residents needed to wait an average of two months to see a cardiologist unless it was an emergency, queries for angiograms took four to six weeks, and waiting times between initial examination and micro-valve repairs could take as long as six months.

''It wasn't that way 15 years ago,'' Dr. David added. ''It does not alter the ultimate outcome, but there's an anguish and uncertainty when a person feels their life is in a holding pattern for up to a year.''

Defenders of the Canadian system note that only patients waiting months for nonemergency care, like treatments for cataracts and hernias skew the waiting time statistics.

And they argue that within life expectancy of 78 years, Canadians still enjoy one of the longest life expectancies in the world, slightly higher than the United States where 41 million people have no health insurance.

Still recent polls show that while Canadians want to keep their national system they are worried about its future effectiveness.

''I don't think there's a lot of patience among the public for a lot more study,'' said Deputy Prime Minister John Manley in a recent interview noting that his own driver needed to wait a year for hip replacement surgery. ''There's not a lot of time to deal with it.''

In response to the growing concerns, Prime Minister Jean Chretien and the Senate conducted studies of the system, that concluded in recent months that shortages of doctors nurses and diagnostic equipment had caused at least some deterioration of care over the last 10 years.

Seeking a legacy in his final year in office. Mr. Chretien agreed last week to spend over $9 billion more over the next three years on programs to improve diagnostic equipment, primary care, drug coverage and home care. But the provincial and territorial premiers say that isn't nearly enough to alleviate shortages of services, particularly in rural areas.

The system's shortfalls have opened the way for tentative but growing moves toward privately managed medical services and user fee in return for quicker service. A hospital in Montreal has begun charging fees for some surgical procedures and renting operating rooms to patients for several hundred dollars an hour. A Vancouver hospital has begun selling full-body C.T. scans for $860.

In an effort to reduce waiting lists, the provinces of Alberta, Nova Scotia and Ontario have established about 30 private M.R.I. and C.T. clinics, some of which offer nonemergency services to be paid for by private insurance.

''With the system cracking at the edges and waiting lists growing, people will eventually stay ''all right, let me pay, said Dr. Tom McGowan, president of Canadian Radiation Oncology Services, Canada's first for profit cancer radiation treatment center which has treated nearly 2,000 patients since it opened in Toronto two years ago. (Patients still pay nothing at the radiation clinic; Dr. McGowan is paid by the province and receives bonuses if he surpasses productivity targets.)

The Ontario provincial government allowed Dr. McGowan to open his night clinic after it was forced to send 1,650 cancer patients to the United States for radiation treatments during a 25-month period in 2000 and 2001 because of waiting lists that were up to 16 weeks long.

Dr. McGowan said the emergency, which cost the province $20 million in travel costs, was not rooted in a shortage of equipment nor staff but inefficient public management. Whatever the reasons his patients are quick to tell horror stories about their waits for diagnostic tests and treatments.

''Your worst fear is it is going to grow while you are waiting.'' said Pat McMeekin, a 53-year-old hospital clerical worker, recalling the two months she had to wait between a mammogram and the first of two biopsies confirming she had breast cancer last summer. ''When you have something you want to take care of it and be done with it.''

TOLERANCE

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from Indiana (Mr. PENCE) is recognized during morning hour debates for 5 minutes.

Mr. PENCE. Mr. Speaker, I was here on September 11, 2001. I saw the skies filled with mud-brown smoke rising from the devastation at the Pentagon. I felt that anger that every American felt then and that continues to simmer in the lesser angels of our nature to this very hour.

There is in my heartland Indiana district a small mosque in Muncie, Indiana, where each weekend a small community, less than 1,000 people of Arabic descent, gather to practice their religious faith, each of them contributing in important ways in our community. They reached me in the immediate hours after September 11 and expressed to me their concern as family people for their well-being in the wake of this attack that was unanimously effected by Arab extremists against our country.

It was then that I issued a statement I read again today. I said then that the terrorists who attacked the World Trade Center and the Pentagon are not representative of the overwhelming majority of Arabs or Muslims in the United States, and we could not allow anger at this horrible act to lead us to hate or discriminate against innocent individuals who happened to be of Middle Eastern descent. I said that terror has no regard for religion or ethnicity, and if we attack the innocent simply because of their ethnic status, we are no better than the terrorists who attacked us.

So we come to these days in which we find ourselves again perhaps on the precipice of a war in the Middle East, with the news in our Muncie newspaper this weekend that a recent graduate of Ball State University was arrested on terrorist charges at his home in Idaho. I thought with this news and the potential for war abroad and terrorist attacks at home, it would be appropriate to rise again to remind the people of my district and the State and even of this country that we cannot allow the hatred that terrorists and their sympathizers possess to inflame our hearts and distort our communities.

I urge my fellow citizens to continue to embrace those ideals of the Declaration of Independence, and understand while we believe and have built a Nation founded on the premise that all men are endowed by our Creator with certain inalienable rights, we cannot and must not give voice of persecution or permit acts of discrimination

against those among us of Middle Eastern descent. Millions of Arab Americans, like those in my district, contribute daily in vital ways to our communities and our Nation in every professional class, medicine, academia, engineering, and yes, to the U.S. armed forces.

The Good Book tells us, and what does the Lord require of you? To do justice, to love kindness, to walk humbly with your God. Let us as we go into these difficult times and in the difficult days ahead rededicate ourselves to practice justice and kindness toward every American, citizen and visitor of Middle Eastern descent, that we may hold up those ideals that brave Americans fight to defend in these days.

ALLIED SUPPORT FOR WAR AGAINST IRAQ

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from Pennsylvania (Mr. WELDON) is recognized during morning hour debates for 5 minutes.

Mr. WELDON of Pennsylvania. Mr. Speaker, I am confused today. I have been in Congress 17 years and I have been a strong supporter of our relations with our European friends, with parliamentarians from Russia, Ukraine, China, and every other major nation in the world. I have traveled to France and Germany several times, and have hosted scores of members of parliaments.

But what I saw occur last week and what I am hearing coming out of the President's mouth disturbs and confuses me. President Chirac of France and his counterpart, Chancellor Schroeder of Germany, have said that they will not support the U.S. effort to remove Saddam Hussein from Iraq. They have further said there is no justification for war unless it is approved by the U.N. Security Council.

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But I look at each country and I wonder what they are referring to, because it was France just 4 years ago when they wanted the U.S. to come in and assist them militarily in removing Milosevic from power in Belgrade. It was France who came to the U.S. and convinced our President to put our sons and daughters in harm's way. But in doing so, along with the French, in pushing America to fight this military battle, they would not go to the U.N. Security Council because they knew that Russia would veto any resolution.

So what did France and Germany do? Just a few short years ago, for the first time and only time in NATO's history, along with our President, at that time Bill Clinton, they used a NATO military force to invade a non-NATO sovereign nation to remove the head of state, and that head of state was Slobodan Milosevic. Now, Milosevic was a bad guy, a war criminal, he has done bad things, but everyone, including the special rapporteur for human rights at the U.N., Max van der Stoel, including Bill Clinton's own Ambassador to the U.N., Ambassador Holbrooke, have all said publicly that, in fact, Saddam Hussein is far worse than Milosevic ever was. In fact, a U.N. special rapporteur said there has been no leader since Adolf Hitler who has done the kinds of human rights abuses that Saddam Hussein has done.

How, then, can France and Germany when just a few short years ago for their own benefit, because a neighbor was threatening in their case, they felt, their security, enticed the U.S. to come in and use our troops to remove Milosevic from power militarily and today say, in a situation far, far worse in Saddam Hussein, that force is not justified?

I am also reminded of just a year ago, President Jacques Chirac, saying it again, the U.N. Security Council is the final group that should decide the change of regimes, sent French troops to the Ivory Coast because of a coup attempt, sent French troops there, without going to the U.N. Security Council, without asking for a vote, without employing the very tactics that he is standing up now and demanding around the world.

Mr. Speaker, I am troubled. The French and Germans have been our longtime friends, and hopefully they will be once this is over; but the words coming out of the mouths of Jacques Chirac and Gerhard Schroder and their foreign ministers leave me confused and bewildered. I really wonder what France stands for. I really wonder what Germany stands for. Are they really against human rights abuses as defined by Amnesty International and every other major human rights group? Are they really convinced that people who are bad actors like Milosevic should be removed from office, as we did with their pushing and support just a few years ago militarily? And if so, why the change with Saddam Hussein? I hope it is not because of the ties to oil that France has with Iraq. I would hope that is not the case with the French. But, Mr. Speaker, I do not know what the proper response is.

Mr. Speaker, I include for the RECORD two letters which were sent by me to President Jacques Chirac last Friday and Chancellor Gerhard Schroder, also last Friday, which basically lay out the facts and then asks the question of the French and Germans, Do you have a double standard? Is it okay to entice America to come in and fight a battle in front of you in your backyard to remove a leader that you have said publicly is a human rights abuser, even though you do not want to go to the U.N. and did not go to the U.N. to achieve the U.N.'s support? Is it okay to do that and then a few years later, after 12 years of seeing Saddam Hussein kill tens of thousands of innocent people, use chemical weapons against the Kurds, commit war crimes against our own American POWs, 21 of them, in fact, and, in fact, commit the most horrendous crimes against the Kuwaitis and all the other minority groups inside Iraq, and then to come forward and say, ''Well, in this case it's different''?

HOUSE OF REPRESENTATIVES,
Washington, DC, March 7, 2003

President JACQUES CHIRAC,
Republic of France, c/o Embassy of France, Washington, DC.

DEAR PRESIDENT CHIRAC: As a long time friend of the French people and a steadfast facilitator of inter-parliamentary cooperation between our nations, I am compelled to contact you to express my disappointment with your government's actions. Throughout my tenure in Congress, I have hosted dozens of French parliamentarians, traveled to your country to speak to government officials and industry leaders, and endeavored to strengthen the relations between our great nations. However, I was outraged today by your Foreign Minister's statements before the United Nations opposing the use of force to uphold the United Nations Charter and the sixteen multilateral resolutions written after the Gulf War cease-fire in 1991. Your government's words and actions have done serious, if not permanent, damage to the once unshakable foundations of the great transatlantic alliance that has served our mutual interests for so long.

Your continued opposition to the use of force to disarm Iraq without the full support of the United Nations is steeped in hypocrisy of such epic proportions, that your sudden reverence for the inviolability of the United Nations is laughable. When the dictator Milosevic threatened western Europe's back door, France was entirely content to bypass the United Nations Security Council and take military action. History will forever judge your use of NATO—championing the organization's first offensive action against a non-menber—without any attempt to employ the global diplomacy of the United Nations. The actions of your Foreign Minister opposing the dedication of the United States stands in stark contradiction to the practices and motivations of your government in Yugoslavia. During negotiations within the Security Council amidst the NATO engagement, Alain Dejammet justified France's actions through the enforcement of three resolutions under Chapter VII on Kosovo and Yugoslavia's refusal to fulfill its obligations under those agreements. Your opposition and veto threat sends a disturbing message to future generations that international interference is no longer desired to end genocide, obstruct terrorism or aid a suffering people under a demonic regime. Even more disturbing, is that the efforts to remove the cancer of Slobodon Milosevic could not have been accomplished without the vast majority of coalition troops, air strikes and logistical support provided by the United States. In fact, France went to great lengths to have America commit our sons and daughters for this moral purpose, and we dutifully obliged.

I am quite sure that the foreign ministers of France and Germany slept soundly while the bombs fell on Kosovo without United Nations approval. However, the historically peaceful people of France are now roused to defend the sacred honor of the Security Council, the very same Security Council whose honor they flouted just five years ago. Convenience, not principle, seems to be France's guiding compass. Your constant opposition to America's effort to remove a regime that has continually violated several, if not all of the human rights provisions within the United Nations charter and presents an increasing threat to democracies all over the world is nothing short of appalling. The dictatorship in Iraq far surpasses the practice of

murder and oppression that ever existed in Yugoslavia. Nevertheless, your country insists on turning a blind eye to the atrocities and breeding ground for terrorism that fail to occur near the borders of old Europe.

France's continued indifference to the plight of the Iraqi people, its neighbors and those who fall subject to Saddam Hussein's evil rule defies explanation. The atrocities perpetrated under Hussein's regime are well documented by organizations such as Human Rights Watch, the International Federation for Human Rights, Amnesty International, the Coalition for International Justice and even the United Nations. In fact, the former United Nations Special Rapporteur for Human Rights in Iraq, Max Van der Stoel, stated that ''the brutality of the Iraqi regime was of an exceptionally grave character, so grave that it has few parallels in the years that have passed sine the Second World War. . . . It is to comparisons with the obscenity of the Holocaust and Stalin's mass murders that observers are inevitably drawn when confronted with the horrors of Saddam's Iraq. . . This is a state that employs arbitrary execution, imprisonment and torture on a comprehensive and routine basis.''

The vile methods of torture inflicted upon Coalition prisoners of the Gulf War, Kuwaitis, Kurds, Sh'iit muslims, Iranians, Turkomans, and anyone else who dares to live a life contrary to the wishes of Saddam Hussein are well documented. Primitive executions, dismemberment, castration, hangings by barbed wire, the raping of women in front of family members and children, burning flesh with acid, finger and toenail extraction, boring holes into bodies with drills and the ignition of gasoline pumped into various orifices of the human body are routine measures employed by Hussein and his henchmen.

Yet France continues to make every effort to block Hussein's removal and protect a despot whose country has the highest number of disappearances and displaced persons in the World. You callously refuse to acknowledge the documented destruction of life and repeated offensive military actions against surrounding countries since the 1970's. Your actions condone the blatant disregard of United Nations resolutions since 1991, and repeatedly make it clear that international law should not be honored. The statements made today and your acquiescence may forever undermine the peaceful objectives that are the foundation of international law and serve to entice future evils.

America will not follow France's lead and remain content to concern ourselves solely with problems that border our country. We will not allow economic investments and resource dependency to impede our future judgments to alleviate the suffering of others. The American people and my colleagues in Congress will not soon forget the rank hypocrisy and blatant disloyalty displayed by your country today, and I am confident that the free people of the world will also refuse to follow your misguided lead.

Sincerely,

CURT WELDON,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, March 7, 2003.

Chancellor GERHARD SCHRÖDER,
Federal Republic of Germany, c/o Embassy of Germany, Washington, DC.

DEAR CHANCELLOR SCHRÖDER: As a long time friend of the German people and a steadfast facilitator of inter-parliamentary cooperation between our nations, I am compelled to contact you. Throughout my tenure in Congress, I have hosted dozens of Bundestag members, served on the German Caucus and U.S. Congress-German Bundestag Study Group, and endeavored to strengthen the relations between our great Nations. However, I was outraged today by your Foreign Minister's statements before the United Nations opposing the use of force to uphold the United Nations Charter and the sixteen multilateral resolutions written after the Gulf War cease-fire in 1991. Your government's words and actions have done serious, if not permanent, damage to the once unshakable foundations of the great transatlantic alliance that has served our mutual interests for so long.

Your continued opposition to the use of force to disarm Iraq without the full support of the United Nations is steeped in hypocrisy of such epic proportions, that your sudden reverence for the inviolability of the United Nations is laughable. When the dictator Milosevic threatened western Europe's back door, Germany was entirely content to bypass the United Nations Security Council and take military action. History will forever judge your use of NATO—championing the organization's first offensive action against a non-member—without any attempt to employ the global diplomacy of the United Nations. The actions of your Foreign Minister opposing the dedication of the United States stands in stark contradiction to the practices and motivations of your government in Yugoslavia. In fact, Minister Joschka Fischer himself characterized the Serbian actions as a ''declaration of war against the policy of European integration. It is not only a question of morality or of human rights, it is a question of security and stability in Europe.'' Your opposition sends a disturbing message to future generations that international interference is no longer desired to end genocide, obstruct terrorism or aid a suffering people under a demonic regime. Even more disturbing, is that the efforts to remove the cancer of Slobodon Milosevic could not have been accomplished without the vast majority of coalition troops, air strikes and logistical support dedicated to your effort by the United States. In fact, Germany went to great lengths to have America commit our sons and daughters for this moral purpose, and we dutifully obliged.

I am quite sure that the Foreign Ministers of France and Germany slept soundly while the bombs fell on Kosovo without United Nations approval. Now, the people of Germany are roused to defend the sacred honor of the Security Council, the very same Security Council whose honor they flouted just five years ago. Convenience, not principle, seems to be Germany's guiding compass. Your constant opposition to America's efforts to remove a regime that has continually violated several, if not all of the human rights provisions within the United Nations charter and presents an increasing threat to democracies all over the world is nothing short of appalling. The dictatorship in Iraq far surpasses the practice of murder and oppression that ever existed in Yugoslavia. Nevertheless, your country insists on turning a blind eye to the atrocities and breeding ground for terrorism that fail to occur near the borders of old Europe.

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Yet your country continues to make every effort to block Hussein's removal and protect a despot whose country has the highest number of disappearances and displaced persons in the World. You callously refuse to acknowledge the documented destruction of life and repeated offensive military actions against surrounding countries since the 1970's. Your actions condone the blatant disregard of United Nations resolutions since 1991, and repeatedly make it clear that international law should not be honored. The statements made today and your acquiescence may forever undermine the peaceful objectives that are the foundation of international law and serve to entice future evils.

America will not follow Germany's lead and remain content to concern ourselves solely with problems that border our country. We will not allow economic investments and resource dependency to impede our future judgments to alleviate the suffering of others. The American people and my colleagues in Congress will not soon forget the rank hypocrisy and blatant disloyalty displayed by your country today, and I am confident that the free people of the world will also refuse to follow your misguided lead.

Sincerely,

CURT WELDON,
Member of Congress.

HONORING NAPERVILLE CENTRAL WOMEN'S BASKETBALL CHAMPIONSHIP TEAM

The SPEAKER pro tempore (Mr. SIMMONS). Pursuant to the order of the House of January 7, 2003, the gentlewoman from Illinois (Mrs. BIGGERT) is recognized during morning hour debates for 5 minutes.

Mrs. BIGGERT. Mr. Speaker, I rise today in honor of the Redhawks, the Naperville Central High School women's basketball team, who this weekend brought home the Illinois Class AA State championship.

Under the leadership of Head Coach Andy Nussbaum, the Redhawks on Saturday tipped Chicago Fenwick in overtime, 63–59, to capture the school's first State title and the number seven ranking in the latest national rankings as compiled by USA Today.

Who are the Redhawks? They are Rachel Crissy, Seanna O'Malley, Lauren Grochowski, Megan McNaughton, Brittany Utrata, Liz Lawdensky, Tiffany Hudson, Courtney Peters, Erica Carter,

Denise Hill, Candace Parker, Megan Martin, Meredith Daniels, Christina Sahly, Molly Glanz, and Tara Hester.

Mr. Speaker, all of Illinois, and especially the city of Naperville, are proud of the girls' accomplishments, none of which is more impressive than posting an unblemished 35–0 record. This was the first perfect season for a Class AA women's championship team since 1998.

As many people in Illinois and across the Nation know, not so long ago the women Redhawks would not have had the chance to even lace up their sneakers. Thanks to the passage of title IX in 1972, young women and girls throughout America have come to benefit from the opportunities enjoyed for so long by young men and boys in America. It has enabled young women to participate in school sports, to learn the value of teamwork and competition, and to gain the self-confidence and skills that are so valuable in business and in other future careers.

Congratulations, Redhawks; and let me say, look out Redhawks opponents in 2004. Coach Nussbaum returns four starters, including the top junior player in the Nation, Candace Parker.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 1 o'clock and 6 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. BIGGERT) at 2 p.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

''Lord, my refuge, my stronghold, my God in whom I trust.''

When the winds of distress swirl around us, Lord, or unsettling times demand determination, Members of Congress, as any of us in America, want to take refuge. We may seek refuge in consultation as we look for support from others. Or we may be tempted to blame others for our troubles. Rather than take refuge in excuses or in the shadow of others, we need to stand resolutely ourselves, claim You, O Lord, as our sure refuge, and act responding to Your guidance.

When as a Nation or as individuals our security is shaken or our vulnerability revealed, we may, like Adam, want to hide. We may be tempted to think the firing power of weapons is our greatest strength, or the power of money will protect us. But in all the battles that are fought, You alone, O God, are a lasting stronghold.

So it is: in God we trust now and forever. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

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

Mr. TURNER of Ohio 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.

ALTERNATIVE TO WAR

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

Ms. WOOLSEY. Madam Speaker, last week a Defense Department spokesman announced that the United States is preparing to use landmines in Iraq. What an insult to the 146 countries brave enough to sign the Landmine Treaty which forbids the use of landmines. Embarrassingly, the United States is not a signatory.

Landmines do not know the difference between a soldier and a child.

Instead of killing children, we need to educate them. Instead of seeding Iraq with explosives, we should plant seeds of peace and well-being worldwide. Instead of using landmines in Iraq, we should be cleaning up landmines in Afghanistan.

Madam Speaker, the use of landmines is a step in the wrong direction. There are alternatives to war. Our problem is we have not prepared for them.

HONORING PRISON FELLOWSHIP

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

Mr. PITTS. Madam Speaker, in the 1990s we realized that tough sentencing for criminals reduced crime rates. But this year alone, roughly 600,000 of those prisoners will be released; and statistics show that over 60 percent of these parolees will return to prison within 2 years.

To combat this trend, Prison Fellowship, a faith-based group, was formed and began to offer job-skills training, drug treatment, and the opportunity to cultivate character and faith. The results have been dramatic. Just 8 percent of their participants have returned to prison within 2 years. It simply produces productive rehabilitated members of society.

But the forces of the left seek to undo the progress by suing Prison Fellowship. Americans United for the Separation of Church and State have sued them because of this. The left needs to learn that faith-based programs work many times better than government programs. They are seeking to build a more healthy society.

UNANIMOUS SUPPORT FOR U.S. TROOPS IN THE MIDDLE EAST

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

Mr. ISRAEL. Madam Speaker, over the weekend I joined with hundreds of Marines in my congressional district as they prepared to deploy to the Middle East. Many of their families asked me whether the American people will support them. They asked whether the polls that they read about reflect a lack of support for those who may be asked to fight for our freedoms in the Middle East.

Madam Speaker, I support the use of force, but I understand that there is a diversity of opinion on this issue. In America we have the right to agree, the right to disagree, the right to remain silent; but let no one believe for a moment that there is any division with respect to supporting our troops. Republicans and Democrats will go and fight for our freedoms abroad and Republicans and Democrats will stand by them at home. We cannot forget our support of those brave men and women, and I know that this Congress will not forget that for a moment.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

RECOGNIZING THE BICENTENNIAL OF THE ADMISSION OF OHIO INTO THE UNION AND THE CONTRIBUTIONS OF OHIO RESIDENTS TO THE ECONOMIC, SOCIAL AND CULTURAL DEVELOPMENT OF THE UNITED STATES

Mr. TURNER of Ohio. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 122) recognizing the bicentennial of the admission of Ohio into the Union and the contributions of Ohio residents to the economic, social, and cultural development of the United States.

The Clerk read as follows:

H. RES. 122

Whereas Ohio residents will celebrate 2003 as the 200th anniversary of Ohio's admission into the Union;

Whereas Ohio was the 17th State to be admitted to the Union and was the first State to be created from the Northwest Territory;

Whereas ''Ohio'' is derived from the Iroquois word meaning ''great river'', referring to the Ohio River which forms the southern boundary and a portion of the eastern boundary of the State;

Whereas Ohio was the site of battles of the American Indian Wars, French and Indian Wars, Revolutionary War, the War of 1812, and the Civil War;

Whereas in the nineteenth century, Ohio, a free state, was an important stop on the Underground Railroad as a destination for more than 100,000 individuals escaping slavery and seeking freedom;

Whereas Ohio, which is known as ''The Mother of Presidents'', has given eight United States presidents to the Nation, including William Henry Harrison, Ulysses S. Grant, Rutherford B. Hayes, James A. Garfield, Benjamin Harrison, William McKinley, William H. Taft, and Warren G. Harding;

Whereas Ohio inventors, including Thomas Edison (incandescent light bulb), Orville and Wilbur Wright (first in flight), Henry Timken (roller bearings), Charles Kettering (automobile starter), Charles Goodyear (process of vulcanizing rubber), Garrett Morgan (traffic light), and Roy Plunkett (Teflon), created the basis for modern living as we know it;

Whereas Ohio, which is also known as ''The Birthplace of Aviation'', has been home to 24 astronauts, including John Glenn, Neil Armstrong, and Judith Resnik;

Whereas Ohio has a rich sports tradition and has produced many sports legends, including Annie Oakley, Jesse Owens, Cy Young, Jack Nicklaus, and Nancy Lopez;

Whereas Ohio has produced many distinguished writers including Harriet Beecher Stowe, Paul Laurence Dunbar, Toni Morrison, and James Thurber;

Whereas the agriculture and agribusiness industry is and has long been the number one industry in Ohio, contributing $73,000,000,000 annually to Ohio's economy and employing 1 in 6 Ohioans, and that industry's tens of thousands of Ohio farmers and 14,000,000 acres of Ohio farmland feed the people of the State, the Nation, and the world;

Whereas the enduring manufacturing economy of Ohio is responsible for ¼ of Ohio's Gross State Product, provides over one million well-paying jobs to Ohioans, exports $26,000,000,000 in products to 196 countries, and provides over $1,000,000,000 in tax revenues to local schools and governments;

Whereas Ohio is home to over 140 colleges and universities which have made significant contributions to the intellectual life of the State and Nation, and continued investment in education is Ohio's promise to future economic development in the ''knowledge economy'' of the 21st century;

Whereas, from its inception, Ohio has been a prime destination for immigrants, and the rich cultural and ethnic heritage that has been interwoven into the spirit of the people of Ohio and that enriches Ohio's communities and the quality of life of its residents is both a tribute to, and representative of, the Nation's diversity;

Whereas Ohio began celebrations commemorating its bicentennial on March 1, 2003, in Chillicothe, the first capital of Ohio; and

Whereas the bicentennial celebrations will include Inventing Flight in Dayton (celebrating the centennial of flight), Tall Ships on Lake Erie, Tall Stacks on the Ohio River, Red, White, and Bicentennial Boom in Columbus, and the Bicentennial Wagon Train across the State: Now, therefore, be it

Resolved, That the House of Representatives recognizes—

(1) the bicentennial of the admission of Ohio into the Union;

(2) the residents of Ohio for their important contributions to the economic, social, and cultural development of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. TURNER) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. TURNER).

□ 1415

GENERAL LEAVE

Mr. TURNER of Ohio. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 122, the resolution under consideration.

The SPEAKER pro tempore (Mrs. BIGGERT). Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TURNER of Ohio. Madam Speaker, House Resolution 122 introduced by my distinguished colleague from my home State of Ohio (Mr. REGULA) recognizes the bicentennial of Ohio into the Union and the contribution to the economic, social, and cultural development of the United States.

The Iroquois Indians were the first to recognize the significance of the vast region of the Northwest Territory. Ohio is named after the Iroquois word meaning ''great river.''

The 2003 Ohio bicentennial celebration allows us the time to recognize the many contributions Ohioans have made to our country and the world. Because of its former canals, navigable rivers, railroads and roads, we are known as the Gateway State that provided for western migration. Our interstate transportation system is still one of the most used in the country, and Ohio is a powerhouse in the American economy.

We are proud of our native sons and daughters who have contributed to our great country. Ohio calls herself the mother of Presidents, Ulysses S. Grant, Rutherford B. Hayes, James A. Garfield, Benjamin Harrison, William McKinley, William Howard Taft, and Warren Harding all native Ohioans.

As a native Daytonian I am most proud of Ohio's aviation heritage. Dayton's Wright-Patterson Air Force Base is the largest air force base in the world and is the place where Orville and Wilbur Wright perfected flight. Annually, the Air Force Museum at the Wright-Patterson Air Force Base hosts a million visitors. In fact, Ohio boasts four significant aviation firsts: Orville and Wilbur Wright, first in powered flight; John Glenn, first man to orbit the Earth; Neil Armstrong, first man on the Moon; Judith Resnick, the first woman in space.

Ohio has been the home to 24 astronauts. In fact, Ohio's aviation history is recognized on the U.S. quarter for Ohio in the U.S. Mint series. But these memorable facts are only the beginning of the Ohio's story.

This year of 2003, the 200th birthday celebration of Ohio's statehood, allows us a full year to reflect on our heritage and to remind ourselves of how fortunate we are to be proud Americans. Therefore, I urge all Members to support the adoption of House Resolution 122.

Madam Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I am pleased to join in support of this resolution recognizing the bicentennial of the admission of Ohio into the Union and the contributions of Ohio residents to the economic, social, and cultural development of the United States.

Madam Speaker, this year the residents of Ohio will celebrate the 200th anniversary of their State's admission into the Union. They will celebrate the fact that Ohio inventors, including Thomas Edison, Orville and Wilbur Wright, Henry Timken, Charles Goodyear, Garrett Morgan, and Roy Plunkett, created the basis for modern living as we know it.

They will celebrate the fact that Ohio is the birthplace of aviation. It has been home to 24 astronauts, including John Glenn, Neal Armstrong and Judith Resnick. They will celebrate the many distinguished writers Ohio has produced like Harriet Beecher Stowe, Paul Laurence Dunbar, Toni Morrison, and James Thurber.

However, one of Ohio's most profound contributions to the economic, social, and cultural development in the United States is the intricate role it played in the Underground Railroad.

Ohio's governing document, The Ordinance of 1787, states that ''There shall be neither slave nor involuntary servitude in the said territory, otherwise than in the punishment of crime.'' The slavery that did occur in Ohio was in the outermost portions of the territory that did not become part of the State of Ohio.

The Ordinance of 1787 not only attracted those fleeing the perils of slavery to Ohio, but also attracted various groups whose idealogy resonated with the State's anti-slavery sentiment. Quakers, Baptists, Methodists, and Presbyterians were among the groups who found themselves drawn to Ohio due to their opposition to slavery.

The Underground Railroad consisted of stations, places where runaways could hide, eat, and take refuge during the day. It was not a single route. It was a complex web of main and branch routes. Essential to navigating the Railroad were the conductors who served as guides to those travelers making their way to freedom. Ohio was one of the most heavily traveled States along the escape routes of slaves.

In addition to being a reasonable distance from north to south, Ohio provided access to Canada via Lake Erie.

Slaves were able to take advantage of Ohio's first commercial railroad. Many of the staff on the commercial railroads also served as conductors on the Underground Railroad.

Ohio and its citizens have carved out a rich place in American history, well deserving of our recognition. Therefore, I am indeed proud and pleased to join with my colleagues in celebrating the development of this great State as a part of the Union which we know as the United States of America.

Madam Speaker, I do not have any further requests for time, and I yield back the balance of my time.

Mr. TURNER of Ohio. Madam Speaker, I yield such time as he may consume to my colleague, the gentleman from the State of Ohio (Mr. REGULA), the distinguished sponsor of this legislation.

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

Madam Speaker, I first want to compliment the gentleman from Illinois (Mr. DAVIS) on an excellent summary of the role of the State of Ohio in dealing with the issue of slavery. We are building a museum in Cincinnati, Ohio, which was the key spot on the Underground Railroad. And as you travel throughout Ohio, you will find a number of communities that will have a marker saying that this community was one of the stations along the way. So I think it is great that the gentleman gave the Members and the audience that watches C–SPAN an understanding of Ohio's role, and it is a proud one, in dealing with these issues.

Ohio is popularly known as ''The Mother of Presidents.'' Our good friends from the State of Virginia like to take issue with that, but we claim eight in our State, one of whom served the 16th District of Ohio in Congress. That would be President William McKinley, who was also chairman of the Committee on Ways and Means. And if you go next door to the headquarters of the Committee on Appropriations, you will see a portrait of James Garfield, who also served in Congress and as chairman of Appropriations.

Madam Speaker, I think our colleague from Illinois has touched on a number of the important people that are part of Ohio history. I do not know if he mentioned Thomas Alva Edison, who started what is today a great industry in terms of providing electricity, and certainly his contributions in progress and industry were a result of hard work. Thomas Edison used to say, ''Genius was 1 percent inspiration and 99 percent perspiration.''

The gentleman from Illinois (Mr. DAVIS) mentioned John Glenn and his role. We are all very familiar with that. And so I think we in Ohio can take great pride in the part that our State has played in the history of this Nation's space program.

We have had a number of people in science who developed different things that are important to all of us. The Inventure Place is in Akron, Ohio. It tells the story of inventors in the United States. It is a hall of fame for inventors.

We have, of course, in Canton, Ohio the Football Hall of Fame. Many people are very familiar with that. And I would also mention that we have the National First Ladies Historic Site. It is the newest unit in the Park Service that tells how First Ladies have made a very great impact on the history of our Nation.

These are all things that give us pride in the State of Ohio and, since I did mention McKinley, I would add that as President of the United States he was perhaps the first one to recognize that the United States was no longer an insular nation, and he became a champion of international trade. He championed the Open Door Policy to China and many other issues involving trade. And of course as a result of Spanish-American War, the United States became a world player. And we know today that the world looks to, at least part of it, in this day and age, looks to the United States for leadership. But William McKinley made a very great impact on the path this Nation has taken from originally being very protectionist, very insular to that of a Nation that does set the challenge to other nations to follow suit.

I would urge all of my colleagues to support this resolution. It recognizes that Ohio has been a State since 1803 and as such has made many great contributions to our Nation's history.

Madam Speaker, I thank the gentleman for yielding me time.

Mr. TURNER of Ohio. Madam Speaker, I yield such time as he may consume to my colleague, the gentleman from the State of Ohio (Mr. GILLMOR).

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

Mr. GILLMOR. Madam Speaker, I am pleased to rise in support of this resolution honoring the bicentennial of the State of Ohio.

Madam Speaker, I want to commend my colleague from Dayton (Mr. TURNER) for sponsoring this resolution which pays tribute to the contributions of Ohioans to the economic, the social, and the cultural welfare of this country. I think it could objectively be said that no State surpasses Ohio in terms of the contribution that our people have made to the development of this country.

It is truly a diverse State from the Ohio River in the South to Lake Erie on the North. It has big businesses, small businesses, agricultural, recreational destinations.

The Buckeye State has developed also one of the finest educational systems in the United States. It is home to over 140 respective institutions with at least one college university or branch campus within 25 miles of every Ohioan.

It is home to a number of unique and extraordinary people, fast, first, most and best in the country.

Our State has given the United States eight presidents, one of whom was from my district, Rutherford B. Hayes; 24 astronauts, including the STS–70 All Ohio Shuttle Mission; and a plethora of sports legends, statesmen, distinguished writers, and successful aviators, Orville and Wilbur Wright, just to name two. Also, Neil Armstrong from Ohio was the first man to walk on the Moon.

Fellow northwest Ohioan, Thomas Edison, who was born in my district, would invent the light bulb, the phonograph, the stock ticker, and the movie projector. The combination of Mr. Edison and the Wright brothers truly makes Ohio the land of light and flight.

Ohio also holds claim to having America's first shopping center, its first kindergarten, its first chewing gum patent, its first professional baseball team, and the first hot dog.

Van Wert, which is located in my district, was the site of the first public library in this country. A few of the firsts in my district, and this could be repeated in districts all across Ohio: In my district the Whirlpool Corporation in Clyde, Ohio, manufactures more clothes washing machines than any plant in the world. The Heinz plant in Fremont produces more ketchup than any place in the world. It produces enough ketchup to fill 3.2 million 14-ounce bottles every single day.

□ 1430

The R.R. Donnelley plant prints the most Bibles in the world. Arm and Hammer Baking Soda, in my hometown of Oldport, produces more baking soda than anywhere else, and we also have in my district in Tiffen, the world's largest manufacturer of porcelain toilet fixtures used by people throughout America.

Let me say that we are proud of our State. We are proud of what Ohioans have accomplished in history, and I would urge support for the resolution and say, happy birthday, Ohio.

Mr. TURNER of Ohio. Madam Speaker, I yield as much time as he may consume to the gentleman from Ohio (Mr. HOBSON).

Mr. HOBSON. Madam Speaker, it is my pleasure to be here today. I want to thank the gentleman from Ohio (Mr. REGULA), my colleague from Navarre, for introducing this and the gentleman from Ohio (Mr. TURNER), my colleague from Dayton, who is a brand-new Member from the State of Ohio. This is the first bill I think he has done on the floor of the House, and it is always quite an experience for any of us.

I want to take this time to talk a little bit about the Buckeye State, the bicentennial of our great State. This event was especially significant to us in central Ohio because Chillicothe was one of the primary sites for the celebration since it was the location of the State constitutional convention and the first State capital.

In the 200 years since statehood, Ohio has been the birthplace of people who have literally changed the world, from Presidents to the Wright brothers to Neil Armstrong's first steps on the Moon.

The eight counties that make up Ohio's seventh district have produced Governors, U.S. Senators, some Congressmen, cabinet officials, military leaders, entertainers, and even saw the beginning of what became the 4–H clubs across the country out of Springfield, Ohio.

I know how much effort went into planning the many commemorative events for the 200th anniversary of the founding of our great State and the many different ways communities celebrated cross our heritage was a tribute to the diversity of our State. I think we have set a very high mark for future generations to top when the preparations begin for the 400th anniversary of the creation of Ohio in the year 2203.

Ohio is a wonderful area to represent. We have a great delegation, a great bipartisan delegation. We all work together for the benefits of the State. We are all Buckeyes, especially this year with Buckeyes at Ohio State being number one in the country, and we refer to ourselves as Buckeyes; and that is a tone that we have tried to set across the country as we talk to people about our great State and the Buckeye State.

Today, I just came back from Cincinnati where we talked about great waterways of the Midwest and the great waterway of Ohio, of the Ohio River, and of our northern coast which we call up in the Cleveland area, Toledo, all the way over to Pennsylvania. We are a great State. We have a great heritage and say happy birthday to the State of Ohio, and go, Bucks.

Ms. PRYCE of Ohio. Madam Speaker, as we celebrate 200th birthday of the great State of Ohio, I am proud to stand up here today to share with the American people why my home state of Ohio deserves a grand celebration and widespread recognition.

The name ''Ohio'' can be traced to the Native American word meaning ''great'' that was first used to describe the powerful river that marks our southern border. It was known as the Old Northwest at a time when Americans had no understanding of how vast our land truly was. This area drew independent and daring people of all walks of life who were in search of a new beginning. These pioneers picked up their life and settled on the beautiful river, fertile soil, rolling hills, and the lakes that felt like oceans.

There they founded a new state built on principles much unlike those in the other 16 states back in 1803. The State of Ohio would go on to lead the nation in public education by being the first to open its doors to women and African Americans. It would nurture some of the best American inventors, including the Wright Brothers, and boost eight of its citizens to the Presidency. Ohioans aspire to do great things and know no limits—just ask two of the world's most famous astronauts, Ohioans Neil Armstrong and Senator John Glenn.

Ohio has traditionally been a vanguard in the fight for opportunities and rights for women, and it recognized nationally for its leadership role in several major reform movements such as temperance, anti-slavery, and women's rights. Ohio played an important role in freeing the slaves, using the underground railroad to bring them to safety in the North. In fact, Ohio contributed more of its population to the Union Army than any other state.

Ohio Governor Bob Taft recently kicked off an eight month celebration of Ohio's 200th anniversary. These festivities allow all Ohioans to take part in understanding our state's history and marking it in their own special way.

I, along with my fellow Ohioans, am proud to salute our great state that has made an immeasurable contribution to the lives of all who know it as home, as well as our nation. Please join me in celebrating Ohio's Bicentennial to reflect on our state's proud heritage and abundant history. Happy Birthday, Ohio!

Mr. BOEHNER. Madam Speaker, I am privileged to join my friends from the Ohio delegation on the House floor today to mark yet another special occasion for our home state. Several weeks ago, we gathered here to celebrate and honor the Ohio State Buckeyes' college football national championship. And now we're here to mark yet another significant and historic event for the Buckeye State: Ohio's bicentennial.

Ohio's heritage is rich, and its importance to the nation is immeasurable. Consider these bits of trivia: Ohio played a vital role in the American Civil War. Our state contributed more of its population to the Union Army than any other state. Ohio is the home of 8 U.S. presidents. In fact, between the years 1840 and 1920, Ohio natives won 11 of 14 presidential elections. Ohio is home to legends in America's space program. Not only do Neil Armstrong and John Glenn call Ohio home, but the Buckeye State also is the home to twenty-two current astronauts. And finally, Ohio is the birthplace of aviation. The Wright Brothers called Ohio home and this year will be the focus of a celebration very close to my congressional district marking 100 years of flight.

Today, in Ohio schools, scores of students are poised to lead our state into its third century, and if the past two centuries are any indication, the best is yet to come.

Madam Speaker, it has been an honor to represent my friends and neighbors in Ohio on the local, state, and federal levels during my time in elected office. I wish them and all Ohioans across our state the very best today and in the years to come. May our next two hundred years be as prosperous and exciting as the last two hundred.

Mrs. JONES of Ohio. Madam Speaker, I rise today in support of House Resolution 122, recognizing the bicentennial of the admission of Ohio into the Union and the contributions of Ohio residents to the economic, social and cultural development of the United States. I am proud to be a lifelong resident of the State of Ohio. Ohio, known as the Buckeye State, is the birthplace of aviation and home to eight United States presidents.

Ohio is home to the first astronaut John Glenn, and the great inventors Thomas Edison and Granville T. Woods. The first female physician, Elizabeth Blackwell is also an Ohio native.

Ohio was an integral part of the Underground Railroad. For many escaped slaves Ohio would be the last stop on a long journey to Canada. Cincinnati is now home to the national Underground Railroad Freedom Center.

From humble roots in Ohio Dorothy Dandridge would establish herself as one of the greatest actresses in Hollywood, paving the way for a young girl from Bedford, Ohio, Halle Berry to become the first African American woman to win a Best Actress Academy Award. A native of Cincinnati, Ohio, Steven Spielberg revolutionized the movie industry with such movies as Jaws, E.T.: The Extra-Terrestrial and Jurassic Park and Indiana Jones.

Olympic gold medalist Jesse Owens took his first steps in Ohio as well as famous golfer Jack Nicklaus. Paul Lawrence Dunbar, Toni Morrison and Huge Downs were famous Ohioans who mastered the power of the pen and became great contributors to literature. In addition, I would be remiss to not mention Garrett Augustus Morgan, who established the Cleveland Call and the invention of the nation's first patented traffic signal. History has been made in Ohio. Carl Stokes became the first African American mayor of a major city. His brother Louis Stokes would follow to make history as the first African American Congressman from Ohio, paving the way for me to stand before you today as the first African American Congresswoman from the State of Ohio. These great Ohioans and great Americans have helped to shape the fabric of this country. Through this celebration, we pay homage to their lives and legacies. I am honored to speak on behalf of the citizens of the 11th Congressional District of Ohio as we celebrate this Ohio bicentennial.

Mr. OXLEY. Madam Speaker, I'm proud to join my Buckeye colleagues in celebrating the 200th anniversary of the Great State of Ohio. My thanks to the dean of our delegation, Mr. Regula, for introducing this resolution.

It's my great privilege to represent Ohio's Fourth Congressional District, a widespread and diverse region steeped in tradition that has contributed much to the rich history of our state.

Some three decades ago, my hometown of Findlay in Hancock County was honored by Congress with the designation ''Flag City, USA.'' Nearby Arlington, Ohio, enjoys the title of ''Flag Village, USA.'' The discovery of oil in 1886 contributed tremendously to the county's growth; Findlay is home to the headquarters of Marathon Ashland Petroleum, an oil refining and marketing leader to this day. It was about the Blanchard River—than called Mill Stream—that Handcock County's Tell Taylor reminisced in his 1908 song ''Down by the Old Mill Stream.''

Hardin County is known as the home of Jacob Parrot, the nation's first Congressional Medal of Honor winner in 1863. Employees at Ada's Wilson Football Factory hand-make well over one million footballs per year, providing the NFL's official game balls since 1941.

The Lima Army Tank Plant in Allen County has played a vital role in our nation's defense since the Second World War, when its forerunner, the Lima Tank Depot, processed more than 100,000 combat vehicles for shipment overseas. The tank plant's contributions continue in this new century, with ongoing work on the new Stryker light armored vehicle and a new $32 million Abrams tank upgrade program.

Logan County is famous not only for the nation's shortest street (20-foot-long McKinley

Street), but also the first concrete street in America. George Wells Bartholomew, Jr., constructed this street in 1891, posting a personal bond of $5,000 to guarantee that the pavement would last for five years. That street carries local traffic to this day, and was declared a National Historical Civil Engineering Landmark in 1976.

Wyandot County's Old Mission Church is the oldest Methodist mission in the United States. Completed in 1824, the Church sits on the grounds of the Wyandotte Cemetery, a burial ground for the last Native American tribe in Ohio. The Basilica, and National Shrine of Our Lady of Consolation in Carey draws hundreds of thousands of pilgrims on a yearly basis.

Marion County is the site of the Warren G. Harding Home and Memorial, honoring our nation's 29th president. Marion, home of the Popcorn Festival and the Wyandot Popcorn Museum, also contains one of four branch campuses of The Ohio State University, 2003's national football champions. I am privileged to represent a total of three of OSU's branches.

Citizens of Shelby County take great pride in their magnificent 120-year-old county courthouse, which was recently added to the list of ''Great American Public Places.'' Sidney, the county seat, developed a reputation as a railroad and canal center early in our state's history.

Residents of Mount Gilead in Morrow County rightfully take pride in the ''victory shaft'' that dominates the village's North Square. This stone monument was a 1919 gift from the federal government in recognition of Morrow County's support of World War I—its citizens purchased more war bonds per capita than any other county in the U.S.

Auglaize County is the birthplace of space pioneer Neil Armstrong and home to the Neil Armstrong Air and Space Museum. The county seat of Wapakoneta is a focal point of Native American history, serving as capital of the Shawnee nation in the late 1700s and early 1800s. Chief Blackhoof organized the migration of the Shawnee to Kansas in 1826, and afterward returned to Wapakoneta, where he died in 1831.

The Mansfield Blockhouse in Richland County is the county's oldest structure, built in the public square to protect early settlers from Indian attacks during the War of 1812. The medieval castle design of the Ohio State Reformatory, constructed in the late 1880s, landed it on the National Register of Historic Places in 1987, and has been featured in three major motion pictures. Mansfield was also the home of John Sherman, longtime House and Senate member from Ohio, Secretary of State, Secretary of the Treasury, Republican presidential candidate, and father of the Sherman Antitrust Act. Malabar Farm in Lucas is the former home and workshop of Pulitzer Prize winner Louis Bromfield, drawing thousands of visitors each year.

A bronze statue in the town square in Urbana memorializes the 3,235 Champaign County men who fought in the Civil War, 578 of whom did not survive the fighting. Urbana University's Johnny Appleseed Educational Center houses the largest collection of Johnny Appleseed memorabilia and information known to exist. St. Paris, in western Champaign County, was a leading carriage-making center for much of the late Nineteenth Century.

Madam Speaker, I'm proud that citizens in each of the 11 counties I'm honored to represent are taking an active role in celebrating not only our state's bicentennial, but also the rich and vibrant histories of their own communities. Their dedication and devotion ensure that our state's future remains bright for the next 200 years and beyond.

I salute the efforts of all who have made this bicentennial year a great one for our great state.

Mr. KUCINICH. Madam Speaker, I rise today in honor and recognition of the Bicentennial of the State of Ohio's admission to the Union. I rise to honor the contributions of Ohio residents to the development of the United States.

On March 1, 1803, Ohio became the 17th state to enter the Union. From the invention of traffic lights and Teflon to the famous first flight at Kitty Hawk, Ohio has been the birthplace of many important advances in United States history. The nation's first interracial coeducational college, Oberlin College, was founded in 1833 in Oberlin, Ohio. The storied history of this great state is, perhaps, best demonstrated through the accomplishments of its amazing residents.

Ohio residents have contributed to many different aspects of United States history and culture. Inventors Thomas Edison and Charles Goodyear hail from Ohio. Well-known authors Harriet Beecher Stowe and Toni Morrison, as well as, poet laureate Paul Laurence Dunbar also come from Ohio. Ohio also has the distinction of producing more Presidents than any other state in the Union. Legendary comedians Bob Hope and Phyllis Diller, who have inspired millions to laugh, hail from Ohio.

Other noteworthy Ohioans include Doris Day, Clark Gable, Annie Oakley and Neil Armstrong. Ohio's contributions have not only been limited to academic and artistic pursuits. Many well-known athletes hail from Ohio also. World-renowned golfers Nancy Lopez and Jack Nicklaus are both from Ohio. African American track star Jesse Owens, who won four gold medals during the 1936 Olympics, grew up in Cleveland and graduated from Ohio State University.

Madam Speaker and colleagues, please join me in honor and recognition of the Bicentennial of the admission of Ohio in to the Union, a state whose contributions to this great country cannot be overlooked.

Mr. NEY. Mr. Speaker, Whereas, the people of Ohio are commemorating Ohio's 200th Birthday on March 1, 2003; and

Whereas, they will be celebrating the Bicentennial in Chillicothe, the original capital of the great state of Ohio; and

Whereas, the residents of Ohio have molded a strong tradition of family values and a commitment to a high standard of living for Two-Hundred Years; and

Whereas, Ohio, since its inception, has developed into a growing and prosperous community dedicated to its past and future generations;

Therefore, I join with the residents of the 18th Congressional District and all of Ohio in celebrating the Ohio Bicentennial.

Mr. TURNER of Ohio. Madam Speaker, I have no other speakers, and I urge adoption of this measure.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Ohio (Mr. TURNER) that the House suspend the rules and agree to the resolution, H. Res. 122.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. TURNER of Ohio. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SENSE OF CONGRESS REGARDING IMPROVED FIRE SAFETY IN NONRESIDENTIAL BUILDINGS

Mr. TURNER of Ohio. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 85) expressing the sense of the Congress with regard to the need for improved fire safety in nonresidential buildings in the aftermath of the tragic fire on February 20, 2003, at a nightclub in West Warwick, Rhode Island.

The Clerk read as follows:

H. CON. RES. 85

Whereas, on the night of February 20, 2003, a pyrotechnic display ignited a massive fire at The Station nightclub in West Warwick, Rhode Island;

Whereas 99 people have died as a result of the fire and an additional 186 people were injured in the fire, many of whom remain hospitalized as of the date of the submission of this resolution with life-threatening burns and other injuries;

Whereas the victims of the fire were residents of Rhode Island, Massachusetts, Connecticut, and several other States;

Whereas the firefighters, police officers (particularly officers of the West Warwick Police Department who were the first to arrive on the scene), and medical personnel who responded to the fire performed heroically under horrific circumstances, and they risked their own lives to save many of the injured;

Whereas, at hospitals in Rhode Island and Massachusetts, doctors, nurses, hospital staff, mental health professionals, and other health care workers toiled through the night and in the following days to care for the injured, and they continue to provide world-class care to victims of the fire who remain hospitalized;

Whereas hospital care for victims of the fire was provided at Rhode Island Hospital, Kent County Hospital, South County Hospital, Fatima Hospital, Massachusetts General Hospital, Miriam Hospital, Roger Williams Hospital, Landmark Hospital, University of Massachusetts/Worcester Hospital, Brigham and Women's Hospital, Westerly Hospital, Shriners Hospital, St. Luke's Hospital, Memorial Hospital, Charlton Hospital, and Newport Hospital;

Whereas the local Red Cross, with 10 paid staff and over 400 dedicated volunteers, has played a critical role in offering comfort to the families of victims and coordinating services;

Whereas State and local officials have responded to the fire and its aftermath quickly, effectively, and compassionately, and the people of Rhode Island and the Nation are grateful for their efforts;

Whereas Governor Donald Carcieri of Rhode Island and West Warwick Town Manager Wolfgang Bauer have shown exceptional leadership under trying circumstances and their sensitivity to the families impacted by the tragedy is much appreciated; Lt. Governor Charles Fogarty and Maj. Gen. Reginald Centracchio, as Co-Chairs of the Emergency Management Advisory Council, have also played a crucial role in responding to the tragedy; and the Rhode Island Emergency Management Agency has impressively and effectively coordinated a myriad of State and local activities;

Whereas area funeral directors and medical examiners have provided outstanding service throughout the tragedy;

Whereas the staff of the local family resource center has helped the families of victims to access the services and information they need and provided care and comfort to hundreds of grieving family members;

Whereas the people of Rhode Island and concerned citizens across the United States have shown incredible generosity in response to the tragedy, contributing hundreds of thousands of dollars to victims' assistance efforts;

Whereas many local businesses have provided victims and their families with crucial services from food to transportation, members of the Rhode Island Bar Association and Rhode Island Trial Lawyers Association have offered free assistance to victims and their families with immediate legal issues, and community mental health centers and mental health professionals have provided critical mental health care to victims and their families and other members of the community;

Whereas Federal agencies, including the Social Security Administration, the Federal Emergency Management Agency, the Bureau of Alcohol, Tobacco, and Firearms, the Department of Health and Human Services, the National Institute of Standards and Technology, and the Small Business Administration, have offered assistance and expertise that has been extremely helpful to the State's emergency response to the tragedy;

Whereas the West Warwick fire is only the most recent example of how deadly fire can be in nonresidential buildings;

Whereas, in 2001, the last year in which full statistics are available, 80 people were killed and 1,650 injured in fires in nonresidential buildings, not including the victims of the terrorist attacks on September 11, 2001; and

Whereas, on February 17, 2003, 21 people were killed in a tragic stampede at the E2 Nightclub in Chicago, Illinois, and this tragedy and the West Warwick fire, which have deeply impacted persons throughout the United States, emphasize the critical need for enhancements in nightclub and concert hall safety: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) expresses its deepest condolences to the family members and friends who lost loved ones as a result of the tragic fire on February 20, 2003, at The Station nightclub in West Warwick, Rhode Island, and offers its hope for the quick and full recovery of those persons who were injured in the fire;

(2) expresses immense gratitude for the efforts of countless emergency response personnel, local, State, and Federal officials, health care providers, volunteers, businesses, and citizens who have been part of the response to this tragedy; and

(3) urges State and local officials and the owners of entertainment facilities to examine their safety practices, fire codes, and enforcement capabilities in light of this horrific tragedy and to take all necessary action to ensure that such a tragedy never befalls any community again.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. TURNER) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. TURNER).

GENERAL LEAVE

Mr. TURNER of Ohio. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TURNER of Ohio. Madam Speaker, I yield myself such time as I may consume.

House Concurrent Resolution 85, introduced by the gentleman from Rhode Island (Mr. LANGEVIN), expresses the sense of the House with regard to the need for improved fire safety in nonresidential buildings in the aftermath of the tragic fire that struck on February 20, 2003, at a nightclub in West Warwick, Rhode Island.

Madam Speaker, last month a great tragedy befell this Nation. Ninety-eight people were killed and nearly 200 more were injured when a devastating fire engulfed The Station nightclub that was hosting a concert in the suburban Providence, Rhode Island, town of West Warwick.

Stage props that sprayed pyrotechnics set on fire the acoustic wall behind the stage, and the fire spread across the nightclub ceiling at a terribly rapid speed. Apparently, the entire club was fully aflame in just 3 minutes. Many of the victims never had a chance to escape.

This unimaginable catastrophe was one of the deadliest nightclub fires in our Nation's history; and sadly, this incident seems so avoidable. I sincerely hope this event serves a final wake-up call to owners and operators of entertainment venues across the country. I trust all those in responsible positions will take an even closer look at safety features in their facilities, in order that this tragedy may not be repeated.

I would like to express my sympathy to the grieving families and friends of the victims. I congratulate the local, State and Federal emergency responders that worked tirelessly to save victims from the fire and continue to treat patients that suffer from burns and other injuries. I hope and pray that those who remain injured will experience a full and very quick recovery.

Madam Speaker, I hope that the passage of this resolution will lead us to take steps toward improving the safety of nonresidential buildings. Therefore, I urge all Members to support the adoption of House Concurrent Resolution 85.

I thank my colleague from Rhode Island for introducing this important measure.

Madam Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I might consume.

Madam Speaker, I rise today to support the resolution regarding the needs for improved fire safety in nonresidential buildings. This is a major concern with regards to the tragic fire at a nightclub in West Warwick, Rhode Island, on February 20, 2003, which killed over 90 people and injured about 200. It is almost unthinkable and unimaginable that such a tragedy could and would occur.

I also want to recognize a similar tragedy that took place in my congressional district in Chicago on February 17, 2003, at the E2 nightclub in Chicago's south side, where a stampede led to approximately 21 people being killed and more than 50 injured. This was a tragedy that could and should have been prevented if there were better fire and building safety codes implemented like wider staircases, more visible exits, and windows for air circulation.

In recognizing the tragedy in Rhode Island, I would like to take this opportunity also to extend my condolences to the families of the fire victims in Warwick and to the victims of the E2 nightclub in Chicago.

Madam Speaker, as lawmakers, we are responsible for ensuring the safety of our citizens, especially in public places. As a result, we should immediately pass this bill before there is any other tragedy, and I would want to urge all of those who have responsibility for safety in public places to do everything possible to assure that those buildings are, in fact, safe; that there is adequate opportunity for people to exit; and that we protect the lives of our citizens.

I commend the gentleman from Rhode Island for introducing this resolution.

Madam Speaker, I reserve the balance of my time.

Mr. TURNER of Ohio. Madam Speaker, I have no other speakers, and I want to thank the gentleman from Rhode Island for introducing this important resolution, and I urge adoption of this measure.

Madam Speaker, I yield back the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I yield 7 minutes to the gentleman from Rhode Island (Mr. LANGEVIN), who is the author of this resolution.

Mr. LANGEVIN. Madam Speaker, I want to thank the gentleman for yielding me the time, and I appreciate his comments; and my condolences go to the families that lost loved ones in the Chicago tragedy as well. We share his pain in these two tragic events.

Madam Speaker, on the night of February 20, Rhode Island suffered a devastating tragedy. On that night, a massive fire, ignited by a pyrotechnic display during a rock concert, tore through The Station nightclub in West Warwick, Rhode Island, in my congressional district. That fire took 99 lives and left nearly 200 injured.

In any community, this tragedy would have been overwhelming, but in a small State like Rhode Island, when a closeknit town falls victim to one of the worst nightclub fires in the Nation's history, the impact is simply incomprehensible. Everyone in Rhode Island has a connection to one of the victims; and indeed, connections have been made all across New England and, indeed, the Nation.

I have introduced the resolution before us today to memorialize this horrible event and honor the victims and to express thanks for heroic efforts of so many emergency personnel, medical workers, community members, and government officials who have helped us through this tragedy.

Just as importantly, I was compelled to draw the attention of my colleagues to this fire in order to reinforce the urgent need for increased attention to fire safety nationwide. Federal, State and local officials, along with proprietors of nightclubs and other commercial facilities, must reevaluate safety regulations and their enforcement to ensure that this kind of tragedy never happens again.

If the West Warwick fire can serve as a wake-up call and lead to improved safety across the country, then these 99 lives will not have been lost in vain. It is the very least we can do to honor the victims.

As Rhode Islanders continue the healing process, I want to express my deepest condolences to those who lost loved ones in this horrible fire. There are no words to adequately express our profound sadness. Please know that they are in the thoughts and prayers of us all, and we will not let the lives of their husbands, wives, sisters and brothers, children, parents and friends be forgotten.

As of this afternoon, at least 40 people remain hospitalized, nearly half of them still in critical condition. I know my colleagues join me in offering up prayers for their quick and full recovery. They are fighting every hour, and they need our strength now more than ever. Our best wishes go out to them and their families as they weather the tough days ahead.

I would also like to express my immense gratitude for the heroic efforts of people and agencies from Rhode Island, Massachusetts, Connecticut, and elsewhere who have helped respond to this disaster. The firefighters, police, emergency responders who were first on the scene made a herculean effort under unimaginable circumstances; and we have them to thank that even more lives were not lost.

In addition, over a dozen hospitals in Rhode Island and Massachusetts have been caring for patients since this tragedy. The doctors, nurses, mental health professionals, and support staff of these hospitals have worked tirelessly to help the injured; and we are grateful for their service.

As usual, when tragedy strikes Rhode Island, our community has proven strong, resilient and boundlessly generous. I want to recognize the countless volunteers who have put their lives on hold to help in any way they can. Likewise, many of our State's business community have come forward to provide food, shelter, transportation and much more to those affected by this event.

I would particularly like to thank the Red Cross and its scores of volunteers for all they have done to give comfort and assistance to those whose loved ones were lost or injured.

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Rhode Island's Governor, Don Carcieri, has provided outstanding leadership throughout this ordeal and shown extraordinary sensitivity to the families involved, and I have personally heard from many of them how much they appreciate his efforts. West Warwick's town manager, Wolfgang Bauer, has worked hand in hand with State officials to help the people of his community through this event. Lieutenant Governor Charles Fogarty and Major General Reginald Centracchio, cochairs of the Emergency Management Advisory Council, have also played a crucial role in this crisis; and the Rhode Island Emergency Management Agency has impressively and effectively coordinated a myriad of State and local activities.

I would also like to thank my friend, the gentleman from Rhode Island (Mr. KENNEDY), who is an original cosponsor of this resolution, for his assistance, his friendship and support through this difficult time, and, of course, Rhode Island's senior Senator, JACK REED, and Senator LINCOLN CHAFEE for their tremendous efforts and leadership. And I want to express my great appreciation to several Federal agencies, including FEMA, the Social Security Administration, SBA, HHS and ATF, for all of their support. Their involvement has been critical, and I look forward to working with them further in the weeks to come.

Finally, Madam Speaker, let me address the issues of safety in our clubs, concert halls and other public places. As Americans have been reminded so painfully by the West Warwick fire, as well as the tragic nightclub stampede in Chicago just a few days earlier, we cannot relax our efforts to ensure that our fire and safety regulations are strong and effective and our entertainment facilities are in full compliance with them. As we now know all too well, to lose sight of the overall importance of safety can be fatal.

I have been greatly encouraged by the intense efforts going on across the country in recent weeks to revisit fire safety regulations and step up enforcement of existing laws. Our State and local officials are taking this issue seriously, and I am hopeful that the result will be improved safety in every city and town in America. I know that my colleagues are ready to offer whatever Federal assistance might be needed to support these efforts and ensure that the horrific events in Chicago and West Warwick are the last of their kind.

In closing, I urge support of House Concurrent Resolution 85.

Mr. DAVIS of Illinois. Madam Speaker, may I inquire as to how much time remains.

The SPEAKER pro tempore (Mrs. BIGGERT). The gentleman from Illinois has 11½ minutes remaining.

Mr. DAVIS of Illinois. Madam Speaker, I yield 10 minutes to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Madam Speaker, I, too, want to join my colleague, the gentleman from Rhode Island (Mr. LANGEVIN), in offering our heartfelt condolences to the families of the E2 Nightclub in Chicago for their tremendous loss. It is utterly ironic that the footage captured in Rhode Island of The Station nightclub on that terrible night was footage that was captured because a cameraman was following up on the local angle of club safety in light of what happened in Chicago. Those terrible images that we saw beamed across the country would not have been caught had it not been for our State trying to prevent what had happened in Chicago. How tragic it was that that is just what ended up happening.

Madam Speaker, it is with great regret that I stand on the floor of the House today to offer my sincerest condolences and heartfelt prayers to those who lost loved ones, to those who were lost, and those still recovering from the effects of the tragic fire in my State of Rhode Island. I know that there is nothing that we can say, no resolution that we can pass that will take away the consuming grief and the sense of loss that so many Rhode Islanders have felt and are feeling; but it is my hope that these condolences of the House, along with time, will help to heal those wounds.

I would like to say to my colleagues who have been watching the coverage of these sad events over the past days that you have no doubt heard several Rhode Islanders say that ''everyone in Rhode Island is separated by one and a half degrees,'' a play off of the well-known ''six degrees of separation'' adage. Rhode Island is a small, but proud, State. There are fewer of us in Rhode Island than in Los Angeles, Dallas, Fort Worth, or Philadelphia. In Rhode Island, everyone knows everyone. Ask any Rhode Islander, and they will tell you their State is not so much a State as a community, a community where people are born, raised, educated, and eventually raise their own families in this place that will always welcome them home.

To my colleagues, and especially to my colleague, the gentleman from Rhode Island (Mr. LANGEVIN), who I thank for bringing this resolution to the floor today, I say that the atmosphere under which we are at this time

and place, where generations of American representatives have marked tragedies and triumphs in the halls of this Republic, today we mourn the worst of those disasters ever to afflict the people of Rhode Island. To date, we have lost 99 of our families, friends, and neighbors to this terrible tragedy. That is nearly half as many Rhode Islanders as were lost in the entire Vietnam War in our State of Rhode Island.

A disaster of this magnitude in a community like Rhode Island has tested the limits of our collective comprehension, resilience, and grief. While we mourn, we still hold out the hope, and offer our prayers, to the 190 men and women still fighting their injuries across New England, as many as 40 in the hospital. Their struggles will be difficult, the road ahead challenging; but the people of Rhode Island have proven that community togetherness and family can see us through anything. We offer them our support and encouragement today, and we promise that we will still be there in the months and the years ahead to ensure that we never forget that they are going to be living with these injuries for the rest of their lives.

Madam Speaker, but for the brave first responders who came immediately and professionally to their call to duty, many of those in the hospitals today would no longer be with us, and most assuredly the number of those still recovering from their injuries would be much, much higher. The emergency personnel on duty who rushed to the scene, to those who simply passed or heard through the grapevine about the tragedy and selflessly responded, the men and women of this House today say ''thank you'' to all of them. They worked without thought for themselves that freezing night, and afterwards, not only to free the trapped from the inferno, and tended through their own tears to the cries of the wounded, but long past the tragedy to tend to the emotional and psychological wounds that continue to inflict these victims.

Madam Speaker, what we ask of first responders in these situations is to be superhuman in the face of staggering human suffering. Most of us spend our lives doing our best to keep ourselves and our loved ones out of situations that the police, fire, and medical personnel rush into every single day, day after day. Their heroism in this tragedy does not go unnoticed. It might be added that with so much evil emanating from the events of 9–11, it is fitting to acknowledge that our State would not have been able to react as quickly as it had were it not for the lessons learned in that tragedy.

Also, the leadership shown at so many levels of government is inspiring to those of us who believe that there are indeed good and honorable people in government service. I want to join my colleague, the gentleman from Rhode Island, in recognizing all those who he recognized in his remarks; but I too want to pay particular attention to our new Governor, Governor Carcieri, who has shown tremendous leadership under pressure. The compassion and personal touch that he has brought to our State has truly been inspirational. More than any other person, the Governor has held our State together through this tragedy.

So while we continue to mourn for those who have walked on from this world and offer our prayers to those still fighting to return to good health, let us help to lessen their grief by showing our gratitude to all those who have helped them through this adversity.

There will be, unfortunately, no shortage of time to grieve for the mother that will not be able to open the presents with her children at the holidays. There is no shortage of time to grieve for the brother who will not walk down the aisle with his new bride. There is no shortage of time to grieve for the spouse who will not celebrate her next anniversary with her husband, the grandfather who will not see his grandchildren graduate from college, or the child who will take his first steps without his parents to see him. Many Rhode Islanders will have the rest of their lives for these somber memories. Now is a time for remembrance of how the human spirit, above all, arises in times of tragedy, because that is the only thing, besides the passage of time, that will help ease our current pain.

Unlike other no-less-painful losses we experience in the course of our lives, too many young lives were lost this horrific night. This incident has reminded me of the words that my father spoke at my cousin, John F. Kennedy, Jr.'s, memorial service. He said: ''He was lost on that troubled night, but we will always wake for him, so that his time, which was not doubled, but cut in half, will live forever in our memory, and in our beguiled and broken hearts.''

Madam Speaker, our hearts are broken; and those who are lost will no doubt live forever in our memory.

I want to thank the gentleman from Rhode Island once again for all the work that he has done representing his district through these difficult times. I know that the people who have entrusted their faith to him have been well served, and I appreciate this opportunity to rise in support of his resolution and strongly urge my colleagues to give it the support that it deserves.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I may consume to commend both the gentleman from Rhode Island (Mr. LANGEVIN) and the gentleman from Rhode Island (Mr. KENNEDY) for bringing this great tragedy to our attention.

I also want to join with them in commending all of those who rose to the occasion, the policemen; the firemen; the Red Cross; emergency medical services personnel; mental health centers, crisis counselors; and even undertakers in my town, like Leak and Sons Funeral Home, who buried seven people without cost and greatly reduced the cost for an eighth person; radio stations; Salem Baptist Church, New Mount Pilgrim Baptist Church; the Push Rainbow; WGCI Radio; and all of those who have contributed in setting up educational funds for the children of those whose parents lost their lives in the E2 tragedy.

Our country has a tendency to rise up when there is a special need, and I commend all of those who took note of the tragedy in Rhode Island, as well as the tragedy at the E2 in Chicago.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. TURNER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 85.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. TURNER of Ohio. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

OBSERVER STATUS FOR TAIWAN AT WORLD HEALTH ASSEMBLY IN MAY 2003 IN GENEVA, SWITZERLAND

Mr. CHABOT. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 441) to amend Public Law 107–10 to authorize a United States plan to endorse and obtain observer status for Taiwan at the annual summit of the World Health Assembly in May 2003 in Geneva, Switzerland, and for other purposes.

The Clerk read as follows:

H.R. 441

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

SECTION 1. AMENDMENTS TO PUBLIC LAW 107–10.

(a) FINDINGS.—Section 1(a) of Public Law 107–10 (115 Stat. 17) is amended by adding at the end the following:

''(14) The government of Taiwan, in response to an appeal from the United Nations and the United States for resources to control the spread of HIV/AIDS, donated $1,000,000 to the Global Fund to Fight AIDS, Tuberculosis and Malaria.''.

(b) PLAN.—Section 1(b)(1) of Public Law 107–10 (115 Stat. 17) is amended by striking ''May 2002'' and inserting ''May 2003''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. CHABOT) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. CHABOT).

GENERAL LEAVE

Mr. CHABOT. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. CHABOT. Madam Speaker, I yield myself such time as I may consume.

I want to express my strong support for this legislation, Madam Speaker. My friend, the gentleman from Ohio (Mr. BROWN), has worked long and hard to make Taiwan's participation in the WHO a reality, and we also want to thank the gentleman from California (Mr. LANTOS) for his leadership in this area as well. As in years past, I am pleased to join with them in this effort.

The good people of Taiwan have a great deal to offer the international community. It is terribly unfortunate that even though Taiwan's achievements in the medical fields are substantial, and it has expressed a repeated willingness to assist both financially and technically in WHO activities, it has not been allowed to do so because of strenuous opposition from the Communist Chinese dictatorship.

My colleagues may recall the travesty that occurred back in 1998, when Taiwan suffered from a serious entovirus outbreak which killed 70 Taiwanese children and infected more than a thousand.

□ 1500

The WHO was unable to help.

In 1999, a tragic earthquake in Taiwan claimed more than 2,000 lives. Sadly, we learned in published news reports that the People's Republic of China demanded that any aid for Taiwan provided by the United Nations and the Red Cross receive prior approval from the dictators in Beijing. Yet when other nations face similar crises, Taiwan stands ready to help.

Our friends in Taiwan were among the first to offer assistance to the victims of the September 11, 2001 terrorist attacks on our Nation. They provided generous humanitarian assistance to the people of Afghanistan. They have been leaders in addressing global health issues and as this legislation notes, ''The government of Taiwan, in response to an appeal of the United Nations and from the United States for resources to control the spread of HIV/AIDS, donated $1 million to the Global Fund to Fight AIDS, Tuberculosis, and Malaria.''

Madam Speaker, many of us have been disappointed by our government's lack of effort to assist Taiwan in its attempts to obtain WHO observer status at the annual World Health Assembly in Geneva. We have expressed our concerns to the State Department, and most recently, a bipartisan group of 64 Members of this body sought the personal assistance of Secretary Powell in this matter. We are hopeful that our delegation to the upcoming Geneva conference will stand strongly in favor of Taiwan's candidacy.

Madam Speaker, I thank the gentleman from Ohio (Mr. BROWN), the gentleman from California (Mr. LANTOS) and also the gentleman from Illinois (Chairman HYDE) for his prompt consideration of this bill in the Committee on International Relations. We have been working quite some time for this, and I thank Members for continuing to work on this important issue. I urge adoption of this legislation.

Madam Speaker, I reserve the balance of my time.

Mr. LANTOS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I strongly support H.R. 441, and urge all of my colleagues to do so as well. I would like to commend my colleague, the gentleman from Ohio (Mr. BROWN) for his persistence in pushing for Taiwan's observer status at the World Health Organization. I also wish to acknowledge the chairmanship of the gentleman from Illinois (Mr. HYDE) on this critically important subject, and that of the gentleman from Ohio (Mr. CHABOT).

Madam Speaker, by battling the spread of infectious diseases and increasing the quality of health care to the global community, the World Health Organization makes a significant contribution to our national security. As we meet in this Chamber today, the WHO is dealing with an outbreak of Ebola in Africa, implementing new strategies to stop the spread of the deadly HIV/AIDS virus, and teaching the developing world how to stop the transmission of tuberculosis.

Madam Speaker, the fight for quality health care around the globe will never cease. As a result, the World Health Organization and its member countries must look for help from every nation to strengthen the work of the organization. Unfortunately, strong and consistent opposition from the Chinese government in Beijing has repeatedly stopped the people of Taiwan from contributing to the work of the WHO.

It is true that observer status for Taiwan will not come easy. Beijing holds sway over many WHO members, but the facts in support of Taiwan's case are clear and compelling, and support will undoubtedly build over time with active American engagement. Taiwan is one of our strongest allies in the Asia Pacific region. It is a beacon of democracy for people around the globe.

Taiwan has the resources and the expertise to make a significant contribution to the work of the World Health Organization. The case for Taiwan as a member of WHO is clear and compelling, and I hope our administration will actively support this important initiative. I strongly support H.R. 441. I urge all of my colleagues to do so as well.

Ms. BORDALLO. Madam Speaker, today, I join my colleagues in support of H.R. 441 authorizing a U.S. plan to endorse and obtain observer status for Taiwan at the annual summit of the World Health Assembly in May 2003 in Geneva. I want to thank Congressman Sherrod Brown for his continued commitment to this cause.

The Constitution of the World Health Organization states, ''the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition.'' Taiwan's participation in the organization advances this principle.

Taiwan has made many positive contributions that benefit our country and help the international community attain the health goals set by the World Health Organization. Advancing Taiwan's participation in the WHO would provide the people of Taiwan more opportunities to participate in international health initiatives.

Taiwan's willingness to come to the aid of the people of El Salvador in the wake of the devastating earthquake in January 2001 is indicative of their commitment to global health. In the days following the earthquake, the Taiwanese government sent 2 rescue teams that included emergency, medical and engineering specialists to assist in the rescue and recovery efforts. In addition, the Taiwanese government donated $200,000 in relief aid to the Salvadoran government.

The WHO Constitution also states, ''the health of all peoples is fundamental to the attainment of peace and security and is dependent upon the fullest co-operation of individuals and States.'' In advancing the participation of Taiwan in the WHO, we are increasing global cooperation to address the pressing health concerns of our time. I strongly commend H.R. 441 to my colleagues and urge its passage.

Mr. BROWN of Ohio. Madam Speaker, I strongly support H.R. 441, and I would like to thank my colleagues on the International Relations Committee and the Congressional Taiwan Caucus for their support as well.

For the past few years, we have been pushing for Taiwan's observer status at the WHO. I don't know about the rest of you, but I'm starting to experience deja-vu on this issue. Congress has addressed this several times, and I will continue to raise it until we have a resolution.

The World Health Organization makes a major contribution to the international community each and every day. The WHO has programs to stop the spread of HIV/AIDS and other infectious diseases, to support the development of basic health care services throughout the developing world, and to provide humanitarian aid to those in need.

In this growing struggle, the WHO and its member countries should be looking for help wherever they can get it. Unfortunately, Taiwan's efforts to obtain observer status to the annual World Health Assembly meetings in Geneva have been blocked.

While the Administration has indicated support for Taiwan's bid for WHO observer status, it is unwilling to match the rhetoric with action. The State Department argues that the majority of WHO members would never support observer status for Taiwan, and therefore the U.S. shouldn't make a concerted effort on Taiwan's behalf. Well I say, let's find out.

The Administration must make a concerted effort to ensure Taiwan's participation in the WHO. The bid may fail, but Taiwan won't be allowed to participate if we do not make the case of its involvement.

Taiwan is a strong, democratic ally. It has developmental and humanitarian resources that would make a substantial contribution to

the WHO's mission. The people of Taiwan are volunteering these resources to fight global epidemics, and we are turning them away at the door. They have demonstrated this time after time—in Haiti; in El Salvador; and more recently by contributing a million dollars to the Global Fund to Fight AIDS, TB and Malaria. The world needs all the help it can get. Taiwan is not asking to join the WHO as a state, but rather as an observer. The case for observer status at the WHO is clear, and the Bush Administration should make it happen.

I strongly support H.R. 441, and urge my colleagues to do so as well.

Mr. WU. Madam Speaker, I rise today in strong support to H.R. 441, a bill to authorize the United States to seek observer status for Taiwan within the World Health Organization (WHO).

Every May, the World Health Assembly meets to consider the acceptance of new members to the WHO. Unfortunately, even as Taiwan is among the leaders in Asia in important health indicators, such as life expectancy and infant mortality, it is unable to contribute to the WHO.

While nationhood is a membership requirement, the WHO does provide observer status to such entities as the Vatican, the Knights of Malta, and the Palestinian Liberation Organization. As a self-governing and democratic island of twenty-three million people, and as a potential member with a great deal to contribute to the WHO, I strongly support WHO observer status for Taiwan.

As we once again approach the annual World Health Assembly, I urge Secretary Colin Powell and Secretary Tommy Thompson to work with our friends around the world to obtain WHO observer status for Taiwan. I urge my colleagues to vote yes on H.R. 441.

Mr. HASTINGS of Florida. Madam Speaker, I rise today in support of H.R. 441, a bill endorsing observer status for Taiwan at the annual summit of the World Health Organization in May 2003. I thank my good friend, Mr. BROWN of Ohio, for introducing the bill, and I look forward to voting for it.

Madam Speaker, over the years, this body has been divided on a variety of foreign policy issues. What the House has not been divided on, however, is its support for Taiwan, especially as it pertains to its status in the World Health Organization. The fact remains that Taiwan's exclusion from the WHO not only hurts Taiwan, but also the entire international community.

The WHO's constitution states that ''the enjoyment of the highest standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition.'' Yet, the constitution of the WHO has been disregarded when the inclusion of Taiwan in the WHO, even at observer status, has been laid on the table. This time for this to change is now.

Few recall that Taiwan was an original member of the WHO, participating as a full member from 1948 until 1972. The United Nations' 1972 decision to award Taiwan's seat to the People's Republic of China resulted in Taiwan's replacement at the WHO. Since then, Taiwan has sought to be readmitted into the WHO at the same time it has built one of the world's most dynamic free market economies and become a leading technological and scientific population.

Tragically, the world community has never fully benefited from the medical advancements made by Taiwanese doctors and scientists because Taiwan lacks WHO membership. Taiwan enjoys one of the highest life expectancy rates in Asia, has relatively low infant and maternal mortality rates, and has eradicated major infectious diseases such as cholera, smallpox, and polio. Additionally, Taiwan's government was the first in the world to provide children with free hepatitis B vaccinations. Until the international community recognizes that each country in the world will benefit multi-fold from Taiwan's inclusion in the WHO, political pressure from the People's Republic of China will trump the spread of Taiwan's medical advancements.

Madam Speaker, health has no borders, and certainly neither does disease. Taiwan's 23 million citizens suffer every single time relief is delayed simply because Taiwan is not a part of the WHO. Likewise, the world community suffers each time its access to Taiwan's medical advancements is limited for the same reason.

Taiwan's readmittance to the WHO is long overdue. With passage of this bill today, the State Department is again given the necessary tools to push forward on Taiwan's request. H.R. 441 is not a political statement against the People's Republic of China. Instead, it is recognition of opportunity for the entire world community. The successes of Taiwan's medical experts must no longer remain locked in a chamber of politics, and access to these ideas must be extended to all countries.

I urge my colleagues to support this bill. May we all look forward to a day when Taiwan is admitted back into the World Health Organization, an organization it helped build 55 years ago.

Mr. FALEOMAVAEGA. Madam Speaker, I rise today in support of H.R. 441, a resolution to authorize a United States plan to endorse and obtain status for Taiwan at the annual summit of the World Health Assembly in May 2003 in Geneva, Switzerland.

In response to an appeal from the United Nations and the United States, the government of Taiwan donated $1,000,000 to the Global Fund to Fight AIDS, Tuberculosis and Malaria. Taiwan has also been a sovereign state since its founding in 1912. Although China has exercised control over Taiwan, Taiwan is a democratic and free society duly elected by the people.

As a sovereign state, Taiwan has acceded to the World Trade Organization and, despite the PRC's objections, I believe it is time for Taiwan to also obtain status as a member of the World Health Organization.

I fully support the intent of H.R. 441 and I also urge my colleagues to support his bill.

Mr. LANTOS. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CHABOT. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Ohio (Mr. CHABOT) that the House suspend the rules and pass the bill, H.R. 441.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. CHABOT. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

COMMEMORATING 60TH ANNIVERSARY OF HISTORIC RESCUE OF 50,000 BULGARIAN JEWS FROM THE HOLOCAUST

Mr. CHABOT. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 77) commemorating the 60th anniversary of the historic rescue of 50,000 Bulgarian Jews from the Holocaust and commending the Bulgarian people for preserving and continuing their tradition of ethnic and religious tolerance, as amended.

The Clerk read as follows:

H. CON. RES. 77

Whereas the people of the United States and the Republic of Bulgaria respect all faiths, including Judaism and Jewish culture;

Whereas during World War II, despite being allied with Germany, Bulgarians did not cede to Nazi pressure to fully enforce anti-Jewish legislation and resisted orders to deport their Jewish compatriots to Nazi concentration camps;

Whereas in the spring of 1943 the Bulgarian people succeeded in preventing the deportation of 50,000 Jews to such camps;

Whereas it is acknowledged with sadness that the deportation of over 11,000 jews from Thrace and Macedonia, territories which were administered by Bulgaria at that time, to Nazi concentration camps, took place;

Whereas Bulgaria was the only European country during World War II to increase its Jewish population;

Whereas members of the Bulgarian Parliament, the Bulgarian Orthodox Church, King Boris III, politicians, intellectuals, and citizens all played a part in the resistance to Nazi pressure to carry out the deportation;

Whereas March 2003 marks the 60th anniversary of Bulgaria's refusal to deport its Jews to Nazi concentration camps;

Whereas the Bulgarian people today preserve and continue their tradition of ethnic and religious tolerance; and

Whereas President George W. Bush and Prime Minister Simeon Saxe-Coburg Gotha are leading the United States and Bulgaria into a long-term strategic partnership: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) commemorates the 60th anniversary of the historic rescue of 50,000 Bulgarian Jews from the Holocaust and commends the Bulgarian people for preserving and continuing their tradition of ethnic and religious tolerance; and

(2) reiterates its support for strong ties between the United States and Bulgaria.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. CHABOT) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. CHABOT).

GENERAL LEAVE

Mr. CHABOT. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 77.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. CHABOT. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of H. Con. Res. 77, a resolution commemorating the 60th anniversary of the historic rescue of 50,000 Bulgarian Jews from the Holocaust. This resolution was introduced by the gentleman from South Carolina (Mr. WILSON). H. Con. Res. 77 recognizes a relatively unknown but exceedingly important event in the history of Bulgaria and the history of Europe.

This resolution commends the Bulgarian people for their actions in 1943 and for preserving and continuing their tradition of ethnic and religious tolerance. In the spring of 1943, the Bulgarian people succeeded in protecting Bulgaria's entire Jewish population from deportation and death in Nazi concentration camps. This happened despite the fact that Bulgaria was officially allied with Nazi Germany from March 1941 until September 1944. Bulgaria's legislators, clergymen, civic leaders, intellectuals, and ordinary citizens, through a series of protests and appeals, blocked Nazi attempts to deport Bulgarian Jews to death camps in Poland. The entire Bulgarian nation, the people, the Parliament, the King and the Orthodox Church stood united and confronted the Nazi terror. As a result, in that critical moment in history, not even one of Bulgaria's 50,000 Jews was deported to Nazi gas chambers.

In fact, I am told that Bulgaria was the only country in Europe in which the Jewish population actually increased during World War II. The Bulgarian people should be commended for saving their fellow countrymen and compatriots from the Holocaust. Bulgarians today should be proud of their predecessors' courage and heroism, and we recognize today this historic action that was taken. In a country and region of such long and deep history, at the crossroads of civilizations, we should also recognize the tradition of ethnic and religious tolerance in Bulgaria and what it might mean today for the Balkans, for Europe, for the Middle East, and for the world.

Madam Speaker, I would again like to commend Bulgaria and the Bulgarian people for this historic event, and I urge strong support for this resolution.

Madam Speaker, I reserve the balance of my time.

Mr. LANTOS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of this resolution. First, I would like to commend the gentleman from South Carolina (Mr. WILSON) for his leadership on this important resolution. I also want to recognize the contributions to this measure of the gentleman from Illinois (Mr. HYDE) and the gentleman from Ohio (Mr. CHABOT).

Madam Speaker, just in the past year Congress has focused attention on growing anti-Semitism in Europe. Unfortunately, some European leaders have used the pretext of the Middle East conflict to justify this ugly phenomenon of the 20th century reappearing in the 21st century.

Therefore, it gives me great pleasure to commend an important U.S. ally, a future member of NATO, on what it did during the darkest hours of European history. Bulgaria's actions during the Second World War prove that a small nation can have a tremendously positive impact on humanity. In Bulgaria, the effort to resist the Nazi pressure to enforce anti-Jewish laws and to deport its Jewish citizens to death camps was undertaken by the full spectrum of Bulgarian society. Members of the Bulgarian Parliament, the Bulgarian Orthodox Church, politicians, intellectuals, but most importantly, ordinary citizens all played a part in the resistance to Nazi pressure to carry out the unconscionable act of deportation to death camps.

March 2003 marks the 60th anniversary of Bulgaria's historic refusal to deport its Jews to Nazi concentration camps.

Some years ago at the initiative of my wife, she and I went to Bulgaria to express our appreciation for this heroic action of the Bulgarian people during the most difficult years of the Second World War. We met with a broad spectrum of Bulgarian people, and we had the opportunity of telling them that their little recognized heroic action is deeply appreciated by the American people and the Congress of the United States.

Sadly, Bulgaria was unique among its East European neighbors. In too many instances, the populations of other countries occupied by the Nazis turned against their Jewish compatriots or remained indifferent to their nightmare fate.

That is why today, Madam Speaker, I shudder when I hear the excuses used by some governments in Europe to explain the rise of anti-Semitism again on that continent. As we commend Bulgaria for this historic rescue, we must note that neighboring Macedonia is marking the tragedy of the deportation of over 11,000 Jews to Nazi death camps. This region was under the control of Bulgarian authorities at the time, but the Jewish residents did not have Bulgarian citizenship and were not saved from the Nazi death camps. They all perished.

Madam Speaker, I urge all of my colleagues to support this important resolution.

Madam Speaker, I reserve the balance of my time.

Mr. CHABOT. Madam Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. WILSON), the principal sponsor of the bill. I might note that the gentleman from South Carolina (Mr. WILSON) is likely to become a grandfather for the first time within the next few hours.

Mr. WILSON of South Carolina. Madam Speaker, I rise today with the great honor of introducing a bill with the gentlewoman from California (Mrs. TAUSCHER) and the gentleman from California (Mr. LANTOS) to recognize the 60th anniversary of the historic rescue of 50,000 Bulgarian Jews from the Holocaust and commending the Bulgarian people for preserving and continuing their tradition of ethnic and religious tolerance.

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As the gentleman from Ohio (Mr. CHABOT) just mentioned, this indeed is a special day for me. It is a special day because I am so happy to tell the people of the world about the wonderful people that I have had the opportunity to be associated with in the Republic of Bulgaria. It is a special day because my daughter-in-law, Lauren, is in Bethesda right now. She is in labor awaiting the birth of our first grandchild. This is an extraordinary day on behalf of my son, who is an ensign in the U.S. Navy, Addison. We are indeed looking forward to the birth of Addison Graves Wilson, III. In fact, my wife is with the other prospective grandparents. My wife, Roxanne, and Julie and Craig Houston of West Columbia, South Carolina, are on I–95 as we speak coming up for the blessed event. We are just very grateful.

My association with Bulgaria, it is a bit unusual for someone from South Carolina to have an association with a country which does not have significant immigration to our State. It really started, and I need to give thanks to the late Lee Atwater, chairman of the Republican National Committee. He appointed me to be an observer for the first democratic elections that had occurred in decades in Bulgaria on June 10, 1990. I had the extraordinary opportunity of visiting Bulgaria. I do not want to give anybody the impression I am a world traveler, because it was my first visit to Europe. It was an extraordinary opportunity, though, for me.

I had gone to Bulgaria fully expecting to find the most slavish Soviet satellite. It was a country that was marked with a bitter dictatorship and a loyalty to the former Soviet Union that was unparalleled among the satellite countries of Eastern and Central Europe. When I arrived, it was, in fact, significantly different. It was like a country frozen in time. I found people who were really back to about 1939. It was an extraordinary circumstance of a country where the people were just terrific. They were very friendly, they

were very open, they were excited about the efforts that Ronald Reagan had made of peace through strength, the liberation of Eastern and Central Europe. I also found a country which I could identify with coming from the southeastern part of the United States, which is in the southeastern part of Europe.

I found a very friendly meteorological climate. The people were friendly. The geography was remarkably similar to my home State of South Carolina. They have beautiful beaches to the east on the Black Sea, there is a midlands very similar to where I represent in Congress, and then there are mountains to the west. It was a time to really feel at home. I met wonderful people. The first person who greeted me was a candidate for the National Assembly, Stefan Stoyanov. Stefan ultimately was elected to their parliament, the National Assembly. Then I had the good fortune of hosting him to observe our elections in November of 1990. This was hosted by various civic organizations: the Rotary Clubs, the Kiwanis Clubs, the Optimist Clubs, the Lions Clubs of the central part of South Carolina, the midlands of South Carolina. They raised money for Assemblyman Stoyanov to come visit. At that time it was an extraordinary election victory for Governor Carroll Campbell, who was reelected. Governor Campbell took the Bulgarian assemblyman to the stage for recognition on election night at the victory party. It was an extraordinary event.

I then had the opportunity to visit later that year with the democratically elected members of the National Assembly, thanks to the Free Congress Foundation and Mr. Paul Weyrich and, in particular, the late Dr. Bob Krieble, who is the founder of the Krieble Institute, which has worked so well to establish democracy in the formerly-Communist countries. It was an extraordinary opportunity to be what Dr. Krieble called an agent of influence, and it was positive influence, to promote democracy.

I then returned several years later and saw remarkable change. Through the sister city program of the Columbia International Affairs Association, we have a sister city relationship with Plovdiv, the second largest city in Bulgaria. Columbia, the capital of South Carolina, is very fortunate to be associated with this ancient city. It was known as Philippopolis. It was known as Trimontium. I found the history of Bulgaria to go back to Roman and Greek times. It is just a phenomenal experience of wonderful people. I was very fortunate at that time to have my son with me, Addison, Jr., who then left that next week to be a midshipman at the U.S. Naval Academy.

In the particular bill today, I am very grateful for the leadership of the gentleman from Illinois (Mr. HYDE), the chairman of the Committee on International Relations. I want to thank the gentleman from Nebraska (Mr. BEREUTER), the chairman of the Subcommittee on Europe. And of course, somebody near and dear to me, the gentleman from Ohio (Mr. CHABOT), who has been a real leader. And the professional staff has been so helpful.

The rescue of the Bulgarian Jews from the Holocaust. In the spring of 1943, a period when Jews across Europe were subjected to total extermination in the Nazi death camps, the Bulgarian people, politicians and civic leaders through a series of resolute actions succeeded in protecting their 50,000 Jewish compatriots from deportation to the death camps. Bulgaria was the only country in Europe to increase its Jewish population during World War II. This happened despite Nazi pressure and the fact that Bulgaria was officially an ally of Hitler Germany as part of the Axis from March 1941 until September 1944.

Despite the anti-Jewish legislation and the heavy restrictions of the rights of the Jewish population adopted by the Bulgarian Government and Parliament in 1941–1942, anti-Semitism was never morally accepted by the Bulgarian society. King Boris III and the majority of the members of Parliament only reluctantly followed Hitler's official policy, resisting the implementation of the anti-Jewish legislation and regulations in their entirety. As a result of Nazi pressure, in February 1943 a secret agreement was reached to start the secret deportation of Jews by cargo trains in the first days of March 1943.

Due to the prompt public reaction and the resolute intervention of a group of active citizens, church leaders and politicians, led by Deputy Speaker of the Bulgarian National Assembly Dimitar Peshev, the Minister of Interior Gabrovski was forced on 9 March 1943 to cancel the deportation orders for the Jews from several Bulgarian cities. The trains, which had been waiting to be loaded with Bulgarian Jews and sent to the concentration camps in Poland, did not depart. Unfortunately, about 12,000 Jews from Aegean Thrace and Macedonia, who did not at that time have Bulgarian citizenship and had been already driven out of their homes by the special forces of the Jewish Commissariat, could not be saved and were deported through Bulgarian territory to Germany. The horrible sight of train compositions packed with Jews from Thrace and Macedonia crossing Bulgarian territory had a tremendous impact on public opinion in Bulgaria and strengthened even more the popular resistance against deportation.

Later, in March 1943, 43 members of the Bulgarian Parliament from the ruling majority, led by Deputy Speaker Dimitar Peshev, addressed a bold and decisive letter to the then Prime Minister Filov in which they called a possible deportation of Jews an inadmissible act with grave moral and political consequences for the country. The Bulgarian Orthodox Church played a crucial part in mobilizing public support against the deportation and exerting its influence on the government. Metropolitans Stefan in Sofia and Kiril in Plovdiv actively contributed to the campaign against state discrimination of the Jews.

The broad popular and civil movement in defense of the Bulgarian Jews culminated in May 1943 when the plan of deportation was finally aborted. King Boris III played a decisive role in this decision by not ceding to Hitler's increasing pressure and not allowing the deportation to happen. The King resisted Hitler's demands with the argument that the Bulgarian Jews were needed as a workforce in Bulgaria. At the end of May 1943, about 20,000 Jews from Sofia were sent to work camps in the countryside where they were assigned heavy labor duties and lived in miserable conditions; but they survived. Many other political and professional organizations and groups of intellectuals joined actively in this national effort. The credit as a whole belongs to the Bulgarian people who showed courage and strength in defending their fellow Jewish countrymen. Bulgarians today feel proud of the courage of their predecessors to save from deportation and death nearly 50,000 Bulgarian Jews.

I have seen firsthand the good will of the Bulgarian people as an observer of Bulgaria's first democratic elections in 1990, and I have witnessed the progress of Bulgaria's democracy away from communism. I commend the efforts of patriots like Prime Minister Simeon Saxe-Coburg-Gotha, Ambassador Elena Poptodorova, Foreign Minister Solomon Pasi, Defense Minister Nikolai Svinarov, Deputy Chief of Mission Emil Yalnazov, and Bulgarian Ambassador to Greece Stefan Stoyanov for continuing important reforms and for leading their entry into NATO.

We are proud of our allied Bulgaria. As cochairman of the House Caucus on Bulgaria along with the gentlewoman from California (Mrs. TAUSCHER), it is my privilege to introduce this legislation. I urge my colleagues to support House Concurrent Resolution 77.

Mr. LANTOS. Madam Speaker, I yield myself such time as I may consume.

First, I want to commend my friend for his powerful and eloquent and thoughtful statement. I would like to add that it is no accident that as we speak, Bulgaria is standing tall with the United States at the United Nations at another critical juncture of history.

Mr. BEREUTER. Madam Speaker, this Member rises today in strong support of H. Con. Res. 77, a resolution recognizing and commending the Bulgarian people for a little-known, but extraordinary, historical fact. The resolution was introduced by the distinguished gentleman from South Carolina (Mr. WILSON), and this Member is pleased to be an original cosponsor.

This resolution seeks to commemorate the 60th anniversary of a historic act of courage

and heroism: the rescue of the Bulgarian Jews from the Nazi Holocaust in 1943. In that critical moment of history, the Bulgarian people, from every walk of life, through a series of resolute actions, successfully stopped the deportation of Bulgaria's Jewish population to Nazi death camps.

Bulgaria was officially allied with Hitler Germany from March 1941 until September 1944, but anti-Semitism was never morally accepted by Bulgarian society. It is said that King Boris III and the majority of the Members of Parliament only reluctantly followed Hitler's official policies, resisting the implementation of anti-Jewish legislation and other restrictions in their entirety.

In February 1943, as a result of Nazi pressure, a secret agreement on the deportation of Bulgarian Jews to Germany was signed between Hitler's special envoy Dannecker and the Bulgarian Commissar on Jewish Affair Belev. The plan was to start the secret deportation of Jews by cargo trains in the first days of March 1943.

Due to immediate public reaction and the resolute intervention of a group of active citizens, church leaders and politicians, led by the Deputy Speaker of the Bulgarian National Assembly Dimitar Peshev, the Minister of Interior Nikola Gabrovski was forced on March 9, 1943 to cancel deportation orders for Jews from several Bulgarian cities. The trains, which had been waiting to be loaded and sent to concentration camps in Poland, did not depart.

Unfortunately, about 12,000 Jews from Aegean Thrace and Macedonia, who did not at that time have Bulgarian citizenship and who had already been driven out of their homes by the special forces of the Jewish Commissariat, were deported through Bulgarian territory to Germany. The horrible sight of trains carrying Jews from Thrace and Macedonia crossing Bulgaria and strengthened even more the popular resistance against deportation.

Later in march 1943, 43 members of the Bulgarian Parliament from the ruling majority, led by the Deputy Speaker Dimitar Peshev, addressed a bold and decisive letter to the then-Prime Minister Bogdan Filov, in which they called a possible deportation of the Jews an ''inadmissible act'' which ''grave moral and political consequences'' for the country.

The Bulgarian Orthodox Church played a crucial part in mobilizing public support against the deportation and exerting its influence on the government. Metropolitans Sefan in Sofia and Kiril in Plovdiv actively contributed to this effort.

The broad popular and civil movement in defense of the Bulgarian Jews culminated in May 1943 when the plan of deportation was finally aborted. King Boris III played a decisive role in this decision by not ceding to Hitler's increasing pressure and by not allowing the deportation to happen. Many other political and professional organizations and groups of intellectuals actively participated in this national movement.

The credit as a whole belongs to the Bulgarian people who showed courage and strength in defending their fellow countrymen. Bulgarians today rightly feel proud of the actions of their predecessors to save from deportation and death nearly 50,000 Bulgarian Jews.

Bulgaria should be proud of this historical event, and its tradition of ethnic and religious tolerance. Bulgaria's history should be recognized, and its people should be commended. Bulgaria should be an example to a region that has been torn apart by so much hatred and violence over the past decade. Let Bulgaria's history be an example to the Balkins and Southeastern Europe. Let Bulgaria's history be an example to all of Europe today, East and West, North and South, Old and New.

Madam Speaker, on this occasion, this Member urges strong support for this resolution and would also particularly like to thank Bulgaria, and the Bulgarian people, for Bulgaria's exceptionally strong support and cooperation with America in the international war on terrorism.

Mr. LANTOS. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CHABOT. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Ohio (Mr. CHABOT) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 77, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. CHABOT. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

RICHARD K. ARMEY ROOM

Mr. BURGESS. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 19) designating the room numbered H–236 in the House of Representatives wing of the Capitol as the ''Richard K. Armey Room''.

The Clerk read as follows:

H. RES. 19

Whereas, at the end of the 107th Congress, Representative Richard K. Armey retired after 18 years of distinguished service in the House of Representatives, including service as the Majority Leader for 8 years, the longest tenure of any Republican Majority Leader in 92 years: Now, therefore, be it

Resolved, That the room numbered H–236 in the House of Representatives wing of the Capitol shall be known and designated as the ''Richard K. Armey Room''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BURGESS) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

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

Mr. BURGESS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, House Resolution 19 designates room 236 in the House wing of the United States Capitol as the Richard K. Armey Room. Former Majority Leader Dick Armey represented the 26th Congressional District of Texas for 18 years, and his dedication to the 26th district and to the State of Texas had no bounds. He represented the constituents with honesty, integrity, and was passionate about his fiscally conservative principles. I now represent this same district and will follow in the same spirit. The people of this district, the State of Texas, and our great Nation are better off as a result of Dr. Armey's leadership in Congress.

Former Majority Leader Armey was the first of his family to attend college. He rose from humble beginnings in rural North Dakota to the pinnacle of American government. His was not a path of privilege but of hard work, dedication and strong beliefs. He earned a bachelor's degree from Jamestown College, a master's degree from the University of North Dakota, and a doctorate from the University of Oklahoma.

In 1984, Dr. Armey was elected to his first of nine terms in this body. He quickly made a name for himself as someone dedicated to sound public policies based on conservative principles. During his time in the House, he was instrumental in passage of public housing reform, closing of obsolete and unnecessary military bases, and farm legislation reform, each of which saved the American people money and allowed the Federal Government to better serve the communities impacted.

□ 1530

Dick Armey was also a steadfast conservative who advocated fundamental tax reform and brought the implementation of the flat tax to the national stage. These achievements and ideas all came as all of Dick Armey's accomplishments came, through hard work, persistence and dedication.

In 1992, Representative Armey was elected to the position of conference chairman of the House Republicans, the top policy position within the Republican Conference. In 1994, when Republicans won a majority of seats in this House of Representatives for the first time in 40 years, Representative Armey was elected to serve as majority leader, a position he held for 8 years, one of the longest terms of any majority leader in the history of this body.

In addition to his leadership roles, Majority Leader Armey also served as cochairman of the Joint Economic Committee and as chairman of the Select Committee on Homeland Security, which was responsible for writing the legislation creating the Department of Homeland Security.

The naming of Room 236 as the Richard K. Armey Room is a fitting tribute to a dedicated public servant. I support the legislation and encourage all of my colleagues to do the same.

Madam Speaker, I reserve the balance of my time.

Ms. NORTON. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H. Res. 19 would designate Room 236 in the House of Representatives as the Richard K. Armey Room. H–236 is located in the Capitol and currently serves as a meeting room.

Mr. Armey retired at the end of the 107th Congress after serving 18 years in the House. He was born in Cando, North Dakota, in 1940. After graduating from the local high school, he attended Jamestown College in Jamestown, North Dakota. He received his Master's Degree from the University of North Dakota and his Ph.D. from the University of Oklahoma.

Mr. Armey taught for many years, holding positions at the University of Montana, West Texas State University, Austin College and North Texas State University. While at North Texas State, he was the Chairman of the Economics Department for 6 years.

In 1992, Congressman Armey became the chairman of the House Republican Conference, and in 1994 he became the majority leader.

Designating this room in the Capitol is an appropriate recognition of Congressman Armey's civic contributions and his dedicated public service.

Madam Speaker, I reserve the balance of my time.

Mr. BURGESS. Madam Speaker, I yield 5 minutes to the gentleman from Iowa (Mr. NUSSLE).

Mr. NUSSLE. Madam Speaker, I thank my colleague from Texas for yielding me time.

Madam Speaker, this is a great pleasure for me. This is my resolution, and I cannot think of a prouder resolution and a more meaningful one to me to bring forward than this resolution here today.

A person's work here in Congress speaks much louder than rooms that are named after them or statues that may collect dust in the hallways. It is right and fitting and appropriate that we name this room after Dick Armey, but I can tell you that the Dick Armey I know cares very little about what room is named after him. He cares much more about the legacy he has left for his children and grandchildren and this great country we call America.

Some would say that the beauty of our democracy is that when somebody leaves the United States Congress they are quickly forgotten. In some respects that is sad, because we have some great Members who come through our body on both sides of the aisle, Members who go on to bigger and better things, some might say in the United States Senate or the other body as we refer to it, maybe down in the administration, maybe they go home and raise their family, open a business, teach school, whatever it might be. But the beauty of our system and our democracy really does lie in the fact that it is we the people, and that while one great Member passes, a new great Member can hopefully fill those shoes as we move forward.

Dick Armey speaks often about something very simple that I happen to believe is very profound. ''Freedom works'' is a slogan that he has coined, to some extent. It is a long way of saying we hold these truths to be self-evident, that all men are created equal and endowed by their Creator with certain inalienable rights, that of life, liberty and the pursuit of happiness.

It took a long sentence to get that out back in 1776, but today we can say it very simply as freedom works; freedom works in America, freedom works in our economy, freedom works in our workplace. Freedom may even work in Iraq. Freedom works in a lot of places, in a lot of places that we call America, and Dick Armey has helped bring freedom to our country.

It is an unusual procedure to bring a resolution to the floor to name anything in the United States Capitol. We do so only under very unusual circumstances. If you walk through the halls, you will find many great leaders with their name on the door. I believe it is appropriate that we take a pause today and name a room. But the name that I think that Dick Armey would find most appropriate on any room in this Capitol would be freedom.

The nice thing about this is that while I introduced this resolution, I did so with the full support of the Speaker of the House. I talked to him first, because you do not name rooms in the Capitol without talking to the Speaker. I also know I have the support of my entire conference. But what is even more enjoyable is to know we have the support of both sides of the aisle. Democrats who may have disagreed with Dick Armey during his term had an enormous amount of respect for him, even though there was disagreement oftentimes, and that is true, I think, for many leaders that Republicans look to on the Democratic side as well.

This is a bipartisan resolution. Former leader Armey is here in the Chamber today. I just want to say to my friend that this is as meaningful a public gesture as we can make, and we mean it with as much heartfelt wishes for you and your wife Susan, and the recognition that what you have done here has not been forgotten. Even though freedom works, our country continues, our democracy will flourish, and the Congress will continue to hopefully do good things that you will find enjoyable to watch from your new chair and your new seat.

Thank you very much for your service. We look forward to the opportunity when we can unveil this room some time in the near future.

Ms. NORTON. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BURGESS. Madam Speaker, I yield myself 1 minute.

Madam Speaker, the gentleman from Iowa is quite correct that it is hard to leave a legacy. The majority leader himself pointed out how service in this body does take a fair amount from one's family and one's time with one's family. I am aware of the fact that the retiring majority leader is expecting two grandchildren next month, and what a wonderful legacy it will be for those children when they visit the Capitol in years to come, to visit Room 236, the Richard K. Armey Room.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Texas (Mr. BURGESS) that the House suspend the rules and agree to the resolution, H. Res. 19.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BURGESS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m.

Accordingly (at 3 o'clock and 39 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

□ 1832

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. FLAKE) at 6 o'clock and 32 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 441, by the yeas and nays;

H. Con. Res. 77, by the yeas and nays; and

H. Res. 19, by the yeas and nays.

Proceedings on H. Res. 122 and H. Con. Res. 85 will be postponed until tomorrow.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

OBSERVER STATUS FOR TAIWAN AT WORLD HEALTH ASSEMBLY IN MAY 2003 IN GENEVA, SWITZERLAND

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 441.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. CHABOT) that the House suspend the rules and pass the bill, H.R. 441, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 414, nays 0, not voting 20, as follows:

[Roll No. 50]

YEAS—414

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Baca
Bachus
Baird
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Combest
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—20

Akin
Andrews
Baker
Dingell
Doolittle
Farr
Franks (AZ)
Gallegly
Gephardt
Gilchrest
Hyde
Johnson (IL)
Nadler
Oberstar
Serrano
Snyder
Solis
Stark
Weldon (PA)
Whitfield

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FLAKE) (during the vote). The Chair would remind all Members that there are less than 2 minutes to vote.

□ 1853

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 50 on H.R. 441 I was unavoidably detained. Had I been present, I would have voted "yea."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the remainder of this series of votes will be conducted as 5-minute votes.

COMMEMORATING 60TH ANNIVERSARY OF HISTORIC RESCUE OF 50,000 BULGARIAN JEWS FROM THE HOLOCAUST

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 77, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. CHABOT) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 77, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 418, nays 0, not voting 16, as follows:

[Roll No. 51]

YEAS—418

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Combest
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)

Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—16

Akin
Andrews
Brown-Waite, Ginny
Dingell
Doolittle
Gallegly
Gephardt
Gilchrest
Hyde
Johnson (IL)
Nadler
Oberstar
Serrano
Snyder
Stark
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FLAKE) (during the vote). Members are reminded that there are less than 2 minutes remaining to vote.

□ 1900

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RICHARD K. ARMEY ROOM

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 19.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BURGESS) that the House suspend the rules and agree to the resolution, H. Res. 19, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 406, nays 0, answered ''present'' 8, not voting 20, as follows:

[Roll No. 52]

YEAS—406

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Baca
Bachus
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Combest
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

ANSWERED ''PRESENT''—8

Baird
Berry
Filner
McDermott
Olver
Owens
Sanders
Slaughter

NOT VOTING—20

Akin
Andrews
Dingell
Doolittle
Gallegly
Gephardt
Gilchrest
Hyde
Johnson (IL)
McCollum
Miller, George
Nadler
Oberstar
Obey
Schakowsky
Serrano
Snyder
Stark
Stupak
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are reminded that there are less than 2 minutes remaining to vote.

□ 1908

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. AKIN. Mr. Speaker, I stayed in St. Louis to attend my pastor's visitation on March 11th and was absent for recorded votes.

Had I been present for those votes, I would have voted as follows on the following bills under suspension of the rules: H.R. 441—"yes"; H. Con. Res. 77—"yes"; H. Res. 19—"yes."

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 11, 2003.

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

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on March 11, 2003 at 4:18 p.m. and said to contain a message from the President whereby he submits a report in accordance with section 1205 of Public Law 107–107.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
Clerk of the House.

PLAN FOR SECURING NUCLEAR WEAPONS, MATERIAL, AND EXPERTISE OF STATES OF FORMER SOVIET UNION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations:

To the Congress of the United States:

As required by section 1205 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107) and section 1205 of the National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314), I am providing a report prepared by my Administration which presents a plan for securing nuclear weapons, material, and expertise of the states of the Former Soviet Union and reports on implementation of that plan during Fiscal Year 2002.

GEORGE W. BUSH.
THE WHITE HOUSE, *March 11, 2003.*

HOUR OF MEETING ON WEDNESDAY, MARCH 12, 2003

Mr. KLINE. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 11 a.m. tomorrow, Wednesday, March 12, 2003.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

WAR CRIMES TRIBUNAL INDICTMENTS IN SIERRA LEONE

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

Mr. WOLF. Mr. Speaker, yesterday a United Nations war crimes tribunal headed by an American in Sierra Leone indicted seven people, including rebel leaders and a powerful figure in that country's decade-long civil conflict.

The indictment is for crimes of murder, rape, extermination, acts of terror, enslavement, and attacks on humanitarian workers; and all, if not most of these crimes, are directly related to atrocities committed to gain control of and profit from conflict diamonds.

These indictments are an important and necessary milestone in the long road to securing justice and restoring the human rights of the people in that part of Africa.

Mr. Speaker, 75,000 people died in Sierra Leone. But not until one actually sees someone, this young girl that Congressman Tony Hall and I visited when we were in a refugee camp in Sierra Leone, when you see someone who had their arms and legs and hands cut off by rebels to scare and intimidate the local population to gain control, do these numbers mean something.

My colleagues might also know, as reported in the press, that the rebels, these people that have been indicted, have been selling conflict diamonds to al Qaeda that have been funding the al Qaeda efforts.

So we want to salute the men and women that are working for us in Sierra Leone to bring about these indictments.

[From the Associated Press Worldstream, Mar. 10, 2003]

INTERNATIONAL WAR CRIMES TRIBUNAL INDICTS SIERRA LEONE REBEL LEADER

(By Clarence Roy-Macaulay)

Sierra Leone's international war crimes tribunal issued its first indictments Monday against seven former warlords, including imprisoned rebel leader Foday Sankoh whose followers gained infamy with a campaign of chopping off hands, legs, ears and lips of innocent civilians.

Also charged was Internal Affairs Minister Samuel Hinga Norman, who was arrested and cuffed Monday by police who surrounded him in his office in the capital.

Hinga Norman, the former deputy defense minister, orchestrated attacks by a pro-government militia of traditional hunters called the Kamajors whose alleged human rights abuses during the country's 1991–2000 civil war included torturing and summarily executing opponents and recruiting child fighters.

Three others were also arrested Monday while two remained at large.

Sankoh, whose Revolutionary United Front launched a vicious insurgency to control the country's government and diamond fields in 1991, will be among the first to go to trial, said David Crane, the court's American chief prosecutor.

The rebels' signature atrocity was cutting off the appendages of civilians in a tactic to spread fear among opponents.

Sankoh has been in prison since being captured in early 2000 after his fighters gunned down more than a dozen protesters outside his Freetown home.

''Today the people of Sierra Leone took back control of their lives and their future,'' Crane told reporters. ''The dark days of the rule of the gun are over.''

Crane said crimes alleged within the indictments include murder, rape, enslavement, looting and burning, sexual slavery, conscripting children and attacking humanitarian workers and U.N. peacekeepers.

Crane did not reveal when the cases would be heard. Court officials have been reluctant to give many details in advance for fear of jeopardizing the safety of trial participants.

The court was launched by an agreement between the United Nations and Sierra Leone to try serious violations of international and Sierra Leonean humanitarian law since Nov. 30, 1996, when Sankoh's rebels signed a peace accord with the government that was supposed to end five years of war.

The peace deal was followed by a military coup and several more years of fighting until the end of 2000.

Also indicted Monday was Johnny Paul Koroma, a former junta leader who is wanted by Sierra Leone's government in connection with a failed January coup attempt—the first since peace returned to the country.

Koroma, who allied himself with Sankoh's rebel in overthrowing Sierra Leone's civilian government in 1997, is currently at large.

Since elections were held last year, in which Sankoh's rebels stood for parliament without winning a single seat, a shaky peace has emerged, protected by nearly 17,000 United Nations troops—the world body's largest deployment anywhere.

Sierre Leone's war crimes tribunal differs from those of Rwanda and Yugoslavia as it will be held in the country and have a mix of local and international prosecutors and judges.

The court is expected to operate for three years on a budget of just under US $60 million paid for by contributions from about 20 countries, including the United States and Britain.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

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

(Mr. DELAY addressed the House. His remarks will appear hearafter in the Extensions of Remarks.)

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

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

THE TRUTH ABOUT SADDAM HUSSEIN

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

Mr. BURTON of Indiana. Mr. Speaker, there has been a lot of misinformation going around about our good friend, Saddam Hussein, and I think that the American people as well as my colleagues need to know really what is going on, because a lot of people have not been paying attention to this.

For the past decade, Saddam Hussein has violated 16 separate U.N. resolutions. He has failed to account for 26,500 artillery rockets used for delivering nerve gas; he has failed to account for 5,000 artillery shells filled with mustard gas; he has failed to account for more than 3,000 tons of chemicals that could be used as weapons; and he has failed time and time again to honor his agreement on the no-fly zone.

Mr. Speaker, he has enough biological agents to produce 26,000 liters of anthrax, 26,000 liters, 1,200 liters of botulinum toxin, and a whole bunch of others. He has tried to procure uranium for nuclear weaponry, and he has failed to account for nearly 30,000 empty munitions that could be filled with chemical agents.

□ 1915

Yet, there are so many people, after all of these violations, who keep saying, we ought to wait, we ought to wait, we ought to wait. He is connected to the terrorist network. If we are not very careful, if we do not deal with him very quickly, he is going to produce these biological and chemical weapons, he is going to give them to one of his minions in al Qaeda or some other terrorist organization, they are going to come into the United States, and they are going to kill tens or hundreds of thousands of Americans. That is why we need to deal with him very, very expeditiously.

One of the things that concerns me so much is that we do not profit from history. Back in the late 1930s and early 1940s, Hitler, the Chancellor of Germany, said time and again that he wanted peace and he did not want to violate any neutrality treaties, and yet he violated the Treaty of Versailles. He went into the Sudetenland and got an agreement from the European allies and said that that was all he wanted. And then he went into Poland after violating a nonagression pact. And then he went into Denmark, and then he went into Norway, and then he went into Sweden, and then he went into Belgium, and then he went into Paris and France. And because the world did not pay attention to what was going on and they did not listen to Winston Churchill, who was the only voice who made any sense, 50 million people died. I want everybody to listen to that: 50 million people died because they did not pay any attention to what Hitler was saying and what he was doing.

Now, Saddam Hussein has at his disposal weapons of mass destruction, and he has hidden them for the past 10 to 12 years; and he has not accounted for them. For us and the Free World to keep our heads in the sand while this is going on is absolutely incredulous.

The President of the United States is doing the right thing. The only thing I would say to the President is if the United Nations does not start forcing him to adhere, Saddam to adhere to those U.N. resolutions, then why talk to them anymore? Mr. President, do what is necessary. Take our troops and invade Iraq from the north and the south, if possible, get rid of Saddam Hussein and his weapons of mass destruction, and send a signal to the world and the terrorists worldwide that we are not going to tolerate them. Do not mess with the U.N. anymore, Mr. President, because they simply are not with it.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FLAKE). The gentleman is reminded to address his remarks to the Chair.

CONGRATULATIONS TO THE ANOKA TORNADOES

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

Mr. KENNEDY of Minnesota. Mr. Speaker, I rise today to congratulate the Anoka Tornadoes on their victory on Saturday, March 8, in the Minnesota State High School Class AA Hockey Tournament.

The Minnesota State High School Hockey Tournament is one of America's preeminent high school sporting events, along with Indiana basketball and Texas football. The tournament was profiled in ''Sports Illustrated'' some years back. The Tornadoes finished 25–4–1, with a 3-to-1 victory over Roseville in the finals. This is their first State boys' hockey championship and one that will be especially memorable to the 13 seniors who ended their last game together with a victory.

Coached by Todd Manthey and Paul Talbot, both Anoka graduates, the Tornadoes out-shot Roseville 22-to-17 in a game that featured two head coaches with sons who were senior captains of their respective teams.

Anoka placed four players on the all-tournament team: defenseman and coach's son Tim Manthey, goalie Kyle Olstad, and forwards Ben Hendrick and Sean Fish.

Mr. Speaker, I congratulate these fine students on their championship.

TRIBUTE TO BOYD STEWART

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

Ms. WOOLSEY. Mr. Speaker, on March 16, 2003, my boyfriend, Boyd Stewart, of Olema, California, in Marin County will celebrate his 100th birthday. Born on a dairy ranch in the rural town of Nicasio on March 16, 1903, Mr. Stewart has been active in ranching and community issues his entire life.

After graduating from the Nicasio Elementary School with a student body of 17, Boyd attended Tamalpais High School where he rode a horse to San Geronimo and then boarded the steam train to Mill Valley, where there were cows grazing in the town center. Later, he attended Stanford University, earning money as a relief milker at the Palo Alto dairies and doing far better than his peers who were mowing lawns for cash. He left Stanford to run the family dairy when his father was killed by a horse.

In 1923, Boyd married Joseffa Conrad, a music teacher whom he met on the steps of Tamalpais High School when returning to see a favorite teacher. Joseffa died in 1980 at the age of 78. Today, daughter Jo Ann Stewart, granddaughter Amanda Wisby, and great grandson Stewart Campbell reside at the family ranch where, by the way, the two women run the business.

Over the years, Boyd has been an advocate for progressive ranching practices which many of his peers greeted with skepticism. Early on, he realized that overgrazing could destroy the land they relied on and that sound environmental practices would enhance their work. Boyd worked closely with farm advisors from UC Cooperative Extension and continues to be a strong supporter of measures to preserve the beautiful open spaces of Marin County so that we can preserve agriculture and the community's quality of life.

In 1932, Boyd moved to the present Stewart ranch where he lives in a farmhouse that was built in 1864. In 1935, he began producing grade A milk which meets the purest standards for drinking. His daughter, Jo Ann, took over operations in 1950; and in 1972, the ranch switched from dairy cattle to beef.

Horses have also been a part of the Stewart ranch's operations. In 1976, Boyd won the Morgan Man of the Year Award for establishing a now defunct Morgan horse breeding farm at Point Reyes National Seashore.

As an early supporter of Point Reyes National Seashore, Boyd was an advocate for fair practices for ranchers

whose property was purchased by the government and then leased back for continued agricultural use. A small section of his property was purchased for the seashore in 1968, and the remainder became part of the Golden Gate National Recreation Area in 1974. He continues to be an active supporter of agriculture within the national seashore.

Understanding the value of connecting to nonfarmed communities, Boyd has been involved in Greater Marin County and beyond. As a prominent local citizen, he has occasionally had the opportunity to host visiting dignitaries to give them a taste of the West. Recently, for example, a soccer team from the People's Republic of China enjoyed a barbeque at the Stewart ranch at the invitation of China expert and former rancher Orville Schell. These young people got to know what it was like in beautiful Point Reyes. Team members still treasure their photos. They were decked in cowboy hats, and they were riding the Stewart horses.

Boyd has been an active member of numerous organizations such as the West Marin Chamber of Commerce, where he focuses on all aspects of civic life in West Marin. He was a board member of the Marin Humane Society, which named him Humanitarian of the Year in 1993. He left the group, by the way, when they stopped serving meat. He was also involved in the Marin Conservation League, American Jersey Breeders Association, American Morgan Horse Association, California Co-op Creamery of Petaluma, Borden's Company, and others including the Tamalpais Trail Riders where his granddaughter Amanda became the youngest member at the age of 10 days. The ranch's most recent award, California Excellence in Range Management, from the California Cattleman's Association, demonstrates the family's continued focus on land stewardship.

Mr. Speaker, Boyd Stewart's heartfelt commitment to the land, its natural resources, its agriculture, and the people who enjoy it has inspired several generations.

IN SUPPORT OF OUR ARMED FORCES

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

Mr. GREEN of Wisconsin. Mr. Speaker, when Members rise in this House for Special Orders, each of them speaks to a particular audience. Some are talking to fellow legislators, some are talking to the folks back home, some are talking to interest groups, and some, quite frankly, are just talking to themselves.

Tonight, Mr. Speaker, I would like to do something very different, because tonight I rise to speak to our men and women in uniform, some of whom are a long way from home right now.

To these brave folks I say this: I know you hear some of the protests in Europe and even on our own streets and campuses. I know you hear the sometimes bitter anti-American and antimilitary rhetoric of these protests, and I know you see the faces of some of the celebrities who not only oppose our Nation's policies but, all too often, question the morality of your actions as soldiers and sailors and airmen and Marines. Please know this: the overwhelming majority of your countrymen support you 100 percent.

The voices of the protesters and their cheerleading celebrities represent only a vocal minority, one that gets public attention way out of proportion to the numbers they represent.

Mr. Speaker, Richard Nixon spoke many years ago of a silent majority. Well, on this issue, standing with all of you, the majority will be silent no longer.

There is no better evidence than the fact that a movement that I am proud to say has arisen and taken root in Wisconsin is taking off. This movement, launched by a couple of talk show hosts and friends of mine, Charlie Sykes and Jeff Wagner of WTMJ Radio in Milwaukee, is an effort to support you, the brave men and women of our armed services, during these challenging and difficult times.

It started with just Charlie and Jeff in their open letter in response to the notorious Not in Our Name antiwar campaign. But what started with these two men and a fairly simple statement of principles has grown and grown and grown. It is now a thriving movement in my area known today as In Our Name.

The In Our Name effort is dedicated to supporting our troops and our Nation. In Our Name is attracting enormous backing from the people of Wisconsin and, more and more, the people of America. This past weekend, downtown Milwaukee was the site of a great rally in support of our troops and of the In Our Name campaign. It attracted hundreds and hundreds of folks from all walks of life, folks who gathered despite falling snow and freezing temperatures. And as of this evening, about 42,000 people have signed on to the In Our Name letter, including myself and my wife.

It is a statement that I want to read here tonight. It is a statement that I feel belongs in the recorded history of this extraordinary time in our Nation, and it is a statement that you on the front lines need to hear.

''Let there be no doubt in your minds as you embark on this mission that you carry the hopes, the prayers, and the gratitude of your country with you. Every generation learns anew that freedom carries a steep price. You are paying that price with your courage and your commitment, no less than those who fought to liberate Europe, to defend freedom in Korea and Vietnam, and to combat aggression in Kuwait a decade ago.

''As our fathers and grandfathers fought against and defeated Nazism, fascism, and communism, our generation must confront terrorism. You have answered that call.

''We know that you neither wanted this war nor fired the first shot. The war against America began on September 11, 2001, with the murder of 3,000 Americans. You fight in their name. You fight in the name of our children and our children's children who will not have to face a world dominated by terror, and you fight in the name of each and every one of us who signed this petition below.

''We know that all war is brutal and ugly and dangerous, but we also know that the price of inaction is even worse. We have learned the lessons of history, that the fruit of appeasement is war on an even more brutal scale.

''You fight so that the world will not have to face the nightmare of a tyrant like Saddam Hussein armed with chemical, biological, and nuclear weapons which he can use to threaten, intimidate, and murder. You fight today so that others will not have to fight even more savage battles in the future.

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''We know that you have seen the anti-war protests around the world and in your own country. But know this: Your country is behind you. You are our sons, our daughters, our brothers and sisters, our wives and husbands. You are the best this country has to offer. In the difficult hours ahead, as President Bush said, the success of our cause will depend on you. Your training has prepared you. Your honor will guide you. You believe in America and America believes in you. You fight in our name. May God bless you, our troops, and may God bless America.''

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

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

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

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

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

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

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

(Mrs. BIGGERT addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

AMERICA IS LOSING ITS ALLIES

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

Ms. NORTON. Mr. Speaker, I rise in dismay at the self-inflicted isolation of our country and wonder if it is too late to recover from the most catastrophic failure in diplomacy in American history. We are left with no alternative to war, gradually each day even, though we have not been attacked and even though there is no claim of imminent attack.

War is the most serious effect of this failure but it is not all we have lost. Enough of the finger pointing and ally bashing. Us against the world is a completely unnecessary result when we have been dealing with a totalitarian tyrant like Saddam. We have been seized by the hubris of our own power, losing everything that matters to us in foreign affairs, especially at a time of global terrorism when we need each and every ally we can get. We are losing each and every one of our major allies. You can cite the small countries all you want to, but when you lose the permanent members of the Security Council, you cannot blink that, no matter who you are.

We have endangered our closest allies, beginning with England. Poor Tony Blair. He is permanently politically damaged now. He will be weakened in all he does. Pervez Musharraf, the most critical in our anti-terrorism allies, faces wholesale opposition at home. What in the world are we going to do if he falls?

We have thrown to the wind the spontaneous coalition that gathered around us after 9/11, and yet it seems that we believe it is all the administration's fault.

Actually, the President's approach sowed the seeds of its own destruction because he began by announcing an invasion strategy. Had he started with meetings and consultation with our allies, of putting proposals on the table, beginning with inspections, graduating with tougher and tougher action, he would have his coalition by now. In fact, he had to be convinced to consult at all. I remember his making fun of the notion of going to the United Nations until members of his own party, former officials of former administrations, advised that it was important to seek a coalition.

Mr. Speaker, the lesson of this wholesale failure of the greatest power left, with everybody running from it, amounts to you cannot be a world leader if you cannot convince others to follow. And the second lesson is that if you have the power, you do not have to flaunt it. Used skillfully, you can bring people to you simply because you are the greatest power in the world. God bless our country. May we still be saved from this catastrophe.

PUBLICATION OF THE RULES OF THE SELECT COMMITTEE ON HOMELAND SECURITY 108TH CONGRESS

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

Mr. COX. Mr. Speaker, pursuant to Clause 2 of House Rule XI, I submit for publication in the CONGRESSIONAL RECORD the following rules of procedure for the Select Committee on Homeland Security in the 108th Congress.

RULES OF PROCEDURE ADOPTED MARCH 4, 2003

1. CONVENING OF MEETINGS

The regular meeting date and time for the transaction of business of the Select Committee on Homeland Security (''the Committee'') shall be at 9 o'clock a.m. on the first Friday of each month, unless otherwise directed by the Chairman.

The date, time, place and subject matter of any hearing of the Committee shall, except as provided elsewhere in these rules, be announced at least one week in advance of the commencement of such hearing. The notice requirement may be abridged or waived in extraordinary circumstances, as determined by the Chairman with the concurrence of the Ranking Minority Member.

The date, time, place and subject matter of any meeting, other than a hearing or a regularly scheduled meeting, shall be announced at least 36 hours in advance for a meeting taking place on a day the House is in session, and 72 hours in advance of a meeting taking place on a day the House is not in session, except in the case of a special meeting called under Clause 2(c)(2) of House Rule XI.

2. PREPARATIONS FOR COMMITTEE MEETINGS

Under direction of the Chairman and Ranking Minority Member, designated majority and minority committee staff, respectively, shall brief Members of the Committee at a time sufficiently prior to any Committee meeting to assist the Committee Members in preparation for such meeting and to recommend any matter which the Committee Members might wish considered during any meeting. Such briefing shall, at the request of a Member, include a list of all pertinent papers and other materials that have been obtained by the Committee that bear on matters to be considered at the meeting.

3. MEETING PROCEDURES

Meetings of the Committee shall be open to the public except that a meeting or any portion thereof may be closed to the public if the Committee determines by record vote in open session and with a majority present that the matters to be discussed or the testimony to be taken on such matters would endanger national security, would compromise sensitive law enforcement information, would tend to defame, degrade or incriminate any person, or otherwise would violate any rule of the House. The determination whether any such discussion or testimony, or papers and other materials in connection therewith, shall be presented in open or executive session shall be made by the Chairman in conformity with the rules of the House and these rules. Opening statements at any hearing, mark-up, or other meeting of the Committee or any sub-committee may be given by any Member who is present within five minutes after the hearing, mark-up, or other meeting is called to order, in his or her discretion, in each case not to exceed three minutes. With the consent of the Committee, prior to the recognition of the first witness for testimony, any Member, when recognized for opening statement, may completely defer his or her three-minute opening statement and instead use those three minutes during the initial round of witness questioning.

One-third of the Members of the Committee shall constitute a quorum for the transaction of business, except in the following circumstances, in which a quorum shall be a majority of the Committee: ordering a report; entering executive session; releasing executive session material; issuing a subpoena; immunizing a witness; and reporting contempt. Two Members shall constitute a quorum for the purpose of holding hearings to take testimony and receive evidence.

In full Committee or subcommittee, the Chairman may postpone further proceedings when a record vote is ordered on the question of approving any measure or matter or adopting an amendment. The Chairman may resume proceedings on a postponed vote at any time, provided that all reasonable steps have been taken to notify Members of the resumption of such proceedings. When proceedings resume on a postponed question, notwithstanding any intervening order for the previous question, an underlying proposition shall remain subject to further debate or amendment to the same extent as when the question was postponed.

Whenever the Committee by roll call vote reports any measure or matter, the report of the Committee upon such measure or matter shall include a tabulation of the votes cast in favor of, and the votes cast in opposition to, such measure or matter, or any amendment thereto. If at the time of the approval of a measure or a matter by the Committee a Member of the Committee gives notice of intention to file supplemental, minority, or additional views for inclusion in the report to the House thereon, that Member shall be entitled to not less than three additional calendar days after the day of such notice (excluding Saturdays, Sundays, and legal holidays except when the House is in session on such a day) to file such views, in writing and signed by the Member, with the Clerk of the Committee.

4. PROCEDURES RELATED TO THE TAKING OF TESTIMONY

Notice. Reasonable notice shall be given to all witnesses appearing before the Committee.

Oath or Affirmation. Testimony of witnesses shall be given under oath or affirmation which may be administered by the Chairman or his designee, except that the Chairman of the Committee may not require an oath or an affirmation where the Chairman determines that it would not be appropriate under the circumstances.

Questioning of Witnesses. Committee questioning of witnesses shall be conducted by Members of the Committee and such committee staff as are authorized by the Chairman or presiding Member. In the course of any hearing, each Member shall be allowed five minutes for the questioning of a witness until such time as each Member who so desires has had an opportunity to question the witness. The Chairman, or the Committee by motion, may permit an equal number of majority and minority Members to question a witness for a specified, total period that is equal for each side and not longer than thirty minutes for each side. The Chairman, or the Committee by motion, may permit Committee staff of the majority and minority to question a witness for a specified, total period that is equal for each side and not longer than thirty minutes for each side.

Counsel for the Witness. Any witness may be accompanied by counsel. A witness who is unable to obtain counsel may notify the Committee of such fact. If the witness informs the Committee of this fact at least 24 hours prior to the witness' appearance before the Committee, the Committee shall then endeavor to obtain voluntary counsel for the witness. Failure to obtain counsel will not excuse the witness from appearing and testifying.

Statements by Witnesses. A witness may make a statement, which shall be brief and relevant, at the beginning of the witness' testimony. Such statements shall not exceed a reasonable period of time as determined by the Chairman, or other presiding Member. Any witness desiring to submit a prepared or written statement for the record of the proceedings shall file a copy with the Clerk of the Committee, and insofar as practicable and consistent with the notice given, shall do so no less than 72 hours in advance of the witness' appearance before the Committee.

Objections and Ruling. Any objection raised by a witness or counsel shall be ruled upon by the Chairman or other presiding Member, and such ruling shall be the ruling of the Committee unless a majority of the Committee present fails to sustain the ruling of the chair.

Transcripts. A transcript shall be made of the testimony of each witness appearing before the Committee during a Committee hearing.

Inspection and Correction. All witnesses testifying before the Committee shall be given a reasonable opportunity to inspect the transcript of their testimony to determine whether such testimony was correctly transcribed. The witness may be accompanied by counsel. Such counsel shall have the appropriate clearance necessary to review any classified aspect of the transcript. Any corrections the witness desires to make in the transcript shall be submitted in writing to the committee within five days from the date when the transcript was made available to the witness. Corrections shall be limited to grammar and minor editing, and may not be made to change the substance of the testimony. Any questions arising with respect to such corrections shall be decided by the Chairman. Upon request, those parts of testimony given by a witness in executive session which are subsequently quoted or made part of the public record shall be made available to that witness at the witness' expense.

Minority Witnesses. Whenever a hearing is conducted by the Committee or any subcommittee upon any measure or matter, the minority party Members on the Committee or subcommittee shall be entitled, upon request to the Chairman by a majority of those minority Members before the completion of such hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon.

Contempt Procedures. No recommendation that a person be cited for contempt of Congress shall be forwarded to the House unless and until the Committee has, upon notice to all its Members, met and considered the alleged contempt. The person to be cited for contempt shall be afforded, upon notice of at least 72 hours, an opportunity to state shy he or she should not be held in contempt, prior to a vote of all the committee, a quorum being present, on the question whether to forward such recommendation to the House. Such statement shall be, in the discretion of the Chairman, either in writing or in person before the Committee.

Closing Hearings. Hearings of the Committee shall be open to the public unless closed in accordance with Clause 2(g) or 2(k) of House Rule XI.

5. SUBPOENAS, SUBPOENAS DUCES TECUM, AND AFFIDAVITS

Unless otherwise determined by the Committee, the Chairman, upon consultation with the Ranking Minority Member, shall authorize and issue subpoenas. In addition, the Committee may itself vote to authorize and issue subpoenas. Subpoenas shall be issued under the seal of the House and attested by the Clerk of the House, and may be served by any person designated by the Chairman. Subpoenas shall be issued under the Chairman's signature or that of a Member designated by the Committee.

Provisions may be included in a subpoena, by concurrence of the Chairman and Ranking Minority Member, or by the Committee, to prevent the disclosure of Committee demands for information when deemed necessary for the security of information or the progress of an investigation, including but not limited to prohibiting the revelation by witnesses and their counsel of Committee inquiries.

A subpoena duces tecum may be issued whose return shall occur at a time and place other than that of a regularly scheduled meeting.

Requests for investigations, reports, and other assistance from any agency of the executive, legislative, and judicial branched of the federal government, shall be made by the Chairman, upon consultation with the Ranking Minority Member, or by the Committee.

The Chairman or the Committee may require any person who is unavailable to testify as a witness at any hearing to submit an affidavit comprising such person's sworn testimony for use at such hearing.

6. STAFF

Members of the committee staff shall work collegially, with discretion, and always with the best interests of the national security foremost in mind. Committee business shall whenever possible, take precedence over other official and personal business. For the purpose of these rules, Committee staff means the employees of the Committee, consultants to the Committee, and any other person engaged by contract, or otherwise, to perform services for, or at the request of, the Committee, including detailees to the extent necessary to fulfill their designated roles. All such persons shall be subject to the same security clearance and confidentiality requirements as employees of the Committee under this rule.

Committee staff shall be either majority, minority, or joint. Majority staff shall be designated by and assigned to the Chairman. Minority staff shall be designated by and assigned to the Ranking Minority Member. Joint Committee staff shall be designated by the Chairman, in consultation with the Ranking Minority Member, and assigned to service of the full Committee. The Chairman shall certify Committee staff appointments, including appointments by the Ranking minority Member and joint staff appointments, to the Clerk of the House in writing, and such certification shall be submitted to the Committee for approval by majority vote.

The joint Committee staff works for the Committee as a whole, under the supervision and direction of the Chairman and Ranking Minority Member of the Committee. Except as otherwise provided by the Committee, the duties of joint Committee staff shall be performed and Committee staff personnel affairs and day-to-day operations, including security and control of classified documents and material, shall be administered under the direction supervision and control of the Staff Director. Majority and minority staff appointed by the Chairman and Ranking Minority Member, respectively, shall be subject to the same operational control and supervision concerning security and classified documents and material as are joint Committee staff.

Members of the Committee staff shall not discuss or divulge (a) either the classified substance or procedure of the work of the Committee, (b) any classified information which comes into such person's possession while a member of the Committee staff, or (c) any classified information which comes into such person's possession by virtue of his or her position as a member of the Committee staff, with any person except a Member of the Committee, for any purpose, or in connection with any proceeding, judicial or otherwise, either during or after the person's tenure as a Member of the Committee staff, except on a need-to-know basis, as determined by the Committee, and in such manner as may be determined by the House or by the Committee.

No member of the Committee staff shall be employed by the Committee unless and until such person agrees in writing, as a condition of employment, to notify the Committee, or, after the Committee's termination, the House, of any request for testimony, either while a member of the Committee staff or at any time thereafter, with respect to classified information which came into the staff member's possession by virtue of his or her position as a member of the Committee staff. Such classified information shall not be disclosed in response to such requests except as authorized by the Committee, or, after the termination of the Committee, in such manner as may be determined by the House.

No member of the Committee staff shall divulge to any person any information, including non-classified information, which comes into his or her possession by virtue of his or her status as a member of the Committee staff, if such information may alert the subject of a Committee investigation to the existence, nature, or substance of such investigation, unless directed to do so by the Committee.

The Committee shall immediately consider disciplinary action in the event any member of the Committee staff fails to conform to any of these rules. Such disciplinary action may include, but shall not be limited to, immediate dismissal from the Committee staff, criminal referral to the Justice Department, and notification of the Speaker of the House.

7. PROCEDURES RELATED TO CLASSIFIED OR SENSITIVE MATERIAL AND OTHER INFORMATION

(a) Committee staff offices, including majority and minority offices, shall operate under strict security precautions administered by the Director of Security of the Committee. At least one security officer shall be on duty at all times by the entrance to control entry. Before entering the office, all persons shall identify themselves.

(b) Sensitive or classified documents shall be segregated in a secure storage area under the supervision of the Security Director. They may be examined only in an appropriately secure manner. Copying, duplicating, or removal from the secure area of the Committee's offices of such documents and other materials is prohibited except with leave of the Chairman and Ranking Minority Member for use in furtherance of Committee business. No classified documents shall be maintained or stored in the majority or minority offices. Classified information in any form that is not obtained in Committee hearings and is not the property of the Committee or the House shall, while in the custody of the Committee, be segregated and maintained by the Committee in the same manner as Committee records which are classified.

(c) All Members of the Committee shall at all times have access to all records of Committee hearings and all other records, data,

charts, and files that are the property of the Committee. In the case of any such materials that are classified, the Security Director shall be responsible for the maintenance, under appropriate security procedures, of a registry, which will number and identify all classified papers and other classified materials in the possession of the Committee. Such registry shall also be available to any Member of the Committee.

(d) Members who are not Members of the Committee shall have access to all Committee records as described in paragraph (c), in the same manner and subject to the same conditions and restrictions as Members of the Committee.

(e) Access to classified information supplied to the Committee shall be limited to Committee staff members with appropriate security clearance and a need-to-know, as determined by the Committee, and under the Committee's direction, the Staff Director.

No Member of the Committee or of the Committee staff shall disclose, in whole or in part or by way of summary, to any person not a Member of the Committee or the Committee staff for any purpose or in connection with any proceeding, judicial or otherwise, any testimony given before the Committee in executive session, or the contents of any classified papers or other classified materials or other classified information received by the Committee except as authorized by the Committee in a manner consistent with the provisions of these rules, or, after the termination of the Committee, in such manner as may be determined by the House.

Before the Committee makes any decision regarding any request for access to any testimony, papers or other materials in its possession or a proposal to bring any matter to the attention of the House or a committee or committees of the House, Committee Members shall have a reasonable opportunity to examine all pertinent testimony, papers, and other materials that have been obtained by the Committee.

(f) Before a Member, officer, or employee of the Committee may have access to classified information, the following oath (or affirmation) shall be executed:

''I do solemnly swear (or affirm) that I will not disclose any classified information received in the course of my service on the Select Committee on Homeland Security, except as authorized by the Committee or the House of Representatives or in accordance with the Rules of such Committee or the Rules of the House.''

Copies of the executed oath (or affirmation) shall be retained by the Clerk as part of the records of the Committee. The Clerk shall make signatures a matter of public record, causing the names of each Member who has signed the oath to be available each day for public inspection in an appropriate office of the Committee offices.

8. SUBCOMMITTEES

(a) There shall be five standing subcommittees of the Committee, with jurisdiction as follows:

(1) Subcommittee on Infrastructure and Border Security: border security including prevention of importation of illicit weapons, pathogens, narcotics, and other contraband; illegal entry by foreign nationals; land borders, ports, and airspace; integration of federal, state, and local immigration law enforcement; protection of highways, bridges, waterways, airports and air transportation, energy supplies, and other critical infrastructure from attack; preservation of critical government, business, and financial institutions; relevant oversight; and other matters referred to the Subcommittee by the Chairman.

(2) Subcommittee on Rules: study of the operation and implementation of the House Rules with respect to homeland security; examination of jurisdictional disputes and overlap related to the Department of Homeland Security, and homeland security in general; consideration of changes to the House Rules, pursuant to Section 4(b)(3) of H. Res. 5, necessary to ensure effective oversight of the Department of Homeland Security, and homeland security in general; relevant oversight; and other matters referred to the Subcommittee by the Chairman.

(3) Subcommittee on Emergency Preparedness and Response: preparation for and response to chemical, biological, radiological, and other attacks on civilian populations; protection of physical infrastructure and industrial assets against terrorist attack; issues related to liability arising from terrorist attack; public health issues related to such attacks; disaster preparedness; coordination of emergency response with and among state and local governments and the private sector; homeland security technology; relevant oversight; and other matters referred to the Subcommittee by the Chairman.

(4) Subcommittee on Cybersecurity, Science, and Research & Development: security of computer, telecommunications, information technology, industrial control, electric infrastructure, and data systems, including science, research and development related thereto; protection of government and private networks and computer systems from domestic and foreign attack; prevention of injury to civilian populations and physical infrastructure caused by cyber attack; relevant oversight; and other matters referred to the Subcommittee by the Chairman.

(5) Subcommittee on Intelligence and Counterterrorism: prevention and interdiction of terrorist attacks on American territory; liaison and integration of the Department of Homeland Security with the intelligence community and law enforcement; collection, analysis, and sharing of intelligence among agencies and levels of government as it relates to homeland security; threat identification, assessment and prioritization; integration of intelligence analysis, and sharing of intelligence, with and among federal, state, and local law enforcement; preservation of civil liberties, individual rights, and privacy; relevant oversight; and other matters referred to the Subcommittee by the Chairman.

(b) Bills, resolutions, and other matters shall be referred by the Chairman to the appropriate subcommittee within two weeks of receipt by the Committee for consideration or investigation in accordance with its fixed jurisdiction. Where the subject matter of the referral involves the jurisdiction of more than one subcommittee or does not fall within any previously assigned jurisdiction, the Chairman may refer the matter as he deems advisable. Bills, resolutions, and other matters referred to subcommittees may be reassigned by the Chairman when, in his judgment, the subcommittee is not able to complete its work or cannot reach agreement on the matter. In a subcommittee having an even number of Members, if there is a tie vote with all Members voting on any measure, the measure shall be placed on the agenda for full Committee consideration as if it had been ordered reported by the subcommittee without recommendation. This provision shall not preclude further action on the measure by the subcommittee.

(c) The full Committee shall have general jurisdiction over all programs and activities of the Department of Homeland Security, liaison between homeland security agencies and programs throughout the federal government, and the Department of Homeland Security, state and local homeland security, and such other matters within the jurisdiction of each subcommittee as may be referred directly to the full Committee by the Chairman.

(d) The Chairman and Ranking Minority Member of the Committee shall be ex officio Members of each subcommittee to which they have not been assigned by resolution of the Committee.

9. LEGISLATIVE CALENDAR

The Clerk of the Committee shall maintain a printed calendar for the information of each Committee Member showing any procedural or legislative measures considered or scheduled to be considered by the Committee, and the status of such measures and such other matters as the Committee determines shall be included. The calendar shall be revised from time to time to show pertinent changes. A copy of such revisions shall be furnished to each Member of the Committee.

10. COMMITTEE TRAVEL

No Member of the Committee or Committee staff shall travel on Committee business unless specifically authorized by the Chairman or Ranking Minority Member, respectively. Requests for authorization of such travel shall state the purpose and extent of the trip, together with itemized expenses anticipated thereon. No preliminary arrangements for foreign travel shall be undertaken by any Committee Member unless such travel has been authorized in writing by the Chairman.

A report on all foreign travel shall be filed with the Committee Clerk within sixty calendar days of the completion of said travel. The report shall contain a description of all issues discussed during the trip and the persons with whom the discussions were conducted. If an individual with the Committee staff fails to comply with this requirement, he or she shall be subject to disciplinary procedures set forth in these rules.

11. BROADCASTING COMMITTEE MEETINGS

Whenever any hearing or meeting conducted by the Committee is open to the public, the Committee or Subcommittee, as the case may be, shall permit that hearing or meeting to be covered by television broadcast, internet broadcast, print media, and still photography, or by any of such methods of coverage, subject to the provisions and in accordance with the spirit of the purposes enumerated in the Rules of the House.

12. DISPOSITION OF COMMITTEE RECORDS

Upon dissolution of the Committee at the conclusion of the 108th Congress, the records of the Committee shall be deemed current records and, consistent with House Resolution 5 of the 108th Congress, shall not be delivered to the Archives of the United States but rather shall become the records of such successor committee as shall be designated by the Speaker.

13. CHANGES IN RULES

These rules may be modified, amended, or repealed by the Committee provided that a notice in writing of the proposed change has been given to each Member at least 48 hours prior to the meeting at which action thereon is to be taken.

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

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

UNITED STATES IS NOT ACTING ALONE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes as the designee of the majority leader.

Mr. MCINNIS. Madam Speaker, I cannot resist responding to the previous speaker's comments.

I am appalled frankly by some of the statements that were made from that podium just a few short minutes ago. The United States of America is not acting alone. The United States of America has not failed in diplomacy. It is the United States of America by the use of force through the United States of America and its allies, including the British, the Spaniards, the Italians and many other countries on the European continent, that have forced Saddam Hussein to come up with the weapons that he has come up with so far for destruction.

The United Nations has tried unsuccessfully, unsuccessfully year after year after year after year, through inspections, through economic sanctions, through criticism, through 16 or 18 separate resolutions, and yet the fine lady stands up in front of this House and says that the way we need to start this is with discussions.

What has been happening the last 12 years? I will tell you what has been happening the last 12 years. Saddam Hussein has been very methodically building up his arsenal, and I intend later this evening to go over not just a broad allegation that he has got additional weapons of mass destruction, not just an additional, not just a broad allegation that he has utilized these weapons of mass destruction because we know, in fact, he has. He has gassed his own citizens. He used them in his attack against Iran. He had prepared to use them when he occupied Kuwait .

What did he do these last 15 years, 12 years? That is exactly what he has done. He has very methodically, as I said, built up an arsenal. And now we have some people in our own Chambers that stand up and say, we ought to go talk more. We ought to start the inspection process and eventually kind of ramp it up a little.

Where have they been? With all due respect to my colleagues, when does this end? When are we going to say enough is enough?

I hope this evening I am able to present you with some remarks, with some convincing evidence, persuasive remarks that will show you just how evil this guy is.

It is amazing to me as I look out at the worldwide press, I do not think by the way the worldwide population, but as I look at the worldwide press, their media is slanted towards building up the good character of Saddam Hussein and destroying the good character of George W. Bush and America. What my colleague failed to mention in her previous statements here is she blames the United States for problems with our allies. Let me tell you, take a look on the our allies. We have good, strong, solid allies out there and we have good relationships with many of our allies out there, but the fact is we also are a leader. We are the strongest Nation in the world. We are not going around boasting about it, but sometimes it falls upon the shoulders of the strongest person to pull that wagon up the hill. You know, if you have horses on a team and you are trying to get that wagon up the hill and you have some weak horses, at some point you have got to replace them with strong horses. That is not to say anything bad about the weak horses. It may be, in fact, that those horses were not built to pull a wagon up the hill. That is what we have happening here.

We have the French who for political reasons because they do not have much of a military, who for political reasons have decided to advance their causes by being the worst critic of the United States, by being the worst critic, you find very few words in the rhetoric on the fine island of France, and I say island because they are isolating themselves within the European continent, you find from their fine words horrible criticism of the United States of America.

You never hear the French leaders talk about what the United States does for the world. Do you know if you take a look we have no reason to apologize for this country. This country feeds more hungry people than any other country in the world. This country educates more people and educates them to a higher level than any other country in the world. This country exports, it overflows with freedom compared with any other country in the world. This country produces the greatest inventions known to man in the greatest quantity of any other country in the world. This country allows more private property rights than any other country in the world. Our Constitution allows more rights for our judicial system than any other country in the world.

We have the best medicine. Some of the best medicine ever known to mankind is developed in this country. Open heart surgery. You take a look at what you have. Root canals. You take a look at it. It is the United States of America. And yet we have Members of our own body up here apologizing and condemning our own country for perceived shortfalls. And what is their source? What do they use as their source? They use as their source the spokesman for the French. They use as their source the spokesman for the Germans.

Why do they not use as a source the Americans who have been able to realize the dream that only America offers and that America on many occasions has gone to battle throughout the world to give other countries the opportunity so that they too can enjoy the life we have enjoyed.

If you want to apologize for being a leader, if you want to apologize for being strong militarily, if you want to apologize for taking tougher action against Saddam Hussein, then move aside, then move aside, because the majority of the people in this Nation want this Nation to prevail when it comes to freedom. They want the United States of America to prevail when other countries need our assistance. They want this country to prevail, to stop the spread of weapons of mass destruction.

Would the gentlewoman or some of my other colleagues here, it would be interesting to pull out our comments about what you thought about Saddam Hussein when he invaded Kuwait. I would be very interested to see what your comments were about the French when they went down to the Ivory Coast last year, by the way, without the authorization of the United Nations, without even going to the United Nations to say they were going to the Ivory Coast with their military and the overthrow they did on the Ivory Coast. Where were my good colleagues when the French did that?

How can you stand up here on the podium and defend the French? The French are our allies somewhat. Keep in mind they are the ones that did not help us when we asked for overflight rights on our actions with Libya. Keep in mind, too, to my good colleague from the other State, keep in mind who built that military facility in Iraq. It was the French. Remember the one that the Israelites took out in a bombing raid, a very daring bombing raid about 15 or 20 years ago? That was built by the French.

I am amazed that Members of this body will stand up and act as if the United States of America is the black sheep, as if the United States of America should be shunned instead of talking about the great things this country has done, instead of talking about the bravery of 250,000 troops over there and a couple other hundred thousand throughout the world and all the troops at home that are supplying those troops over there, their dedication and their patriotism, to talk about a threat that is an imminent threat.

And do not kid yourselves, Saddam Hussein and his regime, it is a cancer, and you can go to the doctor and you can tell the doctor, Doc, I do not want to hear this announcement. I do not want to hear your prognosis that I have cancer. That is not what I want to hear, Doc. Let us start from the beginning and see if you can leave out the cancer part of it when you give your prognosis to me.

The doctor says to you, look, you can couch it any way you want. You can paint it any way you want. You can blame all your neighbors. You can have your neighbors blame you, but the fact is there is cancer out there and you better deal with it, because if you do not deal with it all you are doing is not eliminating the problem, you are passing the problem on to the next generation.

Do not all of us wish, even the gentlewoman who just spoke, do not all of us wish that we would have resolved this issue in 1990 or the first Persian Gulf War when we had the opportunity? And what stopped us from resolving the issue, from destroying that regime or taking out that regime in 1990 when we had the opportunity? What stopped us? It was not George Bush, Sr., that stopped us. It was the United Nations that said do not go into Baghdad. Stay out of Baghdad. Leave Saddam Hussein in power. And now look what we did. We have passed it to another generation.

I happen to be in the generation that it was passed to. And as a Member of that generation, I do not want to see it passed to the next generation. I want us to face up to this problem and our President has done a darn good job.

Remember, this country retains its sovereignty, despite what Annan says over at the United Nations, despite what he says, the sovereignty of the United States remains with the United States.

□ 1945

We have never shifted our sovereignty to the United Nations, and I want to speak a little more about the United Nations here in a moment, but the United States did not need to go to the United Nations. The French did not go to the United Nations for their recent action on the Ivory Coast. We were not required to go to the United Nations. In fact, many of my constituents have said why did we even go to the United Nations? Why did we not just go out take care of the problem and move on?

The fact is that our President, George W. Bush, who has been unfortunately roundly criticized by some of my colleagues, it was his decision to take this to the United Nations. It is George W. Bush, who I happen to think is doing a remarkable job in his leadership, he is our Commander in Chief. He is the one who has led the pursuit of every diplomatic and reasonable, he has got to be reasonable, but every diplomatic channel.

While my good colleagues were enjoying the weekend, where was our Commander in Chief? He was on the telephone talking to China. He was on the telephone talking to Japan. He was on the telephone talking to Russia. He wants this resolved diplomatically, but at least he has got enough guts that if it is not resolved diplomatically, he will resolve it militarily.

Thank goodness we have got the team that we have down there at that White House. Everybody in this Chamber, in my opinion, would take a second seat to a Condoleezza Rice. Everybody in this Chamber, with due respect to my colleagues, I include myself there, would take a second seat to Dick Cheney, our Vice President. Everybody in this Chamber would take a second seat to Colin Powell. Everybody in this Chamber would take a second seat to Donald Rumsfeld.

Yet, many in this Chamber think they know it all. I am not being overly critical. I am just trying to say after these remarks that I hear condemning the United States, maybe not condemning the United States, but saying that we have led the worst diplomatic disaster in history, oh my gosh, it is clear there is not an in-depth study of history in those kind of remarks.

Where is the United Nations? I want to talk a little bit about the United Nations. I want to talk a little bit about the French and Germans, and I want to answer some of the questions, and most of all, I want to read an article that I think is right on point.

I actually went through it the other night, but many people asked that I go through it again, and I look forward to that, but first of all, let me talk about the United Nations. Let us face it. Let us take a look at what the United Nations is all about.

It has 191 member representatives in it, 191, and not being critical of the other 190, but if we take a look at that pool, just by the nature of our culture, just by the nature of the environments that we grew up in, just by the nature of our traditions in our particular countries, just by the nature of the governments that are within our country, we are different people. There are inherent conflicts.

There are a lot of things that we can do together, and I am one of those people that, while I think the United Nations is a paper tiger when it comes to military action, I think the United Nations has a proper place in our society. What is a proper role for the United Nations to play?

Let us start out, I think the United Nations can be kind of the centralizing authority to give us the help and the distribution we need to assist countries that have starving populations. For example, when we have a problem in Ethiopia, I bet the United Nations can help us with that problem. When we have a problem in Somalia, after they drag our soldiers through the streets, we cannot call on the United Nations. They do not have that capability. We have overestimated, we have exaggerated the role of the United Nations and its capability to carry anything on of substance, even in a diplomatic forum, with the exception of some very specific duties, and let me give my colleagues another example.

The President covered it very well in his State of the Union Address. We have a horrible plague of AIDS throughout the world. We need to conquer that disease. The United Nations is a good institution to lead that battle. The United Nations is a good institution to help with resources for advice on farming, to provide agricultural resources and so on.

But do my colleagues not understand, the United Nations, not because it is inherently evil or incompetent or incapable, but the United Nations, just by the fact of its structure, just by the way it is built, just by the way it is built, is not designed to be able to go into a country of mass destructions and face them down. The United Nations does not have the capability because of its membership to face them down. We cannot get that membership all put together.

Take a look at the United Nations. One of the biggest problems in the world that we spend a lot of time and resources on is human rights. This country leads the world in human rights, but what does the United Nations do? One of the countries that is one of the worst abusers of human rights and makes list after list year after year is Libya. What do they do at the United Nations? They name the Libya representative as the head of the Human Rights Commission. That is why they are ineffective when it comes to this type of international geopolitical action. We should understand that their role needs to be more targeted towards the things of which I spoke.

Let me say just a couple of words about the French and the Germans. I think the French are the shining example of hypocrisy. Let me quote from a recent Wall Street Journal editorial: But before we move on to war, says the editorial, let us pause to honor the grandeur of French hypocrisy on ''the unilateral'' use of military force. France seldom bothered to ask the United Nations or anyone else when it concludes its own interests are at stake. When a failed coup in the Ivory Coast last fall, and many of my colleagues probably do not even realize this, many of my colleagues probably could not identify with, and I am not being derogatory, but could not identify where the Ivory Coast is, but last fall the French sent troops down to the Ivory Coast because they had a failed coup, and let me go back to the quote: When a failed coup in the Ivory Coast last fall blossomed into a rebellion that threatened civil war, France never did get around to asking for a Security Council resolution. President Jacques Chirac also forgot to ask George W. Bush for his permission. Rather, he dispatched hundreds and eventually thousands of paratroopers and French legionnaires to contain the violence, to protect French citizens and to prevent the rebels from overrunning the country.

I would ask my good colleague, who had just previously spoken, would my colleague call the French's action on the Ivory Coast, would my colleague give them the same criticism she has just given the United States of America, that it is the lead example of the most horribly failed diplomacy or whatever the quote was? The French act when it is in their own interest. How ironic that they criticize the United States when the United States and its allies act in our interests, and I keep saying the United States and its allies.

With the worldwide media now, it is almost laughed off the table by my colleague who spoke before me. She says,

well, these little countries, these little countries in Europe that are allied with the United States, I forget exactly what she said, but the effect of it was, does not mean much. Look at the big players. Let me tell my colleagues, those little countries in Europe mean a lot to us, and those little countries in Europe, they happen to think they are pretty important to this. After all, their continent is pretty important.

Let me tell my colleagues, if we want to go just by geographical size and by population size, let us take a look in that order of the allies that I speak of when I say the United States of America, that the worldwide media has largely ignored as a coalition of the willing. Start off with the United States of America. Put on to it Great Britain. Put on to that the Spanish, Spain. Put on to that the Italians. Then we start talking about Hungary. We can start talking about Poland. We can start talking about many other countries.

In fact, I think the coalition that will be put together for this action, if Saddam Hussein does not unilaterally disarm, I think that coalition will come very close or, in fact, exceed the size of the coalition for the first Persian Gulf War. This is not, as my colleague said, and I did write this down, the U.S. against the world. What a misstatement. That is a misstatement. It is not the United States against the world. It is the United States for the world, and a big part of the world is with the United States of America.

In the United States of America we can take any example we want in history, no country in history has ever gone beyond its borders, as the United States has, for other countries. We can take a look at World War I. We can take a look at World War II. We can take a look at the Persian gulf. We can take a look anytime there is a disaster in the world, what kind of relief do we see? United States of America.

When people are starving and we are allowed to get aid in there, what do we see on those bags of flour? United States of America. We have got an awful lot to be proud of, and frankly, we can be proud of our President and this administration. He is our Commander in Chief, and I can tell my colleagues frankly, over the weekend I listened to people like Sean Penn, a movie actor. I listened to Neil Young, big time singer in my generation. I listened to one of my favorite actresses, Julia Roberts. These are very talented actors, and I am appalled that all of the sudden they think they have doctorates in foreign policy, and they think that the President should take second seat to them.

I looked at one of the papers today, the New York Times perhaps or maybe it was the Wall Street Journal, full page ad from people who call themselves writers, ''We are against the war.'' Those people have not spent a fraction of the time that even my colleagues here on the floor have spent on what we are dealing with here, and I hope they are paying attention this evening. I am sure they are not, but I sure wish some of them were paying attention this evening to explain away just exactly what Iraq is going to do with these weapons of mass destruction.

We elected our President, and President after President we put confidence in our administration and our leadership. They know a lot more than we know. My colleagues know a lot more than their constituents generally, simply not because we are brighter but because we have had classified briefings, because it is our job to know more. It is the President's job to know a little more about these foreign issues than some of our good actors that come out of Hollywood who stand up there on a stage and condemn this country, a country that has given them all the privileges that they enjoy. Tell me that Sean Penn could go anywhere else in the world and fulfill the American dream. We have got to act as a team here.

In regards to the Germans, I mean the French are getting a lot of political hay out of this. Jacques Chirac, his popularity polls have gone through the roof. He is able to dance on the stage without paying the band. He is able to enjoy the fruits, as he has for a long time, of the labor that the United States of America has put out there.

The French really are not a significant military power anymore. Where they have their power is in the Security Council. That is why they want to go through there because they have a veto, and frankly, I just came from Paris, I just came from visiting NATO meetings, and by going out and talking on the street, a lot of people in Germany and a lot of people in France, they think terrorism, the big threat is the United States. They do not see it as such a big issue, and I understand that if the French want to stand out of the battle, as they often do when the going gets tough, the French do not want to play. I can understand that. That is their nature. That is their character. I can understand that.

The Germans, a little different story, but I can still understand that, but there is a big difference between standing aside, stepping out of the fight, and standing aside and cheering on the opposition. That should not happen.

A lot of people want to do everything they can to get rid of Saddam Hussein except fight him. Everybody wants to think they can sweet talk Saddam out of his regime. It is not going to happen.

I hope that Saddam Hussein takes the chance, the last chance that is now being given to him by the United States of America and its coalition, and I hope that he disarms, but I kind of doubt that he will. I think it is possible he may go into exile, but the fact is it is the United States of America that has forced the United Nations to do something about it, and the United Nations in November accepted. They adopted 1141 that did something about it, but when it came time to call in the chips, the United Nations, because in my opinion of the makeup of the United Nations, could not stand up and carry its own weight, and at that point, once again, the United States and the allies that can carry the weight need to step in.

□ 2000

Madam Speaker, I want to read a letter, and I spoke to this the other evening; but let me, first, Madam Speaker, get a time check.

The SPEAKER pro tempore (Mrs. BLACKBURN). The gentleman from Colorado has approximately 35 minutes remaining.

Mr. MCINNIS. I understand I have 35 minutes remaining, and I will yield back 10 minutes; so in my remaining 25 minutes let me begin by reading a letter, and I am quoting from Alistair Cooke. And as I mentioned the other night, I do not like to read from somebody else's script. I like to pull in quotes, and I hope I give credit to the quotes that are out there, but this is a very moving article.

We all know that history is a good study. It does not tell us exactly what will happen in the future, but any good history teacher will tell us that the failure to understand past history will certainly be a significant handicap to any kind of understanding of how to prepare for the future. There is no crystal ball out there that tells us about the future, but history gives us an advantage. This article, I think, reflects very accurately some history that I hope all of us will think about.

Let me read this, and I will quote throughout the article. I will leave the article periodically to make a comment, but I will tell my colleagues when I do that.

Mr. Cooke: ''I promised to lay off topic A, Iraq, until the Security Council makes a judgment on the inspector's report, and I shall keep that promise. But I must tell you that throughout the past fortnight I've listened to everybody involved in or looking on to a monstrous din of words, like a tide crashing and receding on a beach, making a great noise and saying the same thing over and over and over. And this ordeal triggered a nightmare, a daymare, if you like. Throughout the ceaseless tide I heard a voice.''

This is Mr. Cooke talking about his dream. He heard a voice. ''I heard a voice, a very English voice of an old man, Prime Minister Chamberlain, saying: ''I believe it is peace for our time,'' a sentence that prompted a huge cheer, first from a listening street crowd and then from the House of Commons and next day from every newspaper in the land. There was a move to urge that Mr. Chamberlain should receive the Nobel Peace Prize.

''In Parliament there was one unfamiliar old grumbler to growl out: 'I believe we have suffered a total and unmitigated defeat.' He was, in view of

the general sentiment, very properly booed down. This scene concluded in the autumn of 1938 the British Prime Minister's effectual signing away of most of Czechoslovakia to Hitler.''

So leaving the text for a minute, in 1938, Chamberlain signed over Czechoslovakia to Hitler, much like Saddam Hussein. Give him what he wants. Appease him. Back down to what is good for the world. Back down in your own interest. But you need to cover that. A politician cannot back away without giving it some kind of cover, and Prime Minister Chamberlain said, ''I believe it is peace for our time.''

Now, going back to the script again, let me start: ''This scene concluded in the autumn of 1938 the British Prime Minister's effectual signing away of most of Czechoslovakia to Hitler. The rest of it, within months, Hitler walked in and conquered. ''Oh dear,'' said Mr. Chamberlain, thunderstruck, ''He has betrayed my trust.''

''During the last fortnight a simple but startling thought occurred to me. Every single official, diplomat, president, prime minister involved in the Iraq debate was in 1938 a toddler, most of them unborn. So the dreadful scene I've just drawn will not have been remembered by many listeners.

''Hitler had started betraying our trust not 12 years but only 2 years before, when he broke the First World War peace treaty by occupying the demilitarized zone of the Rhineland. Only half his troops carried one reload of ammunition because Hitler knew that French morale was too low to confront any war just then, and 10 million of the 11 million British soldiers had signed a so-called peace ballot. It stated no conditions, it elaborated no terms, it simply counted the numbers of Britons who were 'for peace.'

''The slogan of this movement was 'against war and fascism,' chanted at the time by every Labour man and Liberal and many moderate Conservatives, a slogan that now sounds as imbecilic as 'against hospitals and disease.' In blunter words, a majority of Britons would do anything.''

And let me leave the script here. This is probably the most important paragraph of what I am reading, or one of the most important:

''In blunter words, a majority of Britons would do anything, absolutely anything, to get rid of Hitler except fight him. At that time the word preemptive had not been invented, though today it's a catchword. After all, the Rhineland was what it said it was, part of Germany. So to march in and throw Hitler out would have been preemptive, wouldn't it?

''Nobody did anything and Hitler looked forward with confidence to gobbling up the rest of Western Europe country by country, 'course by course,' as the growler Churchill put it.

''I bring up Munich and the mid '30s because I was fully grown, on the verge of 30, and knew we were indeed living in the age of anxiety. And so many of the arguments mounted against each other today, in the last fortnight, are exactly what we heard in the House of Commons debates and read in the French press.

''The French especially urged, after every Hitler invasion, 'negotiation, negotiation.' ''

Let me leave the text. Let me repeat this paragraph. The French especially urged, after every Hitler invasion, every time Hitler invaded a country, the French would stand up and say negotiate, negotiate.

''They negotiated so successfully as to have their entire country defeated and occupied. But as one famous French Leftist said, 'We did anyway manage to make them declare Paris an open city. No bombs on us!'.

''In Britain, the general response to every Hitler advance was disarmament and collective security. Collective security meant to leave every crisis to the League of Nations. It would put down aggressors, even though, like the United Nations, it had no army, navy or air force.

''The League of Nations had its chance to prove itself when Mussolini invaded and conquered Ethiopia. The league didn't have any shot to fire.''

Some comparison. I leave the text. Some comparison to the United Nations.

''But still the cry was chanted in the House of Commons, the League and collective security is the only true guarantee of peace. But after the Rhineland, the maverick Churchill decided there was no collectivity in collective security and started a highly unpopular campaign for rearmament by Britain, warning against the general belief that Hitler had already built an enormous mechanized army and a superior air force.

''But he's not used them, he's not used them, people protested. Still, for 2 years before the outbreak of the Second World War you could read the debates in the House of Commons and now shiver at the famous Labour men. Major Attlee was one of them who voted against rearmament and still went on pointing to the League of Nations as the savior.

''Now, this memory of mine may be totally irrelevant to the present crisis. It haunts me. I have to say I have written elsewhere with much conviction that the most historical analogies are false because, however strikingly similar a new situation may be to an old one, there's usually one element that is different.

''And it may well be so here. All I know is that all the voices of the '30s are echoing through 2003.''

Take a look at the history of the League of Nations. Take a look at what happened in 1938, when Churchill had to stand up and tried to convince the people that these weapons were being developed. Take a look at 1938 and see if you do not think you are seeing a replay when the French stood up every time Hitler invaded a country and said, negotiate, negotiate.

Well, now let us just move from that and let us just show some of the facts that I want to present. People have said, including the previous speaker, that, well, we need to start these negotiations. We need to be patient. We need to work through this. This is 13 years. Every resolution here, 678, 687, 707, clear down to 1284, every one of these resolutions Iraq has violated. Every one of these resolutions the U.N. stood up as if this was the last resolution because it was going to resolve it.

You know, if you signed a contract with somebody and you had this many contracts with an individual, and that individual broke every contract, every one of those you had with them, do you think that would give you a little history as to the next contract and how effective it might be?

We hear people say, well, Iraq is not a dangerous country. We have got Iraq contained. How contained did the world have Iraq when it gassed its own communities, the Kurds? How contained did the world have Iraq when it invaded Kuwait? Were they able to stop them? We were able to. The United States of America, leading the coalition, was able to push them back. But we could not stop the initial invasion. How about Iran, when Iraq started the war with Iran?

Take a look at these and take a look at the weapons he used. These are weapons of mass destruction. These are weapons that yesterday Saddam Hussein said he had, but today he denies he has them; and tomorrow, frankly, he will use them, in my opinion. He has the history.

Again, going back in history, again reflecting on history. Date: August 1983, mustard gas kills 100 people; October 1983, mustard gas kills 3,000 of his own people; February 1984, mustard gas kills 2,500 Iranians; March 1984, mustard gas, or Tabun, 50 to 100; March 1985, mustard gas; 1986, mustard gas; 1986, mustard gas; 1987, mustard gas; 1987, mustard gas; 1988, mustard gas and nerve agents.

This guy has got a history. This is a horrible individual we are dealing with. I am telling you, from the bottom of my heart, this is a cancer on our body. And we have different people telling us, look, do not take it off. Just ignore it; it will go away. I wish we could pray it away, I wish we could hope it away, I wish diplomatically we could negotiate it away. It did not work in 1938 with Hitler, and it is not going to work in 2003 with Saddam Hussein, in my opinion. We tried to make it work. We spared his life through the direction of the United Nations in 1990. We spared Saddam Hussein. We listened to the French; we listened to the United Nations to let his regime exist. Do not destroy his regime; he has learned his lesson. Just like Hitler, negotiate, negotiate. People said let us do anything we can except fight him. We are seeing a repeat of history.

Thank goodness we have a leadership team that understands this and is not

willing to let history repeat itself and is willing to stand up not only for the security of the United States of America but for the security of those countries that are not able, that do not have the capability of our great country and our allies to go in and stop this from occurring. We have the capability today to stop that cancer. We have the chemotherapy treatment. We think we can make this patient do a lot better. And yet members of our own family are trying to convince the patient to walk away from the doctor's office, to deny that the cancer exists, or to admit that it exists and pretend it will go away and to try to negotiate with cancer.

You cannot negotiate with cancer. You must deal with overwhelming superiority if you have got it. And if it is too late, there is not much you can do. Cancer wins the battle a lot of times. It is the same thing here. We have got the tools. We have got the capability. If we do not do it, who will? If the United States of America and its allies do not stand up to this kind of stuff, who will? Do you think the French will ever stand up? Do you think the Germans will ever stand up?

Many countries in the world will not stand up because they do not have the tools. There are a lot of people that would like to join the fight, that would stand up if they had the tools. We have it and we have an inherent obligation to the next generation to do everything we can to stop it while we can.

I am the generation that got it transferred to me. We could have stopped it in 1990. We did not do it. And I will be darned if I am going to stand by and let my generation pass on this problem of mass weapons with this horrible, horrible individual. I will be darned if I am going to stand on the sidelines and pass that to the next generation.

□ 2015

Madam Speaker, I hear some peace people say what weapons, he does not have weapons of mass destruction or he is not a danger to us. I just answered what kind of danger exists.

This is a document of weapons that Iraq has: Mustard gas, 2,850 tons; sarin nerve gas, 795 tons; VX nerve gas, 3.9 tons; tabun nerve agent, 210 tons. This is deadly stuff. Anthrax, 25,000 tons, and we all saw what a few sprinkles of anthrax dust did in the United States Capitol. Take a look at what this will do. Imagine if there were 25,000 tons.

Where did our Nation come up with this list? We did not just create it. This is a list that Saddam Hussein produced for us. This is the list that Iraq admitted they had. Today they said trust me, despite the fact that for 12 years I have broken resolution after resolution, despite the fact that I invaded Kuwait and Iran, despite the fact that I gassed by nerve agents my own citizens, the Kurds, trust me, I do not have these weapons any more.

What did the United Nations do? The United Nations is willing to sit by and say, let us trust him.

Madam Speaker, it is the end of the line. We cannot continue to let this cancer spread.

I do not want Members to think it is a partisan effort up here. It is bipartisan. Let me conclude my remarks with a quote, and I want Members to read this quote with me. ''What if Saddam Hussein fails to comply and we fail to act, or we take some ambiguous third route which gives him yet more opportunities to develop his program of weapons of mass destruction and continue to press for the release of sanctions and continue to ignore the solemn commitments that he made. He will conclude that the international community has lost its will. He will then conclude that he can go right on and continue to build an arsenal of devastating destruction. President Bill Clinton, February 19, 1998.''

Madam Speaker, let us not make it a replay of 1938. Let us stand by the President of this country and the bipartisan resolution this Congress authorized. We are a can-do country. Our allies are can-do allies, and we can get this job done.

TRIBUTE TO JOSEPH C. BEAUPREZ

The SPEAKER pro tempore (Mrs. BLACKBURN). Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. BEAUPREZ) is recognized for the remaining 10 minutes.

Mr. BEAUPREZ. Madam Speaker, I rise to call the attention of the Members of this House of Representatives to a special occasion, the 85th birthday of a great American, my father, Joe Beauprez.

Like many other Americans, my dad's greatness does not come from wealth, public acclaim, notoriety, titles, nor worldly deeds. Nonetheless, he has definitely achieved world class status in the roles in life he chose to follow, more inconspicuous, more anonymous than some, but roles of importance requiring great character, substance, faith, and conviction.

Madam Speaker, my dad was content being husband, father and faithful servant to his God. He wanted nothing more than the unqualified love of my mother, the opportunity to work very hard and have something to show for it, to set a path for his children a bit smoother and more pleasant than the one he had to follow and, most importantly, to earn an eternal place in heaven as he believes to be God's plan.

Madam Speaker, like so many of his generation, America's greatest generation, my dad's parents were immigrants. They came to America poor, with little formal education, unfamiliar with our language and our customs. She had been a weaver of fine Belgian lace. He carried her lace in a sack on foot from town to town, selling it in local markets to earn a living. Times were hard, and the First World War threatened. News of opportunity in America offered them hope.

In America my grandfather shoveled coal to furnaces, and later with a loan from a neighbor, sealed with a handshake, he bought 80 acres of land, his own piece of America, something to call his own, and so much more than that sack that he owned in Belgium.

Though he had never been a farmer, with will and determination he learned quickly. In time he expanded the farm, raised eight children, my dad being the sixth, and the one who would end up keeping the farm going as his own, and my home, too, for nearly all my life.

Dad got to eighth grade at the local Catholic school, a 3-mile walk away. The early 1930s were not the best of times, Depression days. To keep the farm going, he came home to help out his dad and older brothers, never getting any more schooling.

My mom was more fortunate, she fished ninth grade before returning full time to her own parents' farm nearby. Mom and dad got married in 1940, and this June will celebrate 63 years together, an enormous and far too unusual achievement in today's world. They raised four kids, they saw to it we all went through that same Catholic school, even though money was always in short supply when we were growing up. They wanted only the best for their kids. All of us got through high school, and off to college, too. They found a way. Used cars, patched overalls, hand-me-down clothes, lots of home-grown cooking, and sack lunches. They found a way.

Many have observed that real heroes are in short supply these days, especially for our young people to emulate. Many of us worry that role models are in far too limited supply. We all certainly learn from our own experiences, learn by doing we call it, but we are also greatly impacted as we grow and develop by those powerful mentors that influence us: Teachers, coaches, neighbors, presidents, pastors and parents.

I will confess, Madam Speaker, that it took far too long for me to realize it, but my dad was the best. I am so blessed to have had him as both dad and hero. By worldly standards, dad might not have had so much. Winston Churchill explained it very well. ''We make a living by what we get. We make a life by what we give.''

Dad gave so much, and has lived a wonderful, eventful, purposeful life. Allow me to simply reflect on three gifts from my dad for which I am especially grateful: First by his example, he taught me the value of hard work, of self reliance, and personal responsibility. In an age when it seems the norm to try to get along as easily as possible, dad saw differently.

Dad cherished his opportunity to work the soil of that farm and to care for his livestock. Remembering the lessons of the Depression, as well as the drought years of the early 1950s, he knew he could lose whatever he had. He knew he could not do much about the weather nor the markets, the only variable he could control was his effort

and his will, so he pushed himself. By sheer determination, he overcame obstacles to which most men would succumb.

How hard did he work? Well, not only did he farm the soil, he maintained a large cow-calf operation, and in 1952 he started milking some cows, too, to make enough money to pay the bills. He not only tried, he succeeded, and work hard he did. In fact, he never missed a single milking of those cows until he took one day off 14 years later. Even more impressive than his unfailing work ethic was this, he never complained. He never even talked about wanting to take it easier, take a vacation, sleep in just one morning. He had a job to do and a purpose for his work. He showed up every single day, and he did it. Falling to sleep night after night completely exhausted, he would rise well before dawn the next day to do the same all over again.

Secondly, Madam Speaker, as I already mentioned, soon my parents will celebrate their 63rd anniversary. The years and the hard work have taken a toll on them both. Mom broke her hip a couple of weeks ago, and is recovering in a hospital back home. Dad's memory is not quite so crisp any more. Lately he struggles to remember my name. It is a terrible disease, and a tough thing to witness. But he remembers who he loves and is even more devoted and tender to my mom than ever.

In 63 years, and I lived next door to him for most of those years, I never worried once where he spent the night or if he loved my mother. A wise person once said the greatest gift a father can give their children is to love their mother. Well done, dad, I never doubted. Once again, you provided me a perfect role model for my own marriage.

Madam Speaker, my dad gave me a third gift by his profound example. Regardless how deep the snow was, how much hay we had to bale, I knew right where we would be at 8 Sunday morning, in the third pew on the left of that same little Catholic church in which he was baptized. Giving back to God was simply nonnegotiable, because he knew he was blessed and wanted to say thanks.

Faith, family and the value of hard work, he taught me the most valuable lessons of life, and I am eternally grateful.

Madam Speaker, at a time when good examples seem hard to find, leaders often shun the responsibility to be role models. When real heroes are usually found only in history books, I have had the privilege of spending most of my life side by side with one of the all-time best. I think of my dad as a truly great American because he embodies the spirit of America, to try when the odds are against you, to love and have faith unconditionally, to dream big dreams and chase them and sacrifice for them, and to love this land, America, where the spirit inside your soul has the freedom to be as big and endless as this great Nation herself.

Madam Speaker, it is for those reasons I ask to have this tribute entered into the record of the 108th Congress of the United States of America commending the life and contribution of Joseph C. Beauprez of Lafayette, Colorado, on the occasion of his 85th birthday. Happy birthday, dad.

MARTIAL LAW CONCERNS

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

Mr. MCDERMOTT. Madam Speaker, I come to the House floor tonight to talk about an issue which I think is of grave concern to this country.

I recently read an article published in the Sydney, Australia, Morning Herald entitled ''Foundations Are in Place for Martial Law in the United States.''

The author is a man named Ritt Goldstein, an investigative reporter for the Herald, and he said that recent pronouncements from the Bush administration and national security initiatives put in place in the Reagan era could see internment camps and martial law in the United States.

When President Ronald Reagan was considering invading Nicaragua, he issued a series of executive orders which provided FEMA with broad powers in the event of a crisis, such as the violent and widespread internal dissent or national opposition against a U.S. military invasion abroad. They were never used.

But with the looming possibility of a U.S. invasion of Iraq, recent pronouncements by President Bush's domestic security chief, Tom Ridge, and an official with the Civil Rights Commission should fire concerns that these powers could be employed or a de facto drift into their deployment in the future.

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On the 20th of July, the Detroit Free Press ran a story entitled ''Arabs in U.S. Could Be Held, Official Warns.'' The story referred to a member of the Civil Rights Commission who foresaw the possibility of internment camps for Arab Americans. FEMA has practiced for such an occasion.

FEMA, whose main role is disaster response, is also responsible for handling U.S. domestic unrest.

From 1982 to 1984, Colonel Oliver North assisted FEMA in drafting its civil defense preparations. Details of those plans emerged during the 1987 Iran-Contra scandal. They included executive orders providing for suspension of the Constitution, the imposition of martial law, internment camps, and the turning over of government to the President and FEMA.

A Miami Herald article on the 5th of July, 1987, reported that the former FEMA director's, Louis Guiffrida's, deputy, John Brinkerhoff, handled the martial law portion of the planning. The planning was said to be similar to one Mr. Guiffrida had developed earlier to combat a national uprising by black militants. It provided for the detention of at least 21 million American Negroes in assembly centers or relocation camps. Today, Mr. Brinkerhoff is with the highly influential Anser Institute for Homeland Security. Following a request by the Pentagon in January that the U.S. military be allowed the option of deploying troops on American streets, the institute in February published a paper by Mr. Brinkerhoff arguing the legality of this. He alleged that the Posse Comitatus Act of 1878, which has long been accepted as prohibiting such deployments, had simply been misunderstood and misapplied. The preface to the article also provided the revelation that the national plan he had worked on under Mr. Guiffrida was approved by Reagan and actions were taken to implement it.

By April, the U.S. military had created a Northern Command to aid homeland security. Reuters reported that the command is mainly expected to play a supporting role to local authorities. However, Mr. Ridge, the Director of Homeland Security, has just advocated a review of U.S. law regarding the use of military for law enforcement duties.

Disturbingly, and it just really should disturb people, the full facts and contents of Mr. Reagan's national plan remain uncertain. This is in part because President Bush took the unusual step of sealing the Reagan Presidential papers last November. However, many of the key figures of the Reagan era are part of the present administration, including John Poindexter, to whom Oliver North later reported.

At the time of the Reagan initiatives, the then-Attorney General, William French Smith, a Republican, wrote to the National Security Adviser, Robert McFarlane: ''I believe that the role assigned to the Federal Emergency Management Agency in the revised executive order exceeds its proper function as a coordinating agency for emergency preparedness. This department and others have repeatedly raised serious policy and legal objections to an emergency czar role for FEMA.''

Criticism of the Bush administration's response to September 11 echoes Mr. SMITH's warning. On June 7 of last year, the former Presidential counsel, John Dean, spoke of America sliding into a, quote, ''constitutional dictatorship,'' close quote, and martial law.

The reason I raise this issue is that I come from a State where in 1941 under executive order by the President, 9661, we rounded up all the Japanese Americans in this country and put them in concentration camps. We have set in place the mechanism to do that again and we must not, we cannot sacrifice the Constitution in this rush to war that we are doing in Iraq.

DISTURBING EVENTS IN PUERTO RICAN POLITICS

The SPEAKER pro tempore (Mrs. BLACKBURN). Under a previous order of the House, the gentleman from Puerto Rico (Mr. ACEVEDO-VILÁ) is recognized for 5 minutes.

Mr. ACEVEDO-VILÁ. Madam Speaker, I would like to bring to the attention of this body some disturbing events in Puerto Rican politics during recent years. Specifically, I will talk about the corrupt and unethical actions of Puerto Rico's statehood leaders. I would like to start by saying that for many years Puerto Rico enjoyed an impeccable reputation of clean government. I am sad to say that this tradition was tainted by former Governor Pedro Rossello and his administration. During his administration, as Puerto Rico later discovered, there were many corruption schemes and rotten administrators pocketing millions of Federal and local funds. The irony is that the leadership of the Statehood Party, the party led by Governor Rossello for almost 10 years, became the leaders of the first corrupt government in the history of Puerto Rico. A party that claims to admire American democracy, a party that wants Puerto Rico to become a State of the union, was the party that embezzled Federal funds that belonged to our elders, our sick, and our children.

In 1997, the statehooders came to Washington to push for a statehood bill. They used millions of dollars in lobbying and political support to convince Congress that all Puerto Ricans wanted to become a State and used millions to silence the other voices from Puerto Rico. Now we know that this campaign was partially financed by illegal money.

It is amazing that, even today, the leaders of the Statehood Party are unwilling to recognize the depth of the corruption and continue to try to spin the issue as one of political persecution. They have gone as far as accusing the U.S. District Attorney's office in Puerto Rico of promoting prosecutions just for political reasons. They have no remorse.

As a result of the Federal and local investigations of this statehood corruption scheme, during the last months we have witnessed the conviction and indictment of many of the highest-ranking statehood leaders. In this chart, you will be able to see how far corruption went under the Statehood Party's government in the island. This is the Statehood Party's Hall of Shame. The list of corrupt officials and the depth of the corruption are impressive. Here are some of the cases.

In the legislative branch, Speaker Edison Misla-Aldarrondo, Speaker of the House, convicted.

Jose Granados-Navedo, Vice President of the House, resigned under scandal.

Norberto Nieves, legislator, convicted.

Jose Nunez, legislator, indicted.

Anibal Marrero, Vice President of the Senate, resigned under scandal.

Senator Victor Marrero, convicted.

Senator Freddie Valentin, convicted.

Let us see the executive branch: The personal assistant to the Governor, Angie Rivera, the person that had the key to the Governor's office, convicted.

Marcos Morell, secretary-general, executive director of the party, disbarred by the Supreme Court of Puerto Rico because of conflict of interest doing business with the government.

Bernardo Negron, president of the Federation of Statehood Party Mayors, convicted.

Andres Barbeito, director of the Pensions Administration, indicted.

Luis Dubon, the owner of the Statehood Party headquarters building, convicted.

Angel Luis Ocasio, deputy chief of staff to the Governor, convicted.

Eduardo Burgos, another deputy chief of staff to the Governor, convicted.

Jose Cobian, deputy finance director of the Statehood Party, indicted.

Victor Fajardo, Secretary of Education, convicted.

Oscar Ramos, administrator of the State Insurance Fund, under special prosecutor investigation.

Daniel Pagan, secretary of the Natural Resources Department, indicted.

Although Mr. ROSSello has not been indicted, the extension of these corruption schemes leads to one of two possible explanations: number one, he was part of this scheme; or, number two, he is such an inept administrator that he should not be trusted again with the duty of managing a government or any institution.

When I first arrived as a freshman in Congress 2 years ago, I was informed that millions of dollars in Federal funds had been frozen or were at risk of being frozen because of this situation. The task of Governor Calderon and me was to assure compliance with Federal requirements to make the funds once again available. The projects and programs affected include child care, nutritional assistance, title I, Head Start, TANF, the urban train project, housing and E-rate.

After just 2 years, our efforts brought the desired results: the new administration in Puerto Rico implemented measures to comply with the Federal programs' requirements and the Federal Government of Puerto Rico was able to receive the frozen funds.

I want to clarify that the Statehood Party Hall of Shame has nothing to do with the national parties here. It is a cancer in the statehood movement. For example, Pedro Rossello was a well-known and active Democrat, and Edison Misla-Aldarrondo, the former Speaker of the House, was the Republican Party National Committee man. The common denominator is they belong to the leadership of the Statehood Party.

When the leaders of the Statehood Party come to Washington to lobby behind the backs of the people of Puerto Rico, I urge you to ask them, where were they when their party leaders were using Federal funds for personal and political purposes?

REMARKS OF CONGRESSMAN ANIBAL ACEVEDO-VILÁ TO BE ENTERED INTO RECORD

Madam Speaker, I would like to bring to the attention of this body some disturbing events in Puerto Rican politics during recent years. Specifically, I will talk about the corrupt and unethical actions of Puerto Rico's statehood leaders.

I would like to start by saying that for many years Puerto Rico enjoyed an impecable reputation of clean government and true public service. Leaders such as Luis Muñoz Marín, Roberto Sánchez, Rafael Hernández Colón, and Luis Ferré, earned the trust and respect of the people for their honesty in the management of the public treasure.

I am sad to say that this tradition was tainted by former Governor Pedro Rosselló and his administration. In 1992 Mr. Rosselló took office with a platform of government reform and ambitious public projects. He governed until the year 2000. During his administration, as Puerto Rico later discovered, there were many corruption schemes and rotten administrators pocketing millions of federal and local funds.

The irony is that the leadership of the Statehood party—the party lead by Governor Rosselló for almost 10 years—became the leaders of the first corrupt government in the history of Puerto Rico. A party that claims to admire American democracy, a party that wants Puerto Rico to become a state of the Union was the party that embezzled federal funds that belonged to our elders, our sick and our children!

In 1997, the statehooders came to Washington to push for a statehood bill. They used millions of dollars in lobbying and in political support to convince Congress that all Puerto Ricans wanted to become a state and used millions to silence the other voices from Puerto Rico. For years many of you in Congress witnessed the costly and aggressive campaign that the Puerto Rico statehood leaders orchestrated to advocate for statehood. Now we know that this campaign was partially financed by illegal money. I wonder how much more of that money was dirty money!

Moreover, Mr. Rosselló disregarded for years pleas by the opposition, by the press, by the civil society in general to investigate his government and his party. Instead of looking into the allegations he decided to conceal the facts, to protect his friend and to defend the corrupt members of his administration. Fortunately the federal authorities did their job in investigating and prosecuting the criminals and the people of Puerto Rico judged the statehood party in the polls.

It is amazing that even today the leaders of the statehood party are unwilling to recognize the depth of the corruption, and continue to try to spin the issue as one of political persecution. They have gone as far as accusing the US District Attorney's Office for the District of Puerto Rico of promoting prosecutions just for political reasons. They have openly said that the Federal Court system and local authorities are part of a conspiracy to criminalize statehood, again showing an utter disregard for the truth. They showed no remorse!

Do not get me wrong, the statehood movement is a legitimate movement and has many

decent and honest members. Unfortunately for them, their leaders have betrayed their cause. There is no conspiracy to criminalize statehood, in fact, most of the convicted officials pleaded guilty in court before their sentences. There is a duty to prosecute the criminals that have hidden behind the statehood banner to steal money and for their own corrupt purposes. It is this leadership that I indict today. This statehood leadership that has inflicted the most damage to the statehood cause in Puerto Rico and the United States.

As a result of the federal and local investigations of this statehood corruption scheme, during the last months we have witnessed the conviction and indictment of many of the highest-ranking statehood leaders, including the personal assistant to former Governor Rosselló, two of the former Governor's Deputy Chief of Staff, the former Speaker of the Puerto Rico House of Representatives and former National Committeeman of the Republican Party in the Island, and the former Secretary of Education that pleaded guilty, to stealing at least $4.3 million of federal Title I funds for his benefit and the benefit of the Statehood Party.

In this chart you will be able to see how far corruption went under the statehood party's government in the Island. This is the Statehood's Party Hall of Shame. The list of corrupt officials and the depth of the corruption are impressive. Here are some of the cases that have been brought to Justice so far.

LEGISLATIVE BRANCH

Mr. Edison Misla-Aldarrondo (Speaker, PR House of Rep. And National Committeeman, Republican Party Puerto Rico Committee) Convicted

2. Mr. Aníbal Marrero (Vice President, Puerto Rico Senate) Resigned under scandal.

3. Mr. José Granados-Navedo (Vice President, Puerto Rico House of Reps.) Resigned under scandal.

4. Mr. Norberto Nieves (Member, PR House of Rep.) Convicted.

5. Mr. Freddie Valentín (Senator, PR Senate) Pleaded guilty.

6. Mr. Víctor Marrero (Senator, PR Senate) Convicted.

7. Mr. José Nuñez (Member, PR house of Reps.) Indicted.

EXECUTIVE BRANCH

1. Ms. María de los Angeles ''Angie'' Rivera (Personal and closest assistant of Governor Rosselló) Convicted.

2. Mr. Víctor Fajardo (Secretary, Department of Education) Pleaded guilty.

3. Mr. Daniel Pagán (Secretary, Department of Natural Resources and Environment) Indicted.

4. Mr. Andrés Barbeito (Director, Government Pensions Administration) Convicted.

5. Mr. Eduardo Burgos (Former Deputy Chief of Staff; Director, Municipal Revenues Collection Center) Convicted.

6. Mr. Luis Dubón (Owner, Statehood Party Headquarters' Building) Convicted.

7. Mr. Jośe Cobían (Deputy Finances Director, New Progressive Party) Convicted.

8. Mr. Angel Luis Ocasio-Ramos (Deputy Chief of Staff, Governor Rosselló's Office) Convicted.

9. Marcos Morell (Former Executive Director of the Statehood Party) Disbarred by the Puerto Rico Supreme Court for a conflict of interest doing business with the Rosselló administration.

10. Bernardo Negrón (President, Federation of Statehood Party Mayors) Convicted.

Although Mr. Rosselló has not been indicted, the extension of the corruption leads to one or two possible explanations: 1) he was part of the corruption scheme; or 2) he is such an inept administrator that he should not be trusted again with the duty of managing a government.

During the investigation in cases such as the Secretary of Education scandal, the federal prosecutors found evidence that at least $1 million from federal funds were funneled into NPP (Statehood Party) coffers. It is widely know in Puerto Rico that the Secretary of Education was a leader in the Statehood Party's GOTV efforts during the political status plebiscite and the general elections.

The widespread corruption that I just described had a negative impact in many federal grants and programs that Puerto Rico was entitled to receive. When I first arrived as a freshman in Congress, I was informed that millions of dollars in federal funds had been frozen or at risk of being frozen because of this situation. The task of Governor Sila M. Calderón and myself was to assure compliance with federal requirements to make the funds once again available. The projects and programs affected include Child Care, the Nutritional Assistance Program, Head Start, TANF, the Urban Train Project, Housing and E Rate.

After just two years our efforts brought the desired results, the new Administration in Puerto Rico implemented the measures to comply with the federal programs' requirements and the Government of Puerto Rico was able to receive the frozen funds.

To do this is difficult to me as a Puerto Rican because the Puerto Ricans are a decent people, hard working people, an honest people. I know that this information may feed some unfair stereotypes. But Congress needs to be cognizant of the truth and I trust that the members of this House will be discerning and will not generalize based on a sad, but isolated case in our history. As a matter of fact, the way this Congress has treated Puerto Rico recently, authorizing the highest increase of federal funds for the Island in the Title I education program and appropriating funds for other important programs is a clear showing that Congress has recognized that Puerto Rico's government is back in good and clean hands. I am here to clear the name of Puerto Rico and to explain how we have extirpated the cancer of corruption.

What are we doing? We are cleaning up house and making sure it never happens again. As a result of the corruption scandals in former Governor Rosselló's administration, Sila M. Calderón ran for Governor of Puerto Rico with the goal of providing the Puerto Rican people with a transparent government. She has dedicated the past two years to implementing tough measures to restore public confidence in government.

I want to clarify that the statehood party hall of shame has nothing to do with the national parties. It is a cancer in the statehood movement. For example, Pedro Rosselló was a well-known and active Democrat; and Edison Misla, former Speaker of the House was the Republican Party National Committee man in Puerto Rico. The common denominator is that they belong to the leadership of the statehood party.

Although the statehood leadership periodically comes to this capital to express their esteem for the U.S., they misunderstand the values that the American flag represents.

When the leaders of the statehood party come again to Washington to lobby behind the backs of the people of Puerto Rico I urge you to ask them where were they when their party leaders were using federal funds for personal and political purposes. Ask them why did they remain in silence? Why they did nothing to fight corruption? Why are they supporting Pedro Rosselló's comeback to Puerto Rican politics, the person responsible for this disaster?

HEALTH CARE CRISIS IN OUR NATION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentlewoman from California (Ms. SOLIS) is recognized for 60 minutes as the designee of the minority leader.

Ms. SOLIS. Madam Speaker, tonight I am very pleased to be here to speak about health care and the crisis that we face here in our Nation and particularly about the crisis that is affecting the Hispanic population and other minority groups.

I am delighted that I have been joined tonight by three colleagues that will speak about some of the situations and problems that they face in their own States. First I would like to, as chairwoman of the Congressional Hispanic Caucus Health Task Force, recognize the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), who is our representative for the Virgin Islands. She is chair of the Hispanic brain trust for the Black Caucus.

I yield to the gentlewoman from the Virgin Islands.

Mrs. CHRISTENSEN. Madam Speaker, I want to begin by commending the leadership of the Hispanic Caucus, past and present, my colleague and current Chair, the gentleman from Texas (Mr. RODRIGUEZ), and my health counterpart, the gentlewoman from California (Ms. SOLIS), for the leadership they provide for all Americans and for the effective representation they provide to people of Hispanic descent. All people of color face unacceptable barriers to health care, but Hispanics and Latinos face the additional burden of language. Anti-immigrant sentiment places further roadblocks in their way to health services. Because of the leadership of the Hispanic Caucus in collaboration with advocacy groups, attention is being brought to these issues and the barriers are beginning to come down, but there is still much to be done.

Madam Speaker, the racial disparities in health care so ably documented by the Institutes of Medicine report and other reviews continue to show that if you are a minority American, you are likely to receive a diminished quality of care even if you have the same income and educational status. As we recognize the plight of the uninsured this week and the reverberating impact not just on families but on entire communities including those with

insurance, it is important to point out that Hispanics have the highest uninsured rate among all racial or ethnic groups. Studies show that they are at high risk and lack basic access to medical care because of their high uninsured rates. That is why Hispanic Americans are joining other Americans from all backgrounds and parts of this country to rally during this April's Minority Health Month for universal insurance coverage and access to health care. Like other Americans of color and those living in the rural areas of our country, they are at increased risk.

Hispanics are twice as likely as Anglo Americans to have diabetes, twice as likely to have AIDS. Latino children are prone to have asthma, yet less likely to receive care. Too many still use emergency rooms too late in the stages of their illnesses because they lack a regular source of care. We must take steps to turn this around if we are to reach our ultimate goal of wellness for this country.

Further, many of Puerto Rican or Dominican descent comprise a large part of my district in the U.S. Virgin Islands. With their fellow Americans in the U.S. territories, they live under a system that caps Medicaid funding to our hospitals and clinics, leaving a heavy burden of care on municipalities that can afford it least and leaving many residents without access to care. Wherever this or a similar lack of access to care exists, there is also an effect on those with insurance and a direct and adverse impact on the ability of hospitals there to maintain quality health care services for everyone. Uncompensated care affects us all. We must take steps to turn this around if we are to reach our ultimate goals, as I said, for wellness in this country.

And so, Madam Speaker, the minority caucuses of this Congress will host a rally on April 29 on Capitol Hill to bring the attention of our fellow Americans and the Congress to the urgent need for universal access to health care, because this country can no longer afford for so many of its citizens to go without a means to pay for the quality health care that they deserve.

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Insured and uninsured alike, we are all in the sinking ship of a failing health care system in this country. The time to become proactive on the health issue that affects Hispanic Americans, African Americans, other minority Americans, rural Americans, and, indeed, all Americans, is now. Access for us, for those of us of color, is access for all.

I want to thank the gentlewoman from California (Ms. SOLIS) for yielding to me. I want to thank my colleagues for inviting me to join them in calling attention to these important issues.

Ms. SOLIS. Madam Speaker, I thank the gentlewoman, who in her own right is a leading physician and who has actually done so much to help further the cause for universal health care, access for everyone and also for HIV and AIDS prevention, and also for those many chronic illnesses that many of us face.

Madam Speaker, I would like to yield to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Madam Speaker, I thank the gentlewoman for yielding. I appreciate the opportunity to talk here today on an issue which I think is very timely and very important.

Today I dropped in H.R. 1200, which is a bill that I have dropped in for 12 years, providing universal health care insurance for the entire country. We are all one family. We are not this group or that group or another group or whatever. We are all together in this. We ought to have a plan that covers everybody, no matter where you live, no matter what color your skin is, no matter what ethnic background you come from, what kind of money you have or anything. It should be a system that covers everyone.

Now, today I just took this out of my wallet. I am covered because I have got this piece of plastic in my wallet. If I get in an accident or get sick and they haul me in the emergency room, they will find out I got this piece of plastic and I am covered. I can go for preventive care. I can go for all kinds of things. But if you do not have this piece of plastic, you will have to wait until you are really sick, because you cannot afford to pay for it; and you go into the emergency room, you get health care, but in the most inefficient way possible and the most inhumane way possible, at the end, when you should have been having preventive care before.

Now, this country, for reasons which totally escape me, cannot accept that it is a right for everyone to have health coverage. In Germany, we say, you know, what could the Germans know? In 1883 they put in a universal health care system. If you go to work tomorrow in Germany, you will have insurance tomorrow. They take in Turkish workers, they take in Kurds, they take in Bosnians. All these people come into their country, and they give them health care coverage from the very first day.

The United States has lots of people who come into this country to work. They come here to pick our vegetables, to work in the fields, to do the hard labor in this country. The fact is that of the 42 million people in this country who do not have insurance, 72 percent of them work full-time. They are not lazy. They are pulling their weight. They are doing what you have to do in a society to feed their family. But they do not have health insurance, and it is wrong. I think that the members of the Hispanic Caucus are absolutely correct in bringing this up, that everybody in this country should be covered.

The fact that Hispanics are in fact the least insured in this country is a travesty. If they were not doing the work they do in this country, we could not have the standard of living we have.

Ms. SOLIS. Madam Speaker, I appreciate the gentleman's remarks this evening.

Madam Speaker, it gives me a great deal of pleasure to recognize the distinguished gentleman from Texas (Mr. RODRIGUEZ), the chairman of the Congressional Hispanic Caucus.

Mr. RODRIGUEZ. Madam Speaker, I thank the gentlewoman for yielding.

Madam Speaker, I rise tonight to talk a little bit about health care, and I want to personally first of all thank the gentlewoman from California (Ms. SOLIS) for her leadership in the area of health.

On behalf of the Congressional Hispanic Caucus, the gentlewoman from California (Ms. SOLIS) is the chairwoman of the Task Force on Health. She has brought to it a great deal of energy. Now she sits on the Committee on Energy and Commerce also, so we have high expectations for the gentlewoman from California (Ms. SOLIS) and we want to thank her for what she has done, not only for her constituents back in California, but throughout the Nation, and her efforts in the area of health care. Under her leadership and passion the Health Care Task Force will be at the forefront of issues ranging from chronic diseases to the issues that we are here to discuss tonight, which is the uninsured.

The 2000 census revealed what many of us already knew back home, and that is that the Hispanic community has grown by leaps and bounds over the past decade. Hispanics are now the fastest growing community in the United States and make up close to 13 percent of the U.S. population. So I want to take this opportunity to say that of that part of the population, we have one of the largest numbers of uninsured.

Serving the uninsured must be a top priority for our Nation. Currently we have data to show that 33.2 percent, and it has been growing now with the individuals that have lost their jobs, of Hispanic individuals are uninsured, compared to the non-Hispanic whites who are uninsured at about 10 percent.

Let me tell you, these are people that are hard working individuals, that are out there working and making $20,000, $30,000, yet find themselves, if they are working for a small company, they are not going to have access to insurance. Unless they are working for a government, State, local or Federal, unless they are working for a major corporation, they will not have access to insurance.

So it is important for us to look at providing access to that insurance that their children and they need. While 19 percent of all Hispanics depend on Medicare and 35 percent of all Hispanic children depend on what we call the State Children's Health Insurance Program, which is CHIP, for their health care, still many of our needy families are not receiving the services that they deserve.

Despite the rhetoric of the administration, we leave millions of children

behind by President Bush calling for a $2.1 billion cut in this critical program for children, which is the only health care that a lot of these children receive. These are families that are working, trying to make ends meet. They are not poor enough to qualify for Medicaid, and they find themselves just making too much money, $20,000, $30,000, that they do not have access to health care, which is unfortunate.

It is unfortunate for too many working Americans that continue to lack this access to health insurance. Hispanics especially fall into this category. Over 33 percent of the Hispanics are uninsured, as I indicated earlier.

When it comes to health care, despite the promises, the Bush budget leaves our community behind. The Bush budget gives no money to these vital Federal health care programs for Hispanic communities. The Bush budget insufficiently funds the Community Health Centers, which have been out there making a difference, that millions of uninsured low and moderate income individuals rely on for their health care needs. The Community Health Centers have been there in responding to our communities' needs, and we need to make sure they continue to get the resources needed.

The Bush budget also cuts funding to the Office of Minority Health that focuses on health concerns which disproportionately affect minority communities.

The Bush budget also cuts into the future of Hispanic communities by eliminating funding for health career opportunities that aim to increase the number of minority health care providers.

We need to ensure linguistically and culturally appropriate health care by providing minorities an opportunity to go into the health care profession. At the present time we understand and recognize that we have a large number of individuals that could qualify and could enter the profession. A lot of times a little assistance in these programs that allow that opportunity to get into nursing, that allow them to get into some of the other health professions, as well as the medical profession, is important. So every effort needs to be made to continue.

I want to also talk a little bit about diabetes and HIV/AIDS. In diabetes among the Hispanic community, the risk for diabetes is twice that of the non-Hispanic whites. Nearly 11 percent of Hispanics have been diagnosed with diabetes as compared to 7 percent of non-Hispanics.

In the area of AIDS, funding for HIV/AIDS must also address the change in infectious rates. Hispanics have a rate of new infections four times that of non-Hispanics, despite the fact we have made some gains in the area of AIDS. Despite the fact that the number that are getting it and that are suffering serious illnesses are decreasing, the number for Hispanics is growing disproportionately.

So we ask as we look at those issues, such as diabetes that hit Hispanics disproportionately and such as AIDS that now affect those poor communities throughout this country, as well as African Americans, it is time to focus attention to the needs of these populations. I would ask the Bush administration to seriously reconsider their budget when it comes to health.

The Bush administration also has continued to deny legal permanent residents, and I will say that once again legal permanent residents' access to vital programs such as the Temporary Assistance for Needy Families, TANF, and the States' Children's Health Insurance Program, such as CHIP. These are individuals that are here legally, these are individuals that have not broken the law, yet we have denied them the right to have access.

One of the proposals that we have serious concerns with this administration on is the proposal that he has taken in hand, and that is that the Medicaid proposal has been one that addresses the needs of the most needy in this country, those that are indigent.

He has taken the Medicaid, and then he has taken the CHIP program, which is the program that addresses the children of the working families of this country, and has taken that program.

Thirdly, he has also gone after the disproportional share, the money that goes to hospitals that provide the indigent care, that provide for those in need.

So those three programs impact the most needy of this country, yet those are the three programs that this administration has chosen to bundle up into one block grant, and his proposal is to send it to the States, with the understanding that as the future goes on there is going to be a cap on it, and in those States where we have disproportional numbers, such as Texas and other States, that we will continue to have a difficulty in that area.

I want to continue to go ahead and address a couple of issues, but I wanted to take this opportunity to thank our task force chairman from the Hispanic Caucus, the gentlewoman from California (Ms. SOLIS), on her efforts, and I want to continue to join her here and thank her very much for what she has been doing.

Ms. SOLIS. Madam Speaker, I thank the gentleman from Texas (Chairman RODRIGUEZ), our illustrious chair of the Hispanic caucus. I thank him for appointing me as the woman who will be now in charge of the issues regarding Hispanics and health care this term. I am very privileged to be in this position, and I know that we have a long charge ahead of us.

Madam Speaker, tonight, today as Chair of the Congressional Hispanic Caucus Health Task Force, I wanted to call attention to the health status of Latinos throughout the United States.

When we talk tonight about Latino health care, it is important to note that Latinos are the fastest growing minority group in the country, in the United States. So the issues we face confront the health care field throughout the country, whether you live in east Los Angeles, in my district in California, or if you live in Atlanta, Georgia, or in Birmingham, Alabama, where we are seeing a large number of Hispanics now residing in that area. I had the privilege, Madam Speaker, of being there this weekend and walking with other members of our caucus to celebrate a civil rights memorial for 28 years of suffrage that has gone on in the South. The issues are no different there than they are in other parts of the country with respect to those that are uninsured. African Americans and Latinos still face the same kinds of problems.

This week, however, Madam Chairman, we are celebrating this week as Cover the Uninsured Week, a national effort that is going on right now, that is being celebrated across the country, to recognize those people who are under-insured and uninsured.

I would be remiss if I did not point to this chart here tonight, to point out that 41 million Americans do not have health care insurance in our country. It is unfortunate that about 30 percent of those individuals are Hispanic.

Let me point that out on this section of the pie chart, 30 percent. Forty-seven percent of non-white/Hispanic, 47 percent. Thirty percent Hispanic, 16 percent black or African American, and 5 percent Asian and South Pacific Islander also fall into that category.

Madam Speaker, by the year 2020, it is projected that one in five children will be Hispanic. Yet Latino children have the highest uninsured rates in the U.S. child population.

□ 2100

And unfortunately, the number of Latino uninsured has been on the rise over the past decade.

I would like to point out the next chart that I have. Here we see also the rising numbers of those individuals that are Latino, that are working, 43 percent; those that are in the private sector, 2 percent; 18 percent Latino, Medicaid; and others that receive some type of coverage; and then those that are in the uninsured category: Latinos, 37 percent, to 14 percent who are Anglo, or white. Madam Speaker, 73 percent of the Anglo population has insurance; 43 percent on this chart here indicates people that are working, working Latino family members are uninsured. It is a crime. It is a crime that this is the situation here in our country.

The next chart unfortunately does not provide us with many more good indicators. The number of Latinos uninsured has been on the rise over the past decade; and all we have to do is start looking at 1990, where 7.0 percent, the number of uninsured Hispanics, has increased 7.0 percent in 1990, a decade ago. When we look to the year 2000, it is now not quite doubled, but almost

there, 11.2 percent. It has increasingly gone up. It is not to say that these people are not working, because they are. I fail to see the reason that they are not being provided with some attempted coverage for those that are uninsured.

In fact, 37 percent of nonelderly Latinos are uninsured, more than double the rate of whites. The large majority of uninsured Latinos come from working families, approximately 87 percent; but less than half of all Latinos have employer-based health coverage. That is to say that where they work, at their place of employment, they do not have any type of insurance coverage for their needs, to meet their needs.

So let us be clear tonight, I say to my colleagues. There are women and men who are working and paying taxes, they play by the rules, but they are not getting any health coverage. This goes far beyond just the Latino community. There are many working men and women, African American, Anglo women that I met, even today when I was out visiting folks in my district, who told me about their plight with not having adequate health coverage, or being underinsured. This is a real issue, I say to my colleagues, that we need to address.

Unfortunately, nearly one-third of all Latinos work for an employer who does not offer any health care insurance at all. The lack of insurance in our country is devastating to families, particularly Latino families. Among the uninsured, Latino adults in fair to poor health, 20 percent are women, 40 percent are men; and they have not visited a doctor in the past year. Can we imagine that, not being able to see a doctor in more than a year?

We know that the uninsured receive less preventive care and are diagnosed later for diseases and tend to receive less medical care for their illnesses. Uninsured children are 70 percent more likely than other children not to have received medical care for common conditions like ear infections, 30 percent are less likely to receive medical attention when they are injured, and nearly 40 percent of uninsured adults report skipping a recommended medical test or treatment in the past year.

Having health insurance would reduce death rates for the uninsured by 10 to 15 percent. How many lives can we save if we provide them with some attempted coverage?

There is a consensus that health insurance is a necessity. So how can we increase access to health insurance? Certainly, we need to make sure that children are enrolled in successful programs like the gentleman from Texas stated earlier, like the State Children's Health Insurance Program, known as SCHIP, and in California known as Healthy Families. And we must make sure that all of our vulnerable populations are enrolled in Medicaid in that safety net program, and that these programs make health care access a reality.

Madam Speaker, we also need to focus on innovative private and public approaches to covering the uninsured. When I was in the State legislature in California, I authored a bill to launch a body of research on how to provide universal health care coverage, and I was proud to be the sponsor of Senate bill 480. The researchers have come up with several proposals for universal health coverage, and many are being implemented now as we speak in Sacramento. Unfortunately, due to severe budget cuts, not only in the State of California but across the board, many of these programs that we have instituted in the past are now on the chopping block. One of the reasons is because of this whole new attempt to try to block-grant Medicaid. Our State is now being devastated with cutbacks in the budget. In California, which is almost a continent in and of itself, we are crying out for assistance now because our budget is woefully low in terms of providing coverage for the very needy, for the working poor, and for children.

Medicaid in California is known as MediCal. It is called MediCal. Our medical program offers dental services, physical therapy, and diabetes management. I was a proud offerer of reforms to provide treatment and management for diabetes. Lord knows the African American community and the Latino community suffer very high rates of diabetes. If it is not treated appropriately in a preventive matter, it can become a very acute problem that will come to haunt us and continues to haunt us if we do not come up with the incentive and money to go into those measures. I say we need to put money up front into programs like that to combat chronic illnesses like obesity, diabetes treatment, and asthma. These are the things that we need to be addressing and putting our money where our mouth is when we talk about providing assistance to the uninsured.

Medicaid is an incredibly important program, and it covers now approximately 40 percent coverage for Latinos; but without this help, I fear what will happen to our communities, not only Latinos, the people that I represent in my district, but poor people, working people, people who actually have jobs that will go without this kind of coverage.

Unfortunately, this administration has proposed what I said earlier, the Medicaid reforms known as block grants. What they are telling us is that they will give States money to be able to get more flexibility to provide coverage for different illnesses; but in the long run, in 10 years, they are going to cut that money back, and what it means is less people will be served. The elderly will be out. The young people, the children will be hurt.

I am here to tell my colleagues that we need to do more than that. We need to reverse that trend and ask this administration to step up to the plate and forget the rhetoric and really talk about making some very meaningful reforms in Medicaid and providing the coverage that is so very much needed in States like mine in California where we do not get a refund in our dollars. We are known as one of those States where we are a donor State. We give more money than we get back. I am here to say it is time that California and other States in the southwest like Texas, Washington State, and other parts of the country receive their fair share of dollars where we need it. Our seniors are crying out for reform; our children need it. Their voices are not heard often enough, and we know that. That is why we are here tonight, to speak on their behalf as well.

These proposals, as I see them, that the administration is proposing will be devastating; and instead, we should be looking at proposals that increase the Federal support to Medicaid by increasing Federal Medicaid or medical assistance known as FMAP. This bipartisan bill that has been introduced, known as H.R. 1816, will provide States the fiscal relief they need to improve health care access to vulnerable populations. To improve Latinos' access to Medicaid, we must lift the ban on health care access for legal immigrants and pregnant women and their children. I say, and I underscore, legal, people who are here legitimately who are having children here and are playing by the rules and paying taxes as they work, whether they are a nanny, whether they are a housekeeper, whether they are there in a restaurant serving us, or whether they are out in the fields picking our fruits and vegetables that we had here tonight, I say to my colleagues.

It is time to pass the bipartisan Legal Immigrant Child's Health Improvement Act. This bill would lift a 5-year ban currently in place on States receiving Federal support for health care services for lawfully present immigrant children and pregnant women who entered the United States after August 22, 1996.

This simply makes sense from a humanitarian and medical point of view, and it will save the public health system money, thousands and thousands of dollars. I can tell my colleagues that firsthand as a Representative in Los Angeles County where we have one of the largest health care, public health hospitals right now that sees so many individuals having to wait 8 hours just to be seen by one doctor, whether it is for a throat infection, an ear infection, or for being a victim of a drive-by shooting. It is unheard of, the kind of medical access that people have to attempt to receive, knowing fully that we are all paying for this standard of health care. Yet, it is unequal in areas that I represent. We have to change that. We have to work hard to make sure that it is equal for everybody, whether one lives in Texas, in the Rio Grande, whether one lives in Boston, Massachusetts, or whether one lives here in Washington, D.C.

We also must fix Medicare in order to help Latino seniors who are struggling with high-cost prescription drugs. This goes far beyond the Latino community. There are many, many seniors who are crying out for reform, who want to see their prescription drugs, the cost for that medication reduced dramatically. I can tell my colleagues now there are people who have told me, why is it that I have to pay $300 for my medication to treat my diabetes or my thyroid gland? I cannot afford to go on vacations; I barely make my rent. Why is it that the Congress cannot come together and make these reforms feasible so that I can live an appropriate life, one that I feel I deserve? This is what seniors are telling me all the time. I look at them and I look in their eyes and I feel we have done them a disservice, because we have not been able to reach an agreement with the other Members on the other side of the aisle to see that we are truly, truly addressing the needs of our senior population.

I say that fully knowing that my own parents are faced with that dilemma right now. They have one of those plastic cards that allows them to go see their HMO, Kaiser, Kaiser coverage; but they have to pay a copayment. If they have surgery, they have to pay another copayment. If they have to go in to get treatment for their thyroid, they have to pay another $200 or $300 every month, and my parents are on a fixed income. They no longer work. They are over 70 years old. I know there are millions of seniors that are in that same predicament, and they probably even have harsher, harsher illnesses than my own parents. And I pray that they will be able to make it as they see their daughter here try to get a resolution to provide an adequate prescription drug benefit for them, that is low cost, that does not discriminate against them, whether they are in an HMO program or if they are seeing their own fee-for-service doctor. There should be no discriminate treatment for either, and that is what I am going to work hard for, and I know that our Hispanic Caucus will do the same.

I want to tell my colleagues that recently I have had a chance to visit with a lot of my seniors in my own district in Monterey Park and in my new cities that I represent in Covina and West Covina, which were previously represented by the gentleman from California (Mr. DREIER). I want to tell my colleagues that folks are telling me the same thing: we have to change. We have to change the rules of the game so that everyone receives a fair, level playing field when it comes to access to health care.

Right now, because unemployment rates are so high, people are losing their jobs, they are losing their health care coverage. Today I saw a woman who I spoke to who runs her own business out of her own house. She told me that one of the opportunities that she had was to try to provide her own coverage for health care. It would cost her a minimum of $500 a month. That was entirely too much for her. What does that mean for her? That means that she is going to have to forego that. If she gets ill, God forbid. If she has to go to the doctor, God forbid. If she gets really sick or hit by a car or she becomes tremendously ill, she will have to go to a public emergency or trauma center, which is going to cost the public dollars, the taxpayers a lot more money. If we were just to put more money in to help the uninsured, we could save a whole lot in the long run.

I am advocating for us to have that discussion here tonight, for us to talk about other options for providing assistance to the uninsured and the underinsured, because there are a whole lot of people out there who are working that make $15,000, $16,000 a year, they have four kids, they are beating themselves up because they want the best for their kids; but they cannot afford to even make a copayment to have adequate coverage. It is time that we start looking at providing assistance to the uninsured, because every tax dollar that they pay into when they see their check, their payroll check, it says a deduction, but where does that deduction go? Is it going into a health care trust fund for them? Is it going to be available for them when they need it? Is it going to be available for their children? Those are the questions that I ask here tonight.

I would like to ask my colleague, the gentleman from Texas (Mr. Rodriquez), the chairman of the Hispanic Caucus, to please share with me what insights he might be able to shed on this issue.

Mr. RODRIGUEZ. First of all, I want to thank the gentlewoman for allowing us to be here tonight, and I want to thank her for her leadership in the area of health. Also, as I was looking at the data that she had before us and the research and all of the studies, one of the things that was glaring was the fact that things are not getting any better; they are getting worse. As they get worse, we come up here and we get elected to respond to the problems that we are confronted with, we get elected to hopefully come up with some solutions to those problems. But it is unfortunate that some people are up here not to solve problems, but to see how they can leverage their political power in the process of not responding to the needs of our constituency in this country.

So one of the things that is important, as the gentlewoman indicated, is, and the research shows, that of the ones that are uninsured, 87 percent, especially the Hispanics, 87 percent of them are hard-working Americans. These are people that are not out there not working and being lazy; these are people that are making $20,000, $30,000, $40,000 a year. Yet, if they work for a small company, they do not have access to insurance. Once again, unless they are working for the Federal Government or the State government or some form of government, they do not have access to insurance, or a major corporation.

□ 2115

And so these are hard working Americans that are trying to make ends meet. They make some money and because of that they do not qualify for the Medicaid for the indigent. And now we are trying to take away the only thing that they might qualify for, which is to ensure their children an access to health care. So in this country we would hope that as we move forward, we make every effort to make it affordable and accessible. What good is it that we have the best health care in the whole world, the best research, if it is not accessible and it is not affordable? It does not make any sense. So hopefully we will continue to work on that.

I just wanted to also add that, additionally, we have only 43 percent that have employer based coverage compared to 73 percent for Anglos, which means that most Hispanics are working for even smaller companies and so they do not have any access.

I wanted to share with the Congresswoman, I represent Starr County on the Mexican border. I have 11 counties. Starr County is a beautiful county, yet it has the distinction of being one of the poorest in the 2000 Census. It is the poorest in the entire Nation. In Starr County we have close to 40 percent of those between the ages of 19 to 64 are without health insurance, 40 percent of the population. And the lack of insurance means restricted access to preventative care which can lead to costly emergency room visits, poor quality of life and even shortened lifespan. While we have a patchwork of Federal and State types of programs, we continue to have difficulty. And I know that there is a talk about the private sector coming in. Well, I represent rural America, too. I have 11 counties. I have a lot of what we call the ''brush country'' in Texas in San Saba, in Frio, La Salle, in Atascosa, Duval, Jim Wells also, those counties out there as well as Starr and now parts of Hidalgo, those counties are rural counties, a lot of them are rural counties and the ones that are rural counties have difficulty getting the private sector to come in. So despite the fact that we have had the private sector move into Medicare, they have not had the experience.

I will share with you what happened to one of my counties that I used to represent that I do not now, in Wilson County, where the private sector was not making the profits that they wanted to see. They cannot get rid of the individuals if they are not making the profits, but what they can do is decide not to service the entire county. So they decided to get rid of most of the rural counties.

So in rural America we are having a rough time. And if you work in rural America and live in rural America, most likely you are working for a

small company. You are working for a small employer who does not have access to health insurance. That is why it is important for us to provide that alternative. That is why it is important for us to provide that access to health care that is so critical.

I wanted to also share with the gentlewoman that it is unfortunate that there are no easy answers, but the reality is that we can come up with if the will was there, we could make something happen. But it is unfortunate that we have not come to grips with it and we are not close to answering the problems. But the election is coming up in 2 years, and people have talked about meeting the prescription drugs. I saw the ads lots of time calling to thank Congressman so-and-so for their legislation that they had passed. Well, I want to ask where are they now on that piece of legislation? Nowhere.

And the same thing with the proposal on prescription drug coverage that this administration has put forward. It is embarrassing. It is a sham. The Bush administration in terms of their proposal on drug prescription, I am sick and tired of these types of responses when people are sincere. When they come to me when I go to churches they tell me, Mr. RODRIGUEZ, I cannot afford to buy the prescription. I cannot afford it. I buy my husband's. I cannot buy mine. We go without food because we are on fixed incomes.

We have got to do something about this. Once again, it does not make any sense for us to have all the remedies in the world when our own constituency who are working hard and trying to make ends meet do not have access to this.

I wanted to take this opportunity if it is okay to talk a little bit about the Hispanic Health Improvement Act that the gentlewoman is a co-author of that piece of legislation. I would like to use a little time on that.

This week we will be introducing the Hispanic Health Improvement Act with Senator BINGAMAN and the gentlewoman from California (Ms. SOLIS) and members of the Hispanic Congressional Caucus. This will be landmark legislation and it is based on the previous Hispanic Health Act. I reintroduced it in the 106th Congress with existing legislation with Senator BINGAMAN, who has been a champion for us. And I want to personally thank him for his efforts in the area of health care because he has been there.

In addition, we have taken some of the Federal regulations from the Hispanic Health Leadership Summit, as the gentlewoman will recall. We convened last August. The Hispanic Caucus convened in a group and incorporated many of the suggestions of the group. And we invited two Members from each side of the Congress, both Republican and Democrat, we invited them to San Antonio to come and talk about the needs of Hispanic health. We had a good representation from both Republicans and Democrats come forward and participate in our conference. And the legislation offers a variety of different strategies for expanding health care coverage, improving access, and that is important.

If you have the decisions that respond to the problems that we are encountering but you do not provide the access, it does not do any good. And also we talk about affordability. It has got to be affordable, otherwise forget it. I do not care how good the response is. If the person does not have any money, it is not accessible. It is not affordable. They will not be able to live unless they get that accomplished.

And then we also reduced and addressed the health disparities. We know that in certain communities such as the Hispanic communities and the African-American community that we have disparities such as diabetes, AIDS and varieties of others. So while we consider each provision in our bill, we look to improve it. And I am just going to highlight just a few things from the piece of legislation.

In order to address the lack of health care coverage, the legislation provides $33 billion between fiscal year 2003 and 2010 for the expansion of the successful State Children's Health Insurance Program, SCHIP, and to cover the uninsured, low-income pregnant women and parents. So we are looking at those working parents and women that are expecting. In addition, it provides States the option to enroll legal immigrants. Once again, we are not talking about undocumented illegals. We are talking about legal residents, legal immigrants, pregnant women and children, access to both Medicare and SCHIP.

In addition, the Congressional Hispanic Caucus considers the expansion of Medicaid and CHIP eligible to be critical legislative priorities for improving health, Hispanic health. The bill also seeks to address Hispanic health disparities and requires an annual report to Congress on Federal programs or responding to improving health status of Hispanic individuals with respect to both diabetes, cancer, as the gentlewoman has mentioned, asthma, HIV infection, AIDS, substance abuse and mental health. And the legislation provides $100 million for targeted diabetes prevention as well as education, school-based programs, and screening activities in the Hispanic communities. Similarly, the bill provides for targeted funds for programs that were aimed at preventing suicide.

One of the things that we have noticed recently, and when I have first heard about the issue of suicide among young Hispanic young ladies, I was not aware of the seriousness of the situation and how bad it was, and so the issue of mental health in responding to the needs of young Latinos who are committing suicide. We really need to be conscious of that. This country has really not come forward when it comes to the mentally ill, whether Hispanic or non-Hispanic. The mentally ill really are not addressed and especially our young, the youths, when it comes to mental illness, we need to see what we can do for them much sooner for them and see how to address these needs. We are hoping to begin to address the issue of mental illness.

And I want to lastly indicate that we seek in the bill to reduce health care disparities also by addressing the lack of providers who can provide culturally competent and linguistically appropriate care. That is so important. When you look at especially therapists that provide access to psychiatrists to Hispanics who when the doctor is unable to speak the language of the client, you know that the type of care is not going to be up to where it should be. When in describing the type of medication that is needed, having an understanding of the client in terms of culture is also extremely important; and we can cite some examples later on. But the bill also provides for increased funding for HRSA, health professions and the diversity programs.

As you know, the President's budget for 2003 budget proposal eliminates virtually all funding for these types of programs. So you tell me that we are needing people in the area of health care in every forum, we need minority representation in those areas, and yet these programs that are so needed by our community are the same programs that this administration is choosing to cut.

In addition to the promoting of diversity, these programs support the training of health professionals in the fields experiencing shortages, such as pharmacy, dentistry and allied health. They promote access to health care services in the medically underserved communities.

I want to also mention that the Hispanic Caucus considers increased funding for those programs a high priority. As the Hispanic community continues to grow, the implementation of these provisions will take on even greater importance, so the consequences of inaction will be felt for many years. So we encourage both the Democrats and the Republicans and the administration to reconsider their budget when it comes to health because their budget is one that basically says we do not care. We are not here to respond to the problems that are confronted by their little proposal. The President's proposal is a sham and I know that people, even Republicans that look at it, ought to be ashamed of that and they are embarrassed because it really does not address the issues that confront our communities and address the issues of our constituency when they come and say, how can I have access to buy the prescription that I need for my husband or my wife? And the answer is that unless we come together on that and unless we address that need, the bill that is before us does not answer the problem, and the solution that is there is only a political solution that really does not address the problem that is out there.

But the constituency back home will have an opportunity because the election will be coming up in 2 years. And I am hoping that as we go forward that we will make some inroads. And we have an opportunity because I know that both Democrats and Republicans are looking to get votes from the Hispanics. Well, you have a good opportunity. You start addressing the problems that confront our community, and I think our community will be willing to respond, I think, if that is the case. But if you give us lip service such as we are getting from this administration, then the results will be that you are not going to get our support and it is not going to happen because you are not there sincerely trying to address our problems.

I know this is the gentlewoman's time. I want to thank the gentlewoman very much for taking the time to be out here tonight.

Ms. SOLIS. I thank the gentleman from Texas (Mr. RODRIGUEZ). It is a pleasure to be here tonight with him and other Members that came forward to speak on this very important issue.

The gentleman touched on so many important areas that we do not even have time in our committees, and as a member of the Committee on Energy and Commerce, a new member, we did not even have sufficient time to debate this new proposal that the administration is putting forward.

We had about 3 weeks ago Secretary Tommy Thompson come forward and talk about the aspect of trying to block grant Medicaid, and I talked about that earlier. What it means, block granting, is that we are racheting down health care. Fewer people get fewer health care. Not more care, fewer. And with the rising increase of population with the uninsured, it means less dollars, not only for Hispanics but for blacks, for Asian Americans, even for Anglos that right now are uninsured.

□ 2130

We have to do something. We have to take action.

Rural America also has been neglected in this debate. We are not doing nearly enough to provide incentives for health care centers, public health care centers to be adequately funded, serving our at-risk populations out there and I mean in particular women and men over the age of 40 who are still toiling out there, whether they are working in the fields or working in rural America who have no benefit of health care access.

We need to put funding there. We have to come up with formulas that are expanding and broadening support of the Federal Government to reach out to these rural communities.

My colleague hit an important note that I want to touch on also, and that is, with respect to the shortage of health care professionals that exist, the opportunities for people to get into the medical profession and especially in the nursing profession. Many of our community colleges at this point in time do not find that they have adequate funding to offer the curriculum that costs a lot of money, but money that is invested and well-spent can provide a product that will mean so much for our society, and I am asking this administration to put more money into those areas, into those health career professions and create those career ladders and opportunities not only for Latinos who want to come back and serve in their community but for all underrepresented groups and particularly those people who live in rural America.

I also want to touch on the aspect of mental health because in that whole discussion we forget about women and individuals who are afflicted by domestic violence, people that have the right under welfare reform, TANF legislation that provides them the ability to get help. Many of these individuals are being asked now to get off of welfare as we know it and to find jobs, but their illnesses have not been addressed. Some have mental illness. Some have substance abuse. Many are victims, at least 50 percent of the caseload can report that they have been victims of domestic violence.

Why have we not done a better job of monitoring those individuals? They are going to go back into that cycle and there will be no remedy for them. We should put dollars up front for prevention in mental health care and that should be covered by any health insurance program, and that is not being adequately addressed.

I know that the former Senator Paul Wellstone had a proposal that is being reintroduced under his name to try to provide that incentive for fully covering mental health care illnesses so that when we detect them we can get to those individuals that need that help to remedy and provide them from creating more harm to themselves, and I know that our caucus will be working hard to promote that.

Lastly, I would just like to say that we have a long way to go in terms of health care. We talk about education as being a privilege and a right for everyone in America, but I do not think that we have talked enough about providing equal access to health care for Americans and people who reside in this country. Our country is so wealthy, we are one of the wealthiest countries in the world, and yet we forego providing assistance and immunization for children to combat TB, to fight HIV, infections that are now ongoing in communities like mine and like my colleague's.

I ask this administration why, why is it that we could send billions of dollars across this country to fight a war and not use that same money to fight the wars that are here on our own Earth, on our own country to combat AIDS, to combat diseases, chronic illnesses in here and making an investment in the very families that are sending their young men and women abroad to fight a war.

It is nonsense that we forego the kinds of opportunities that we have here at home to put that money where it will be well spent, that will reap profits and benefits for this country tenfold, in 10 years to come, instead of bankrupting our system right now.

Those are the questions that I have. Those are the questions that my constituents have been asking me, and I hope that this administration will step up to the plate and begin to outline their plan to provide a recovery for health care for all Americans but particularly in this case tonight for the uninsured and for the Latino community.

Mr. RODRIGUEZ. Mr. Speaker, I want to thank the gentlewoman once again and touch a little bit on a couple of things that she mentioned.

On the mentally ill, there is no doubt that is one of the areas that we have not made the inroads that we should have. In this country, in a way, we have been negligent, not being responsive to our youth when it comes to the mentally ill. We have not provided the resources that are needed. We forgot all about Columbine and how that occurred, the fact that we really need to go and see what is happening. Youngsters, a lot of them were suffering from depression. We need to make sure we pay a little more attention to what is occurring in those areas and spend some time and look at the number of suicides of young people that is occurring.

So I am hoping that we begin to address some of these issues, and I am hoping that the will will be there to make something happen.

The gentlewoman also mentioned, I know, the issue of rural America. Rural America right now, and I represent 11 counties that I indicated already that are having a rough time getting access, and one of the reasons why we decided to privatize part of Medicare is because the whole argument was to try to reduce the costs. In fact, the other side argued that Medicare is a government-run program and this and that, that they could do it better. We have tried that experiment, and as my colleague well knows, that experiment has failed. In fact, right now, if a person is under Medicare+, they are costing the Federal Government more money than a straight Medicare, despite the fact they might be paying $300 additional money.

So it is a gimmick to try to destroy the program. We know and people understood that if they provide access to our seniors, they are the ones that they are less likely to make a profit on because they are ill. The data that shows that a person on the average spends over $1,000 on prescription drug coverage when they are seniors. There is no insurance company that is going to be able to make the profits they would like to see from our most vulnerable in this country and our seniors, and we

should not be doing that. We need to see how we can make it affordable.

What angers me, and I know what angers Americans, is that that same pharmaceutical company that sells those products that contributes to the politicians up here and contributes big bucks and puts those ads to thank those Congressmen for nothing basically because they did not accomplish a darn thing except the elections were coming up, those are the same companies that choose to sell those medicines in Canada and elsewhere for half the price, for one-third of the price.

The sincereness of their efforts, it is a crime what they are committing, and it is sad that we have got to this point that those same products can be bought in Mexico and Canada for much less, and it is the same company, and it is unfortunate that the ones that are having to pay because they claim that they are doing that for research purposes, and yet who are they sticking it to? Our most vulnerable, our seniors, who buy a large percentage of the prescriptions.

So I am hoping that we can come up with a realistic plan, and the people in this country, they are not stupid. They are going to see right through the President's proposal on prescription drugs. It helps a few at the expense of everyone else, because most people, at least the constituency of the Hispanic community, the only thing they have is Social Security. They do not have any other pension, and if they do, it is a small one. They do not have additional money to dish out $300 or more for additional coverage, and even though they get additional coverage, the private sector is not interested because if they do get sick they do not make a profit.

We have all understood that, and that is why we need to come up to the plate. This is no way to treat our seniors after they have given of themselves. This is a time for us to reach out to them and provide whatever assistance that we can and to be able to make it also in a way that is accessible and affordable.

So I wanted to once again thank my colleague for what she has done, and I want to also share that in health care somehow we have not come to grips because we do have a lot of Congressmen out here that basically feel that the Federal Government should have no role in health care, and apparently they feel that way and they feel that it should be just privatized. But we understand that people get ill and cost insurance companies, and we know that the insurance companies, as soon as a person gets a serious illness, will dump them if they have the opportunity, despite the laws that we have tried to pass.

That was happening in the 1960s, when we established Medicare and Medicaid, and that is happening now, so the companies are there, and for good reason, they are there to make a profit and provide access to health care but they are there to make a profit. So a person does not have any problems while they are young and healthy, but as soon as they get ill and they need them, that is when they start having the difficulties. Anyone who has gotten ill understands that and recognizes that.

So their main priority is to be there to make a profit and secondary is everything else, and that is why the Federal Government has a role and a responsibility. The health of this country depends on the quality of life for our constituency.

Ms. SOLIS. Mr. Speaker, I thank the gentleman for being here this evening and sharing his thoughts and words.

Again, I just want to underscore why we are celebrating here tonight, to talk about the real issue, and the real issue is that there is so many millions of Americans that are uninsured, 40 million, and we need to change that, and we need to do more here in the Congress and work together on both sides of the aisle to see that we come up with some remedies that can be taken care of this legislative session.

I want to thank the gentleman from Texas (Mr. RODRIGUEZ). I want to thank also other speakers that came here tonight representing the Congressional Black Caucus, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), and also the gentleman from Washington (Mr. MCDERMOTT). I am very privileged.

GENERAL LEAVE

Ms. SOLIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order.

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

There was no objection.

THE FORGOTTEN DEFICIT

The SPEAKER pro tempore (Mr. BURNS). Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. SMITH) is recognized for 60 minutes.

Mr. SMITH of Michigan. Mr. Speaker, tonight I am going to talk about two very serious issues for this Congress, for this President, certainly its effect on future generations and current and future retirees.

First, I am going to talk about defense spending, the overzealousness of Washington to continue to increase spending two, three and four times the rate of inflation, and what that means is increasing debt that we are going to leave to our children.

So what I have titled the first part is ''The Forgotten Deficit,'' and though, right now overshadowed maybe by national security and the conflict in Iraq, this year's budget is very important. We must reverse the rapid descent into deficit spending that we have seen in the recent years.

Let me give my colleagues an example. From the $236 billion surplus that we had in the year 2000, the budget situation has deteriorated to a projected $436 billion deficit. From a $236 billion surplus 3 years ago now we are looking at $436 billion Federal funds deficit for this fiscal year and the same for next year. This is a swing of more than $600 billion in a $2.1 trillion budget, and this deficit is going to be much larger because this deficit from CBO does not include any money for the defense supplemental that is coming. It does not include any money for the extra cost of whatever we might do in Iraq, and it certainly does not include the effects of any tax cuts.

It should greatly concern us all that government spending is growing explosively as revenues decline. Discretionary spending has been at least 6 percent each year. The increase in discretionary spending has been at least 6 percent each year since 1995 at about 7.5 percent each year since 1998.

The chart I have on my left shows the projected increases on out after 2003, starting in 1993. So fairly flat from 1993 to 1997 and then a dramatic growth in spending, and we are looking at a situation where the discretionary spending growth will average at least 7.5 percent each year since budget balance was reached in 1998, about this level.

This spending increase, compared to what families are doing, how they are dealing with their possible increases in their budgets, is too dramatic to sustain, and it is leaving us huge challenges and huge problems for the future.

The President proposed a budget increase for 2004 of 3.5 percent, but even so, even though this is a smaller increase than we have seen over the past years, is still an increase in Federal Government spending, about twice the rate of inflation. This includes some needed spending on defense after September 11, I admit that, but we cannot excuse unrestrained nondefense spending which should not be increased during the challenge in the war situation that we are now in on terrorism.

□ 2145

Tomorrow, our House Committee on the Budget is going to mark up a budget resolution. I just stress, as strongly as I can, that it is important to the future of our economy and to the future of this country to start having the intestinal fortitude to hold down spending, to prioritize some of the spending we do. Some of the spending we do is much less necessary. Probably much of it is unnecessary.

As we ask the American people to do with less, as States all over the country are cutting back their budgets and suggesting that people are going to have to do more for themselves during these tight times, the Federal Government goes merrily along spending, and I will not give any comparisons to sailors or anybody else because I think we

exceed almost anybody else's level of increased spending.

Government, at the Federal level, does not have the constraints of most States that have constitutional language that says that they cannot spend more than what is coming in to their government. In Washington, we can simply increase the deficit. And that is what we are doing. We are going to be increasing the deficit with this budget, after we pass this budget. Because of supplementals coming in, we are going to increase the Federal limit on the Federal debt. Every time we increase the Federal debt, Congress has to pass a law saying we are going to increase the Federal debt, and the President has to sign that law. And that is what we are doing.

In fact, we have tried to make it easier for ourselves by saying when we pass a budget that spends more money than the existing Federal debt, automatically we are going to consider a bill passed that increases the Federal debt to the level needed to accommodate that particular budget. I think this is a mistake for a couple of reasons, but one is that it makes it too easy to not face up to what we are doing with the increase in debt for this country and the challenge that that puts on future generations. I mean, what we are doing, in effect, is suggesting that our problems today are so great that it deserves us taking the money from the earnings of our kids and our grandkids to pay for today's spending. It is sort of pretending that they are not going to have their own problems 20 and 30 years from now.

The debt problem is soon to come to the fore as Congress is forced to increase the debt limit. The debt limit today is about $6.4 trillion, and we are going to dramatically increase that because we are dramatically increasing spending. If we cannot have an average of zero increase in nondefense discretionary spending, we should not have a tax cut. The enormity of Federal spending is almost inconceivable. Even as States and families cut their budgets, the Federal Government is squandering tax dollars faster than ever before.

The $2.1 trillion proposed budget is more than the Federal Government spent in the 178 years between 1789 and 1966. Let me say that again. The budget that is being proposed for this next year, that we are working on and the budget resolution is going to accommodate in markup tomorrow in the Committee on the Budget, is more than government has spent in the 178 years between 1789 and 1966. It amounts to over $7,500 for every man, woman, and child in the United States. It is neither fair nor realistic to assume that our problems today are so great that we should be putting this burden on our kids and our grandkids and future generations. Debt and deficit spending is an obligation to increase taxes sometime in the future.

Let me move to the problem of Social Security, which is a huge financial problem for this country. Social Security is one of the best retirement programs that we have. And as many of the people in America, Mr. Speaker, have heard, Social Security is facing a very dire financial situation, and that is because we have a coming Social Security crisis. Our pay-as-you-go retirement system will not meet the challenge of demographic change.

This chart represents the number of workers that are working. And what happens in this pay-as-you-go system that we started in 1934 with Social Security, current workers pay in their FICA tax, their Social Security tax, and immediately that money is not saved in some account for workers today, but it is immediately spent on paying the benefits of current retirees.

So when I talk about demographic change, I am talking about a situation where 26 people in 1940 were working and paying in their tax for each retiree. By 2000, it got down to three workers; three workers now paying a much-increased percentage of what they earn to accommodate the retirement of every one retiree. By 2025, we are looking at people living longer, a decline in the birthrate, so there will only be two people working and paying in their taxes to cover the benefits of every one retiree. A huge burden. A huge challenge.

As we borrow all this extra Social Security money that is coming in now, and that is going to run out very rapidly, currently we are looking at $199 billion more coming in every year, if you include the interest that is coming into Social Security over and above what is required to pay out, by 2016 we are looking at a situation where there is no longer going to be enough tax revenues coming in by current workers to pay for the benefits of current retirees.

Look at this next chart with me. Insolvency is certain. We know how many people there are, and we know when they are going to retire. We know that people will live longer in retirement. We know how much they will pay in and how much they are going to take out in benefits, and payroll taxes will not cover benefits starting in 2015 or 2016; and the shortfalls will add up to $120 trillion between 2015 and 2075. Now, compare those huge numbers of trillions with our current budget that we are spending in 1 year. So the next-year budget that we are looking at is $2.1 trillion. But over this time period, we are looking at some way that we are going to have to increase borrowing or increase taxes or cut benefits to accommodate that unfunded liability of $120 trillion.

The biggest risk is doing nothing at all, and that is what we have been doing. I first came to Congress in 1993; but actually, I wrote my first Social Security bill when I was chairman of the Senate Committee on Finance in the State of Michigan, because it was one of those areas that looked like the greatest challenge for the Federal Government, how we were going to accommodate the situation where the number of workers is decreasing in relation to the number of retirees. And in a pay-as-you-go system, it just does not work out. It just is going to mean that Social Security is going bankrupt unless we make some changes.

The longer we put off the solution, the longer that it is demagogued in elections, the longer that Members of Congress and the President and the Members of the Senate are unwilling to sit down and talk about solutions, the more drastic those solutions are going to have to be. And that is because we have a temporary surplus coming into Social Security now, after the huge tax increase of 1983. The tax increase was so great that we have temporarily ended up with more money coming in.

Every dollar that has been coming in, government takes and spends and writes the Social Security trust fund an IOU. So the question is: Where is government going to come up with this extra money in 2016 or 2017 when funds coming in from the FICA tax, from the payroll tax no longer are large enough to pay the promised benefits? And to keep paying promised Social Security benefits, the payroll tax will have to be increased by nearly 50 percent, or benefits will have to be cut by 30 percent.

It is unfair. It is unreasonable. It is unconscionable not to face up to this problem and to move ahead with this problem. And of course in most of my elections, because I have introduced the Social Security reform bill that has been scored to keep Social Security solvent every session since I have been in Congress since 1993, my opponents have demagogued this. They have said, look, NICK SMITH is trying to ruin Social Security and, therefore, do not elect him. But I think more and more Americans, Mr. Speaker, are now starting to face up and realize that Social Security is becoming insolvent; and if we do not deal with it, the problem is going to be much worse.

Let me just give a little bit of history on what has happened since we started Social Security in 1934. Every time there was a problem of the money coming in on taxes being less than what was needed to pay benefits, taxes were increased and/or benefits were reduced. Let us not let that happen this time. Let us face up to the problem. Let us deal with it. Let us have both sides work together, without demagoguery, with not playing politics and trying to criticize either side. And both sides have been at fault in some of these situations.

Social Security has a total unfunded liability of over $9 trillion today. If you take that $9 trillion that we need today and spread it out over the time period of 2015 to 2075, then it means $120 trillion in those future inflated dollars that we are going to have to come up with sometime through that time period to pay benefits. The Social Security trust fund contains nothing but IOUs. So in 2016, 2017 how are we going

to come up with the money? Do we increase the income tax? Do we increase the payroll tax?

Already 75 percent of American workers in this country pay more in the payroll tax than they do in the income tax. So I say, no, we cannot increase the payroll tax. Will Members of Congress be brave enough to say, look, we are going to have to cut back on some of this other spending? I certainly hope they will. Our increase in spending at two and three and four times the rate of inflation has maybe been politically wise in a reelection sense, because as you come up with new programs and make more promises to people and say we are going to take care of more of the problems with the Federal Government, that means the Federal Government gets bigger. But since it is unpopular to increase taxes, what we have done is increase borrowing. And again, increased borrowing is nothing more than a promise that taxes are going to have to go up sometime in the future.

Mr. Speaker, let me make one last comment as I conclude tonight's colloquy on some of the problems that we are facing, and that is that we are dealing with Social Security and spending and it has been politically wise for politicians to put off coming up with a solution on spending. So the tendency of Congress is we wait until it is almost a crisis before we deal with that crisis.

In terms of coming up with new programs, Members of Congress have found that it is easier to get elected because they go on television cutting the ribbon and on the front pages of their newspapers when they come up with new programs to help people in solving some problem. Look, there are lots of problems across the United States. We have a system of government in the United States that has served us very well, but government cannot solve all those problems, and government should not solve problems that States and individuals can solve for themselves.

We have a system not because we are stronger than people in other countries, not because we are smarter, but because our system encourages hard work; it encourages productivity. So we have said in our constitution those individuals that study and use that knowledge, those that work and save and invest end up better off than those that do not.

□ 2200

That is a system that other countries around the world are now trying to copy. Let us get back to that system. Let us hold the line on spending, and let us stand up and deal with the Social Security problem.

AMERICA GOING TO WAR AGAINST IRAQ

The SPEAKER pro tempore (Mr. BURNS). Under the Speaker's announced policy of January 7, 2003, the gentleman from Maryland (Mr. VAN HOLLEN) is recognized for 60 minutes.

Mr. VAN HOLLEN. Mr. Speaker, tonight I want to take some time to address one of the most serious questions facing our Nation today, whether we go to war against Iraq in the next few weeks.

The tragic attacks upon our country on September 11, 2001, transformed our thinking about national security in this country. In the wake of September 11, the Bush administration rightly sought to define the fundamental mission of American power around the goal of fighting international terrorism. After September 11, the international community rallied behind America's war on terrorism with unprecedented unity and diplomatic, military, intelligence and other support. For the first time in its history, NATO invoked Article V of the Washington Treaty declaring the September 11 attack to be an attack on all 19 NATO member countries. Within 24 hours of its introduction by the United States, the U.N. Security Council passed a resolution unanimously calling on all member countries to support the war on terror.

The subsequent U.S.-led military action against the Taliban forces in Afghanistan and the reconstruction efforts that followed received broad support from the international community.

Now less than 18 months later, the situation has changed dramatically. Polls show that anti-American sentiment is rising around the world, and some 70 percent of the world's citizens believe that the United States presents the greatest threat to world peace today, ahead of Iraq and North Korea.

U.S. relations with many of our traditional allies in the North Atlantic Alliance are more strained than at any point in that organization's history. Moderates in the Muslim world feel isolated and have begun to question their relationship with the United States. Our credibility has been damaged, and our moral authority eroded. Many serious threats to our security are not receiving the attention they deserve.

How did we get to this state of affairs just 18 months after the world community united behind U.S. leadership in the war on terrorism? How did we so quickly squander the reservoir of goodwill that we had immediately after September 11?

The answer lies squarely with the Bush administration's defense and foreign policies and the arrogance with which they have conducted those policies. Following the successful military campaign against the Taliban in Afghanistan, the administration began to redirect its energies toward Iraq and the removal of Saddam Hussein from power. In his 2002 State of the Union Address, his speech delivered just 4 months after the terrible al Qaeda attacks on our country, the President identified Iraq, Iran and North Korea as the Axis of Evil; but very quickly thereafter it became clear that the administration would focus its attention narrowly on just one of these, Iraq. And even while bin Laden, the architect of the September 11 attacks, was still at large, Saddam Hussein took his place as the symbol of the new threat facing America.

Let me make something crystal clear here. Saddam Hussein is a brutal dictator and his quest for weapons of mass destruction does pose a threat. The question for our country is what is the nature and extent of that threat, and what is the best way for us to address it.

I believe that our objective in Iraq should be Iraqi compliance with the U.N. resolutions that require Iraq to disarm and eliminate its weapons of mass destruction and its missiles that exceed the 93-mile range. I also believe that we must accomplish that objective in a way that strengthens rather than diminishes our national security. It would be a tragic irony indeed if in the name of fighting terrorism we made Americans less rather than more secure, both today and in the future.

Tonight I want to address three areas: First, the Bush administration's approach to Iraq; second, the implications for America's national security of that approach; and third, where do we go from here. So first, the Bush administration's approach to Iraq.

Following the President's 2002 Axis of Evil speech, the administration's goal of regime change in Iraq began to take shape quickly. As columnist William Safire observed, regime change is a diplomatic euphemism for overthrow of government or the toppling of Hussein.

On February 5, 2002, testifying before the Senate Committee on Foreign Relations, Secretary of State Colin Powell stated, ''We still believe strongly in regime change in Iraq, and we are looking at a variety of options that would bring that about.''

By March of that year the debate in Washington over the pros and cons of military action against Iraq was fully engaged in the newspapers, the talk shows and the backrooms. Kenneth Adelman, President Reagan's arms control czar and a close ally of the hawks in the administration, wrote in the Washington Post that military action to remove Saddam Hussein and bring democracy to Iraq would be ''a cake walk.'' Others, including former National Security Advisers to the President's father, Brent Scowcroft and James Baker, III, argued openly at that time against unilateral U.S. action to deal with Saddam.

Even the superhawks within the administration recognized that providing a legal rationale for regime change outside the context of the United Nations could prove tricky. While we may have the power, the power to go around knocking off nasty dictators, nothing under international law gives one country the right to invade another simply to change the regime. So what to do?

The Bush administration needed an argument, an argument that would provide the legal underpinning for unilateral American military action against Iraq or other nations that we determine to be a similar threat, and the answer devised by the administration was laid out in September 2002 in the national security strategy document, the so-called Doctrine of Preventive War. That theory is simple. It is also tempting. It goes like this: If we believe that a country will use weapons of mass destruction or arm terrorists with weapons of mass destruction against us, then we would ''not hesitate to act alone if necessary to exercise our right of self-defense by acting preemptively.''

In other words, the United States has the right to strike militarily, even if we have no evidence that such activities are occurring. We do not have to know that an attack is imminent, we can act on our belief that such action may occur at some point. It may sound good, but it does not take much to see that this doctrine is a recipe for international chaos.

Mr. Speaker, just imagine if India and Pakistan adopted this approach, South Asia would be decimated. The Preventive War Doctrine violates every principle of international law that the United States has fought to uphold.

The Bush administration was in fact asserting that the United States would be exempt from the very rules we expect all other nations in the international community to obey, because under international law we, and any other country, already have the right to take military action to defend ourselves against an imminent attack upon ourselves or our citizens. If we know another country is about to launch missiles against us, we do not have to wait for the missiles to land, we can act preemptively. If we know a foreign government is arming terrorists with weapons of any kind, including weapons of mass destruction, we do not have to wait in order to strike. We can take preemptive action under Article 51 of the U.N. Charter in the face of that kind of imminent threat.

But Iraq does not fit into that framework. The administration has never claimed that Iraq was behind the September 11 attacks. It is not an imminent threat. It is not poised to attack us. We have no evidence that it has transferred or is going to transfer weapons of mass destruction to any terrorist group. It has never possessed missiles capable of delivering weapons onto U.S. soils, and it is currently in the process under the U.N. regime of destroying its missiles with a range of over 93 miles. Not even this administration has claimed that an Iraqi attack is imminent.

Now as the administration rolled out its new theory of preventive war, and molded its approach to Iraq it did not want to go to the United Nations originally, and it also wanted to cut Congress out of the process in the early days. Administration lawyers claimed that the January 12, 1991 Congressional resolution authorizing the first President Bush to use force in the Persian Gulf War gave President Bush, the son, the right to send American troops into Iraq without further Congressional action.

The American people back then sensed that things were not going the right way. Polls showed that Americans might support military action against Iraq, but were not comfortable with America going it alone. And while the administration never conceded the legal point about having to go to Congress, it recognized the practical and political importance of requesting Congressional support, and it got it.

The Congressional resolution was, in my view, much too broad. It was a blank check. It gave the President the authority to take whatever military action he deemed appropriate without returning here to Congress for consent. Nevertheless, the Congressional debate and the resolution that was passed did reinforce the growing consensus that the President should work with our allies and the United Nations.

In November of last year, the administration itself, divided and under pressure from the American people, from Congress and British Prime Minister Tony Blair, took the very important decision to seek a new United Nations resolution on Iraq and put U.S. policy into the United Nations framework.

It was a great triumph for foreign policy of this country that on November 8, 2002, the United States got a unanimous Security Council vote for Resolution 1441, calling for resumption of inspections and enforcement of the U.N. resolutions on disarmament in Iraq. But what were the implications for us of going to the Security Council?

The decision to pursue action through the United Nations may have solved one problem, but it created another for the Bush administration. The administration's goal of regime change; in other words, getting rid of Saddam Hussein, did not fit with the more limited objective of enforcing Iraqi compliance with U.N. resolutions requiring Iraqi disarmament.

Administration hardliners who opposed going to the U.N. in the first place understood that these different goals could lead to very different approaches. They did not want to get mired in the U.N. process, and understood that their goal of forcibly removing Saddam Hussein from power was not necessarily consistent with the goal of enforcing U.N. resolutions. It was going to be like trying to fit the square peg into the round hole. And indeed, taking the case to the United Nations Security Council led to the clash of goals that is playing out today in the United Nations as we speak.

The U.N. strategy, going to the U.N., required the administration to shift its rhetoric and public justification of U.S. policy toward Iraq from regime change to the more limited objective, enforcing Iraqi compliance with U.N. resolutions. But short of a coup, or Saddam Hussein leaving Iraq, regime change obviously requires military action, but enforcing the U.N. resolutions does not necessarily require toppling Saddam Hussein. And while military action may ultimately be required to enforce U.N. resolutions, the two goals, regime change and compliance with U.N. resolutions, dictate very different approaches and very different timetables.

□ 2215

In the U.N. context, the context we took ourselves in November of last year, regime change is the last-ditch option. It only becomes a choice after it is determined that disarmament has failed. How and when you reach that point and what efforts must be taken before you get to that point is not clearly spelled out in the resolution. In this process that we set up, the findings and judgment of the international inspectors headed by Hans Blix and the head of the International Atomic Energy Agency, Mohammed ElBaradei, hold enormous weight. And Iraq through its actions or inactions can influence the process and its outcome. The cost of going to the Security Council was clearly going to be over control of the timetable as we move forward.

But while the administration took the decision to go to the United Nations, it did not slow or adjust its military timetable. The deployment of U.S. forces went forward at an accelerated pace. The deadline for full deployment was mid-February or early March. We now have over 250,000 troops in the Gulf; and according to news reports, they are ready to attack whenever a decision is made. But the only deadline spelled out in Security Council Resolution 1441, passed unanimously by the Council on November 8, was that inspectors were to report to the Council on progress of disarmament, quote, ''60 days after inspections resume,'' which turned out to be January 27, 2003. Resolution 1441 did not provide any guidance as to what would happen if Saddam Hussein was found to be at least in partial compliance with the inspections by this deadline, or if there was not a decision in the council to take military action by then. It did not foresee the situation we are in today, a U.N. process focused on the goal of disarmament with one timetable and the U.S. goal of regime change with its own military timetable.

Let me now talk about some of the other arguments that the administration has advanced as it faced increasing criticism for its approach, because there have been a number of additional arguments that have been made beyond the original argument that Iraq's quest for weapons of mass destruction and the possibility that it will give them to terrorists pose an unacceptable risk. The additional arguments rolled out by the administration include, number one, an alleged link between Saddam Hussein and al Qaeda, a link they have

failed to prove; two, the brutal nature of Saddam's regime and the need to liberate the Iraqi people; and, three, most recently, in the President's February 26 speech before the American Enterprise Institute, the argument that the overthrow of Hussein would be a catalyst for the spread of democracy throughout the Middle East and help bring about a final settlement to the Israeli-Palestinian conflict, the Bush administration's new domino theory.

I want to discuss just two of these here: first, the argument that regime change is necessary because Saddam Hussein is evil; and, second, the claim that military action will prompt a democratic domino effect throughout the region.

First, the argument that military action is justified because Saddam Hussein is, quote, ''an evil ruler.'' The hypocrisy of using this argument to justify regime change is difficult to ignore. Let us not forget that during the Iran-Iraq war the United States sided with Saddam Hussein. One of the central architects of current Bush administration policy, now-Secretary of Defense Donald Rumsfeld, played a key role in the Reagan administration's decision to embrace Saddam Hussein in the early 1980s.

Declassified U.S. Government documents show that when Rumsfeld visited Baghdad in December 1983 as a special Presidential envoy to pave the way for the normalization of U.S.-Iraq relations, Iraq was using chemical weapons on a daily basis in defiance of international conventions. Five years later, in 1988, at the end of the Iran-Iraq war, I traveled to the Iraq-Turkish border as a staffer on the U.S. Senate Foreign Relations Committee with my colleague Peter Galbraith. At that time, thousands of Kurds were fleeing across the border to seek refuge in Turkey. We interviewed hundreds of those refugees and documented Iraq's use of chemical weapons against the Kurdish people. Our report formed the basis for legislation to impose economic sanctions against Iraq for its use of chemical weapons against the Kurds. The bill passed the United States Senate; but the Reagan administration, which included many of the key players in today's debate, many people who are now in the Bush administration, opposed and helped stop that sanctions legislation when it came here to the House of Representatives. I challenge anyone to explain to me how you can oppose economic sanctions in 1988 in response to Iraq's use of chemical weapons against civilians and then today turn around and say that those same actions justify U.S. military force in 2003.

Moreover, if Saddam Hussein's use of chemical weapons against his own people was the reason for military action, we should have finished the job during the Persian Gulf War in 1991. Iraq has not used chemical weapons since 1988, since the time my colleague Peter Galbraith and I went to the Iraq-Turkish border at the end of the Iran-Iraq war. But 3 years later in 1991, not only did we not remove Hussein in Baghdad but at the end of the war we looked the other way, the United States looked the other way for many days, while Saddam Hussein turned his guns on the Shias in the south and the Kurds in the north. This history, I think, exposes the hypocrisy of the position the government has taken today and the willingness of some people in the administration to say anything to further their ends. The liberation of the Iraqi people is certainly a desirable goal, but it is also an argument that could be applied to many other countries with brutal regimes around the world. It is not by itself sufficient justification for U.S. military action.

Now, more recently, the administration has advanced the argument that the removal of Saddam Hussein will not only liberate the Iraqi people but will result in the spread of democracy throughout the Middle East. Promoting democracy in the Middle East is a very attractive goal, but one this administration has neglected until now. We have made only feeble efforts to push even generally supportive governments in Saudi Arabia and Egypt to move toward more openness and more democracy. And after calling for greater democratization of the Palestinian Authority many months ago, the administration has done nothing to help bring that vision closer to reality. The belief that democracy is going to somehow blossom in the Middle East as a result of U.S. military occupation of Iraq is a dangerous hallucination. Since when do we think we can implant democratic institutions throughout a region with no experience in democracy through some kind of big bang theory? True democratic change must come from within the region. It cannot be imposed from without. We have not begun to succeed at building democracy in Afghanistan. On what basis do we think we can do much better in Iraq, let alone the entire Middle East? We need only look at the Balkans, for example, at how difficult the task will be.

Four years after military intervention, NATO has 35,000 troops stationed in Kosovo, a region of less than 2 million people, and their departure date is not yet on the horizon. Most experts believe that the withdrawal of those troops and others in Bosnia would result in a return to violence and hostilities. Iraq is a country of 23 million people. Like Yugoslavia, it is an artificial construct, in this case strung together by the British colonial powers and made up of three major groups, 60 percent Shia, 30 percent Sunni, 10 percent Kurds. The President has presented this utopian vision of democracy breaking out in the Middle East after we invade Iraq. It is just as easy to imagine a scenario where difficulties in Iraq and the American action there fuel resentment toward occupying American troops and inflame the region against us, strengthening the hands of radical Islamic fundamentalists and making it more difficult to promote democracy and other U.S. goals in the region.

I recently came across an analysis of the imposing postwar task that we would face in Iraq, and I would like to share it with you. This is a quotation:

''It is not clear what kind of government you would put in. Is it going to be a Shia regime, a Sunni regime, or a Kurdish regime? Or is it one that tilts toward the Ba'athists, or one that tilts toward the Islamic fundamentalists? How much credibility is that government going to have if it is set up by the U.S. military? How long does the U.S. military have to stay to protect the people that sign on for that government? And what happens to it when we leave?''

These are the comments of none other than then-Secretary of Defense DICK CHENEY, speaking in April 1991 in support of former President Bush's decision to turn back on the road to Baghdad after we took Saddam Hussein's forces out of Kuwait. In fact, I agree with the 1991 DICK CHENEY. It will be a difficult, a costly and risky task to undertake the reconstruction of a postwar Iraq. It will take a long time, much longer than the 2 years the administration has suggested. It will take a sizable U.S. troop presence. And the U.S. Army's top uniformed officer has estimated that it would take hundreds of thousands of troops to feed the hungry and to keep the peace. Military action will also require enormous resources. Unofficial Pentagon estimates put the cost of the war alone at between $65 and $90 billion. The costs of reconstruction will be billions more.

So what are the implications? What are the implications of this policy for our security? I want to offer three observations: first, that the administration's approach to Iraq and the arrogance with which it has pursued its goals has badly damaged our ability to get the cooperation we need from others to protect our security interests and wage our long-term fight against terrorism. First, the administration's policies have triggered a rapid rise in anti-American sentiment around the world. There are those whose response to this sentiment is, hey, who cares? Their attitude: we're the big guys on the block, so who cares what they think? That swagger may make us feel good, but it is foolish. I care what the rest of the world thinks. We all should. We should care for the simple reason that what others think has an impact on our security. If our actions loosen our ties to our friends and allies, it undermines our ability to work together to combat terrorism. If our actions generate hatred and fuel the ranks of al Qaeda, it will increase the risk of attack upon us. If our actions undermine public support for friendly foreign governments, we may lose much more in the long run than we gain today. We may choose not to change our policies based on what others think, but it is

foolish not to try to understand the views of others when our own security is at risk.

Having the support of our friends and allies in the international community is important to the achievement of most of our foreign policy objectives. With respect to Iraq, cooperation would both reduce the cost of war and increase the prospects of winning the peace. In the 1991 Persian Gulf War, former President Bush and then-Secretary of State James Baker received U.N. Security Council backing for the use of force to expel Saddam Hussein from Kuwait. They assembled an impressive coalition of forces and succeeded in sharing the burden of the war. The military forces of 18 other countries participated in the Persian Gulf War, and more than 85 percent of the costs of that war were borne by others. In the current conflict, we face the opposite problem. Instead of having others help bear the burden, we are having to pay others to participate. Hence, some have dubbed the coalition that the administration has assembled not the coalition of the willing, but the coalition of the bought.

Having international support in Iraq would also greatly increase the prospects of winning the peace. In addition to providing financial and peacekeeping support, truly multilateral action in Iraq would help defuse any anger that otherwise would be directed solely against the United States. It would also be very helpful to have U.N. participation in the immediate postwar governing structure in Iraq to show that this is not a war of the United States against the Islamic and Arab worlds, but the world against Saddam Hussein.

Secondly, the Bush approach to Iraq has badly soured our relations with our NATO allies. As I mentioned earlier, the first and only time in the history of NATO that we invoked article 5 of the Washington treaty declaring an attack on one member to be an attack on all was after September 11. This dramatic action was followed by unprecedented cooperation in various aspects of the war on terrorism and the U.S.-led action in Afghanistan. In January, 2002, President Bush met in the Rose Garden with German Chancellor Schroeder and warmly praised Germany's role in the fight against terrorism, in particular for hosting the Bonn conference for multilateral assistance for the reconstruction of Afghanistan and the German role in training the Afghan police force. This sentiment has now given way to Secretary of Defense Rumsfeld's Eurobashing, including his incendiary comments comparing Germany to Libya and Cuba. The division in NATO is greater today than at any other time in its history. Never before have several NATO allies actively worked to defeat a U.S. proposal in the Security Council.

What caused this dramatic turnabout? The administration expected our allies to fall in lockstep behind its assessment of the Iraqi threat, behind its assessment of the extent to which Iraq has complied with the U.N. resolution and, most importantly, the administration's goal of regime change and its timetable for military action.

□ 2230

This approach probably reminded many of the way the Soviet Union used to dictate to the Warsaw Pact, rather than the traditional dialogue among NATO allies.

For many, the administration's ''my way or the highway'' approach to Iraq rekindled their resentment of the unilateralist approach to foreign policy issues that this administration took during its first 9 months in office, before September 11.

During that period, the administration thumbed its notices at the Kyoto Treaty on global climate change, walked away from the Anti-Ballistic Missile Treaty and an agreement to strengthen the Biological Weapons Convention, and demonstrated its contempt for the Comprehensive Test Ban Treaty and the International Criminal Court.

While the administration could have offered amendments to address legitimate concerns with some of these agreements, it chose instead to abandon them altogether, totally dismissing the views of our allies and other nations.

Much of this unilateral action was forgotten immediately after September 11, but the administration's approach to Iraq has reopened old wounds. Unless this split in the alliance is healed, damage to our interests could be great. Our allies have been extremely helpful in tracking down al Qaeda cells around the world. They have allowed U.S. troops to traverse their air space or use their territory for numerous operations outside of Europe, including the 1991 Persian Gulf War.

NATO currently has 50,000 peacekeepers in the former Yugoslavia, and 14 NATO allies have forces on the ground in Afghanistan. It is very difficult to imagine a successful U.S.-led operation in Iraq without the support both during the war and during the reconstruction period without the support of many of our NATO allies.

Third, the administration's Iraq policy has undermined the United Nations. After the September 11 attacks, the United Nations Security Council unanimously adopted an American sponsored resolution to oblige all 189 member states to crack down on terrorism. Our ambassador to the United Nations, John Negroponte, called it ''an unprecedented resolution on terrorism in the work of the United Nations.''

Today, the administration argues that the United Nations will become irrelevant if it does not immediately adopt a second resolution supporting military force in Iraq. But it is disingenuous to claim that we are concerned with the credibility of the United Nations and, at the same time, state that we will refuse to be bound by the Security Council unless it goes our way. Essentially our position is, the UN is relevant and credible only as long as it votes with us.

This kind of behavior undermines the legitimacy of the Security Council and the UN process. How can we credibly seek UN assistance and cooperation in the post-war building of Iraq, as we are, if we are unwilling to show respect for the UN process?

We cannot afford to forget the wide array of important issues that the United Nations deals with each day, from AIDS in Africa, peacekeeping in the Balkans, Cyprus, the Middle East and elsewhere. It is very much in our interest to have a viable and strong United Nations, and our actions should not undermine this goal.

Second, the administration's approach is likely to increase the risk of terrorist attack against the United States and threatens to plant the seeds for more deep-seated resentment in the Muslim world.

Last October, the CIA testified openly that Iraq for now, ''appears to be drawing a line short of conducting terrorist attacks.'' In the United States. But, ''should Saddam conclude that a U.S.-led attack could no longer be deterred, he probably would be much less constrained in adopting terrorist actions.''

In testimony before the Senate Intelligence Committee on February 6, 2003, CIA director George Tenet stated it this way: ''The situation in the Middle East continues to fuel terrorism and anti-U.S. sentiment worldwide.''

In the short-term, I think it is clear that the threat to Americans will grow. The real question is whether it will lead to a higher risk of terrorist attack in the long term.

Moderates in the region in the Middle East fear that a U.S. invasion will galvanize radical and ultra-conservative forces and lend them new credibility and legitimacy, swelling their ranks and increasing violent attacks. We should not forget that bin Laden has pointed to the U.S. presence in Saudi Arabia, our military presence there, the infidels in the Islamic sites of Mecca and Medina, as the catalyst for his deep-seated resentment of our Nation. One can only imagine that a U.S. military occupation of Baghdad, U.S. alone, could be a recruiting bonanza for al Qaeda and other terrorist groups.

Others argue that the war on Iraq will lead to regime change in the Middle East, but not the kind the administration envisions. Instead, the first regimes to go could be in Jordan and Pakistan, where pro-western governments have a fragile hold on angry populations. If Pakistan topples, many warn, al Qaeda could gain access to the nuclear weapons that Pakistan has.

The administration's single-minded focus on Iraq has also pushed out the consideration of other issues and badly

skewed our national security priorities. Osama bin Laden is still at large. Despite the recent arrests in Pakistan, other key al Qaeda operatives are at large. Dramatic attacks, like the one in Bali, Indonesia, earlier this year, demonstrate that the international terrorist network is alive and well.

By elevating the threat of Iraq to the most dangerous threat to American security today, the Bush administration has helped create the impression that Iraq possesses the ability somehow of ''blowing the United States off the face of the Earth.'' In fact, while Iraq certainly presents a threat to its neighbors, and, in a worst case scenario, could act to facilitate a terrible terrorist attack on this country, it does not possess nuclear weapons, which are the most dangerous weapons of mass destruction, and, unlike North Korea or Iran, is subject to an international inspections regime ongoing which can prevent it from making progress toward that goal.

In fact, it is instructive to remember that of the three countries identified as the ''axis of evil'' in the President's 2002 State of the Union address, Iraq is the country farthest away from acquiring such weapons.

So, far from a simple ''us versus them'' world that the Bush administration has painted, America faces a national security challenge of enormous complexity. We must simultaneously cope with several separate and potentially grave threats, from Iraq to North Korea and the continuing threat of international terrorist networks. Without progress on nuclear nonproliferation, this list could grow quickly.

At the same time, we remain committed to an ongoing military presence in the states of the former Yugoslovia and to the elusive process of a negotiated settlement of the Arab-Israeli conflict. Lack of progress in both these areas could set back American security interests and lead to an escalation in violence and terrorism. In South Asia, two nuclear countries are poised army-to-army along a fragile border. And the list goes on. Eliminating Saddam Hussein will not address these very real problems.

So, finally, where do we go from here? We find ourselves at a crossroads. There is little daylight left. It is not a question of whether or not we can defeat Saddam Hussein militarily. We can. Rather, it is a question of the long-term risks to our security by proceeding in a manner that alienates our friends, creates opportunities for our foes, weakens the rule of law and undermines America's moral authority.

If the threat can be met in other ways, then why would we not pursue those options to their fullest? Some have argued that it is too late, that the cost of the huge U.S. deployments overseas demand that these troops not be brought home without seeing military action.

I disagree. The stakes are too high for that kind of thinking. The costs, both human and financial, of deploying U.S. troops in the region, are insignificant compared to the costs of full U.S. military intervention and reconstruction of post-war Iraq.

We should not use our troop deployments as an excuse to act under an artificial timetable. Those deployments have played a role in achieving the more muscular inspections that we have seen in recent months.

We can always choose to take military action, but we cannot put the genie back in the bottle once we go down that road. Last Friday, Mr. ElBaradei, the Director of the IAEA, reported that there was no evidence of resumed nuclear activities in Iraq. He showed that the United States had unwittingly supplied the UN with forged documents to try and support our claim that Iraq had revived its nuclear weapons program.

The chief UN weapons inspector, Dr. Blix, who Secretary of State Powell has praised in the past as man of integrity and professionalism, Blix reported that Iraq had made progress toward disarmament and stated that the inspection process could be completed in a matter of months.

The use of force is a powerful and very important tool of foreign policy, but one that should generally be used as a last resort, when all other options fail. The heightened pressure the Bush administration has brought to bear on Iraq has focused world attention on Baghdad and reaped modest, but important, results with respect to Iraqi disarmament. I think most of the world believes that enforced UN inspections still have the potential to bring us to our primary goal, the disarmament of Iraq.

I believe the United States should give this process more time, both to further the goal of disarmament and to build broader international support for military action, should that become necessary to enforce the resolutions.

Mr. Speaker, in conclusion, I believe that the overall approach this administration has taken is taking us in a dangerous direction. I believe our moral standing, our greatest source of strength, has been diminished. We cannot build a more democratic and a more open world on the administration's policies of preventative war, disdain for international law and neglect of international cooperation.

We have our work cut out for us. We must fight for policies that help rebuild America's moral authority in world affairs. We must articulate a credible alternative foreign policy doctrine that is not based on American exclusionism, but on America's stake as a leading partner in a diverse international community.

We are a strong and rich country. We experienced a terrible tragedy on September 11, 2001, but we do not have to act out of fear. Our strongest weapon against hatred and extremism are our high ideals, our democratic example founded on the rule of law. We cannot, we must not, allow this administration in the name of those ideals to pursue policies that are not worthy of our Nation's great history.

I yield the remainder of my time to the gentleman from North Carolina.

DEALING WITH A DEADLY CHALLENGE ON IRAQ

Mr. PRICE of North Carolina. Mr. Speaker, I thank the gentleman for yielding, and congratulate him on a very fine and thoughtful statement.

Mr. Speaker, there is a good possibility that our country will be at war in Iraq before the month is out. The President held out little hope for any alternative approach to disarming Iraq at his press conference last Thursday. Yet a majority of the American people continue to urge for more time for inspections while we are facing something close to a diplomatic meltdown with major allies. A failure to secure allied support will have major consequences for every American. Our citizens alone will shoulder the financial burden of this war and its aftermath. Our troops will need to be kept indefinitely in post-war Iraq, our country alone as an occupying force will be the target of hatred, resentment and hostility from many in the Arab world, and America will risk losing our standing among the world's democracies as one who leads by moral suasion and example as well as by military might.

Pollsters here at home say they have rarely seen an issue where the public's reaction is more conditional or ambivalent. Tonight I want to suggest this is because the Bush administration has not answered basic questions about this war and has backed us into a situation where we seem to be choosing between equally unsatisfactory ways of dealing with what most agree is a deadly challenge.

□ 2245

The distinguished historian William Leuchtenburg citing Thomas Jefferson's maxim that ''great innovation should not be forced on slender majorities,'' recently contrasted George W. Bush's unilateralism to the behavior of previous wartime Presidents and found him ''unique in his defiance of so much international and domestic opinion.''

Many of our constituents believe that the full range and intensity of public opinion has not been visible or audible in Congress. One reason is that, by our vote of October 10 which gave the President an open-ended authorization for the use of force, this institution forfeited its coordinate decision-making role. Mr. Speaker, an up or down vote on a resolution authorizing force is at best a blunt instrument for checking the executive's constitutional dominance of foreign and military policy; but by granting unchecked authority months in advance, we made that instrument blunter yet.

Still, I believe the questions and the challenges to the President's approach

emanating from the Congress, and from Democratic Members in particular, have been more persistent and more consistent than most media accounts have acknowledged. It is true, Democrats were divided on final passage of the October resolution. And, in fact, this is not an issue on which a stance of absolute opposition is called for. We all understand Saddam Hussein to be a brutal dictator who is implacably hostile to our country and what we stand for. There is near unanimity in this body and in the international community that whatever capacity he has to make or use weapons of mass destruction must be ended.

But critical questions remain regarding alternative means to this end. Many Members of this body have raised these questions with increasing intensity in recent weeks; and unfortunately, the Bush administration has rarely provided satisfactory answers. What accounting do we have for the costs and risks of a military invasion? How are we to secure and maintain the support and engagement of our allies? Can Iraq be disarmed by means that do not divert us from or otherwise compromise equally or more urgent antiterrorist and diplomatic objectives? And do we have a credible plan for rebuilding and governing postwar Iraq, and have we secured the necessary international cooperation to ensure that this does not become a perceived U.S. occupation?

Administration officials, for example, have persistently refused to put a price tag on a U.S. invasion which, unlike the Gulf War, would have almost no financial backing from allies. The President's budget omits any reference to an Iraq war. With deficits for 2003 and 2004 already predicted to break historic records and $2 trillion slated to be added to the national debt by 2008, the addition of $80 billion to $200 billion in war costs could not come as welcome news. But it is an insult to this body and to the American people to submit a budget that absolutely fails to give an honest accounting, even within broad limits, of what those costs would be.

Daily dispatches from Korea leave little doubt that North Korea is taking advantage of our preoccupation with Iraq to dangerously ratchet up its nuclear program, and that the administration's diplomacy has not been up to this challenge.

And now we learn that the Bush administration, which, truth to tell, has never had its heart in Middle East peace-making, has rebuffed its so-called quartet partners, the European allies, Russia, and the United Nations, and insisted on yet another postponement in publishing the long-anticipated ''road map'' to an Israeli-Palestinian settlement. Why? Because of the crisis in Iraq. President Bush in December demanded that release of the timetable for reciprocal steps and negotiations be delayed until after the Israeli elections. Now he is insisting again that the effort be delayed, this time until after we deal with Iraq, seemingly thinking that victory in Iraq will be the key to solving this and most other problems in the Middle East.

As the New York Times editorialized last Sunday, ''The Bush administration has not been willing to risk any political capital in attempting to resolve the conflict between Israel and the Palestinians, but now the President is theorizing that invading Iraq will do the trick.''

The fact is that the festering Israeli-Palestinian conflict and the Bush administrations's failure to do anything about it represent an enormous obstacle to enlisting the support we need to achieve our objectives in the region, including the war on terrorism. That is certainly the way the Europeans see it; and the President's rebuff has further poisoned the atmosphere, even as the administration struggles to gain allied support for military action against Iraq. Among the angriest allies reportedly is Britain's Prime Minister Tony Blair, who for months has pleaded with President Bush to become more involved in Israeli-Palestinian peacemaking.

The administration's torpedoing of the Quartet initiative is also ill advised and ill timed with respect to Palestinian efforts at reform. It comes precisely at the time that President Arafat, under considerable pressure, has nominated Mahmoud Abbas, otherwise known as Abu Mazen, for the new position of Prime Minister of the Palestinian Authority. Abu Mazen, with whom the gentleman from Florida (Mr. DAVIS) and I had a cordial and useful visit in Ramallah in December, has been an outspoken critic of the militarization of the Palestinian uprising. How successful his appointment proves in reforming Palestinian governance will depend, among other things, on how much real authority he and his position are given. But President Bush could hardly have picked a more inauspicious time to throw cold water on the plans to get back to negotiations.

''There was a lot of dismay when the road map was put off before, and the dismay right now is even worse,'' one European diplomat told a New York Times reporter. ''Without hope, the power of extremists will only grow,'' added another.

Such, Mr. Speaker, are the costs of allowing Iraq to trump everything else on our antiterrorist and diplomatic agenda.

Mr. Speaker, the world welcomed the President's decision last fall to take the Iraq matter to the United Nations and, apparently, to give more extensive inspections and the supervised destruction of weapons a chance to work. But his rhetoric since that time has led many to believe that he has always regarded the inspections as foreordained to failure and war as the only recourse. Suspicions have deepened as administration statements about links between Iraq and al Qaeda have become less and less measured. Such statements have helped persuade some 42 percent of the American public that Saddam Hussein was personally responsible for the 9–11 World Trade Center attacks. But prospective allies examining the rationale for war have understandably been less impressed.

Inspections, of course, are a two-way street. They will never work without Iraq's willing cooperation; and that cooperation, as Mr. Blix and Mr. El Baradei have made clear, has been far from satisfactory. No matter how numerous or how skilled the inspectors are, they cannot find what amounts to needles in haystacks without honest and complete information regarding the weapons and the material which the Iraqis claim to have destroyed and the whereabouts of any remaining stockpiles.

Still, it does matter how we reach the conclusion that Iraq has effectively continued its defiance that the inspections have failed, and that war is the only remaining option. In fact, the report of the inspectors at the United Nations last Friday significantly undermined the American position, arguing that progress has, in fact, been made and discounting the dangers of any Iraqi nuclear program.

It is essential that the world know and face the fact, as the President said last Saturday, that Iraq is still violating the demands of the United Nations by refusing to disarm. But we undermine our own credibility when we scoff at the destruction of a stockpile of Al Samoud missiles as a matter of no consequence, or insist on a U.N. resolution with so short a time frame as to make it seem merely a pretext for war.

In fact, the U.N. inspectors themselves have specified the tasks remaining before them, and there is every reason to support the systematic pursuit of those objectives within a tight, but feasible, time frame. In the meantime, we must resist the notion that the alternatives confronting us are either to invade in the next few days or to appear to ''back down'' in a humiliating and dangerous fashion.

It is true that the massing of 235,000 troops has created a momentum of its own, and they cannot stay in place indefinitely. But the risks and the costs of an invasion undertaken in the face of major allied opposition remain, and we need to give full consideration to options that avoid either leaving Iraq's weapons in place or inexorably marching to war.

What might those options be? Michael Walzer has suggested intensifying what he calls the ''little war'' in which we are already engaged and challenging the French and the Germans and the Russians to become part of the solution. This could include extension of no-fly zones to cover the entire country, maintaining an embargo on strategic and dual-use materials,

and intensifying the program of inspections and weapons destruction under international control.

If such a program succeeded in destroying or neutralizing Iraq's weapons capability, the U.S. and the U.N. could credibly declare their mission accomplished, and most of the troops could return home, having created the military pressure that helped prompt compliance. I realize that at present, prospects for such an outcome appear to be fading. But when we are in an untenable position, contemplating outcomes that are equally unacceptable, we have an obligation to press in new directions.

Mr. Speaker, whatever course our President and our country take, we will give our men and women in uniform our full support, and I am confident that a unified Congress will provide whatever resources they need to succeed. I have been moved by the farewell ceremonies for National Guard units in my own district, and I have the utmost respect for the service and sacrifice that these men and women exemplify. The debates we have over foreign and military policy do not change that in the least. In fact, we owe them, and all of our citizens, this debate, so that we do not choose our Nation's course either impulsively or by default, but with due consideration of our Nation's interests and values, and consideration of how our vast power can be a force for what is just and right in the world. May God grant us wisdom and courage for the facing of these days.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. NADLER (at the request of Ms. PELOSI) for today on account of official business in the district.

Mr. SNYDER (at the request of Ms. PELOSI) for today and the balance of the week on account of medical reasons.

Mr. JOHNSON of Illinois (at the request of Mr. DELAY) for today and the balance of the week on account of injuries suffered in a car accident and doctor's orders to stay in the district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. VAN HOLLEN) to revise and extend their remarks and include extraneous material:

Mr. GEORGE MILLER of California, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. BLUMENAUER, for 5 minutes, today.

The following Members (at the request of Mr. KLINE) to revise and extend their remarks and include extraneous material:

Mr. DELAY, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today, March 12 and 13.

Mr. GREEN of Wisconsin, for 5 minutes, today.

Mr. WELDON of Pennsylvania, for 5 minutes, today.

Mrs. BIGGERT, for 5 minutes, today.

Mr. WOLF, for 5 minutes, March 12 and 13.

Mr. COX, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, March 13.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. MCDERMOTT, for 5 minutes, today.

Mr. ACEVEDO-VILÁ, for 5 minutes, today.

ADJOURNMENT

Mr. PRICE of North Carolina. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 57 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, March 12, 2003, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1028. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Thiophanate Methyl; Pesticide Tolerance for Emergency Exemptions [OPP-2002-0355; FRL-7285-9] received February 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1029. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Cyprodinil; Pesticide Tolerance [OPP-2002-0344; FRL-7289-7] received February 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1030. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — 6-Benzyladenine; Temporary Exemption From the Requirement of a Tolerance [OPP-2002-0308; FRL-7287-2] received February 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1031. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Oxadiazon; Tolerance Revocations [OPP-2002-0086; FRL-7187-3] received January 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1032. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — 4-(Dichloroacetyl)-1-Oxa-4-Azaspiro [4.5] Decane; Pesticide Import Tolerance [OPP-2002-0245; FRL-7199-4] received January 22, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1033. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Pesticides; Tolerance Exemptions for Polymers [OPP-2003-0039; FRL-7291-7] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1034. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Pelargonic Acid (Nonanoic Acid); Exemption from the Requirement of a Pesticide Tolerance [OPP-2002-273; FRL-7278-7] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1035. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills [OAR-2002-0045; AD-FRL-7446-6] (RIN: 2060-AK53) received February 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1036. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; New Jersey; Motor Vehicle Enhanced Inspection and Maintenance Program [Region II Docket No. NJ55-248, FRL-7441-4] received February 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1037. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Plans For Designated Facilities and Pollutants: New Hampshire; Plan for Controlling MWC Emissions From Existing Municipal Waste Combustors [NH-51-7175a; FRL-7447-7] received February 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1038. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Maryland; Amendments to Volatile Organic Compound Requirements from Specific Processes [MD129/130-3089a; FRL-7437-7] received February 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1039. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, Santa Barbara County Air Pollution Control District and Yolo-Solano Air Quality Control District [CA 271-0374a; FRL-7427-8] received January 22, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1040. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Protection of Stratospheric Ozone: Listing of Substitutes for Ozone-Depleting Substances [FRL-7443-4] (RIN: 2060-AG12) received January 22, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1041. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Ohio: Final Authorization of State Hazardous Waste Management Program Revision [FRL-7442-8] received January 22, 2003, pursuant to 5 U.S.C.

801(a)(1)(A); to the Committee on Energy and Commerce.

1042. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Determination of Nonattainment as of November 15, 1999, and Reclassification of the Metropolitan Washington, D.C. Ozone Nonattainment Area; District of Columbia, Maryland, Virginia [DC039-2030; MD073-3101; VA090-5063; FRL-7441-9] received January 22, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1043. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Clarification to Interim Standards and Practices for All Appropriate Inquiry Under CERCLA and Notice of Future Rulemaking Action [[FRN-7442-4] (RIN: 2050-AF05) received January 22, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1044. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans Florida: Approval of Revisions to the Florida State Implementation Plan [FL-82-200309a; FRL-7443-3] received January 22, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1045. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District [CA255-0385; FRL-7448-1] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1046. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, Monterey Bay Unified Air Pollution Control District, San Joaquin Valley Unified Air Pollution Control District received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1047. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protecton Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Nothern Engraving Environmental Cooperative Agreement [WI112-01-7342b, FRL-7411-5] received January 22, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1048. A letter from the Acting Principal Deputy Associate Administrator, Environmerntal Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District [CA273-0381a; FRL-7 452-3] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1049. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zones, Security Zones, Drawbridge Operation Regulations and Special Local Regulations [USCG-2002-13968] received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1050. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Atlantic Ocean Bad Boys II Film Production [COTP Miami 02-118] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1051. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Ohio River, Mile 602.0 to 604.0, Louisville, Kentucky [COTP Louisville 02-06] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1052. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Huntington Beach Offshore Grand Prix, Huntington Beach, California [COTP Los Angeles--Long Beach 02-013] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1053. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone Regulations; Indian River, 4th of July Celebration, Cocoa, FL. [COTP Jacksonville 02-083] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1054. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Biscayne Bay — Port of Miami, Miami FL. [COTP Miami 02-107] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1055. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Southwest Pass Sea Buoy To Nashville Ave Wharf, Mile Marker 100.8, above Head of Passes, Lower Mississippi River, New Orleans, Louisiana [COTP New Orleans-02-020] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1056. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Upper Mississippi River Mile 497.5 to 497.7, LeClaire, IA [COTP St. Louis 02-014] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1057. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Upper Mississippi River Mile 496.4 to 496.6, LeClaire, IA [COTP St. Louis 02-013] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1058. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Tennessee River, Mile Marker 612.0 to 625.0 [COTP Paducah, KY 02-008] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1059. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Cassville Twin-O-Rama Fire Works, Cassville WI [COTP St. Louis, MO-02-012] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1060. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Highway 90 Bridge, Pascagoula River, Pascagoula, Mississippi [COTP Mobile, AL 02-016] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1061. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Atlantic Ocean, Bad Boys II Film Production [COTP Miami 02-113] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1062. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Biscayne Bay Dinner Key Channel, FL. [COTP Miami 02-103] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1063. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Colorado River, Laughlin, NV [COTP San Diego 02-008] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1064. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Port of Miami Bad Boys II Film Production [COTP Miami 02-092] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1065. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Miami River, Miami FL [COTP Miami 02-075] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1066. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Lower Mississippi River, Mile Marker 590.5 to 592.0, Rosedale, Mississippi [COTP Memphis-02-009] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1067. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zone; Cumberland River, Mile Marker 190.5 to 192.0, Nashville, Tennessee [COTP Paducah-02-009] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1068. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Ohio River, Mile Marker 943.0 to 945.0 [COTP Paducah, KY 02-007] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1069. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; North San Diego Bay, CA [COTP San Diego 02-014] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1070. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Fireworks Display, New Jersey Pierhead Channel, NJ [CGD01-02-086] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1071. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; 4th of July Celebration, Salem, Massachusetts [CGD1-02-087] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1072. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Kansas City Aviation and Air show Expo, Kansas City, MO [COTP St. Louis 02-015] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1073. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Upper Mississippi River Mile 662.5 to 663.6, Lansing IA [COTP St. Louis, MO-02-016] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1074. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Middletown 4th of July Fireworks Display, Connecticut River, CT [CGD01-02-066] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1075. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zones; Orchard Beach, Long Island Sound, NY [CGD01-02-079] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1076. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Main Pass, Block 4, 29 degrees 41'34''N, 089 degrees 20'22''W, Gulf of Mexico [COPT New Orleans-02-021] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1077. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Mississippi River Gulf Outlet Channel, mile marker 49.0, in the vicinity of light 111 and 112, Louisiana [COTP New Orleans-02-019] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEE ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. THOMAS: Committee on Ways and Means. H.R. 877. A bill to amend title XI of the Social Security Act to improve patient safety; with an amendment (Rept. 108–31, Pt. 1). Ordered to be printed.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 5. A bill to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system; with an amendment (Rept. 108–32, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAUZIN: Committee on Energy and Commerce. H.R. 5. A bill to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system; with an amendment (Rept. 108–32, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 866. A bill to amend the Federal Water Pollution Control Act to enhance the security of wastewater treatment works (Rept. 108–33). Referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 877. Referral to the Committee on Energy and Commerce extended for a period ending not later than March 13, 2003.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. HOUGHTON:

H.R. 1169. A bill to amend the Internal Revenue Code of 1986 to provide for the performance of certain tax collection services by contractors; to the Committee on Ways and Means.

By Mr. BURNS (for himself, Mr. HASTERT, Mr. BOEHNER, Mr. CASTLE, Mr. BALLENGER, Mr. SAM JOHNSON of Texas, Mr. ISAKSON, Mr. TIBERI, Mr. WILSON of South Carolina, Mr. COLE, Mr. KLINE, Mrs. MUSGRAVE, Ms. WATSON, Mr. BURTON of Indiana, and Mr. TANCREDO):

H.R. 1170. A bill to protect children and their parents from being coerced into administering psychotropic medication in order to attend school, and for other purposes; to the Committee on Education and the Workforce.

By Mr. ANDREWS:

H.R. 1171. A bill to provide grants to law enforcement agencies to use iris scanning technology to conduct background checks on individuals who want to purchase guns; to the Committee on the Judiciary.

By Mr. BACA (for himself, Mr. TAYLOR of Mississippi, Mr. WYNN, Mr. ACEVEDO-VILA, Mr. TERRY, Mr. MCGOVERN, Mr. LEVIN, and Mr. RANGEL):

H.R. 1172. A bill to amend titles 10 and 14, United States Code, to provide for the use of gold in the metal content of the Medal of Honor; to the Committee on Armed Services.

By Mr. BACA (for himself, Mr. SIMPSON, Mr. MURTHA, Mr. MCGOVERN, Mr. FALEOMAVAEGA, Mr. TOWNS, Mr. GRIJALVA, Mr. BURR, and Ms. GINNY BROWN-WAITE of Florida):

H.R. 1173. A bill to provide for the award of a gold medal on behalf of Congress to Arnold Palmer in recognition of his service to the Nation in promoting excellence and good sportsmanship in golf; to the Committee on Financial Services.

By Mr. BACA (for himself, Ms. NORTON, Mr. TOWNS, Mr. GEORGE MILLER of California, Mr. JACKSON of Illinois, Mr. PAYNE, Mr. MCGOVERN, Ms. CARSON of Indiana, and Mr. CLAY):

H.R. 1174. A bill to provide for the award of a gold medal on behalf of the Congress to Tiger Woods, in recognition of his service to the Nation in promoting excellence and good sportsmanship, and in breaking barriers with grace and dignity by showing that golf is a sport for all people; to the Committee on Financial Services.

By Mr. BARRETT of South Carolina (for himself, Ms. GINNY BROWN-WAITE of Florida, Mr. GREEN of Wisconsin, and Mr. DEMINT):

H.R. 1175. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to extend the discretionary spending limits through fiscal year 2008, to extend paygo for direct spending, and for other purposes; to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BEREUTER:

H.R. 1176. A bill to amend the Intermodal Surface Transportation Efficiency Act of 1991, relating to the I-35 High Priority Corridor from Laredo, Texas, to Duluth, Minnesota; to the Committee on Transportation and Infrastructure.

By Mr. DEMINT (for himself, Mr. AKIN, Mr. BALLENGER, Mr. BEAUPREZ, Mr. BURR, Mr. CANNON, Mrs. CHRISTENSEN, Mr. COBLE, Mr. COLE, Mr. COX, Mr. CRANE, Mr. DREIER, Mr. ENGLISH, Mr. FLETCHER, Mr. FRANKS of Arizona, Mr. GRAVES, Mr. HASTINGS of Washington, Mr. HAYES, Mr. HAYWORTH, Mr. HOEKSTRA, Mr. HOSTETTLER, Mr. ISAKSON, Mr. ISTOOK, Mr. JANKLOW, Mr. JONES of North Carolina, Mr. KOLBE, Mr. LAHOOD, Mr. GARY G. MILLER of California, Mrs. MUSGRAVE, Ms. NORTON, Mr. NORWOOD, Mr. OTTER, Mr. PAUL, Mr. PITTS, Mr. ROGERS of Michigan, Mr. RYUN of Kansas, Mr. SMITH of New Jersey, Mr. TERRY, Mr. TIAHRT, Mr. TOOMEY, Mr. UPTON, Mr. WELDON of Florida, Mr. WYNN, and Mr. TANCREDO):

H.R. 1177. A bill to amend the Internal Revenue Code of 1986 to provide additional choice regarding unused health benefits in cafeteria plans and flexible spending arrangements; to the Committee on Ways and Means.

By Ms. GINNY BROWN-WAITE of Florida:

H.R. 1178. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for medical malpractice liability insurance premiums, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COBLE (for himself, Mr. BONNER, Mr. WILSON of South Carolina, and Mr. BACHUS):

H.R. 1179. A bill to amend title 49, United States Code, to permit an individual to operate a commercial motor vehicle solely within the borders of a State if the individual meets certain minimum standards prescribed by the State, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. COX:

H.R. 1180. A bill to promote the use of hydrogen fuel cell vehicles, and for other purposes; to the Committee on Ways and Means,

and in addition to the Committees on Energy and Commerce, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DEAL of Georgia (for himself, Mr. GORDON, and Mr. TAYLOR of North Carolina):

H.R. 1181. A bill to amend the Tennessee Valley Authority Act of 1933 to ensure that promoting recreation is treated as a primary purpose in the operation of dams and reservoirs under the possession and control of the Tennessee Valley Authority; to the Committee on Transportation and Infrastructure.

By Mr. DEAL of Georgia (for himself, Mr. TOWNS, Mr. WHITFIELD, Mr. WAMP, Mr. PALLONE, and Mrs. EMERSON):

H.R. 1182. A bill to amend title XVIII of the Social Security Act to exclude brachytherapy devices from the prospective payment system for outpatient hospital services under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DELAHUNT (for himself and Mr. SAXTON):

H.R. 1183. A bill to promote the Sensible Development of Renewable Energy in the Waters of the Coastal Zone, and for other purposes; to the Committee on Resources.

By Mr. DINGELL:

H.R. 1184. A bill to amend the Federal Water Pollution Control Act to increase certain criminal penalties, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGLISH (for himself and Mr. POMEROY):

H.R. 1185. A bill to clarify the tax status of the Young Men's Christian Association retirement fund; to the Committee on Ways and Means.

By Mr. ENGLISH:

H.R. 1186. A bill to amend the Internal Revenue Code of 1986 to provide for proration of the heavy vehicle use tax between successive purchasers of the same vehicle; to the Committee on Ways and Means.

By Mr. ENGLISH:

H.R. 1187. A bill to impose a retroactive, 2-year moratorium on inclusion of unemployment compensation in gross income; to the Committee on Ways and Means.

By Mr. FALEOMAVAEGA:

H.R. 1188. A bill to amend titles XI and XIX of the Social Security Act to provide for American Samoa treatment under the Medicaid Program similar to that provided to States; to the Committee on Energy and Commerce.

By Mr. FALEOMAVAEGA (for himself and Ms. BORDALLO):

H.R. 1189. A bill to increase the waiver requirement for certain local matching requirements for grants provided to American Samoa, Guam, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, and for other purposes; to the Committee on Resources.

By Mr. FALEOMAVAEGA:

H.R. 1190. A bill to amend title 38, United States Code, to extend the eligibility for housing loans guaranteed by the Secretary of Veterans Affairs under the Native American Housing Loan Pilot Program to veterans who are married to Native Americans; to the Committee on Veterans' Affairs.

By Mr. GALLEGLY:

H.R. 1191. A bill to provide a grant program for gifted and talented students, and for other purposes; to the Committee on Education and the Workforce.

By Mr. GUTIERREZ (for himself, Mr. FARR, Ms. BALDWIN, Ms. SCHAKOWSKY, Ms. CORRINE BROWN of Florida, Mr. CONYERS, Ms. NORTON, Mr. FRANK of Massachusetts, Mr. SANDERS, Ms. WOOLSEY, Ms. LEE, Ms. SOLIS, Mr. PAYNE, Mr. RANGEL, Mr. JACKSON of Illinois, Mr. HASTINGS of Washington, Ms. KILPATRICK, Ms. DELAURO, Mrs. JONES of Ohio, Mr. SERRANO, Mr. MCNULTY, Mr. LIPINSKI, Mr. EVANS, Mr. SABO, Mr. BROWN of Ohio, Mr. OWENS, Mr. KUCINICH, Mr. RODRIGUEZ, Mr. FATTAH, Mr. STARK, Mr. COSTELLO, Mr. LYNCH, Mr. RAHALL, Mrs. MALONEY, Ms. MILLENDER-MCDONALD, Mr. GREEN of Texas, Mr. CUMMINGS, Mrs. NAPOLITANO, Ms. LINDA T. SANCHEZ of California, Mr. LANTOS, Mr. TIERNEY, Mr. KILDEE, Mrs. CHRISTENSEN, Mr. NADLER, Mr. MATSUI, Mr. DEFAZIO, Mr. ORTIZ, Mr. HINCHEY, and Mr. DAVIS of Illinois):

H.R. 1192. A bill to provide for livable wages for Federal Government workers and workers hired under Federal contracts; to the Committee on Government Reform, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HAYES:

H.R. 1193. A bill to amend title 10, United States Code, to provide permanent authority for certain chaplain-led family support programs of the Department of Defense; to the Committee on Armed Services.

By Mr. HERGER:

H.R. 1194. A bill to amend the Endangered Species Act of 1973 to enable Federal agencies responsible for the preservation of threatened species and endangered species to rescue and relocate members of any of those species that would be taken in the course of certain reconstruction, maintenance, or repair of Federal or non-Federal manmade flood control levees; to the Committee on Resources.

By Mr. LEWIS of Kentucky:

H.R. 1195. A bill to amend title XVIII of the Social Security Act to direct the Secretary of Health and Human Services to carry out a demonstration program under the Medicare Program to examine the clinical and cost effectiveness of providing medical adult day care center services to Medicare beneficiaries; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MALONEY (for herself, Mr. CROWLEY, and Ms. LEE):

H.R. 1196. A bill to provide a United States voluntary contribution to the United Nations Population Fund; to the Committee on International Relations.

By Mr. MORAN of Virginia (for himself and Mr. MCGOVERN):

H.R. 1197. A bill to direct the Consumer Product Safety Commission to promulgate a consumer products safety standard that requires manufacturers of certain consumer products to establish and maintain a system for providing notification of recalls of such products to consumers who first purchase such a product; to the Committee on Energy and Commerce.

By Mr. PICKERING (for himself and Mr. WICKER):

H.R. 1198. A bill to amend the Defense Base Closure and Realignment Act of 1990 to prohibit the selection for closure or adverse realignment under such law any military installation used for undergraduate pilot training; to the Committee on Armed Services.

By Mr. RANGEL (for himself, Mr. DINGELL, Mr. HOLDEN, Mr. BROWN of Ohio, Mr. STARK, Mr. WAXMAN, Mr. PALLONE, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ALEXANDER, Mr. ALLEN, Mr. ANDREWS, Ms. BALDWIN, Mr. BECERRA, Mr. BELL, Ms. BERKLEY, Mr. BERMAN, Mr. BERRY, Mr. BISHOP of New York, Mr. BOSWELL, Mr. BOUCHER, Ms. CORRINE BROWN of Florida, Mrs. CAPPS, Mr. CAPUANO, Mr. CARDIN, Mr. CARDOZA, Mrs. CHRISTENSEN, Mr. CLAY, Mr. CONYERS, Mr. CROWLEY, Mr. CUMMINGS, Mr. DAVIS of Illinois, Mr. DELAHUNT, Ms. DELAURO, Mr. DEUTSCH, Mr. DICKS, Mr. DOYLE, Mr. ENGEL, Mr. EVANS, Mr. FARR, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GEPHARDT, Mr. GORDON, Mr. GREEN of Texas, Mr. GRIJALVA, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. HINOJOSA, Mr. HOEFFEL, Mr. HOYER, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KANJORSKI, Ms. KAPTUR, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Ms. KILPATRICK, Mr. KLECZKA, Mr. LAMPSON, Mr. LANGEVIN, Mr. LANTOS, Mr. LARSON of Connecticut, Ms. LEE, Mr. LEVIN, Mr. LEWIS of Georgia, Mrs. LOWEY, Mr. LYNCH, Mrs. MALONEY, Mr. MARKEY, Mr. MATSUI, Ms. MCCARTHY of Missouri, Ms. MCCOLLUM, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MCNULTY, Mr. MEEHAN, Mr. MEEK of Florida, Mr. MEEKS of New York, Ms. MILLENDER-MCDONALD, Mr. GEORGE MILLER of California, Mr. MOLLOHAN, Mr. MURTHA, Mr. NADLER, Mrs. NAPOLITANO, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. OBERSTAR, Mr. OLVER, Mr. ORTIZ, Mr. OWENS, Ms. PELOSI, Mr. RAHALL, Mr. REYES, Mr. RODRIGUEZ, Mr. ROSS, Ms. ROYBAL-ALLARD, Mr. RUSH, Ms. LINDA T. SANCHEZ of California, Mr. SANDERS, Mr. SANDLIN, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. SCOTT of Virginia, Mr. SERRANO, Ms. SLAUGHTER, Ms. SOLIS, Mr. STRICKLAND, Mr. THOMPSON of Mississippi, Mr. TIERNEY, Mr. TOWNS, Mrs. JONES of Ohio, Mr. UDALL of New Mexico, Mr. VAN HOLLEN, Mr. VISCLOSKY, Ms. WATSON, Mr. WEINER, Mr. WEXLER, Ms. WOOLSEY, and Mr. WYNN):

H.R. 1199. A bill to amend titles XVIII and XIX of the Social Security Act to provide for a voluntary Medicare prescription medicine benefit, to provide greater access to affordable pharmaceuticals, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCDERMOTT (for himself, Mr. RANGEL, Mr. STARK, Mr. SERRANO, Ms. BALDWIN, Mr. WEINER, Mr. KUCINICH, Mr. CONYERS, Ms. LEE, Mr. FARR, Mr. DELAHUNT, Ms. WOOLSEY, Mr. HINCHEY, Mr. NADLER, Mr. SANDERS, Mrs. CHRISTENSEN, Mr. WAXMAN, and Ms. ROYBAL-ALLARD):

H.R. 1200. A bill to provide for health care for every American and to control the cost and enhance the quality of the health care system; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Government Reform, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. ROS-LEHTINEN (for herself, Mr. LINCOLN DIAZ-BALART of Florida, Mr. FOLEY, Mr. MARIO DIAZ-BALART of Florida, Mr. SMITH of New Jersey, Mr. WEXLER, Mr. TANCREDO, Mr. BURTON of Indiana, and Mr. ENGEL):

H.R. 1201. A bill to posthumously revoke the naturalization of Eriberto Mederos; to the Committee on the Judiciary.

By Mr. SCOTT of Georgia (for himself, Mr. MCINTYRE, Mr. TANNER, Mr. SHIMKUS, Mr. STENHOLM, Mr. LIPINSKI, Mr. FROST, Mr. LUCAS of Kentucky, Mr. ISAKSON, Mr. MEEK of Florida, Mr. PEARCE, Mr. RENZI, Ms. BORDALLO, and Mr. BISHOP of Georgia):

H.R. 1202. A bill to provide for a period of quiet reflection at the opening of certain schools on every school day; to the Committee on Education and the Workforce.

By Mr. SHIMKUS (for himself and Mr. JOHNSON of Illinois):

H.R. 1203. A bill to provide for the annual audit of the White County Bridge Commission, for the New Harmony Bridge over the Wabash River, Indiana and Illinois, for the filling of vacancies in the membership thereof, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. SOUDER:

H.R. 1204. A bill to amend the National Wildlife Refuge System Administration Act of 1966 to establish requirements for the award of concessions in the National Wildlife Refuge System, to provide for maintenance and repair of properties located in the System by concessionaires authorized to use such properties, and for other purposes; to the Committee on Resources.

By Mr. STARK (for himself, Mr. FRANK of Massachusetts, Ms. WOOLSEY, Ms. NORTON, Mr. NADLER, Ms. SCHAKOWSKY, Mr. GREEN of Texas, Mr. CARSON of Oklahoma, Mr. LANTOS, Mr. KILDEE, Mr. PASTOR, Ms. DELAURO, Mr. ABERCROMBIE, Mr. CONYERS, Mr. OLVER, Mr. SERRANO, Ms. JACKSON-LEE of Texas, Mr. HINCHEY, Mr. SCOTT of Virginia, Mr. CLAY, Mrs. CHRISTENSEN, Ms. MILLENDER-MCDONALD, Mr. GEORGE MILLER of California, Mr. MCDERMOTT, Mr. OWENS, Mr. LATOURETTE, Mr. FALEOMAVAEGA, Ms. SOLIS, Mr. TIERNEY, Mr. STUPAK, Mr. KUCINICH, Mr. BRADY of Pennsylvania, Ms. BALDWIN, Mr. EVANS, and Ms. BERKLEY):

H.R. 1205. A bill to amend the Social Security Act to guarantee comprehensive health care coverage for all children born after 2004; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SWEENEY:

H.R. 1206. A bill to prohibit United States voluntary and assessed contributions to the United Nations or the Organization for Economic Cooperation and Development if the United Nations or the Organization for Economic Cooperation and Development imposes any tax or fee on United States persons, continues to develop or promote proposals for such taxes or fees, or attempts to implement or impose a policy that would enable foreign governments to tax income earned inside the borders of the United States; to the Committee on International Relations.

By Ms. WATSON (for herself, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. MILLENDER-MCDONALD, Mr. OWENS, and Ms. JACKSON-LEE of Texas):

H.R. 1207. A bill to amend the Higher Education Act of 1965 to withhold Federal student financial assistance from students who have engaged in hazing, and for other purposes; to the Committee on Education and the Workforce.

By Mr. SMITH of New Jersey (for himself, Mr. HYDE, Mr. NEAL of Massachusetts, Mr. KING of New York, Mr. CROWLEY, Mr. WALSH, and Mr. PAYNE):

H.R. 1208. A bill to authorize appropriations for fiscal years 2004 and 2005 for United States contributions to the International Fund for Ireland, and for other purposes; to the Committee on International Relations.

By Ms. WATSON:

H.R. 1209. A bill to extend the authority for the construction of a memorial to Martin Luther King, Jr., in the District of Columbia, and for other purposes; to the Committee on Resources.

By Mr. WAXMAN (for himself, Mr. ENGEL, Ms. SCHAKOWSKY, Mr. CROWLEY, Mr. ISRAEL, Mr. DICKS, Ms. WATSON, Mr. ABERCROMBIE, Mr. HASTINGS of Florida, Mr. ACKERMAN, Mr. OWENS, Ms. BERKLEY, Mr. BERMAN, Mr. SHERMAN, Mr. WEINER, Mr. HINCHEY, Mr. ROHRABACHER, Mr. FROST, Mrs. CAPPS, Mr. WEXLER, Mr. DEUTSCH, Mrs. MALONEY, Mr. VISCLOSKY, Mrs. MCCARTHY of New York, Mr. TOWNS, Mr. NADLER, Ms. MILLENDER-MCDONALD, Ms. SLAUGHTER, Mr. CASE, Mr. MCNULTY, Ms. LOFGREN, Ms. KAPTUR, Mr. EMANUEL, Mr. KUCINICH, Mr. SCHIFF, Mr. FARR, Mr. FALEOMAVAEGA, Ms. SOLIS, Mr. FRANK of Massachusetts, and Mrs. LOWEY):

H.R. 1210. A bill to provide for the establishment of the Holocaust Insurance Registry by the Archivist of the United States and to require certain disclosures by insurers to the Secretary of Commerce; to the Committee on Financial Services, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WEINER:

H.R. 1211. A bill to amend title 31, United States Code, to provide Federal aid and economic stimulus through a one-time revenue grant to the States and their local governments; to the Committee on Government Reform.

By Mr. SMITH of New Jersey (for himself, Mr. EVANS, Mr. BROWN of South Carolina, Mr. RODRIGUEZ, and Mr. MICHAUD):

H.R. 1212. A bill to amend title 38, United States Code, to increase the amount of basic educational assistance for veterans under the Montgomery GI Bill, and to eliminate reductions of basic pay for eligibility for such assistance; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WHITFIELD (for himself, Mr. BOUCHER, Mr. SHIMKUS, Mr. COSTELLO, Mr. LEWIS of Kentucky, Mr. MOLLOHAN, Mrs. CAPITO, Mr. STRICKLAND, and Mr. LAHOOD):

H.R. 1213. A bill to facilitate the production and generation of coal-based power; to the Committee on Science, and in addition to the Committees on Ways and Means, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. WILSON of New Mexico:

H.R. 1214. A bill to amend title XIX of the Social Security Act to provide public access to quality medical imaging procedures and radiation therapy procedures; to the Committee on Energy and Commerce.

By Mr. WYNN:

H.R. 1215. A bill to amend title 31, United States Code, to require the provision of a written prompt payment policy to each subcontractor under a Federal contract and to require a clause in each subcontract under a Federal contract that outlines the provisions of the prompt payment statute and other related information; to the Committee on Government Reform.

By Mr. WYNN:

H.R. 1216. A bill to amend the Small Business Act to increase the minimum Government-wide goal for procurement contracts awarded to small business concerns; to the Committee on Small Business.

By Mr. WYNN:

H.R. 1217. A bill to amend the Small Business Act to provide a penalty for the failure by a Federal contractor to subcontract with small businesses as described in its subcontracting plan, and for other purposes; to the Committee on Small Business.

By Mr. WYNN:

H.R. 1218. A bill to require contractors with the Federal Government to possess a satisfactory record of integrity and business ethics; to the Committee on Government Reform, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GREEN of Wisconsin (for himself and Mrs. MALONEY):

H.J. Res. 36. A joint resolution expressing the sense of the Congress with respect to raising awareness and encouraging prevention of sexual assault in the United States and supporting the goals and ideals of National Sexual Assault Awareness and Prevention Month; to the Committee on the Judiciary.

By Mr. ENGEL (for himself, Mr. TOWNS, Ms. SLAUGHTER, Ms. LEE, Mr. LANTOS, Ms. WOOLSEY, Mr. NADLER, Mr. FRANK of Massachusetts, and Ms. BALDWIN):

H. Con. Res. 86. Concurrent resolution supporting the goals and ideals of the Day of Silence; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS (for himself, Mr. MCGOVERN, and Mr. BILIRAKIS):

H. Con. Res. 87. Concurrent resolution expressing the sense of the Congress regarding Turkey's claims of sovereignty over islands and islets in the Aegean Sea; to the Committee on International Relations.

By Mr. ANDREWS:

H. Con. Res. 88. Concurrent resolution expressing the sense of Congress that the Children's Internet Protection Act is constitutional as it applies to public libraries; to the Committee on the Judiciary.

By Mr. MCDERMOTT (for himself, Mr. GEORGE MILLER of California, Mr. CONYERS, Ms. LEE, Mr. KUCINICH, Ms. NORTON, Mr. BROWN of Ohio, Mr. PAYNE, Mr. OWENS, and Mr. OLVER):

H. Con. Res. 89. Concurrent resolution expressing the sense of Congress that the United States should respect the sovereign equality of the member states of the United Nations Security Council with respect to each state's position concerning Iraq's compliance with Resolution 1441; to the Committee on International Relations.

By Mr. OTTER:

H. Con. Res. 90. Concurrent resolution expressing the sense of the Congress that hunting seasons for migratory mourning doves should be modified so that individuals have a fair and equitable opportunity to hunt such birds; to the Committee on Resources.

By Mr. NEY (for himself and Mr. LARSON of Connecticut):

H. Res. 134. A resolution electing Members to serve on the Joint Committee on Printing and the Joint Committee of Congress on the Library; to the Committee on House Administration.

By Mr. NEY (for himself and Mr. LARSON of Connecticut):

H. Res. 135. A resolution providing amounts for the expenses of the Committee on House Administration in the One Hundred Eighth Congress; to the Committee on House Administration.

By Mr. CANTOR:

H. Res. 136. A resolution congratulating the American Dental Association for establishing the ''Give Kids a Smile'' program, emphasizing the need to improve access to dental care for children, and thanking dentists for volunteering their time to help provide needed dental care; to the Committee on Energy and Commerce.

By Ms. SLAUGHTER (for herself, Mrs. JOHNSON of Connecticut, Mr. GEORGE MILLER of California, Mr. KILDEE, Ms. SOLIS, Ms. WOOLSEY, Ms. DELAURO, Mrs. MCCARTHY of New York, Ms. MCCOLLUM, Ms. MILLENDER-MCDONALD, Ms. LORETTA SANCHEZ of California, Mrs. MALONEY, Mr. ANDREWS, Mr. PAYNE, Mr. FARR, Mrs. CAPPS, and Mr. BISHOP of New York):

H. Res. 137. A resolution expressing the sense of the House of Representatives that changes to Title IX athletics policies contradict the spirit of athletic equality and gender parity and should not be implemented, and that Title IX should be kept intact; to the Committee on Education and the Workforce.

By Mr. WYNN:

H. Res. 138. A resolution expressing the sense of the House of Representatives that small business concerns should continue to play an active role in assisting the United States military, Federal intelligence and law enforcement agencies, and State and local police forces by designing and developing innovative products to combat terrorism, and that Federal, State, and local governments should aggressively seek out and purchase innovative technologies and services from small business concerns to improve homeland defense and aid in the fight against terrorism; to the Committee on Small Business.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 2: Mr. COLLINS, Mr. ISAKSON, Mr. TERRY, Mr. GARRETT of New Jersey, and Mr. KOLBE.

H.R. 5: Mr. DEMINT, Mr. SWEENEY, Mr. LAHOOD, Mr. BRADLEY of New Hampshire, Mr. MANZULLO, and Mr. SIMPSON.

H.R. 20: Mr. RYAN of Ohio, Mr. RUPPERSBERGER, Mr. WALLER, and Mr. CROWLEY.

H.R. 40: Mr. NADLER.

H.R. 44: Mr. PITTS, Ms. JO ANN DAVIS of Virginia, Mr. SCHROCK, Mr. WICKER, Mr. RYUN of Kansas, and Mr. TIAHRT.

H.R. 57: Mr. LUCAS of Oklahoma, Mr. THORNBERRY, Mr. VITTER, and Mr. CANTOR.

H.R. 58: Mr. KIND, Mr. KANJORSKI, Mr. NADLER, Mr. MICHAUD, Mr. FARR, Mr. MATSUI, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. PORTER, Mr. NEY, and Mr. CAMP.

H.R. 105: Mr. MEEK of Florida, Mr. RYAN of Ohio, and Ms. LEE.

H.R. 107: Mr. KILDEE.

H.R. 114: Mr. PORTER.

H.R. 119: Mr. TIAHRT.

H.R. 153: Mr. CANNON.

H.R. 207: Mr. TERRY.

H.R. 235: Mr. KING of New York, Mr. HAYWORTH, Mr. DEAL of Georgia, Mr. BURTON of Indiana, Mr. HYDE, Mr. PUTNAM, Mr. BARTLETT of Maryland, and Mr. FALEOMAVAEGA.

H.R. 259: Mr. MEEK of Florida.

H.R. 284: Mr. BOSWELL, Mr. GEORGE MILLER of California, Mr. SHERMAN, Mr. MCINNIS, Mr. BEAUPREZ, Mr. VITTER, Mr. RANGEL, Mr. STEARNS, and Mr. TANCREDO.

H.R. 300: Mrs. EMERSON, Mr. MANZULLO, and Mr. HAYES.

H.R. 303: Mr. FARR, Mr. FRANKS of Arizona, Mrs. CAPITO, Ms. BERKLEY, Mr. OXLEY, Mr. SOUDER, Mr. REYES, Mr. ALLEN, Mr. HOBSON, Mr. ACKERMAN, Mr. THORNBERRY, Mr. STEARNS, Mr. KING of Iowa, and Mr. RAMSTAD.

H.R. 340: Mr. INSLEE and Mr. OSE.

H.R. 372: Mr. FILNER.

H.R. 401: Mr. KIRK, Mr. LATOURETTE, and Mr. PALLONE.

H.R. 411: Ms. KILPATRICK.

H.R. 412: Mr. PORTER, Mr. LEACH, and Mr. MILLER of North Carolina.

H.R. 419: Mr. DOYLE.

H.R. 441: Ms. LEE, Mr. ACKERMAN, Mr. CLAY, Mr. CUMMINGS, and Mr. GARRETT of New Jersey.

H.R. 446: Mr. SCOTT of Virginia.

H.R. 447: Mr. SANDERS and Mr. SCOTT of Virginia.

H.R. 448: Mr. SCOTT of Virginia.

H.R. 453: Mr. TIBERI.

H.R. 482: Ms. CORRINE BROWN of Florida.

H.R. 490: Mr. HOEFFEL, Mr. BOYD, Mr. FORD, and Mr. NADLER.

H.R. 517: Mr. UPTON.

H.R. 527: Ms. GINNY BROWN-WAITE of Florida.

H.R. 528: Ms. ROYBAL-ALLARD and Mr. WEINER.

H.R. 531: Mr. LATOURETTE, Mr. TOM DAVIS of Virginia, Mr. GALLEGLY, and Mr. NADLER.

H.R. 533: Mr. MICHAUD.

H.R. 571: Mr. LINCOLN DIAZ-BALART of Florida, Mr. EVERETT, Mr. BACHUS, Mr. LEWIS of Kentucky, Mr. SOUDER, and Mr. RYUN of Kansas.

H.R. 613: Ms. GINNY BROWN-WAITE of Florida.

H.R. 660: Mr. CASE, Ms. LORETTA SANCHEZ of California, Ms. GINNY BROWN-WAITE of Florida, Mr. FALEOMAVAEGA, and Mr. COX.

H.R. 664: Mr. DOGGETT, Mr. SCHIFF, Ms. BERKLEY, Mr. LANTOS, Mr. COSTELLO, Mr. GEORGE MILLER of California, and Mr. HYDE.

H.R. 671: Ms. MCCARTHY of Missouri and Mr. BEREUTER.

H.R. 673: Mr. UPTON, Mr. LIPINSKI, and Mr. FROST.

H.R. 683: Mr. GREEN of Wisconsin, Mr. CRANE, and Mr. COBLE.

H.R. 684: Mr. GARRETT of New Jersey.

H.R. 690: Mr. OWENS.

H.R. 703: Mr. LOBIONDO.

H.R. 713: Mr. TAYLOR of North Carolina.

H.R. 714: Mr. BONNER and Mr. WAMP.

H.R. 720: Ms. DUNN, Mr. BILIRAKIS, Mr. FEENEY, Mr. SHAW, Mr. SESSIONS, Mr. MEEK of Florida, Mr. STEARNS, Mr. HENSARLING, Mr. PUTNAM, Ms. HARRIS, Mr. BARTON of Texas, Mr. KELLER, Mr. CRENSHAW, Mr. SMITH of Texas, Mr. THORNBERRY, Mr. MICA, Mr. LINCOLN DIAZ-BALART of Florida, Mr. CRANE, and Mr. GONZALEZ.

H.R. 728: Mrs. MYRICK, Mr. CRENSHAW, Mr. BASS, and Mrs. JO ANN DAVIS of Virginia.

H.R. 729: Mr. GUTKNECHT.

H.R. 735: Mr. LARSON of Connecticut, Mr. HOUGHTON, Mr. BLUMENAUER, Mr. LOBIONDO, Mr. SAXTON, Mr. FROST, Mr. HOLDEN, and Mr. LINCOLN DIAZ-BALART of Florida.

H.R. 737: Mr. STENHOLM.

H.R. 741: Mr. CASE and Mr. PAUL.

H.R. 745: Mr. UDALL of Colorado.

H.R. 758: Mr. BEREUTER.

H.R. 765: Mr. HOSTETTLER.

H.R. 767: Mr. KOLBE, Mr. CARTER, Mr. SAM JOHNSON of Texas, Ms. GINNY BROWN-WAITE of Florida, and Mr. MCINNIS.

H.R. 768: Mr. GUTIERREZ, Mr. ETHERIDGE, Mr. JACKSON of Illinois, and Mr. ENGEL.

H.R. 798: Mr. UDALL of Colorado, Ms. CARSON of Indiana, Mr. WEINER, Mr. RANGEL, Mr. COSTELLO, and Mr. WYNN.

H.R. 800: Mr. HUNTER.

H.R. 802: Mr. OWENS.

H.R. 811: Mr. RUPPERSBERGER and Mr. TIERNEY.

H.R. 839: Mr. COLE and Mr. SIMMONS.

H.R. 844: Mr. CLYBURN, Mr. KILDEE, Ms. MILLENDER-MCDONALD, Ms. WATSON, Ms. JACKSON-LEE of Texas, and Mr. GONZALEZ.

H.R. 847: Mr. RYAN of Ohio and Ms. SCHAKOWSKY.

H.R. 857: Mr. FILNER and Ms. DELAURO.

H.R. 859: Mr. BEREUTER.

H.R. 882: Mr. PITTS, Mr. FROST, Ms. GINNY BROWN-WAITE of Florida, and Mr. MCHUGH.

H.R. 886: Mr. MICHAUD and Mr. RYAN of Ohio.

H.R. 887: Ms. LORETTA SANCHEZ of California and Mr. SKELTON.

H.R. 893: Ms. LOFGREN.

H.R. 898: Mr. BALLANCE.

H.R. 919: Mrs. KELLY, Mr. RUPPERSBERGER, Mr. RYAN of Ohio, Mr. KENNEDY of Rhode Island, Mr. WAXMAN, and Mr. GRIJALVA.

H.R. 925: Mr. HYDE, Mr. HASTERT, and Mr. KIRK.

H.R. 931: Mr. MANZULLO, Mr. HOSTETTLER, Mrs. MYRICK, Mr. TAYLOR of North Carolina, and Mr. BARTLETT of Maryland.

H.R. 934: Mr. KILDEE, Mr. FALEOMAVAEGA, Mr. OWENS, and Mr. FROST.

H.R. 936: Ms. NORTON and Mr. FILNER.

H.R. 941: Mr. ROGERS of Michigan and Mr. SAM JOHNSON of Texas.

H.R. 953: Mr. MILLER of North Carolina, Mr. BACHUS, Mr. RENZI, Mr. LEWIS of Georgia, and Ms. ROS-LEHTINEN.

H.R. 976: Mr. MEEK of Florida and Mr. GEORGE MILLER of California.

H.R. 977: Mr. THOMPSON of California.

H.R. 979: Ms. ESHOO and Mr. DOYLE.

H.R. 980: Mr. FORBES, Mr. WEXLER, and Mrs. MALONEY.

H.R. 1005: Mr. HASTINGS of Washington and Mr. PORTER.

H.R. 1007: Mr. ISRAEL, Mr. CROWLEY, Ms. MCCARTHY of Missouri, Mr. FALEOMAVAEGA, Mr. FROST, Mr. RUPPERSBERGER, and Mr. BERMAN.

H.R. 1013: Mr. NETHERCUTT, Mr. OTTER, Mr. DOOLITTLE, Mr. NORWOOD, Mr. OSE, Mr. PICKERING, Mr. ISSA, and Ms. GINNY BROWN-WAITE of Florida.

H.R. 1020: Mr. PETRI.

H.R. 1021: Mr. ACKERMAN, Mr. CROWLEY, Mr. FALEOMAVAEGA, Mr. FATTAH, Mr. FRANK of Massachusetts, Ms. NORTON, Ms. LEE, Mr. MENENDEZ, Ms. MILLENDER-MCDONALD, Mr. GEORGE MILLER of California, Mr. NADLER, Mr. Owens, Mr. POMEROY, Ms. ROS-LEHTINEN, Mr. RYAN of Ohio, and Mr. SCHIFF.

H.R. 1057: Mr. WATT, Mr. RANGEL, and Mr. BURGESS.

H.R. 1068: Mr. HUNTER, Mr. PASTOR, Mr. NADLER, Mr. GILCHREST, Mr. COOPER, Mrs. WILSON of New Mexico, Mr. COX, Mr. LATHAM, Mr. GIBBONS, and Mr. DAVIS of Tennessee.

H.R. 1070: Mr. COSTELLO.

H.R. 1077: Mr. COOPER.

H.R. 1093: Mr. COOPER, Mrs. JONES of Ohio, Mr. FALEOMAVAEGA, and Mr. CARSON of Oklahoma.

H.R. 1096: Mr. REYES, Mr. HAYWORTH, and Mr. MCHUGH.

H.R. 1097: Mr. TOWNS, Ms. VELÁZQUEZ, Mr. WEINER, Mrs. LOWEY, Mr. NADLER, Mr. FILNER, Ms. EDDIE BERNICE JOHNSON of Texas, and Ms. DELAURO.

H.R. 1102: Mr. PASTOR, Mrs. NAPOLITANO, Mr. CRAMER, and Mr. ENGLISH.

H.R. 1105: Mr. ORTIZ and Mr. SMITH of Washington.

H.R. 1114: Mr. BACHUS, Mr. BRADLEY of New Hampshire, Mr. PLATTS, Mr. GREENWOOD, Mr. CARTER, Mr. EHLERS, Mr. BOOZMAN, Mr. GILCHREST, and Mr. UPTON.

H.R. 1116: Ms. LINDA T. SANCHEZ of California, Mr. MEEHAN, and Mr. OWENS.

H.R. 1120: Ms. GINNY BROWN-WAITE of Florida and Mr. NADLER.

H.R. 1125: Mr. COMBEST, Mr. MORAN of Virginia, Mr. UPTON, Ms. GINNY BROWN-WAITE of Florida, Mr. SHERMAN, Mr. LANGEVIN, Mr. DOGGETT, Mrs. MCCARTHY of New York, Mr. SANDLIN, Mr. STRICKLAND, Mr. BARTLETT of Maryland, Mr. HOEFFEL, and Mr. SIMMONS.

H.R. 1126: Mr. BEAUPREZ and Mr. FALEOMAVAEGA.

H.R. 1144: Mr. CLYBURN.

H.R. 1145: Ms. LEE.

H.R. 1146: Mr. EVERETT.

H.R. 1147: Mr. GEORGE MILLER of California.

H.R. 1157: Mr. OTTER, Mrs. CAPPS, Mr. PASTOR, and Mr. NADLER.

H.R. Res. 8: Mr. KING of Iowa.

H.J. Res. 24: Mr. ALLEN, Mr. FATTAH, Ms. WOOLSEY, Mr. SABO, Mr. UDALL of New Mexico, Mr. KUCINICH, Mr. MCGOVERN, Mr. OWENS, Mr. KIND, Ms. ESHOO, Mr. CLAY, Mr. HOLT, Mr. TIERNEY, Mr. ABERCROMBIE, Mr. RANGEL, Mr. GEORGE MILLER of California, Mr. FALEOMAVAEGA, Ms. LEE, Mr. MEEKS of New York, Mr. RYAN of Ohio, Ms. LORETTA SANCHEZ of California, and Mr. OLVER.

H. Con. Res. 23: Mr. CANTOR.

H. Con. Res. 25: Ms. LORETTA SANCHEZ of California.

H. Con. Res. 30: Mr. DINGELL.

H. Con. Res. 57: Mr. UDALL of Colorado, Mr. GONZALEZ, and Mrs. LOWEY.

H. Con. Res. 61: Mr. LAMPSON and Mr. MILLER of North Carolina.

H. Con. Res. 78: Mr. TOWNS, Mr. MEEKS of New York, Mr. GUTIERREZ, Ms. MILLENDER-MCDONALD, and Mr. DAVIS of Illinois.

H. Res. 12: Ms. JACKSON-LEE of Texas, Mr. HINOJOSA, Mr. GONZALEZ, and Mr. FROST.

H. Res. 39: Mr. KNOLLENBERG and Mr. SOUDER.

H. Res. 59: Mr. HOBSON.

H. Res. 133: Mr. CHABOT.

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PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, FIRST SESSION

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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

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

Almighty God, strength for those who seek You, hope for those who trust You, courage for those who rely on You, peace for those who follow You, wisdom for those who humble themselves before You, and power for those who seek to glorify You, we begin this new day filled with awesome responsibilities and soul-sized issues and confess our need for You. We are irresistibly drawn into Your presence by the magnetism of Your love and by the magnitude of challenges we face. Our desire to know Your will is motivated by Your greater desire to help us.

We thank You for the men and women of this Senate. Bless them as they debate the resolution on partial birth abortion and reflect on the issues of advise and consent. Help them maintain a spirit of unity as they press on with honest, open discussion and come to conclusions which are best for our Nation and the world. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TED STEVENS 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.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. SANTORUM. Mr. President, this morning the Senate will resume the consideration of S. 3, the partial-birth abortion bill. It is my understanding Senator MURRAY will be prepared to offer an amendment this morning. The majority leader has stated it is his intention to finish this important legislation by the end of the week. Senators wishing to offer amendments to the bill are encouraged to notify the managers of their intent so that we can proceed to an orderly consideration of the amendments.

Under the previous unanimous consent agreement, at 11 a.m. today the Senate will return to the Estrada nomination and begin a discussion of the Senate's constitutional role of advise and consent. Members are encouraged to come to the Chamber and engage in this discussion.

The Senate will recess from 12:30 to 2:15 p.m. for the weekly party lunches. Following the recess, the Senate will return to the consideration of the partial-birth abortion bill. Additional amendments are expected and therefore Members should anticipate votes this afternoon.

Lastly, I know it was the hope of the majority leader to schedule a vote on a district judge on the calendar this morning. We attempted to schedule a vote at 10:30. At this point, we understand there is an objection to setting the vote on Ralph Erickson of North Dakota to be a U.S. District Judge for the District of North Dakota. We will continue to and hopefully work out a unanimous consent agreement. We will certainly notify Members if we are able to succeed in getting a vote set sometime this morning.

I thank all Members.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Nevada.

Mr. REID. Madam President, I say to the manager of this bill, first, we would probably agree to the judge without a vote. We are trying to run that through to find out if we would agree to the judge without a vote.

Secondly, we have a finite list of amendments we have received on our side. We have run that through to the floor staff on the other side. We understand, rightfully so, that Senators want to see the amendments before there is an agreement on whether or not we could proceed on that basis. Yesterday, the majority leader indicated to me and to the Democratic leader that he wanted to finish this bill and could we cooperate and have a finite list of amendments. We have given those to the other side and we hope we can move forward.

We have had a number of our Members who wanted to bring up amendments that are not related to this issue and we have worked to have them not do that. So we hope those amendments could be reviewed quickly. We will try to get all the amendments. The first amendment Senator MURRAY is going to offer, we hope there will be agreement that there would be no second-degree amendments to that. She is not going to offer it until there is some agreement to that effect. We hope to get that done quickly. We just gave the Senator the amendment. We understand it needs to be looked over.

Mr. SANTORUM. Madam President, I have not had a chance to see the amendment, but I want to thank the leader for his willingness to come forward and offer a set of amendments. It is a reasonable set of amendments, from my estimation. We have not run a check on our side to see if there are any amendments. We are in the process of doing that. I do not anticipate very many, if any, at this point.

We are going to look at the amendment of Senator MURRAY. If we can, we will certainly allow that to go forward and we will certainly consider all the other amendments. If my colleagues can get them to us, I think we can fairly quickly enter into a unanimous consent agreement and move forward on this legislation. Again, I thank the Senator from Nevada for his willingness to come forward last night with this consent agreement. We are off to a

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

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good start in trying to get this bill done in a timely fashion this week, and I thank him for his cooperation.

With respect to the issue of the judge, if the Senator does not want to vote on a judge, I know our leader would like to have a vote this morning, whether it is on a judge or some procedural matter. The leader would like to get Members to the Chamber for this discussion. Obviously, this is a vitally important discussion. The role of advise and consent is one of the more fundamental issues we have to grapple with, and our leader would like to have as much participation as possible. As is the case in the Senate, we usually cannot get that participation unless Senators are in the Chamber for a vote, and I think that is his intention.

We will certainly work with the other side in making sure we can come up with some accommodation that will suit both sides.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

PARTIAL-BIRTH ABORTION BAN ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 3, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 3) to prohibit the procedure commonly known as partial-birth abortion.

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

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

Mr. SANTORUM. We resume today the debate on the issue of partial-birth abortion and Congress's fourth attempt to ban this procedure. There have been comments in the past about some of the descriptions we have used on the floor as to whether they are accurate, and whether some of the charts we have used are medically accurate charts. Some suggested in the line drawings we had depicted a fetus that was larger than the size of most in partial-birth abortions. In working with people from the medical community, we have come up with more realistic drawings to depict the actual procedure so people can graphically understand what is described in this legislation.

I will read the description in the legislation and show how the chart behind me is representative of this description. We have tightened the definition. The reason we tightened the definition was in response to the U.S. Supreme Court that found the original definition in the congressional bill, which is similar to the one in Nebraska, was unduly vague, and, therefore, unconstitutional because of vagueness. We have taken further steps to make sure that by banning this procedure we are not including any other procedure that is used for late-trimester, late-term abortions.

Let me read what is in the legislation today and then go through the charts to show how that comports with this definition.

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

(A) the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother . . .

Now, I break from the text as to what partial-birth abortions are. The procedure itself is done in a breech position, but there may be a case—and this is what we are taking into consideration, here, the presentation—where the doctor makes a mistake and cannot deliver the child for some reason in a breech position. As I know, having been the father of seven children, you do not want a breech delivery. That is a dangerous delivery. That is not a normal delivery.

To authorize or to start a delivery in breech is a higher risk to the mother, No. 1. No. 2, for purposes of this procedure, that is what is described, that is what the doctors have said is the procedure which they would recommend. But there are always, in these medical procedures, chances for things to go awry so we take into consideration that if for some reason during this procedure the head is presented first, that will still be covered.

or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

(B) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus.

Now, that is the description that is in the bill.

Let me show graphically the process by which this abortion takes place. This is a picture of a fetus inside the mother's uterus with the gestational age of roughly 24 weeks. The gestational period is 40 weeks for normal development. We are talking about now 24 weeks, or better than halfway through the pregnancy. That is when the vast majority of partial-birth abortions occur. In fact, all of them occur after 20 weeks. Most of them occur 22, 24, 26 weeks.

In the first picture we see the baby in the womb, in the normal fetal position. What has happened before this procedure occurs is the mother presents herself to the abortionist. And the abortionist, in making a determination to do a partial-birth abortion, gives the mother a medication to dilate her cervix so this procedure can then be performed. This dilation occurs over a 2-day period. The woman presents one day, the next day she stays at home, and the third day she arrives at the abortion clinic.

I use abortion clinic advisedly because this procedure is not performed in hospitals. It is not taught at medical schools. It is done solely at abortion clinics. The doctor who created this procedure testified that the reason he created this procedure was not because this was a better medical procedure for women. This was not designed for women's health. He said, and I am quoting him, he designed this procedure because other late-term abortions, when women presented themselves into his office, took 45 minutes. He could do this procedure in 15 minutes. Therefore, he said, he can do more abortions; he can make more money. So the person who designed this procedure, the person who put the medical literature out on this procedure is very clear as to why he designed this procedure. It is quick. It is easier for him. And he can make more money because he can do more abortions in a day.

So the mother, having been presented at the abortion clinic 2 days before, takes this drug. We heard from the Senator from Ohio yesterday, Senator DEWINE, of instances where mothers in Ohio, two cases—remember, this procedure was invented by a doctor in Ohio—two cases from a Dayton abortion clinic where the mother was given medicine to dilate her cervix and in two separate cases, because of the dilation, labor was induced and two different women delivered babies. One named Baby Hope lived 3½ hours and was not given medical treatment. I don't know all the facts as to why. Maybe it was an assessment that the child was too premature to live. The second baby, Baby Grace, was born and survived as a result of the live birth.

So we are talking about children here. This is very important. We are talking about this little infant here, this fetus, that would otherwise be born alive. The definition of the bill, I repeat one more time, of a baby delivered in a breech position:

. . . any part of the fetal trunk past the navel is outside the body of the mother for the purposes of performing an overt act that . . . will kill the . . . fetus.

You cannot kill a fetus if it is not alive. So this is a very important part of this definition. When the baby is delivered, the baby must be alive. If the baby is dead, we are not talking about an abortion because the baby is already dead. We are talking about a living fetus, living baby.

The first step now, the women presents herself, the cervix has been dilated, the physician goes in and grabs the baby's foot and begins to pull the baby into the birth canal in a breech position. Again, I repeat, no one preferably delivers a child in a breech position. It is just not what is medically recommended, but in this case we have the child being presented in a breech position.

Again, you can see the size of the baby in relationship to the size of the hand of the doctor. Some will say, well, that baby is much bigger than a baby. This is a blown-up chart. Of course it is bigger. Look at the size of the child relative to the size of the hand of the physician who is performing this abortion. You will see the size is about the size of the hand, 8, 9 inches in length, which is roughly the size of a child at that gestational age.

The child is pulled through the birth canal and presented.

Remember, here is the child outside of the mother as described in the bill, outside of the mother beyond the navel. The child is alive. The child is alive and is being delivered in this breech position. But the child is alive at this point in time.

But for what I am going to describe in charts 4 and 5, this child could be born alive. It would be born alive. It had the potential to survive. But that doesn't occur in the case of the partial-birth abortion.

What happens next is the abortionist takes a pair of sharp scissors and, probing with their fingers to find the base of the baby's skull, the softer point here, below the bone that protects the brain, finds a soft spot and thrusts a pair of scissors into the base of a living child's head who would otherwise be born alive.

One of the nurses who testified before Congress said she witnessed a partial-birth abortion and she witnessed the reaction of a child who was killed by one of these procedures and she said she saw the child's arms go out, flinch like a baby would do if you dropped it—sort of let it go. They let their arms and legs sort of go out. That is what this little child will go through as a result of this procedure.

Can this child feel pain? Most assuredly. Its nervous system is developed. In fact, going back to the first chart, when the doctor is reaching in to try to grab the leg, as has been described in testimony, the child tries to get away from the instrument that is grabbing its foot. The scissors are thrust into the base of the skull. That very well may kill the child. I don't know. In some cases it probably would. Probably in most cases it would.

But we are not done yet. We have to add insult to the injury. The doctor takes a suction catheter and, through the hole which is now in the base of the child's skull, he inserts a suction tube, and with that suction—tube he turns it on and suctions out the baby's brain. It collapses the baby's skull.

For those of you who have held newborns, you know that their skull is very soft, pliable. So without anything inside, it has been suctioned out through force, the baby's head collapses, and the rest of the baby can be delivered.

This is a procedure that is barbaric. It is barbaric. On a little baby who would otherwise be born alive—and if there is any question about that, I point to you Baby Hope and Baby Grace, who were ticketed for partial-birth abortions but were delivered prior to that.

What we have suggested in the Senate now, for the fourth Congress in a row, is that a procedure that was developed by a doctor who testified that the reason he developed this procedure was that he could do more abortions, make more money, is not medically necessary under any circumstances.

I have a quote here from Warren Hern. Warren Hern is a noted third-trimester abortionist. He has written books on late-term abortions. He does a lot of them. When he says, ''I have very serious reservations about this procedure . . . you really can't defend it . . . I would dispute any statement that this is the safest procedure to use . . . '' this isn't RICK SANTORUM who has trouble with abortion, period—I admit that—this is someone who does abortions. This is someone who does late-term abortions. As I said, Dr. Warren Hern is the author of the standard textbook on abortion procedures. We have a situation where this procedure was designed simply so they could do more late-term abortions quicker.

There is plenty of evidence—I will get into this later—that this procedure has profound, long-term health consequences to women. This is not, as Dr. Hern says, the safest procedure for women.

There is no case—and I am going to underscore this 100 times, and I challenge anyone who opposes this legislation—anyone: If you are on the floor of the Senate, listening back home, listening—if anyone here, anyone across America, anyone around the world—and I want the Supreme Court to hear this—anyone can present to me a case, a factual situation where a partial-birth abortion is medically necessary vis-a-vis other types of abortions, if you can present to me one case, I will be shocked. That is because I have been asking this question for 7 years here on the floor of the Senate, outside, to groups—the folks who agree with me, the folks who disagree with me.

I have asked one question: Tell me why this is medically necessary. Tell me why, when even abortionists say it is not medically necessary, where no medical school in the country teaches this procedure, tell me why we have to keep this brutality of killing a child literally inches away from being born, why we have to keep up this brutality that is done purely so doctors who are abortionists can make more money, legal in America.

I ask again, anybody who comes here to the floor to debate this issue, who says we need a health exception, give me one case—one case. Seven years I have asked this question. Seven years I have asked this question. One case. Never has anyone even tried to put one together here on the Senate floor.

I am hopeful the Senate will act on this bill. I am happy the minority whip, Senator REID, has given us a list of amendments so we can proceed in an orderly fashion on this legislation.

I see the Senator from Washington is here to offer her amendment. I certainly want to give her the opportunity to do that. I am looking forward to debate, not only on these amendments but to have a really good, honest debate—I underscore the word ''honest.'' There has been a lot of information—I will go through that, too—that has been put out by people who oppose this ban, everything from saying the anesthesia kills the baby to on down the line. There has been a lot of information that has been erroneous that has been put out by the other side.

I am looking forward to a good, honest debate on this issue. I hope we can get an overwhelming vote in the Senate to ban a procedure that is horrific, brutal, and never medically necessary for any purpose. It is only necessary so we can have abortionists who do late-term abortions earn more money, and that isn't a good reason to allow this barbaric procedure to proceed.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 258

(Purpose: To improve the availability of contraceptives for women)

Mrs. MURRAY. Madam President, here we are, once again debating this issue. Since we began debating how to criminalize women's health choices yesterday, the Dow Jones has dropped 170 points; we are 1 day closer to a war in Iraq; we have done nothing to stimulate the economy or create any new jobs or provide any more health coverage. But here we are, debating abortion in a time of national crisis.

Since we are debating S. 3, I want to expose this proposal for what it is. It is deceptive, it is extreme, and it is unconstitutional.

First of all, it is deceptive. The other side wants you to think that this just affects one procedure performed in the third trimester, but that is not true. We need to remember what Roe v. Wade clearly spells out. Up to viability, a woman and her doctor make the choice. However, any late-term abortion can only be performed to save the life or health of the woman. But the language in S. 3 is broad. It is so broad as to apply to many procedures, and it would impact women in the second trimester.

That is exactly why the Supreme Court struck down a similar State law in Nebraska. It is deceptive because it would not just be limited to what the other side implies it does.

Partial-birth is a political term. It is not a medical term. Despite all of the hot rhetoric we hear, this bill is neither designed nor written to ban only one procedure. It would also apply well before viability and could ban possibly more than one procedure.

Second, this bill is extreme. It is just the first in a long march to dismantling a constitutionally protected freedom. Don't take my word for it. Listen

to the President of the United States who declared in 1994:

I will do everything in my power to restrict abortion.

On the issue of women's reproductive freedom, the President has kept his word. He and his staff have worked tirelessly to turn back the clock on women's health choices. In only 2 years, the President has issued a rash of executive actions that could severely restrict stem cell research, thus threatening lifesaving medical advances; reimposed the global gag rule on international family planning programs; made a fetus eligible for health insurance but not the pregnant woman who is carrying the fetus; packed the Federal courts with anti-choice judges; and appointed stanch opponents of reproductive choice throughout all levels of the executive branch.

We will hear the Republicans use the most graphic and disturbing descriptions they can find to try to sour the public on something that was decided by the U.S. Supreme Court years ago. And it still opens the door to future politicians banning additional safe and legal procedures.

Third, this ban is unconstitutional. The U.S. Supreme Court has already ruled that this very type of restriction violates the Constitution. Last year, in the case of Stenberg vs. Carhart, the U.S. Supreme Court ruled a similar law at the State level unconstitutional for two reasons.

First, the language is so broad that it bans other constitutionally protected procedures. The Supreme Court's rulings state:

Even if the statute's basic aim is to ban D&X, its language makes clear it also covers a much broader category of procedures.

The bill before us is similarly unconstitutional because it covers too many constitutionally protected procedures.

Second, the Supreme Court found the State law unconstitutional because it did not contain an exception to protect the woman's health. Let me read that part of the ruling.

The governing standard requires an exception where it is necessary and appropriate medical judgment for the preservation of the life or health of the mother.

Our cases have repeatedly invalidated statutes that in the process of regulating the method of abortion impose significant health risks.

Guess what. The Republican bill before us fails the same constitutional test. It is too broad, and it does not contain an exception to protect the health of the mother. And the Supreme Court has said it is unconstitutional.

We have Republicans offering today a clearly unconstitutional bill on at least two counts. Proponents of the ban will argue that they have addressed the concerns addressed by the Supreme Court. However, a statement of congressional findings is not binding on the Court. The other side is using misleading and deceptive arguments to ram through an extreme and unconstitutional measure.

If the goal of the Republican Senate, the Republican House, and the Republican White House is to have fewer abortions in this country, then let us have an honest attempt to accomplish that goal. To show a real commitment to reducing abortion, my colleagues should support the amendment I will offer. It will help prevent unintended pregnancies and abortions in the first place.

The Murray-Reid amendment which we intend to offer would do three things: It would reduce unintended pregnancies, reduce the number of abortions, and improve the health of low-income women.

I will offer this amendment on behalf of Senator REID and myself. Senator REID has been a long-time champion of women's health issues, and especially for access to family planning. I thank Senator REID for his leadership on the amendment I will offer.

The Murray-Reid amendment would raise awareness about emergency contraceptives and ensure that insurance companies treat contraceptives fairly and ensure that low-income women have access to health care before, during, and after pregnancy.

First of all, the Murray-Reid amendment would reduce the number of abortions in America. I think that is something we can all agree on, and it is something we all would support.

By educating women about the availability of emergency contraception, an emergency contraceptive known as an EC could help prevent a pregnancy when taken within 72 hours. It is sometimes called the morning-after pill. An EC does not induce an abortion. An EC is not RU–486. It is simply a high dose of conventional birth control taken soon after contraceptive failure, unprotected sex, or rape.

ECs are safe and they are legal. They reduce the number of abortions and unintended pregnancies.

In fact, a study by the Alan Guttmacher Institute found that emergency contraception prevented 51,000 abortions in 2000. Unfortunately, too few women know that they are available. It has been reported that 50 percent of all pregnancies in our country are unintentional. The best way to ensure a healthy child and reduce the infant mortality rate or birth defects is to ensure that the woman is healthy prior to pregnancy. Public awareness campaigns targeting women and health care procedures will help remove many of the barriers to emergency contraception and will help bring this important means of preventing unintentional pregnancies to American women.

My amendment simply improves the awareness about emergency contraceptives.

According to the American College of Obstetricians and Gynecologists, only one-third of women of reproductive age know about emergency contraception.

Mr. President, again I will be offering my amendment shortly. One of the provisions will be to improve awareness about emergency contraceptives. As I said, according to the American College of Obstetricians and Gynecologists, only a third of women of reproductive age know about emergency contraception, and only one in five physicians regularly discuss it with their patients.

What the Murray-Reid amendment does is improve awareness about emergency contraceptives by providing $10 million in each of the next 5 years to establish a public education program. It will educate women and medical professionals across the country about the use of emergency contraceptives. It will allow the Department of Health and Human Services to provide grants to groups of providers working on this education campaign.

Not long ago I visited an organization in my State that provides bilingual pamphlets to clinics and providers in eastern Washington on the availability of ECs and how the drug combinations work to prevent pregnancy. I also know that Planned Parenthood of Washington is working to provide education on ECs as part of their overall family planning counseling.

State public health agencies could also apply for a funding grant to further their efforts to educate women on this safe and effective means of preventing pregnancy.

My amendment also makes emergency contraceptives available to victims of rape in the emergency room. When a woman has been raped and is brought to the emergency room, she may not even be aware that there is a safe and legal way to prevent her from becoming pregnant. We know that counseling in many emergency rooms on the availability of safe and effective contraceptives is simply being ignored. Providing emergency contraceptives or even information about them is still, amazingly, not standard protocol for treating a rape victim. Educating women will ensure that women are more aware. The unfortunate truth is that rape victims are not getting the care they need. Our amendment would allow doctors in the emergency room to just simply tell a rape victim about this safe and legal alternative to abortion.

Let me turn to the second part of my amendment, which requires insurance companies to treat contraceptives fairly. Today, amazingly, many insurance companies will cover drugs such as Viagra, but they will not cover contraceptives. We should eliminate this discrimination in insurance and improve women's health.

Today, 20 States, including Washington State, do have some form of contraceptive equity requirement. Recently, a court decision in my home State of Washington affirmed access to contraceptives as a civil rights protection. Most Americans would agree that when you talk about preventing unintentional pregnancies and protecting women's health, you must have contraceptive equity.

The average annual cost of oral contraceptives can range from $400 to $700 a year. Women of reproductive age spend 68 percent more than men on out-of-pocket health care services. While there are several factors that cause this disparity, the lack of contraceptive equity plays a very big role. A recent survey of health plans showed that 49 percent of large group plans do not routinely cover a contraceptive method. Many States, including my own State of Washington, have taken steps to correct this obvious inequity. But without Federal legislation, the change will be slow, and it will lack a comprehensive commitment to protecting women's health.

This debate is not about costly new mandates or even about moral judgments; rather, it is about eliminating economic discrimination and protecting women's health.

Under my amendment, if health insurance plans offer prescription drugs, they would have to cover contraceptives and treat them equally. If we are going to jeopardize women's health by banning certain safe and legal procedures, then we must ensure access to contraceptives and effective family planning services.

Finally, my amendment would increase health coverage for low-income women through all stages of pregnancy. Not long ago, the administration said States should use SCHIP dollars for the care of the unborn fetus, but it did not extend that to the pregnant woman. That is ridiculous. The clinical guidelines of the American College of Obstetricians and Gynecologists and the American Academy of Pediatrics both indicate that the woman and the fetus should be treated together. It just makes sense.

So my amendment would ensure States can provide medical coverage for pregnant women from the SCHIP fund. That will help reduce infant mortality and ensure that both the woman and the child get the medical care they need.

This part of my amendment comes from a bipartisan bill, the Mothers and Newborns Health Insurance Act, that was introduced by Senators BINGAMAN, LINCOLN, and CORZINE, who have been huge champions of this issue.

Before I end this morning, I just want to share a story with my colleagues of a 34-year-old woman named Audrey Eisen. She and her husband Tom desperately wanted to have children. After trying for 2 years, they became pregnant. And after experiencing the sadness of a miscarriage in July of last year, Audrey and Tom were elated to learn they were pregnant. The checkups during the first few months indicated that the embryo was developing normally. At 13 weeks, they planned to have a special ultrasound. Unfortunately, they discovered the fetus was developing an abnormal number of fingers and toes and that the condition could indicate a much more serious complication, trysomy 13.

Trysomy 13 is a chromosomal condition in which there are three, rather than two, of the 13th chromosome. This syndrome is characterized by multiple abnormalities, many of which are not compatible with life beyond a couple of months. Most fetuses with trysomy 13 die in utero. Of those who make it to birth, almost half do not survive past the first month, and roughly three-quarters die within 6 months, and long-term survival is 1 year.

Unfortunately, neither life nor death comes easily for these children. It is a painful existence, marked by periods of breathing cessation and seizures. When Audrey returned for another ultrasound to get a better image of the fetal brain, her worst fears were confirmed. Here is what Audrey wrote:

> The first thing my OB examined during the ultrasound was the fetal brain. He did not say anything. I could tell he was holding something back and asked that he tell me what he saw. He said: "It is not normal." The rest of the scan was a blur as tears ran down my cheeks and those of my mother and husband who had accompanied me. Following the scan, the doctor left us alone to compose ourselves, after which we met with the genetic counselor. I cried with my whole body from the depths of my soul.

Audrey underwent additional testing in which she found that their fetus had a complete duplication of the 13th chromosome. It also exhibited a failure of the forebrain to properly develop and separate from the rest of the brain, a ventricular septal defect in the heart and a herniation of a portion of the abdominal organs into the umbilical cord.

Audrey's letter continues:

> At this point we discussed our options with the genetic counselor. My husband and I both felt strongly that it was in both the child's and our best interest to terminate as quickly as possible. The genetic counselor told us that we could either have a D&E or be induced. My doctor prescribed both procedures and we decided that a D&E was clearly best for me. The procedure was performed four days later on the first day of my 16th week of pregnancy. I don't think that I really understood this issue emotionally or intellectually until I was in the position of having to terminate my much desired pregnancy. Along with my sadness came a realization that if such legislation passed, the right to safe second trimester termination of pregnancies might not remain available to those women who come after me. In this event, I don't know how these women will endure. I don't know how I could have endured.

Audrey Eisen had to make a terrible decision that no mother ever wants to make. But this Senate wants to inject itself between Audrey Eisen and her doctor.

As I mentioned at the start of my remarks, I find it outrageous that as our Nation stands on the brink of war and our citizens struggle with a stagnant economy, the Republican Senate can find no more important topic to debate than criminalizing women's health decisions. When a woman is lying in pain in the operating room and doctors are telling her that her dream of a healthy baby has been replaced by a nightmare of medical complications and that under these harrowing circumstances she must immediately make a life altering decision that could determine whether she lives or dies or whether she can have children ever again, that woman should be able to make that decision with her family, her doctor, and her faith. The Senate should not make that decision for her.

This bill is an unconstitutional, extreme measure being sold through misleading arguments. If the proponents truly are interested in reducing unwanted pregnancies and reducing the number of abortions, they should support the Murray-Reid amendment which would also improve health care for low-income women. I urge my colleagues to reject the underlying bill. The Senate should not substitute its judgment for the judgment of a woman in one of the most intensely personal decisions she is ever likely to make. But if the Senate is going to ram through this unconstitutional, extreme measure, the least we can do is temper it with safe, responsible access to emergency contraceptives, fair treatment of contraceptives by insurers, and health care for low-income pregnant women.

Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Washington [Mrs. MURRAY], for herself, Mr. REID, and Mrs. BOXER, proposes an amendment numbered 258.

Mrs. MURRAY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under "Text of Amendments.")

Mr. DASCHLE. Mr. President, I commend Senator MURRAY for this amendment. I appreciate very much the leadership she has shown in providing a real opportunity to prevent late-term abortions to begin with. That is exactly what this amendment does. I appreciate very much her willingness to step forward.

I want to quickly state three things prior to the time that we have the opportunity to hear from Senator MURRAY more extensively about the importance of this amendment.

No. 1, I can recall so vividly on so many occasions over the last couple of years when Republicans cried crocodile tears about legislation that came to the floor without having first gone through committee. Crocodile tears. They did everything but throw things on the Senate floor, they were so upset, every single time somebody would suggest that amendments or bills be offered that had not been considered in committee. Yet right out of the box, one of the very first pieces of legislation presented to our colleagues today

is legislation that didn't go through committee. That was rule under rule 14 on the floor. The double standard and the hypocrisy is amazing to me.

The second issue I think ought to be stated is that we may be going to war within the next 10 days. I hope not. I have said publicly and privately I hope we never consider war inevitable. But I must say, as we consider what is now occurring in North Korea, as we consider the extraordinary repercussions of what may occur in Iraq, as we consider the constant deliberations in the United Nations with regard to our actions, you would think the Senate would express itself, if not through resolutions, at least with our dialog, with our consideration of these issues, with our opportunities to express ourselves, and with more opportunity to avoid concern for all of these issues and others going into such a dramatic historic and consequential moment in our Nation's history. And yet we find ourselves debating this issue. I think it is an ironic juxtaposition. And I am disappointed we would be spending our time on it this week, given all of the other issues we have to address.

The third thing I would simply say is that, as with so many issues on the Senate floor, this issue is packed with emotion on both sides. We are the Nation's leaders. We set the tone. We are the ones who create a sense of perspective with regard to these debates. The more shrill we are, the more shrill we can expect the American people to be. The more confrontational and personal we are, the more confrontational and personal we can expect the American people to be.

So I urge my colleagues, as we go through this emotional debate, to demonstrate civility, to demonstrate a recognition that it is very easy to generate emotional fervor on this issue. It is out there already. I hope, in the tradition of the Senate, a debate as important as this would recognize our responsibility to deal with these issues sensitively, to deal with them in a way that recognizes the importance of civility, to recognize, as well, that tone can be an important factor in effecting substance.

So I only urge my colleagues on both sides of the aisle to recognize, to accept our responsibility to debate this issue with civility, with respect, with sensitivity, and with a recognition that our voices are heard way beyond these Chambers.

I thank again the Senator from Washington and again applaud her for her efforts.

I yield the floor.

Mrs. MURRAY. Mr. President, I thank the Democratic leader for his comments and his timely reminders, and I appreciate his comments at this time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that during the time from 11 to 12:30, the time for the Democrats be divided with DASCHLE, 10 minutes; LEAHY, 10 minutes; KENNEDY, 10 minutes; DURBIN, 5 minutes; SCHUMER, 5 minutes; and REID, 5 minutes.

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

Mr. REID. Mr. President, in a great Nation such as ours, we are fortunate to have democratic values and institutions so American citizens can openly and freely voice their opinions and attempt to influence government policies. The abortion debate has been a divisive one for our Nation for many years. People on both sides of this issue feel strongly and have argued, demonstrated, and protested with emotion and passion.

We all recognize that the issue is not going to go away anytime soon. One side will not be able to suddenly convince the other to drop its deeply held beliefs. But there is a need and, I believe, an opportunity for us to find common ground and take steps toward a goal all of us share; that is, reducing the number of unintended pregnancies in America.

I believe it is both possible and necessary for us to come together and enact effective legislation that will prevent unintended pregnancies, reduce the number of abortions performed, and address unmet health needs of American women.

We cannot only find common ground, but also commonsense solutions in the women's health amendment that Senator MURRAY and I have offered this morning. Our amendment will help to reduce the staggering rates of unintended pregnancies and reduce abortions. Our women's health amendment will also improve access to prenatal and postpartum care for pregnant women.

Specifically, our amendment will: No. 1, end insurance discrimination against women. Let me say that this amendment was offered many years ago by Senator SNOWE and me. I express my appreciation for her tireless efforts, for working with us in ending insurance discrimination against women. The Senator from Maine has been a stalwart in this regard.

No. 2, our amendment will improve awareness and understanding of emergency contraception and ensure that rape victims have information about and access to emergency contraception.

Lastly, it will promote healthy pregnancies in babies by allowing States to expand coverage for prenatal and postpartum care.

This is really unbelievable, but it is true: About half of all pregnancies in our country are unintended and about half of those will end in abortions. We must work together on this public health problem. It does not have to be this way. Most of these unintended pregnancies and resulting abortions can be prevented.

One of the most important steps we should take to prevent unintended pregnancies is to make sure that American women have access to affordable, effective contraception. I have been in a number of debates on this issue about contraceptive use. I can remember on a national radio program a woman called in from Texas. She said: I am now pregnant with my fourth child. I have diabetes. She went on to outline the many problems she would have having this baby. But she did say that the reason she is pregnant is because she and her husband could not afford prescription contraception. They tried other things that didn't work, and, as a result, she was going through this pregnancy.

What our amendment is all about is allowing women to have the choice to have contraceptives that work. Insurance companies, as the Senator from Washington so well outlined, provide money for all kinds of things. Why not contraceptives? It would be cheaper and certainly save a lot of money and aggravation in the long run.

As a result of medical innovation and pharmaceutical research, there are numerous forms of safe and highly effective contraception that are available by prescription. If used correctly, they would greatly reduce the rate of unintended pregnancies. However, one of the greatest obstacles to the usage of prescription contraception by American women is their cost.

The woman who called in to the national radio show is only one example. There are all kinds of examples of people who have insurance and do not have access to, for example, the pill—which is so effective in preventing women from becoming pregnant.

We know that women, on average, earn less than men. Yet they must pay far more than men for health-related expenses. According to the Women's Research and Education Institute, women of reproductive age pay 68 percent more in out-of-pocket medical expenses than men. Why? A lot of reasons, but one is due to their reproductive health care needs. Because many women cannot afford to pay for the prescription contraceptives they would like to use, many go without it, resulting in unintended pregnancies. Far too often that is the case.

This week is Cover the Uninsured Week—a major effort by a coalition of groups from all over the country to raise awareness to one of the fundamental problems of our society. About 44 million Americans lack health insurance. In addition to the 44 million, many other Americans are underinsured. The number who have no health insurance includes women and children. Most of the families affected are working families.

This is a tragedy that demands our attention. We have tried to get their attention, but we have not done very well. The high cost of prescription contraceptives is not only a problem for the millions of women without health insurance, it is also for millions of women who have health insurance because even having a plan that includes a prescription drug benefit does not

guarantee that the prescription drugs you rely on are included.

Such is the case for a majority of women in this country who are covered by health insurance plans that do not provide coverage for prescription contraceptives. As a result, women are forced to either do without contraceptives or to bear this expense out of pocket. This is unfair to women and unfair to families. It is bad policy that causes additional unintended pregnancies, adversely affecting women's health.

As I indicated earlier, I have been trying since 1997 to remedy this, and we have accomplished a few things. We have been able to get women who work in the Federal sector to have their insurance cover this, but we have been unable to get it for the rest of the country. That is too bad.

Today, as part of our women's health amendment, we are again proposing commonsense legislation that has received bipartisan support in the past. The Equity in Prescription Insurance and Contraceptive Coverage Act, or EPICC, as we call it, requires insurance plans that provide coverage for prescription drugs to provide the same coverage for prescription contraceptives.

The woman in Texas—I cannot adequately convey to you the desperation in this woman's voice when she called in saying: I am a sick woman. All I needed was the ability to have a prescription where I would get a contraceptive that would work, but I didn't, and I am pregnant. It is going to affect my health adversely, and I don't know what will happen to the baby. I cannot convey in words the desperation, the concern in this woman's voice.

We are not asking for special treatment of contraceptives—only equitable, fair treatment within the context of an existing prescription drug benefit. This legislation will help increase the playing field a little bit for women. They spend more for their health care costs. This will help a little bit. Making contraception more affordable and available will enable more women to use safe and effective means to prevent unintended pregnancy. I hope that is a goal we all share. I believe it is.

Contraceptive coverage is much cheaper than other services. As the Senator from Washington pointed out, it is certainly cheaper than performing an abortion; it is cheaper than sterilizations and tubal ligations, and most insurance companies routinely cover these.

The Federal Employees Health Benefits Programs, which has provided contraceptive coverage for several years as a result of an amendment we offered on the floor, shows that adding such coverage doesn't make the plan more expensive. In fact, it saves money. Unintended pregnancies cost society money, cost families money.

As I indicated, this was first introduced by Senator SNOWE and me 6 years ago. We have been working across party lines and across the ideological spectrum to gain support in the Senate. It had 44 cosponsors last year in the Senate.

This is commonsense, cost-effective legislation that is long overdue. Promoting equity in health insurance coverage for American women, while working to prevent unintended pregnancies and improve women's health care, is the right thing to do. We should also take additional steps that would improve women's health and further reduce unintended pregnancies.

Our amendment would increase the awareness and availability of emergency contraception, an important yet poorly understood form of contraception.

I have never said this publicly, and I will not use her name, but she knows who she is. A very good friend of mine who worked for me for many years—she started off in high school as a runner in my office. She came to me one day, and I knew something was wrong. I said: What is the matter?

She looked at me with tears in her eyes and said: I was jumped last night.

I never heard that term before, but she was driving through a rough neighborhood and they stopped her car and she was raped—a teenager, Mr. President. I didn't know what to do or say. I called my wife's gynecologist/obstetrician, who is a friend of mine, and I said: Doctor, here is the situation . . . will you see her?

He said: Of course, I will see her.

So she went to him. She didn't become pregnant, but that is fortunate. Now, I wished, then, we had the ability to have emergency contraception. It would have relieved everybody's mind and made everybody feel better. I will never forget that. That was a traumatic night in her life, to say the least.

We have made progress since then—scientific progress—to make problems like that one something that can be dealt with. She would not have had to come to someone like me, her employer, and be humiliated by telling some one older than her about the problem. But she was one of the fortunate ones. She had somebody she could come to, and I had the opportunity to send her to my wife's gynecologist.

So, in effect, our amendment would increase the awareness and availability of emergency contraception, an important, yet poorly understood form of contraception. Approved for use by the FDA, emergency contraception pills work to prevent pregnancy, and they cannot interrupt or disrupt an established pregnancy. That is a scientific fact.

A woman could use emergency contraception in an emergency, such as if she had been raped and doesn't want to become pregnant.

The availability of an emergency contraception is particularly important for women who survive sexual assault, like my friend.

It is difficult to imagine the physical, psychological, and emotional pain that a woman who is raped endures. In addition to the violent attack to which these women have been subjected, they must also consider the possibility that in addition to the trauma of the rape, they could become pregnant as a result.

Compassion is a word we have heard a lot from political leaders in recent times. Actions speak louder than words. Surely, I acknowledge—and I think we should all acknowledge—it would be compassionate to make emergency contraception available to women to prevent them from becoming pregnant by the rapist who brutalized and traumatized them.

It would be compassionate to make emergency contraception available to a woman to prevent her from becoming pregnant by the rapist who brutalized and traumatized her.

I hope we can all agree on this legislation which would require hospitals receiving Federal health dollars to provide information about emergency contraception and make it available to sexual assault survivors when they are being treated in the emergency room.

Simply put, emergency contraception should be made available in every emergency room in America. Women who have been raped should be informed of all their options, including learning about emergency contraception. If they choose emergency contraception, it should be made available to them. It should be a choice.

Women who have been raped should be informed of all their options, including learning about emergency contraception, and if they so choose, it should be made available to them.

EC, emergency contraception, has been studied extensively and has been regarded as a safe and effective method to prevent unintended pregnancies.

Once I was on a radio show talking about my contraceptive coverage legislation. Someone called in and said: I think it is awful, and I am opposed to contraception of any kind. Mr. President, that is a person's right. Some people do not believe in contraception, and that is their right. Nothing in our legislation forces a woman to take any form of contraception. That should be a choice of a woman who has a health plan or a woman who has been raped. That is all we are saying.

EC has been studied extensively and regarded as a safe and effective method to prevent unintended pregnancies, I say again. Its use has been recommended by leading American authorities, including the American Medical Association, the American College of Obstetricians and Gynecologists, and it has been approved by the Federal Food and Drug Administration.

It is believed this would prevent hundreds of thousands of pregnancies and likely hundreds of thousands of abortions in America each year. Unfortunately, however, emergency contraception remains, for the most part, a well-kept secret. Most of the women who would benefit from it and would use it

in an emergency to prevent an unintended pregnancy are unaware of its existence or do not know where to get it, where it is available. Even many health care providers do not understand what it is, how it works, and who could use it.

To reduce unintended pregnancy by raising awareness of emergency contraception, Senator MURRAY and I are proposing in this amendment to authorize $10 million in funding for the Centers for Disease Control and the Health Resources and Services Administration to develop and distribute information about emergency contraception to public health organizations, health care providers, and the public. This would prevent hundreds of thousands of unintended pregnancies and, of course, abortions.

These are just some of the simple, but I think necessary, steps we can and should take to prevent unintended pregnancies and reduce abortions.

To further improve the health of women and children, we should give States the option of covering pregnant women in the State Children's Health Insurance Program, called SCHIP, for the full range of their health needs, including prenatal, delivery, and postpartum care.

A number of years ago, a couple of neonatologists came to visit me. They were Nevadans. One was with a public hospital in southern Nevada. They had a number of messages. They wanted to see if we could get money to build a neonatal unit there. We have done that at the University Medical Center in southern Nevada. It is wonderful to go there and see those babies being saved because of modern technology.

Another message they wanted to deliver to me is that children are having children, and many of these children having children come to the emergency room—and they have never seen a doctor—to deliver the baby. They have never seen a doctor. It happens all the time. They were saying: We need to do something to allow these children to have a place they can go to get the care. Why don't they get care? There are a lot of reasons, but mainly it is a money situation.

I think this amendment is wonderful, and I like this part of our amendment very much, but I personally believe every woman in America, whether it is the wife of a billionaire or a woman who is on welfare and has nothing, and is 12 years old or 14 years old, should all be able to have free prenatal care. Every woman in America should be able to have free prenatal care. It would save this country so much money.

These doctors told me when they came to visit me that there are many million-dollar babies who, because of lack of prenatal care, are born with all kinds of problems. Had they had some prenatal care—some of these girls do not realize they should not smoke or take dope. They do not know. These are kids. If they had a place to go for prenatal care—there are grown women who need advice and counseling as to what should and should not be done during pregnancy.

I really believe all women should have free prenatal care. There should not be means testing. I think every woman should have free prenatal care in our country. We would save so much money as a society by doing that. That is another battle down the road some other day.

This amendment would give States the option of covering women in the State Children's Health Insurance Program for the full range of their health needs, including prenatal delivery and postpartum care. The mortality rates for infants and for mothers remain alarmingly high in the United States. We can, we should, and we must reduce these rates by extending coverage for prenatal care and pregnancy-related services. Unfortunately, the administration imposed a regulation last year that allows the fetus to be insured through SCHIP but excludes—excludes—the mother from coverage. Let me say that again. Through an administrative fiat, regulation, order, mandate, this administration imposed a regulation last year that allows a fetus to be insured through SCHIP, but excludes the mother of that fetus from coverage. Try to logically figure that one out. This is illogical, I think it is shameful, and I think it is absurd.

It, in effect, punishes women and certainly does not improve their health care. In any case, how can one claim to care about the health of an unborn child and not provide for the health and needs of his or her mother? The administration's policy means pregnant women are not covered during their pregnancy for medical emergencies, accidents, broken bones, mental illness, cancer, or even lifesaving surgery. Only procedures considered medically necessary for the fetus are covered. No postpartum care, of course, is included.

Remarkably, Health and Human Services Secretary Thompson tried to defend this policy by suggesting—listen to this—that the regulation which explicitly denies postpartum care is more comprehensive than legislation which provides full coverage including postpartum care. That is what he said. Do not try to figure out what it means because I cannot. This strains the credulity of anyone reading this and studying this situation. It flies in the face of common sense. We cannot have healthy babies if we ignore the health of the expectant mother. So States should be able to provide pregnant women with a full range of health services through SCHIP.

We should embrace these measures to protect the health of women and babies, prevent unintended pregnancies, and reduce abortions.

I am very happy to work with the distinguished Senator from the State of Washington, who is always on the cutting edge of things that relate to being compassionate and caring about people. It is an honor to join with her in helping us find common ground, commonsense solutions and show some compassion.

Let us find common ground. Let us agree on commonsense solutions and let us show compassion. There are four elements of this amendment. I hope we will move on and pass this unanimously. I do not know how anyone could oppose these commonsense amendments, but time will only tell.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, we have roughly 10 minutes before we proceed to a debate on the constitutional role of the Senate in the advise and consent process. I do not have a sufficient amount of time to respond to all of the comments made by my colleagues from Washington and Nevada. We are looking at the amendment. We may have some amendments to it. My understanding is there are two jurisdictional pieces to this amendment. One is in the Finance Committee. The other is in the HELP Committee. We are still getting feedback from those committees.

My understanding is that some of these provisions have been offered at the committee level previously and the chairmen of those respective committees are letting us know what they would like to do.

Mr. DURBIN. Will the Senator yield for a question?

Mr. SANTORUM. I am happy to yield for a question.

Mr. DURBIN. Will the Senator tell me if the underlying legislation, S. 3, went through the committee before it came to the floor?

Mr. SANTORUM. As the Senator from Illinois knows, this is the fourth Congress in which this legislation has been considered. It has gone through committee in previous Congresses. As I mentioned before, there are some changes to this legislation, but the basic underlying procedure that we attempt to ban is one that is very familiar to the Senator from Illinois and very familiar to other Members. It is obviously familiar to members of the committee. While this is a bill that, again, I would argue has some differences in it that are important from a constitutional perspective, this is an issue very familiar to every Member of the Senate and there was not really a sense that this was one that needed to go through the process again.

Mr. DURBIN. If the Senator will yield for two brief questions, and I will not dwell on this any longer.

Mr. SANTORUM. Yes.

Mr. DURBIN. Will the Senator please tell us when was the last time this bill went through the committee process, for example, the Judiciary Committee? Secondly, has this bill, which is virtually identical to the Nebraska statute rejected by the Supreme Court, gone through committee hearings since the Supreme Court rejected this very same language in the Nebraska statute?

Mr. SANTORUM. I will get the answer to the first question. I do not have the answer, but I will get that, No. 1. No. 2, this is different than the Nebraska statute. In fact, it was drafted in response to the Supreme Court's ruling in the Carhart v. Stenberg case.

To the other question, have there been hearings conducted about it, the answer is, no, there have not been hearings in the Senate. I do not know whether the House has conducted hearings on this language or not, but I can certainly find that out.

We are making the case and we will continue to make the case, and I assume those who oppose this legislation will make their case, as to the constitutionality of this legislation in its amended form that was struck down by the U.S. Supreme Court. I will go through those arguments repeatedly. I do not have time now because we only have about 5 minutes and I do have some other things I want to say.

Clearly, we believe we have addressed the issue of health. The Supreme Court, in the Carhart v. Stenberg case, took the record of the lower court. The lower court found that the health exception was needed based on the record, and the U.S. Supreme Court took the findings of fact from the district court and applied the standard that they would apply to this case, that the district court was clearly erroneous in coming to that decision. They did not find that standard to be met and so they accepted the underlying premise.

Congress has, on repeated occasions, made findings of fact in preparation for review by the courts, and in a vast number of these cases, the courts have been very deferential to Congress, as a body, that gets into much more detail through the process of hearings. We have had numerous hearings about this procedure in both the Senate and the House.

So while the Senator from Illinois has asked if we have had any recent hearings, we have had plenty of hearings on this issue and plenty of hearings about the medical necessity of this procedure. I ask the Senator from Illinois or any Senator who opposes this legislation, please come to the floor and present one case where this procedure is medically necessary. I do not think we need any more hearings. All I need is one case where this procedure would be medically necessary. In 7 years, no one has come to the floor of the Senate, no one has come to a hearing, no one has come before a hearing, no one has come anywhere, publicly, privately or otherwise, and presented a case where this is medically necessary for the health of the mother. So if there are no cases where it is medically necessary for the health of the mother, it is by definition outside of the rubric of Roe v. Wade. Now, that is a finding of Congress. That is a finding of Congress that is continuing to be substantiated by the inaction of those who oppose this to come up with a case.

Mr. REID. Will the Senator yield for a question?

Mr. SANTORUM. Sure, I am happy to yield.

Mr. REID. Let me say, through the Chair, to the Senator from Pennsylvania, the manager of this bill, the majority leader asked Senator DASCHLE and I to try to do something to move this legislation along. In good faith, we have narrowed the number of amendments to seven or eight that we have offered. The reason Senator MURRAY and I did this amendment is we thought we would get all the prevention issues out of the way quickly.

The point I am trying to make to my friend is that we are going to offer these together or separately. We are going to have votes on these amendments one way or the other. That is why we have asked that there be no second-degree amendments. Everyone should understand that we will come back and reoffer these.

In good faith, we are trying to move this legislation along. There is no effort to stall or to delay in any way. In good faith, we are trying to work this out with the other side. I only say this because the Senator said the committees wanted to look this over. Senator MURRAY and I are going to get a vote on these four issues. We would like to do it all at once. That would be the best way to do this. I want to make sure the leader hears from us what we are trying to do.

Mr. SANTORUM. I certainly respect the desire of the Senator from Nevada to get votes on these amendments, and we may well be able to accommodate that in a clean fashion directly, but I do not know the answer to that. I am still waiting to hear from the chairmen who have just seen this amendment a few minutes ago, to get a sense as to whether they believe there are some things that can be done to improve upon this recommended language.

The second point, in response to the Senator from Illinois, is the issue of vagueness. That was the other issue with which the Supreme Court dealt. We have come up with a much clearer definition.

The Senator from Washington said this is a deceptive amendment, that this language is very broad language and it does not limit it to a partial-birth abortion. I ask the Senator from Washington, or the Senator from California who was on the floor last night with the same argument, if they could describe a procedure that would be banned by the language in this bill. Give me another procedure and give me the definition of that procedure and tell me how that procedure would be banned by this bill.

The Senator from Washington brought in a case which certainly is a very distressing case, one that I can relate to on a personal basis, of a child who was discovered in utero with a fetal abnormality. The abortion performed on that child was done at 16 weeks. It was not a partial-birth abortion and under this legislation would continue to be legal. So we did not restrict at all the procedures that are done in any hospital in this country, because hospitals do not do this procedure. Abortion clinics do this procedure.

As I have said many times, they do it for one reason: the convenience of the abortionist to do more abortions in a shorter period of time. The doctor who developed this procedure developed it, in his words, so he could do more late-term abortions. He said this procedure takes 15 minutes. The other one takes 45. So he could do more abortions in 1 day. That does not strike me as one that was developed for medical necessity or to protect the health of women, but to protect the pocketbook of an abortionist, and that is not the kind of medicine that we should confirm or affirm in the Senate.

I yield the floor.

EXECUTIVE SESSION

NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

The VICE PRESIDENT. Under the previous order, the hour of 11 a.m. having arrived, the Senate will now go into executive session and resume consideration of Executive Calendar No. 21, which the clerk will report.

The assistant legislative clerk read the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

The VICE PRESIDENT. Under the previous order, the time until 12:30 p.m. shall be equally divided between the two leaders or their designees.

The majority leader is recognized.

Mr. FRIST. Mr. President, thank you for presiding this morning. I appreciate your participation as our Presiding Officer in what we all recognize is an important moment for the Senate, the Senate that we all serve.

I have asked for this session over approximately the next hour and a half because one of our most important roles as Senators is to vote on executive nominations, including judges, lifetime appointees, who serve such a vital role in our constitutional design.

Because of the current debate, I have looked to our Founders for some guidance. John Adams, who helped create our Federal judiciary with his independence and its lifetime appointments, gave us a guide. He wrote that judges should be:

> Men of experience on the laws, of exemplary morals, invincible patience, unruffled calmness, indefatigable application. . . (and) subservient to none.

This is a high standard for a nominee and one I believe that Miguel Estrada has met. But it is also a charge for our Senate as the steward of an independent judiciary. Has the Senate met

the Adams test or has this unprecedented filibuster and delay brought us all to the point of failing to meet that charge of John Adams?

Elected by my constituents, I am a Senator. Selected by my colleagues, I serve as Republican leader. Recognized by the Chair, I act as majority leader. With these responsibilities, I am entrusted as a guardian of the Senate. Its institutions, its traditions, its obligations are my unique charge, not only as leader but as a Member.

I am sensitive to this serious responsibility and I look forward to the discussion over the next hour and a half as we elevate the debate to what was intended under advise and consent as spelled out in the Constitution. As we move forward in the conversation over the course of the morning, with not just this nomination at issue but, really, our overall function as an institution under scrutiny, I will listen to all to hear their concerns and ideas about how best to move forward in a way that does justice to this nominee, but also to our institution and our Constitution.

To that end, our president, George Bush, has sent a letter to Senator DASCHLE and myself on this topic. Among his observations, he wrote the following:

I ask Senators of both parties to come together to end the escalating cycle of blame and bitterness and to restore fairness, predictability, and dignity to the process. I ask that the Senate take action, including adoption of a permanent rule, to ensure timely up or down votes on judicial nominations both now and in the future, no matter who is President or which party controls the Senate. This is the only way to ensure that our judiciary works and that good people remain willing to be nominated to the Federal bench.

All senators should have a chance to have their voices heard and their votes counted. All Presidents should have their judicial nominees considered and voted upon in a reasonable time. All nominees considered and voted upon in a reasonable time. All nominees should have the certainty of an up-or-down Senate vote within a reasonable time. All judges should have the assurance that vacancies on their courts will not persist for years. And all Americans should have the assurance that the federal courts will remain open and fully staffed to resolve their disputes and protect their rights and liberties.

As leader, I tend to listen closely and patiently to the deeply held opinions expressed on the floor in hopes we can rise above the moment and act as our Founders intended. I ask unanimous consent the letter dated March 11 to myself and Senator DASCHLE from the President of the United States be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, DC, March 11, 2003.

Hon. BILL FRIST,
Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR FRIST: The Senate is debating the nomination of Miguel A. Estrada to be a Judge of the United States Court of Appeals for the District of Columbia. Miguel Estrada's life is an example of the American Dream. He came to this country from Honduras as a teenager barely speaking English and went on to graduate with honors from Harvard Law School. He has argued 15 cases before the Supreme Court of the United States and served in the United States Department of Justice under Presidents of both political parties. The American Bar Association has given him its highest rating. When appointed, he will be the first Hispanic ever to serve on the D.C. Circuit.

I submitted Mr. Estrada's nomination to the Senate on May 9, 2001. But his nomination has been stalled for partisan reasons for nearly 2 years in which the Senate has not held a vote either to confirm or to reject the nomination.

The Senate has a solemn responsibility to exercise its constitutional advice and consent function and hold up or down votes on judicial nominees within a reasonable time after nomination. Senators who are filibustering a vote on Miguel Estrada are flouting the intention of the United States Constitution and the tradition of the United States Senate. The filibuster is the culmination of an escalating series of back-and-forth tactics that have marred the judicial confirmation process for years, as many judicial nominees have never received up or down Senate votes. And now, a minority of Senators are threatening for the first time to use ideological filibusters as a standard tool to indefinitely block confirmation of well-qualified nominees with strong bipartisan support. This has to end.

The judicial confirmation process is broken, and the consequences for the American people are real. Because of the Senate's failure to hold timely votes, the number of judicial vacancies has been unacceptably high during my Presidency and those of President Bill Clinton and President George H.W. Bush. The Chief Justice has warned that the high number of judicial vacancies, when combined with the ever-increasing caseloads, leads to crowded courts and threatens the administration of justice. When understaffed, the Federal courts cannot act in a timely manner to resolve disputes that affect the lives and liberties of all Americans. The courts cannot decide constitutional cases promptly, which harms people seeking to vindicate and protect their rights, and the courts cannot rule on commercial cases efficiently, which hurts the economy, businesses, and workers. Our system of equal justice under law administered fairly and efficiently is at risk. The American Bar Association in 2002 accurately described the situation as an ''emergency.''

My concern about the state of the judicial confirmation process is not new. In June 2000, I proposed timely votes for all nominees, stating that the confirmation process ''does not empower anyone to turn the process into a protracted ordeal of unreasonable delay and unrelenting investigation.'' In May 2001, when I announced my first judicial nominations, I urged the Senate to rise above the bitterness of the past and again asked that every judicial nominee receive a timely up or down vote. In October 2002, after nearly two additional years in which too many nominees did not receive votes, I proposed a specific, commonsense plan involving all three Branches that, among other steps, would ensure that all judicial nominees receive an up or down Senate vote within 180 days of nomination.

Over the years, many Senators of both political parties have publicly agreed with the principle that every judicial nominee should receive a timely up or down Senate vote. Similarly, the Federal Judiciary, speaking through the Chief Justice in his 2001 Year-End Report, has stated that the Senate should ''schedule up or down votes on judicial nominees within a reasonable time after receiving the nomination.''

I ask Senators of both parties to come together to end the escalating cycle of blame and bitterness and to restore fairness, predictability, and dignity to the process. I ask that the Senate take action, including adoption of a permanent rule, to ensure timely up or down votes on judicial nominations both now and in the future, no matter who is President or which party controls the Senate. This is the only way to ensure that our Judiciary works and that good people remain willing to be nominated to the Federal bench.

All Senators should have a chance to have their voices heard and their votes counted. All Presidents should have their judicial nominees considered and voted upon in a reasonable time. All nominees should have the certainty of an up or down Senate vote within a reasonable time. All Judges should have the assurance that vacancies on their courts will not persist for years. And all Americans should have the assurance that the Federal courts will remain open and fully staffed to resolve their disputes and protect their rights and liberties.

As I stated last October, the current state of affairs in the United States Senate is not merely another round of political wrangling. It is a disturbing failure to meet a responsibility under the Constitution. Our country deserves better, the process can work better, and we can make it better. The Constitution has given us a shared duty, and we must meet that duty together. Thank you for your attention to this important matter.

Sincerely,

GEORGE W. BUSH.

Mr. FRIST. Mr. President, I will designate Senator HATCH to be in control of the remaining time on the Republican side.

With that, I yield the floor.

The VICE PRESIDENT. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I regret to say that the White House and many of our Republican colleagues have twisted this debate beyond all recognition. It is sadly ironic that Republicans now seek to cast this as a debate about constitutionality, for it is Republicans who evidently are quite ready to throw over our Constitution's enduring principles merely because they do not fit the politics of the moment.

Democrats have been accused of subverting the Constitution for mere political gain. We have been accused of subjecting a nominee to ''unprecedented obstructionism.'' We have been accused of employing these tactics in the service of racism. Enough is enough. It is time to call the rhetoric of some of our Republican colleagues for what it is: Rank hypocrisy and cynical manipulation of fact.

While in the majority, Democrats facilitated the confirmation of 100 of the President's nominees to the Federal bench. After proving our cooperation, we now have the temerity to ask one nominee a series of simple questions that go directly to the question of his qualifications and judicial temperament.

We asked the administration to provide the documents the nominee drafted during his tenure at the Department

of Justice, documents that have been provided by both Democratic and Republican administrations in the past. We ask these questions not to score cheap political points but to fulfill our solemn obligations under the Constitution.

The Senate, not just the Senate majority but the entire Senate, is required under the Constitution to provide advice and consent to the President on his nominations. All we have asked is that we be given the information necessary to provide that informed consent. Mr. Estrada, however, has chosen not to cooperate.

That is his right. But it is our constitutional duty to reserve our judgment until we know the whole picture.

Imagine a job applicant refusing to fill out the last four pages of a five-page application.

You couldn't get a job flipping burgers with that response. Surely, the American people would not reward such intransigence with a lifetime appointment to the second-most powerful court in the land.

Republicans disagree, and so it is the recalcitrance of the nominee and the administration, not Democratic opposition, that is responsible for this delay today.

Today, Republicans, one after another, will come to this chamber to claim that they are shocked that any nominee could be treated to this unprecedented obstructionism.

Let me be charitable and say that only willful amnesia allows our colleagues to levy such charges.

In 1994, Senate Republicans stood before this chamber trying to persuade their colleagues to filibuster one of President Clinton's nominations to the Federal bench.

The current Chairman of the Judiciary Committee said then that the minority has to protect itself and those the minority represents.''

In 2000, the Senate was forced to vote on cloture because for 4 years, Republicans filibustered judicial nominee, Richard Paez and, for two years, Marsha Berzon.

Fifteen Republican Senators, including Senator FRIST, Senator INHOFE, Senator CRAIG, Senator BROWNBACK, Senator DEWINE, and others voted to continue the filibuster of Richard Paez.

Thirty Senators voted to ''indefinitely postpone''—quoting from the resolution—Mr. Paez's nomination, which had then been pending for more than 1,500 days. That's right, 1,500 days.

No Republicans objected then. No Republican expressed concern for the unprecedented obstructionism that could endanger the Constitution that we are likely to hear about this morning.

No Republican dared to castigate his colleagues by calling the opposition to Mr. Paez ''anti-Hispanic.''

But the truth is, by comparison to the treatment of other nominees by the Republican majority, Mr. Paez and Ms. Berzon could almost be considered fortunate; at least their nominations made it to the floor.

Under the Republican majority, more than 50 different Clinton administration judicial nominees saw their nominations killed, not because of the shared objections of 41 Republican Senators, but because a single Senator chose to place an anonymous hold on their nomination. These nominations never received a hearing or a vote in the Judiciary Committee, let alone consideration on the floor of the Senate.

By describing this sad history, I do not mean to indicate how the confirmation process should work. It should not.

The President promised he would work with us on his judicial nominees. But instead he continues to nominate many extraordinarily controversial candidates.

We stand ready to cooperate in the nomination and confirmation of qualified judges who will enforce the law and protect the rights of all Americans. We demonstrated that on many occasions already in this Congress.

But we fear that we will be kept waiting.

The suggestion that the Democratic request for information is inappropriate is equally ludicrous.

When Robert Bork was nominated to the Supreme Court, the Senate sought and received his memos as Solicitor General, including one to the President on the application of Executive privilege to the case of the Nixon audiotapes.

When Justice William Rehnquist was nominated to the Supreme Court, the Senate sought and received all of the memos that he had written as a clerk to Justice Robert Jackson.

When Stephen Trott was nominated to the Ninth Circuit, the Senate sought and received line attorney memos regarding the appointment of special prosecutors.

When Benjamin Civiletti was nominated to be Attorney General, the Senate sought and received his line attorney memos regarding anti-trust settlement recommendations.

And when William Bradford Reynolds was nominated for Associate Attorney General, the Senate sought and received his memos to the Solicitor General regarding a discrimination case, a school prayer case, and internal legal memos on a redistricting case.

Our request for information from Mr. Estrada is both appropriate and well-grounded in precedent. Yet because that precedent stands in the way of their political ends, Republicans now seek to deny their own words and their own actions.

They are here today claiming that the Constitution is threatened by the very same procedures they themselves employed. They are here today claiming that the Constitution can be threatened by the very same powers that it grants.

The Constitution is secure. The Democrats support it by refusing to let one third of our Government become a rubber stamp.

Alexander Hamilton, foremost among the Framers in his support for a strong presidency, wrote in the Federalist Papers that the Senate's role in confirmations was an indispensable check on executive power.

In explaining the advise and consent clause, he wrote:

> Might not [the President's nomination] be overruled? I grant that it might. . . . [but] if by influencing the President be meant restraining him, that is precisely what must have been intended.

Mr. President, every Member of this body took an oath ''to uphold and defend the Constitution of the United States.'' That is exactly what Democrats are doing.

I yield the floor.

The VICE PRESIDENT. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I have listened to the distinguished majority leader, and I have been very interested in what he has had to say. The fact is, in spite of what he has said, there has never been a filibuster that has been successful against a circuit court of appeals nominee—never—in the history of the Senate.

During the time President Clinton was President of the United States, I was chairman of the committee for 6 years. I admit there were some on our side who wanted to filibuster some of his nominees. I worked very hard and diligently to make sure no filibuster could succeed. As a matter of fact, I don't think there was a serious, true filibuster at any time against any of the Clinton nominees.

I suppose people can have their own viewpoint, but the fact is that we helped to make sure no filibuster would succeed. We on this side made sure—the leadership on this side, including myself as leader of the Judiciary Committee—that no filibuster would succeed.

In fact, there is only one filibuster in the history of the country that has succeeded, and that was against Justice Fortas, back in 1968. I do not agree with that. I think it was the wrong thing then. It is the wrong thing now. It is really the big issue we are talking about today.

With regard to the request for additional information from Mr. Estrada and the unfortunate claim that he has not cooperated with the other side, look at the transcript—almost 300 pages long. It is one of the longest hearings on a circuit court of appeals nominee in history. Just look at the transcript. He answered question after question after question.

Then every Democrat on the committee was given an opportunity to submit written questions. Only two did. The others didn't avail themselves of that opportunity. They called that hearing a very fair hearing. It was conducted by them. It could have gone on longer. They could have gone on another day if they had wanted to, or more than 1 day, more than 2 days. They didn't do it. The reason they

didn't is that they thought they would never call him up anyway. Unfortunately for them, they lost the election and today the Republicans are in control and he has been called to the floor. Once called to the floor, he deserves an up-or-down vote under our laws.

They are saying that, in spite of an almost 9-hour committee hearing, in spite of having all of his briefs and his oral arguments before the Supreme Court in 15 cases, in spite of the fact that he has the unanimously well qualified highest recommendation of their gold standard, the American Bar Association, in spite of the fact that they have numerous other documents and records and have documented his cases, they are saying they do not know enough about Mr. Estrada so they have to go into the highly privileged matters concerning recommendations for appeals, certiorari, and amicus curiae matters, some of the most privileged documents in the history of the country, in the Solicitor General's Office, in spite of the fact that seven living former Solicitors General have said that should never be allowed.

In each of the cases that the distinguished majority leader has cited where some documents have been given, these documents were given pursuant to specific requests for documents.

In this case, we have the generalized request of a fishing expedition into virtually every document he ever worked on at the Solicitor General's Office. No one has ever allowed a fishing expedition into these privileged documents of the Justice Department, let alone the Solicitor General's Office.

I join my colleagues here to voice grave concern over what appears to me to be a system in serious danger of breaking. I am talking about the system by which the Senate exercises its constitutional obligation to provide advice and consent on judicial nominees.

At the outset of my remarks, let me take a moment to set straight the proper role of the Senate in the confirmation of judicial nominees, starting with the text of the Constitution. In its enumeration of presidential powers, the Constitution specifies that the confirmation of judges begins and ends with the President. The Senate has the intermediary role of providing advice and consent. Here is the precise language of Article II, Section 2:

> The President . . . shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law.

There is no question that the Constitution squarely places the appointment power in the hands of the President. As Alexander Hamilton explained in The Federalist No. 66:

> It will be the Office of the President to nominate, and, with the advice and consent of the Senate, to appoint. There will, of course, be no exertion of choice on the part of the Senate. They may defeat one choice of the Executive, and oblige him to make another; but they cannot themselves choose—they can only ratify or reject the choice he may have made.

It is significant that the Constitution outlines the Senate's role in the appointments process in the enumeration of presidential powers in Article II, rather than in the enumeration of congressional powers in Article I. This choice suggests that the Senate was intended to play a more limited role in the confirmation of Federal judges.

Hamilton's discussion of the Appointments Clause in The Federalist No. 76 supports this reading. Hamilton believed that the President, acting alone, would be the better choice for making nominations, as he would be less vulnerable to personal considerations and political negotiations than the Senate and more inclined, as the sole decision maker, to select nominees who would reflect well on the presidency. The Senate's role, by comparison, would be to act as a powerful check on ''unfit'' nominees by the President. As he put it,

> [Senate confirmation] would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity.

This is a far cry from efforts we've seen over the past couple of years to inject ideology into the nominations process, and to force nominees to disclose their personal opinions on hot-button and divisive policy issues like abortion, gun control, and affirmative action which undoubtedly will come before the courts.

Historically, deliberation by the Senate could be quite short, especially when compared to today's practice. Take, for example, the 1862 nomination and confirmation of Samuel F. Miller to the United States Supreme Court. He was nominated, confirmed, and commissioned all on the same day! The Senate formally deliberated on his nomination for only 30 minutes before confirming him. His experience was not the exception. Confirmations on the same day, or within a few days, of the nomination were the norm well into the 20th century.

Contrast the Estrada nomination. He waited nearly a year and a half for his confirmation hearing, which lasted for hours. His nomination is now in its fifth week of debate on the Senate floor, nearly 2 years after the President nominated him. Clearly, this is a far cry from the role for the Senate that the Framers contemplated. What was enumerated in the Constitution as advice and consent has in practice evolved to negotiation and cooperation in the best cases, and delay and obstruction in the worst cases—like that of Mr. Estrada.

The Estrada nomination illustrates what is wrong with our current system of confirming judicial nominees. Despite a bipartisan majority of Senators who stand ready to vote on his nomination, a vocal minority of Senators is precluding the Senate from exercising its advice and consent duty. This is tyranny of the minority, and its is unfair.

It is unfair to the nominee, who must put his life on hold while he hangs in endless limbo, wondering whether he will be confirmed. It is unfair to the judiciary, our co-equal branch of government, which needs its vacancies filled. It is unfair to our President, who has a justified expectation that the Senate will give his nominees an up-or-down vote. And it is unfair to the majority of Senators who are prepared to vote on this nomination.

The filibuster of Mr. Estrada's nomination also represents a new low in the annuals of judicial confirmations. If Mr. Estrada is not confirmed, he will be the first lower court judicial nominee defeated through a filibuster. More broadly, he will be the first judicial nominee, period, defeated through a party-line filibuster, since the filibuster of the Fortas nomination for Chief Justice was supported by Democrats and Republicans alike. This bipartisan opposition was apparently well grounded, since Justice Fortas ultimately resigned from the Supreme Court amid allegations of ethical misconduct.

Of course, no such allegations of misconduct surround Mr. Estrada—only pure partisan politics can be blamed for the obstruction of a vote on his nomination. Let me take a moment to illustrate.

What does it take? There are so many Republican efforts to confirm Miguel Estrada that the nomination is in the fifth week of debate on the Senate floor. There is no end in sight. Seventeen attempts for unanimous consent to end the debate and have the vote were all rejected by our colleagues on the other side. The White House offer for Mr. Estrada to answer written questions was rejected by all but one Democratic Senator—all but one when they offered him to answer written questions. The White House offer for Estrada to meet with Senators was rejected by all but one Democratic Senator.

It doesn't sound to me as if they really want to know what is on his mind. In my opinion, they could easily do so by merely meeting with him and asking him any questions they want.

Of course, cloture filed to end the debate was rejected.

The system is broken. This case illustrates it more than any other case that has ever come before the Senate.

There can be little doubt that the breakdown in the Senate's advice and consent role is not limited to Mr. Estrada's nomination. All nominees for the circuit courts of appeals have suffered, as these charts illustrate.

Let me just go through this. I am talking about a system in danger of breaking. I think it is broken. This

shows the average days pending for circuit court nominees for the first 2 years of a President's tenure. In the case of Ronald Reagan, it took an average of 51 days for circuit court nominees to be pending before they got to a vote on the floor. In the case of President George Herbert Walker Bush, it took an average of 83 days in order to get a judge pending. In the case of President Clinton, it did go up. It took an average of 107 days. With George W. Bush, the current President, it has taken 355 days.

That is a system in need of repair. What we are seeing is a slowdown in the confirmation of Federal judges.

Look at this: Again, a system in danger of breaking.

The confirmation rate of circuit court nominees for the first 2 years: Reagan, 95 percent; Bush, 96 percent; and, Clinton, 86 percent of his circuit court nominees were confirmed. George W. Bush has 53 percent.

Mr. SARBANES. Mr. President, will the Senator yield for a question? Does the Senator have a chart that would indicate the very same information but would take the Clinton nominees in the first 2 years when the control of the Senate was in the Senator's party?

Mr. HATCH. I don't have that chart.

Mr. SARBANES. Wouldn't that be a more pertinent chart?

Mr. HATCH. Let me put it this way: If we had not gone through—

Mr. SARBANES. The Senator picked the Clinton years when his own party was in the majority.

Mr. HATCH. That is right.

Mr. SARBANES. What is happening here—my perception, at least—is that what the Senator is now complaining about is a tactic which was instituted by the other side of the aisle in the very recent past.

Now we are being told this isn't the right way to do business. But no one on that side of the aisle said it wasn't the right way to do business only a few years ago when they were doing exactly the same thing.

Mr. HATCH. May I reclaim my time?

The VICE PRESIDENT. The Senator from Utah has the floor.

Mr. HATCH. If the Senator has questions, I will be happy to take them. In the case of President Clinton, yes, in the first 2 years it was 86 percent. Yes, JOE BIDEN was chairman at that time. Yes, the Republicans cooperated to make sure those circuit court nominees went through. In the first 2 years of George W. Bush, the Democrats were in control of the committee. We cooperated all we could. That is the best we could get done. I think those statistics still stand up very strongly.

What we are seeing is a slowdown in the confirmation of Federal judges—a systematic and calculated effort to block the nominees of the President of this country from the Federal bench. It is time to stop it. It is time to reform the system, to de-escalate. The first step, of course, is to vote on Mr. Estrada's confirmation. But there is much more that we can do to ensure that no other judicial nominee repeats this experience. I urge my colleagues to join me in my efforts to put an end to partisan politics in the confirmation process.

I have to say, both sides have not been right in this process in the past years. I am not trying to just find fault there, but one fault I can find: Never in the history of this country has there been a filibuster succeed against a circuit court of appeals nominee. To argue that he has not provided enough documentation or enough answers when they refused to meet with him, refused to submit written questions, when they had one of the longest hearings on record for a circuit court of appeals nominee, when they have a massive amount of documents, not only all the arguments he made before the Supreme Court but his briefs as well and a tremendous, almost 300-page record of proceedings before the committee, it certainly makes my point.

To come here and say that we now have to have privileged records on a fishing expedition that doesn't name anything specifically seems to me to fly in the face of what is right and proper.

As I understand it, we will go back and forth. I yield the floor.

The VICE PRESIDENT. Under the previous order, the Senator from Massachusetts is recognized for 10 minutes.

Mr. KENNEDY. Mr. President, Republicans claim that we do not have a right to an extended debate on a judicial nominee lacks any foundation. The Constitution gives a strong role to the Senate in confirming federal judges. Both the text of the Appointments Clause of the Constitution and the debates over its adoption make clear that the Senate should play an active and independent role in selecting judges.

The Constitutional Convention met Philadelphia from late May until mid-September of 1787. On May 29, 1787, the Convention began its work on the Constitution with the Virginia Plan introduced by Governor Randolph, which provided "that a National Judiciary be established, to be chosen by the National Legislature." Under this plan, the President had no role at all in the selection of judges.

When this provision came before the Convention on June 5th, several members were concerned that having the whole legislature select judges was too unwieldy. James Wilson suggested an alternative proposal that the President be given sole power to appoint judges. That idea had almost no support. Rutledge of South Carolina said that he "was by no means disposed to grant so great a power to any single person." James Madison agreed that the legislature was too large a body, and stated that he was "rather inclined to give [the appointment power] to the Senatorial branch" of the legislature, a group "sufficiently stable and independent" to provide "deliberate judgments."

A week later, Madison offered a formal motion to give the Senate the sole power to appoint judges and this motion was adopted without any objection. On June 19, the Convention formally adopted a working draft of the Constitution, and it gave the Senate the exclusive power to appoint judges.

On July 18, the Convention reaffirmed its decision to grant the Senate the exclusive power. James Wilson again proposed "that the Judges be appointed by the Executive" and again his motion was overwhelmingly defeated. The issue was considered again on July 21, and the Convention again agreed to the exclusive Senate appointment of judges. In a debate concerning the provision, George Mason called the idea of executive appointment of Federal judges a "dangerous precedent."

Not until the final days of the Convention was the President given power to nominate Judges. On September 4, 2 weeks before the Convention's work was completed, the committee proposed that the President should have a role in selecting judges. It stated: "The President shall nominate and by and with the advice and consent of the Senate shall appoint judges of the Supreme Court."

The debates, make clear, however, that while the President had the power to nominate judges, the Senate still had a central role. That is what the debate made clear. For instance, Governor Morris of Pennsylvania described the provision as giving the Senate the power "to appoint Judges nominated to them by the President.

The Convention, having repeatedly rejected proposals that would lodge exclusive power to select judges with the executive branch, could not possibly have intended to reduce the Senate to a rubber stamp role.

The reasons given by delegates to the Convention for making the selection of judges a joint decision by the President and the Senate are as relevant today as they were in 1787. The Framers refused to give the power of appointment to a "single individual." They understood that a more representative judiciary would be best served by giving Members of the Senate a major role.

The Senate has never hesitated to fully exercise this power. During the first 100 years after ratification of the Constitution, 21 of 81 Supreme Court nominations—one out of four—were rejected, withdrawn, or not acted on. During these confirmation debates, ideology often mattered. John Rutledge, nominated by George Washington, failed to win confirmation as Chief Justice in 1795. Alexander Hamilton and other Federalists opposed him because of his position on the controversial Jay Treaty. A nominee of President James Polk was rejected because of his anti-immigration position. A nominee of President Hoover was rejected because of his anti-labor view.

A very substantial number of us believe that we are facing another historic constitutional confirmation which only the Senate's power and processes can resolve. Our President

has embarked on a course that threatens the balance of powers and the independence of the judiciary. His legal advisors have set him on a course to stack the U.S. Courts with judges who will judge in accordance with a narrow and extreme set of views, views outside of the judicial mainstream and aimed at making draconian and sudden changes in the direction of life and liberty in this Nation. President Bush is not the originator of this court-stacking plan. It began decades ago with his predecessors in the White House and Justice Department. It has been enabled by the successful efforts of some in our own body to retard the filling of judicial vacancies over the past two presidential terms.

The White House and its allies have not been bashful about admitting their radical goal. Our own respect for the judiciary leaves no doubt that our President was lawfully elected. But there is not the slightest basis for the argument that any popular mandate supports such a massive shift in judicial direction.

As Senators we have the power, and the responsibility to ourselves, our constituencies and our institution, to resist revolutionary change in the balance of power. We have the power—and responsibility—to reject the notion that a President can suddenly fashion the judiciary in his own image. We have a special responsibility to do so when the Senate is so evenly divided that, after due consideration and debate based on all the necessary information, the switch of a few votes could change the result. We certainly have the obligation to do so when the Executive Branch prevents us from exercising our assigned constitutional powers of advice and consent by depriving us of any access to the only documents which might tell us what kind of a judge a nominee will be—the very documents which the President's lawyers used to select and vet the nominee.

The issue before us today is about much more than Miguel Estrada. It is about the essential nature of our government; it is about the core values of the Senate; it is about our history and our legacy.

We must not let the Founders down. We must not let our predecessors down. We must not let our constituents down. We must not let our Nation down.

The VICE PRESIDENT. Who yields time?

Mr. HATCH. Mr. President, I yield 5 minutes to the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I begin by taking direct issue with the arguments by the Senator from Massachusetts. The advice and consent function set forth in the Constitution has been consistently interpreted for 216 years to confirm Presidential nominations, unless there is a reason not to. That has been the practice. Now we have a new position advocated by the Democrats, saying if there are 41 obstructors, then the Democrats want an equal share in the process of judicial selection.

The Senator from South Dakota raised the consideration that no one on this side of the aisle had spoken up, when in effect the shoe was on the other foot when the Democrats controlled the White House and Republicans controlled the Senate. There were those on this side of the aisle who spoke up and said worthy nominees submitted by President Clinton should be confirmed. I was one of them. We did confirm a number of contested nominations: Judge Richard Paez, Marsha Berzon, Roger Gregory, and others.

So it is true there have been delays when one party has controlled the White House and the other party has controlled the Senate. And Republicans are not blameless in this process. But I submit that in the 107th Congress, with President Bush in the White House and the Democrats in control of the Senate, the process has been carried to great extreme. This year, with the Republicans controlling both the White House and the Senate, we have had the unprecedented position of a filibuster on a judge for the court of appeals.

In the history of the judicial confirmation process, there has been only one prior filibuster, and that was on Justice Abe Fortas, nominated to be Chief Justice. That involved an issue of integrity, and that was a bipartisan filibuster. We had, perhaps, the most bitter contest on confirmation when Circuit Judge Clarence Thomas was up for confirmation to the Supreme Court. Within 50 minutes, let alone 5 minutes, I could not begin to summarize the contest there on the bitterness of the proceedings. Justice Thomas was confirmed 52–48. But no one suggested there ought to be a filibuster. The regular rule was followed. Even though there was a tie vote in the Judiciary Committee, which would not customarily, under Judiciary Committee rules, permit the matter to be advanced to the full body, it did come to the full Senate and there was no filibuster, and Justice Thomas was confirmed.

When the Democrats—and I very much deplore the partisan nature of this debate, but it is a matter of Democrats versus Republicans, and it is my hope we will find a way to solve it. When the Democrats raise issues about Miguel Estrada answering more questions, or raise the contention that his work as an assistant Solicitor General ought to be disclosed, they are, pure and simple, red herrings.

A long litany of nominees have come before the Judiciary Committee who have declined to answer questions and have been confirmed. In the judicial process, judges are not expected to give opinions until there is a case in controversy, until there are facts, until briefs are submitted, until there is oral argument, until there is deliberation among the judges, then a decision is made—not to answer a wide variety of hypothetical questions that are posed in nomination proceedings.

On the confirmation process of Merrick Garland, I asked the question: Do you favor, as a personal matter, capital punishment?

Mr. Garland replied: This is really a matter of settled law now. The Court has held that capital punishment is constitutional and lower courts are expected to follow the rule.

Because of time limitations, I shall not go into detail on that. When Marsha Berzon appeared before the committee, she was asked by Senator Robert Smith about the abortion issue. Marsha Berzon was later confirmed.

I ask for 2 additional minutes.

Mr. HATCH. Mr. President, I yield the Senator 2 more minutes.

Mr. SPECTER. Marsha Berzon responded that the matter was settled, regardless of what her views were. A similar response was given by Judith Rogers to questions by former Senator Cohen.

With respect to Miguel Estrada's work as an Assistant Solicitor General, seven former Solicitors General wrote to Senator LEAHY, laying out the fact that it is of ''vital importance of candor and confidentiality in the Solicitor General's decision-making process that Miguel Estrada's work should not be disclosed.''

I am delighted that we have been joined by a number of Senators from the other side of the aisle. It is my hope that we will yet get five additional Senators who will break the deadlock and we will move to cloture and we will end this debate.

This controversy is poisoning the Senate beyond any question. It is distracting the Senate from other very important business. I hope we will find a way out promptly and ultimately establish a protocol so many days after a nomination is submitted, a hearing by the Judiciary Committee; so many days later, a committee vote; so many days later, floor action; so that regardless of what party controls the White House and what party controls the Senate, the public business will be attended to and the partisanship will be taken out of the selection and confirmation of Federal judges.

I yield the floor.

The VICE PRESIDENT. Under the previous order, the Senator from Nevada is recognized for 5 minutes.

Mr. REID. My colleagues on the other side of the aisle argue that the Senate's extended debate over Mr. Estrada's nomination is somehow unconstitutional. This is, at the very least, curious. They say Senate rule XXII, which allows for cloture on judicial nominations, is unconstitutional. Very curious. That rule provides that a vote of 60 Members of this body may end debate.

They point to the Constitution which provides several examples where a supermajority is required to approve a measure. Since nominations are not mentioned, they argue, only a simple majority should be required.

But the majority's focus on the vote count misses the point. If cloture had

not been extended to nominations, among other things, in 1949, what would be the result? Well, maybe a single Senator could engage in unlimited debate. There would be no provision whatsoever to cut off that debate. There would be no provision to get to a vote—whether it be a supermajority or a majority vote.

Surely my colleagues do not argue that extended debate in the world's greatest deliberative body is unconstitutional.

We will continue to exercise our right to debate this nominee until he answers the Judiciary Committee's questions and provides the committee with his memoranda.

The vigorous debate we continue to have on the Estrada nomination reflects our fidelity to our constitutional obligations to advise and consent to Presidential judicial nominees.

It is that role that is the proper subject of a constitutional debate.

What did the Founding Fathers have in mind when they made that provision? In the Federalist Paper No. 47, James Madison, quoting Montesquieu, stated:

> There can be no liberty where the legislative and executive powers are united in the same person, or body of magistrates.

In Federalist No. 76, Alexander Hamilton was more specific when he explained that the Senate's role:

> [w]ould be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters [while serving as an] efficacious source of stability in the Administration.

In a lecture at the Heritage Foundation in 1993, David Forte said, in Federalist No. 10 and 51, Madison proposed division within the central government into a complex separation of powers. Forte said:

> The liberties of the people would therefore be protected, first by the residuum of sovereignty left to the states, and secondly, by tying different constituencies to separate parts of the federal government—House of Representatives, Senate, Executive, and Judiciary—and giving each branch some part of each other's powers in order to defend itself against any branch's aggrandizement of its own powers.

As Justice Brandeis said in Myers v. United States:

> The doctrine of separation of powers was adopted by the Convention of 1787 not to promote efficiency, but to preclude the exercise of arbitrary power.

Justice Brandeis went on to say:

> The purpose was not to avoid friction, but, by means of the inevitable friction incident to the distribution of the governmental powers among three departments, to save the people from autocracy.

Indeed, this is the heart of the Estrada debate. The administration has advised this nominee not to answer our questions. It refuses to turn over documents which have been provided in the past and which would help evaluate this nominee.

The administration has made it impossible for the Senate to fulfill its constitutional duty. The White House seeks to wield unchecked power over the appointment of lifetime Federal judges, but that is not what the Founders of our country had in mind or what the Constitution provides. The Constitution divides power over nominations between the President and the Senate.

In an article in the Emory Law Journal, Professor Carl Tobias discussed how that intent of the Constitution's drafters has been carried out:

> The Senate has actively participated in naming judges since the chamber's creation because members of this body have a significant stake in affecting . . . appointments.

He continued:

> There has also been a venerable tradition in the senatorial involvement in the choice of nominees. . . . The state's senators or senior elected officials who are members of the President's political party have ordinarily recommended candidates whom the Chief Executive in turn has nominated.
>
> In short, judicial selection has been a shared responsibility of the President and the Senate. . . .

I would add that this is as the Founders intended.

The Cato Institute's ''Handbook for Congress'' puts it quite nicely:

> More important than knowing a nominee's ''judicial philosophy'' is knowing his philosophy of the Constitution. For the Constitution, in the end, is what defines us as a nation.

The Constitution defines the role of the President and the role of the Senate—

The VICE PRESIDENT. The Senator has spoken for 5 minutes.

Mr. REID. Mr. President, Senator KENNEDY used all his time. I ask for an additional minute.

The VICE PRESIDENT. The Senator is recognized.

Mr. REID. Continuing with the quote:

> More important than knowing a nominee's ''judicial philosophy'' is knowing his philosophy of the Constitution. For the Constitution, in the end, is what defines us as a nation.

The Constitution defines the role of the President and the role of the Senate in the process of selecting lifetime Federal judges. It is a shared responsibility. This administration and this nominee seek to exercise near total power over that process. If there is something unconstitutional afoot in the consideration of Mr. Estrada's nomination, it is that the President seeks to prevent the Senate from exercising its constitutional duty.

Mr. HATCH. Mr. President, I yield up to 5 minutes to the distinguished Senator from Texas.

The VICE PRESIDENT. The Senator from Texas is recognized.

Mr. CORNYN. I thank the Chair.

Mr. President, Daniel Webster once said that ''justice is the greatest interest of man on Earth.'' I cannot help but think of that phrase as I read from today's letter from President George W. Bush, which was previously admitted as part of the RECORD, when he says:

> The Chief Justice warns that the high number of judicial vacancies, when combined with the ever-increasing caseloads, leads to crowded courts and threatens the administration of justice.

It has also long been recognized that ''justice delayed is justice denied,'' and that is exactly what is happening to American citizens throughout this country, while President Bush's judicial nominees are being filibustered and slow boated. The President is being denied his prerogative of choosing his nominees for Federal benches subject to the advice and consent, the proper constitutional role of the Senate, being exercised.

I rise this morning with great concern about the state of our judicial confirmation process, something that Senator SPECTER and others have commented on. They have called for reform, for a fresh start, and I believe that is called for.

The Constitution makes clear that the President appoints judges with the advice and consent of the Senate. It has long been established, by constitutional text, by Senate tradition, and by Supreme Court precedent, that that means a majority of the Senate. But today, a bipartisan majority of the Senate is being denied the opportunity to vote on Miguel Estrada, by a minority that is intent on changing the rules, applying a double standard, and denying Miguel Estrada an up-or-down vote in this Chamber.

Somehow, this process has disintegrated to the point where a partisan minority of the Senate will not even allow a bipartisan majority to vote. This, of course, is not what the Constitution says or what the Founders had in mind. Our Founders never intended that the judicial confirmation process would become so poisonous as it has today.

This filibuster, this act of preventing a bipartisan majority from expressing its consent to Mr. Estrada's nomination, is, as we have heard, without precedent.

I could not help but think also about last year's debate over the confirmation of another nominee of President Bush, someone with whom I served on the Texas Supreme Court, and that is Justice Priscilla Owen, who will come up again this Thursday for another hearing in the Senate Judiciary Committee.

Some people during that process criticized the Texas system of electing judges, one that has been established in our constitution since Reconstruction and which also is replicated in the constitutions of other States.

Justice Owen has, as I have, long been an advocate for reforming the way in which Texas selects judges. But, Mr. President, whatever the problems the various States may have in their judicial selection systems, nothing—absolutely nothing—compares to how badly broken the system of judicial confirmation is here in Washington, DC.

In Texas, at least, the people are given a choice of judicial nominees and there is an opportunity for debate and

discussion and, at long last, there is a vote. Whatever you can say about the process, we always get there. We always hold a vote.

Somehow we have lost our way in the Senate. When the President nominates individuals of high caliber to serve the American people through an appointment to the Federal bench, and bipartisan majorities of the Senate stand enthusiastically ready to confirm those individuals, the process of confirming these highly qualified nominees is simply obstructed.

As I say, I have long believed we need a fresh start, as articulated by others, to the judicial confirmation process, and the first step would be to bring this fine judicial nominee, Miguel Estrada, to a vote. It has already been too long. It is time to vote.

I yield the floor.

The VICE PRESIDENT. Who yields time?

Under the previous order, the Senator from Illinois is recognized for 5 minutes.

Mr. DURBIN. I thank the Chair.

Mr. President, this is a curious situation: A person with an extraordinary background, Miguel Estrada, coming to the United States as an immigrant with limited knowledge of English, in a few years rises to the top of the Harvard Law School; he then goes on to work in the Solicitor General's Office dealing with Supreme Court decisions, working in the Department of Justice at the very highest levels.

It is an extraordinary story of personal achievement, academic achievement, and professional achievement. That is why the conduct of Miguel Estrada during this confirmation process has been so puzzling.

I believe he has received bad advice. I think the people at the Department of Justice who said to him, whatever you do do not answer questions directly, they were not fair to Miguel Estrada.

When you consider the questions which he refused to answer, these were not unreasonable questions. My colleague and friend from Alabama, Senator SESSIONS, regularly asked Democratic nominees the same questions we asked of Miguel Estrada in reference to Supreme Court Justices whom he admired, in reference to Supreme Court decisions with which he agreed or disagreed. No one argued that this was out of bounds or unfair. They said Senator SESSIONS was entitled to ask that of judicial nominees.

I have before me Richard Paez, Marsha Berzon, all of the different Democratic nominees who faced those very questions and answered them, as they should have.

When the same questions were posed to Miguel Estrada, his handlers at the Department of Justice said: Stay away from those questions. Do not answer those questions.

When Senator SCHUMER of New York asked Miguel Estrada about Supreme Court decisions that he would take exception to within the last 40 years, or even beyond, he went on to say:

> I ought not to undertake to, in effect, hold the Court to task for the purpose of having gotten something wrong when I haven't been in their shoes in the sense of having had access to all of the materials, argument, research, and deliberation that they had.

He ducked the question, a question so basic that a law student in a constitutional law course would answer that question. But Miguel Estrada refused. And that raises another question. I think he has received poor advice from the White House, because the White House has said that he cannot produce for us documentation that really tells the story of his legal views, documentation that has been presented by many nominees. They have said, no, we are stonewalling it; we are not going to release that information to Congress. So now Miguel Estrada is stalled in the Senate because he has refused to cooperate in the questioning, refused to produce the documents, refused to answer basic questions which Republican Senators asked time and again of Democratic nominees, fair questions, reasonable questions.

This last weekend, I went to Alabama. It was my first visit to that State ever. I went with a group known as Religion in Politics, with Congressman JOHN LEWIS and Senator SAM BROWNBACK, to visit in Montgomery, Selma, and Birmingham, the sites of some of the most dramatic historic events in the civil rights movement in America. It was something to stand on Edmund Pettus Bridge in Selma with JOHN LEWIS on Saturday near the 38th anniversary of that march, at the exact spot where he was beaten down, hit in the head, suffered a concussion. JOHN LEWIS said to me: There never would have been a Selma to Montgomery march were it not for the courage of one Federal district court judge, Frank Johnson. Frank Johnson, a Republican appointee under the Eisenhower administration, stood up for what was right in the civil rights movement. With his courage, he not only had death threats on a regular basis, his mother's home was fire bombed. This man had the courage to stand up for the right thing.

When he passed away, Senator HATCH was right to introduce a resolution honoring Frank Johnson for his courage, saying that he had the courage to stand up against Plessy v. Ferguson, separate but equal. He had the courage to argue for one man one vote before its time had come.

I put that experience in the context of this conversation. This is not a routine decision. This is not another thing that the Senate should consider as part of some process that really we do not have to dwell on. We are appointing men and women to positions on the bench where they can make historic decisions. Frank Johnson did.

The court that Miguel Estrada aspires to is an even higher court, the second highest court in the land. Would it not have been reasonable for Miguel Estrada to have said that he disagreed with Plessy v. Ferguson, the basis of segregation in America for almost 100 years? He refused, and that is why his nomination languishes.

I yield the floor.

The VICE PRESIDENT. The Senator from Utah.

Mr. HATCH. I yield 4 minutes to the distinguished Senator from South Carolina.

The VICE PRESIDENT. The Senator from South Carolina is recognized.

Mr. GRAHAM of South Carolina. Mr. President, I have been in the Senate now for a couple of months at most—it seems longer—and I am bearing witness to a change in the Constitution I never envisioned I would be a witness to.

The minority on the other side, not all of them because some of them voted to allow Miguel Estrada a vote up or down, are, in effect, changing the Constitution. We can have an academic debate whether it is legal or not, but there are five situations in the Constitution where the Framers required a supermajority vote. Confirming a judge was not one of them. We are witnessing and we are part of a change to our Constitution by the fact that they are filibustering this judge requiring 60 votes to confirm a judge.

Why is this happening? What is going on? It is not about the way questions were answered. It is not about getting memos that no Solicitor General would allow to be released on their watch, Democrat or Republican. This is a calculated effort by our friends on the other side post-2002 election to go after our President.

They had a meeting before Miguel Estrada had a hearing, and their meeting was about: You are laying down too much for President Bush. You need to stand up to him.

They made a calculated decision to stand up to him by going after his judges. They are, in effect, changing the Constitution, and this is wrong. It is wrong politically and it is wrong constitutionally. Whether it is illegal, I do not know, but I know it is going to hurt our country and history will judge us poorly for allowing this to happen.

This is an effort to go after the President in a way that no other party has ever gone after a President before, and we will pay a price as a nation if this is successful.

I know my colleagues are better than this. I know they are capable of doing better than this because I can read what they said on other occasions when the shoe was on the other foot.

When I came to the Chamber a few minutes ago, the Senator from Massachusetts was giving us a history lesson about the role of the Senate and the President in confirming judges. This is what he said on March 7, 2000: Over 200 years ago, the Framers of the Constitution created a system of checks and balances to ensure that excessive power is not concentrated to any branch of the Government. The President was given the authority to nominate Federal judges with the advice

and consent of the Senate. The clear intent was for the Senate to work with the President, not against him, in the process. In recent years, however, by refusing to take timely action on so many of the President's nominees, the Senate has abdicated its responsibility.

He was right then. He could see at that moment the problems that were being created for this country if we overly played politics with judicial nominations. He is wrong today because he is blinded by the politics of 2002.

We owe it to Americans across the country to give these nominees a vote. If our Republican colleagues do not like them, do not like their answers, do not like the way they are behaving, do not like the advice they are getting—I am adding this now—vote against them, but give them a vote. That was Senator KENNEDY, February 3, 1998.

If Senators want to vote against somebody, vote against them. I respect that. State their reasons. I respect that. But do not hold up a qualified judicial nominee.

Senator LEAHY said: I have stated over and over again on this floor that I would object and fight against any filibuster on a judge, whether somebody I opposed or somebody I support. I thought the Senate should do its duty by giving them a vote.

They were right then. They could see clearly.

Mr. LEAHY. The Senator happened to mention my name. I ask if the Senator will yield?

Mr. GRAHAM of South Carolina. Yes.

Mr. LEAHY. Would the Senator be willing to state the whole quote? He has left out a very significant part in that quote. Is he willing to put the whole quote, the accurate quote?

Mr. GRAHAM of South Carolina. Absolutely.

The VICE PRESIDENT. The time has expired.

Mr. GRAHAM of South Carolina. I will be glad to do that. Could I, in turn, ask the Senator a question?

The VICE PRESIDENT. The Senator's time has expired.

Who yields time?

Mr. HATCH. I will yield time for the question.

Mr. GRAHAM of South Carolina. Is Senator LEAHY willing to answer my question?

Mr. LEAHY. Mr. President, whose time is this on?

The VICE PRESIDENT. The time of the Senator from Utah.

Mr. LEAHY. Is the Senator from North Carolina going to answer the question I asked him? Is he willing to read the whole quote? The Senator from South Carolina.

Mr. GRAHAM of South Carolina. South Carolina.

Mr. LEAHY. I beg your pardon. I apologize. Will the Senator from South Carolina be willing to read the whole quote?

Mr. GRAHAM of South Carolina. Absolutely. Rather than taking the time, I will put it in the RECORD.

Mr. LEAHY. If the Senator would read the whole quote in context, I am happy to answer any questions he has. If he is unwilling—

Mr. GRAHAM of South Carolina. Absolutely, I will. I do not have it, but if somebody will give it to me.

Mr. LEAHY. It is obvious that the Senator from South Carolina did not have the whole quote or he would not have quoted me out of context so badly.

The VICE PRESIDENT. The additional time of the Senator from South Carolina has expired.

Who yields time? Under the previous order, the Senator from New York is recognized.

Mr. HATCH. I yield time for the distinguished Senator from South Carolina to complete his question, and I hope the distinguished Senator from Vermont will answer his question.

The VICE PRESIDENT. The Senator from South Carolina is recognized.

Mr. GRAHAM of South Carolina. I do not want to misquote the Senator. I do not want to put words in his mouth. I do not want to take one part of his quote to suggest it means something that it really does not.

My question simply put: In June 1998, was the Senator trying to tell the Senate that it is wrong to filibuster a judge?

Mr. LEAHY. Mr. President, am I responding on the time of the Senator from Utah?

The VICE PRESIDENT. The Senator is correct.

Mr. LEAHY. If the Senator would read the whole quote, he would understand I was talking about the anonymous holds on Judge Sotomayor, and anonymous holds were being used as a filibuster. I made that very clear in that statement.

Interestingly enough, even though we have corrected the record a number of times on the floor, pointing out when that misstatement has been made, apparently those were times when the distinguished Senator from South Carolina was not on the floor.

The VICE PRESIDENT. The time of the Senator is expired. Under the previous order, the Senator from New York is recognized for 5 minutes.

Mr. SCHUMER. Mr. President, I am so glad to see so many of my colleagues in the Chamber today, although I wish they were here to debate the issues the American people are asking us about. What is happening with the impending war in Iraq? How will we pay for it? What is happening with stimulating the economy? What are we going to do to have average working men and women gain jobs? We have lost 2 million jobs.

Let the record show the reason we are not talking about those issues and we are continuing to talk about Mr. Estrada is that is what the Republican majority wants to do.

Mr. Estrada has a job. I think he probably gets paid a very nice salary, and he deserves it. But what about the 2 million Americans who do not have jobs, who have lost jobs since President Bush became President? Why can't we be debating that issue? I urge my colleagues to start talking about that and how we will stimulate the economy; and to start talking about how we will gain more allies in our struggle with Iraq; and to start talking about how we will pay for postwar Iraq.

It is at the insistence of my colleagues that we continue to debate this issue, although we have reached an impasse. We are not going to yield on something we think is a constitutional principle. We can sit here and debate and debate and debate, but you will not change anyone's voting. The reason is very simple. The reason is we believe sincerely and firmly this is not about any one individual, but this is about the constitutional process of advise and consent. This is about learning what potential judges think before they go to the bench to make decisions that affect our lives for a generation. We are entitled to do that. That is what the Founding Fathers intended, it is clear.

In the first nomination to the Supreme Court, where many of the original Founding Fathers who wrote the Constitution were present, Mr. Rutledge, the nominee of President Washington, was turned down because they did not agree with his views on the Jay Treaty.

The other side wanted debate; when they had nominees, they questioned. People asked, what is the difference? My colleagues on the other side knew Judge Paez's record and they knew Judge Berzon's record, and they chose to vote against him. That is fair. We all let ideology enter into the way we vote. Those who deny it are being less than candid. Otherwise, the votes would be sprinkled evenly between Democrats and Republicans.

When the other side was there, let me read a quote from Senator HATCH, a man I greatly respect and regard as a friend.

> The careful scrutiny of judicial nominees is one important step in the process, a step reserved to the Senate alone . . . I have no problem with those who want to review these nominees with great specificity.

My colleagues on the other side of the aisle, we are simply carrying out what Senator HATCH said was perfectly appropriate, what he had no problem with. We have not learned anything about Miguel Estrada's views with great specificity. And what we fear—and you will regret it if there comes a Democratic president—is that nominees will refuse to answer all questions, as Miguel Estrada did, and they will have no track record, and Presidents will endeavor to find people who have no known views when they nominate them to the bench.

My guess is the White House knows Miguel Estrada's views. My guess is they carefully researched it. When it comes time to make those views public, part of the constitutional process,

we are denied that right by a nominee who stonewalls and does not answer the most obvious questions, and by a White House that will not release documents that have been released—in the cases of Mr. Bork, Justice Rehnquist, Mr. Civiletti, and Mr. Reynolds. All of them released the same documents the White House refuses to release now.

I ask the American people, ask yourselves a question, my friends. Why are they so afraid to reveal Miguel Estrada's record? If he proves to be a mainstream conservative, he will pass this Chamber. I have voted for over 100 of the 110 nominees. I disagree with most of them, but I don't think they are out of the mainstream, and the President deserves some benefit. But if Mr. Miguel Estrada's record shows he is so far beyond the mainstream that he will try to make law from the bench and not interpret the law, which those who are on the far left and far right tend to do, he should not be made a judge. The bottom line is, we have no way of answering that question until we follow Senator HATCH's mandate.

Mr. WARNER. Will the Senator yield?

The VICE PRESIDENT. The time of the Senator has expired.

Mr. WARNER. I ask if the manager will give me a minute or two?

Mr. REID. Will the Senator from Virginia yield so we can enter into a unanimous consent request?

The VICE PRESIDENT. Who yields time?

Mr. REID. Mr. President, I ask unanimous consent debate on this matter be extended until the hour of 12:50 with the time equally divided between both sides.

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

Mr. HATCH. I yield to the Senator from Virginia.

Mr. WARNER. I say to my colleague—

Mr. SCHUMER. I am delighted to yield for a question.

Mr. WARNER. You brought up the history of Rutledge. I discussed this at length last night on the Senate floor.

Mr. SCHUMER. Mr. President, that is on the time of the Senator from Utah.

Mr. WARNER. You brought up the very important case of George Washington's nomination, Rutledge, who had been a constitutional Framer, and his colleagues in this Chamber, some of whom were constitutional Framers, turned him down, correct—but they did it by a vote. Am I not correct on that?

Mr. SCHUMER. You are correct.

Mr. WARNER. That is the essence of what we are trying to establish here, namely that a vote is what the Framers envisioned when they put in the supermajority, as the Senator from South Carolina put it. They did not put a supermajority in for nominations, the concept being that the President and the Senate would work together. Otherwise, the President could thwart the process by putting no one up for judicial nomination, thinking that the Senate would be arbitrary, and the Senate could arbitrarily, as I think we are doing now, turn them down.

As I mentioned last night on the Senate floor, unless we work together under the doctrine of checks and balances, which is inherent in the Constitution, we could thwart the ability of this Nation having any Federal judiciary.

Mr. SCHUMER. If I might answer briefly, my colleague.

Mr. HATCH. On your own time.

Mr. SCHUMER. I was asked a question.

The VICE PRESIDENT. The time of the Senator has expired. Who yields time?

Mr. LEAHY. I yield 1 minute to the Senator.

Mr. SCHUMER. If I might answer my good friend from Virginia, I have tremendous respect for his integrity.

Yes, there was a vote on Mr. Rutledge—after he revealed his views on the Jay Treaty and other issues. Of course, we should have a vote on Miguel Estrada. I don't disagree with that. But not until we know how he feels on the vital issues of the day.

How does he feel about the first amendment? How does he feel about the commerce clause? Does he believe, like some on the bench, that the commerce clause has been expanded too broadly and we ought to go back to regulation by the 50 States?

I have no idea, I say to my friend from Virginia. I have no idea of how he feels.

Mr. LEAHY. I yield one more minute to the Senator.

Mr. SCHUMER. I have no idea how he feels about the first amendment or about the 11th amendment, and the balance between the Federal Government and the States, the very issues the Founding Fathers wanted us to know.

The judiciary, and I know my colleague knows this, is the one nonelected branch of the government. The advice and consent clause——

Mr. HATCH. I can speak for Mr. Estrada. I know he feels very good about the first amendment. All of us do. I don't think that is the question.

The Senator has a right to ask written questions and meet with him personally to ask how he feels about something. I am sure he feels very good about him.

The VICE PRESIDENT. Who yields time?

Mr. SCHUMER. Mr. President, may I have 1 minute?

Mr. LEAHY. I yield an additional 1 minute.

The VICE PRESIDENT. The Senator from New York is recognized.

Mr. SCHUMER. If Mr. Estrada feels good about the first amendment, I ask my colleague, why can't he tell us? And why can't he elaborate? What does he feel about Buckley v. Valeo, a case we debated here for a long time? It is a past case. How far does he feel the first amendment ought to go?

It is certainly not good enough, not only for the Senators but for the American people to hear my friend from Utah say he feels good about the first amendment, I say to my colleagues, or the second, or the fourth, or any of the other vital amendments.

I say to my colleagues, this is not a laughing matter. This is serious stuff about the one nonelected branch of Government.

The Founding Fathers wanted, in the advice and consent process, serious questions. Just as Senator HATCH said, it was a part of the process to ask those questions when President Clinton's nominees were before us. What is good for the goose is good for the gander. I yield.

The VICE PRESIDENT. The Senator from Utah.

Mr. HATCH. I yield up to 3 minutes to the Senator from Missouri.

Mr. TALENT. Mr. President, I want to place this debate in historical context. The tradition of the Senate has been to confirm judicial nominations of the President if the nominees were competent, if they were qualified, if they were honest, if they had a record and background in the law, in the practice of law or on the bench or in academia, that suggested they could live up to the standards of the judiciary. If they did, they were confirmed and confirmed without having to answer questions that nobody ever has had to answer and would usurp and undermine the executive branch and the Solicitor General's Office if they had to answer it. Under those standards, hundreds of people in Miguel Estrada's circumstances have been confirmed without even any controversy, much less a filibuster, and everybody here knows it.

You can always invent a reason to be opposed to somebody. Senators on the other side have been good at doing that with regard to Miguel Estrada, but he ought to be confirmed. At least he ought to have a vote, if we are going to follow the traditions of the Senate.

Now those traditions have broken down to the point we not only are voting not to confirm people, we are not even allowing a vote. We have Senators conducting a filibuster on somebody because they suspect they might disagree with his jurisprudence.

What is it we are so afraid Miguel Estrada might believe; a man who went to Harvard Law School, was an editor of the Law Review, served in the Solicitor General's Office, has been given high marks by everybody who has ever supervised him? Of course he is in the mainstream.

In the past, we gave people the benefit of the doubt. We don't have time, with every judicial nominee, to go through everything they might believe about every particular judicial issue. The fact is, if we were applying the traditions of the Senate, or anything close, this man would be confirmed and we could move on. Now we cannot even get a vote, and everybody here knows that.

The Senate is broken. It is broken at a time where we may be going to war. The economy is in trouble. Of course we need to move on. I hear Senators from the other side saying we should not be debating this, we should be moving on. Yes. Exactly. But you can't stand up and conduct a filibuster and then say you are not obstructing. You are. Let us have a vote on this man. He will probably carry. Other nominees we have votes on may not carry. Let's get the Senate working together.

It is not the end of the world if somebody gets on the court of appeals that you don't like. He is not going to change the Constitution. He is on the court of appeals. Let's vote on him and let's move on.

What concerns me is something to which the Senator from New York referred. I am concerned that a few years from now a Democratic President may get elected and he is going to start nominating people and we are going to get back on this, except from this side of the aisle. It would be wrong.

I have three kids. They are 12, 10, and 6.

The VICE PRESIDENT. The time of the Senator has expired.

Mr. TALENT. Can I have another minute to talk about my family?

Mr. HATCH. I grant the Senator 1 more minute.

The VICE PRESIDENT. The Senator is recognized.

Mr. TALENT. I appreciate it. Sometimes I go down to our little rumpus room and they are arguing about something, and the one thing I tell them I don't want to hear is: They started it. He started it.

There is a code of conduct to which you should adhere. Let's adhere to it. That is in the interest of this Senate. It is in the interests of the Constitution and the interests of the people. What must the people think when they see us doing this on an appellate court nomination? I ask my friends from the other side of the aisle, I know it was done—not to this extent but from this side of the aisle—to some of President Clinton's nominees. Let's go back to the standard we always followed. Let's make the Senate work. Let's keep it from being broken.

I thank the Senator for yielding.

The VICE PRESIDENT. Who yields time? The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, how much time is available to both sides?

The VICE PRESIDENT. The majority has 10 minutes 13 seconds; the minority, 14 minutes 11 seconds.

Mr. LEAHY. I thank the distinguished Presiding Officer.

I welcome the distinguished Presiding Officer to the Senate today in his capacity as President of the Senate. It is not often we see the Vice President in the chair of the Senate. With the U.N. Security Council meeting today, the OPEC meeting, the unsettled and threatening circumstances in so many parts of the world from the Middle East to the Korean peninsula to Iran and Iraq, we should feel very honored that the Vice President would take time out of his schedule related to those kinds of issues to be with us today.

I hope he will come back to the Senate when we debate the disastrous economic situation in the country, the loss of 2.5 million jobs in the last 2 years following 8 years of a million new jobs being added every year, or the 300,000 lost last month.

I know Senator DASCHLE sought for weeks to proceed to debate on S. 414, the Economic Recovery Act of 2003, which among other things includes the First Responders Partnership Grant Act, something that we could use in Vermont and Utah and Wyoming and everywhere else, but the Senate Republican majority has blocked debate and action on the Economic Recovery Act.

So, today, instead of debating the international situation, the need to pass an economic stimulus package, the need for an increased commitment to homeland defense, the need for legislation to provide a real prescription drug benefit for seniors or the many other matters so deeply concerning Americans, Republicans are insisting on returning again in some form to debate the nomination of Miguel Estrada.

I wonder if I might have order, Mr. President?

The VICE PRESIDENT. The Senate will be in order.

Mr. LEAHY. I note that what has impeded a Senate vote on the Estrada nomination has been the political game being played by the White House with this nomination. It is part of an effort to pack the Federal courts.

In many ways, the debate has been in the hands of the White House. This is a debate that could have ended at any time the White House wanted it to end. We wonder, is there something in Mr. Estrada's writings that the White House doesn't want us to see? The White House could have long ago solved this impasse by letting the Senate have access to Mr. Estrada's memos, especially since Mr. Estrada said he is perfectly willing to have us see those memos. We have plenty of questions we wanted to ask about it but we have to have the paperwork. He told us even though he said under oath he is willing to let us see it, the White House told him he could not.

So really this debate is in the control of the White House, not in the control of the leaders of the Senate. Past administrations provided legal memos in connection with the nominations of Robert Bork, William Rehnquist, Brad Reynolds, Stephen Trott, and Benjamin Civiletti, and this administration actually provided White House Counsel's office memos of its nominee to the EPA.

Our request for his memos was made nearly one full year ago, Mr. President. The White House also could have helped resolve this impasse through instructing the nominee to answer questions about his views at his hearing, to act consistent with last year's Supreme Court opinion by Justice Scalia in a case the Republican Party won to allow judicial candidates to share their views, and to stop the pretense that he has no views. The White House is using ideology to select its judicial nominees but is trying to prevent the Senate from knowing the ideology of these nominees when it evaluates them.

Instead, it appears that the Senate Republican majority, at the direction of the White House, chose to extend this debate because its political operatives hope to use it to falsely paint those who will not be steam rolled as somehow being ''anti-Hispanic.'' The Republicans' resort to partisanship regarding this nomination disregards the legitimate concerns raised by many Senators as well as by respected Hispanic elected officials and Hispanic civil rights leaders. Moreover, the Republican approach and the President's approach has been to divide: to divide the Senate, to divide the American people and, on this particular nomination, to divide Hispanic Americans against each other.

That is wrong. It is wrong because the President campaigned on a platform of uniting, not dividing. It is wrong because our country needs us to build consensus and work together, especially in these most challenging times.

Instead of bringing up legislation that could unite us or setting aside time for debate on the international and domestic challenges our country is facing, the Republicans have again returned to the nomination of Mr. Estrada and they have set aside an hour and one-half this morning for a constitutional debate. Many Democratic Senators have already spoken about the Senate's proper role in the confirmation process under the Constitution. I recall, in particular, statements by Senators DASCHLE, REID, BINGAMAN, BOXER, CLINTON, CORZINE, DODD, DORGAN, DURBIN, EDWARDS, FEINGOLD, FEINSTEIN, HARKIN, JOHNSON, KENNEDY, KOHL, LAUTENBERG, LEVIN, MIKULSKI, SARBANES and SCHUMER, among many others.

What is disconcerting about the recent debate is what appears to be the Republican majority's willingness to sacrifice the constitutional authority of the Senate as a check on the power of the President in the area of lifetime appointments to our federal courts. I fear, Mr. President, that the Republican majority's efforts to re-write Senate history in order to rubber-stamp this White House's federal judicial nominees will cause long-term damage to this institution, to our courts, to our constitutional form of government, to the rights and protections of the American people and to generations to come. I have served in the Senate for 29 years, and until recently I have never seen such stridency on the part of an executive administration or such willingness on the part of a Senate majority to cast aside tradition and upset

the balances embedded in our Constitution so as to expand presidential power.

In the time set aside by the Republican majority for this debate today, I welcome the opportunity to shed light on the fiction that cloture votes, extended debate, and discussion of the views of nominees are anything new or unprecedented. What I do find unprecedented is the depths that the Republican majority and this White House are willing to go to override the constitutional division of power over appointments and longstanding Senate practices and history. It strikes me that some Republicans seem to think that they are writing on blank slate and that they have been given a blank check to pack the courts. They show a disturbing penchant for reading our Constitution in isolation from its history and the practices that have endured for two centuries, in order to suit their purposes of the moment.

A few years ago, when Republicans were in the Senate minority and a democratically elected Democratic President was in the White House, columnist George Will, for example, had no complaint about a super-majority of 60 votes being needed to get an up or down vote on legislation or nominations proposed by the President. In fact, reflecting Republican sentiment at the time, what he said in his defense of the Republican filibuster of President Clinton's proposals, was the following:

> The Senate is not obligated to jettison one of its defining characteristics, permissiveness regarding extended debate, in order to pander to the perception that the presidency is the sun about which all else in American government—even American life—orbits.

This is from the Washington Post on April 25, 1993. It apparently did not trouble him or other Republicans when they were in the Senate minority that the Constitution expressly requires more than a simple majority for only a few matters. In fact, Mr. Will wrote: ''Democracy is trivialized when reduced to simple majoritarianism—government by adding machine. A mature, nuanced democracy makes provision for respecting not mere numbers but also intensity of feeling.''

Of course, that was in 1993 and President Clinton's proposals and a Democratic Senate majority were being contested by Republican filibusters. What is different a mere 10 years later? Just that the parties have switched roles and this year Democrats are in the Senate minority and a Republican occupies the White House. I ask unanimous consent that a recent article by Edward Lazarus that critiques Mr. Will's new position be printed in the RECORD.

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

[From the Washington Post, Apr. 25, 1993]

GEORGE WILL, MIGUEL ESTRADA, AND THE CLOTURE VOTE: HOW WILL'S FLIP-FLOP OF POSITIONS ILLUSTRATES THE INCREASING COLLAPSE OF THE POLITICS/LAW DISTINCTION

By Edward Lazarus

The flurry over Miguel Estrada's controversial nomination to the U.S. Court of Appeals for the District of Columbia continues on. So does the Senate Democrats' filibuster to stop Estrada from being confirmed.

Meanwhile, a rarely-invoked Senate Rule on the cloture vote has once again become a hot political football. Senate Rule XXII requires 60 votes of the Senate's 100 to stop debate, and break a filibuster.

Rule XXII's constitutionality is debated. Some believe that votes must be by a simple majority of 51, not a supermajority of 60, except in the limited cases in which the Constitution imposes a different rule.

Attorney Lloyd Cutler has put the argument as follows: ''The text of the Constitution plainly implies that each house must take all its decisions by majority vote, except in the five expressly enumerated cases where the text itself requires a two-thirds vote: the Senate's advice and consent to a treaty, the Senate's guilty verdict on impeachments, either house expelling a member, both houses overriding a presidential veto and both houses proposing a constitutional amendment.''

It's an interesting argument. Even more interesting is that the high priest of conservative columnists, George F. Will, has, over time, taken both sides of it—first attacking it, and now recently embracing it.

What spurred Will's change of mind? Sadly, it seems to be purely politics. That would be fine if it were an issue of policy, and politics. But it's not: It's an issue of constitutional law, which is supposed to have an answer deriving from history and precedent—an answer that transcends politics.

GEORGE WILL'S FLIP-FLOP ON THE CLOTURE VOTE

Will, a historian of sorts, frequently opines on legal and constitutional issues. He generally holds himself out, as most commentators do, as an honest broker of ideas, albeit a broker with a distinct perspective.

In that role, Will has twice addressed the issue of Rule XXII.

The first time was in 1993. At the time, Democratic stalwarts, such as Cutler, were challenging Rule XXII. They feared that, despite Democratic majorities in both the House and Senate, Republicans would use the filibuster to frustrate the agenda of the new Democratic president, Bill Clinton.

At the time, Will took Cutler to task for his doubts about the constitutionality of Rule XXII. He complained that taking issue with the Rule was ''institutional tinkering'' that ''would facilitate the essence of the liberal agenda—more uninhibited government.'' And he took direct aim at Cutler's argument about the Rule.

Specifically, Will argued that the five instances of supermajority votes listed in the Constitution were the only time supermajority votes could be used for externally-oriented legislation—''the disposition by each house of business that has consequences beyond each house, such as passing legislation or confirming executive or judicial nominees.'' However, ''procedural rules internal to each house,'' according to Will, ''are another matter.'' And in that sphere, a supermajority cloture vote was fine.

Indeed, Will pointed out, history supports this view: ''[T]he generation that wrote and ratified the Constitution—the generation whose actions are considered particularly illuminating concerning the meaning and spirit of the Constitution—set the Senate's permissive tradition regarding extended debate. There was something very like a filibuster in the First Congress.''

Fair enough. Until one reads the column Will published last week in The Washington Post regarding the Estrada nomination. Here's what Will has to say now (with emphases added):

''The president, preoccupied with regime change elsewhere, will occupy a substantially diminished presidency unless he defeats the current attempt to alter the constitutional regime here. If at least 41 Senate Democrats succeed in blocking a vote on the confirmation of Miguel Estrada to the U.S. Court of Appeals for the D.C. Circuit, the Constitution effectively will be amended.''

If Senate rules, exploited by an anti-constitutional minority, are allowed to trump the Constitution's text and two centuries of practice, the Senate's power to consent to judicial nominations will have become a Senate right to require a 60-vote supermajority for confirmations. By thus nullifying the president's power to shape the judiciary, the Democratic Party will wield a presidential power without having won a presidential election.

Wait a second. So Will now agrees with Cutler? And not only that, he reads both the Constitution's text and ''two centuries of practice'' relating to filibusters entirely differently than he once did? What's prompted his change of mind? And doesn't he owe Cutler an apology?

Obviously, conscientious commentators do change their views when they re-examine them and find them in error. I am no fan of a ''foolish consistency'' in such matters. But this kind of change of mind—without explanation or apology—is quite troubling.

Also troubling is the fact that Will's close analysis of the Constitution and the First Congress's proceedings, so important to him in 1993, is entirely missing here. And his venom—once directed at Cutler—now draws on Cutler (without attribution) instead. Only one conclusion seems possible: This is an exquisitely brazen example of intellectual flip-floppery that has nothing to do with law or the Constitution, or American history, and everything to do with conservative politics.

WHAT THE FLIP-FLOP MEANS FOR WILL, AND FOR ALL OF US

The flip-flop is an embarrassment to Will and his reputation. Sadly, it may also be more than that as well. I fear that Will's adventure in hypocrisy is emblematic of what may well be the worst truth in American political discourse: nothing is shameful anymore. And no sense of integrity—an integrity that transcends politics—remains.

It seems especially ironic (or perhaps appropriate) that Will should come to represent this problem. After all, he—and commentators of his ilk—have spent the last decade or two bemoaning the rise of moral relativism in our society. They mourn the death of ''shaming'' as an instrument of behavior modification for politicians and citizens alike.

In the culture wars, Will and others like him have been the army defending such concepts as objective truth and personal responsibility. They have been the ones saying there is a right thing to do, independent of politics, independent of the times. They have carried the banner of integrity, in short. Now it's plain, though, that Will has torn up that banner even while pretending to uphold it.

I confess that I'm a sucker. I believe in these kinds of things—integrity, truth, certain absolute moral values, a right thing to do. Maybe it's all that Plato I read in college. I've always believed there is such a

thing as a ''true'' answer (even if we cannot know it with certainty), and that there are ways of discerning better from worse, whether in argument or music or literature.

Nowhere did these beliefs seem to be more important than in the field of law. Courts wield great power to shape the social order and control the destiny of individuals. Their integrity rests ultimately on the belief that their decisions are not merely just that—exercises of power—but are, in addition, principled attempts to discern the proper meaning of the law. And the idea that there is a ''proper meaning'' in the first place, in turn presumes a universe that recognizes a genuine ability to choose better arguments over weaker ones, regardless of what one thinks of the results the arguments lead us to.

In according with these principles, I've critiqued legal reasoning even when I agree with its result, if I've felt the reasoning itself was flawed. For instance, though I support abortion rights, I've expressed strong qualms about Roe.

Now, however, it seems integrity is being radically redefined, as pure loyalty—fealty to the party, the political beliefs, the results that one prefers. Lying in the service of a cause has become, in some circles, honorable to do.

CHANGING TIMES HAVE USHERED IN A NORM OF INTELLECTUAL DISHONESTY

Intellectual dishonesty is pure poison to the enterprise of the law. Yet countless examples show intellectual dishonesty has now become a routine, expected part of American discourse. The most obvious half-truths and hypocrisies are greeted with shrugged shoulders and a grunt of ''what did you expect?''

These dishonesties that we have come to accept too easily range from the non-reasoning of Bush v. Gore, to the logic-defying economic rationale for more tax cuts, to the ever-shifting justification of war in Iraq. And they extend to just about every other significant issue of law and policy that affects American life.

Why does this happen? It cannot be because all the people perpetrating these intellectual frauds are bad people. It's been my experience (limited, I admit) that most people who go into government or devote themselves to a life of public policymaking or intellectualism, do so for the best of reasons—because they want to help shape the world for the better.

Then why? I found a partial answer watching, last night, an old clip of Daniel Ellsberg being interviewed by Walter Cronkite, in the wake of Ellsberg's controversial release of the Pentagon Papers. To paraphrase, Ellsberg contended that our society had become so divided, with each side so bent on perpetuating itself in power, that government and the world around it imposed a sustained and terrible pressure on good people to make a choice. They could either leave that world or, far worse, give up the search for truth, in exchange for the search for victory.

That was more than 30 years ago. Has anything much changed?

Mr. LEAHY. As Mr. Will noted in 1993, one of the key attributes of the Senate is the venerable tradition of extended debate and deliberations. In fact, not until 1917 was there even a provision in the Senate rules to allow for cloture, a procedure by which the Senate acts to cut off debate. The Senate first adopted the cloture rule in 1917. At that time, cloture was limited to and could only be sought on legislative matters. The cloture rule was extended in 1949 to include measures and matters, which includes judicial nominations. Thus, prior to 1949, there was no mechanism to limit debate on nominations, and in fact, disputes over nominations—to the few hundred seats in the federal judiciary—were handled and resolved by Senators behind closed doors.

Earlier in this debate today, one Senator indicated that all prior Supreme Court nominees had been given votes. I will just name a few judicial nominees who were not acted upon by the Senate earlier in American history: John M. Read, nominated by President Tyler on February 7, 1845; Edward Bradford, nominated by President Fillmore on August 16, 1852; Henry Stanbery, nominated by President Andrew Johnson on April 16, 1866; and Stanley Mathews, nominated by President Hayes on January 26, 1881. The facts are that many judicial or executive nominations were defeated in the Senate by inaction or by the threat of a filibuster over the years.

Republicans resurrected and amplified those tactics in the years 1995–2001 to defeat more than 50 of President Clinton's judicial nominees and to delay for years the confirmation of many others. In 1999, only 22 percent of President Clinton's circuit court nominees were confirmed. That was the first time in recent memory that a circuit court nominee was substantially more likely not to be confirmed than to be confirmed. For all of 1999 and 2000, only 44 percent of President Clinton's circuit court nominees were confirmed, making it more likely than not that his circuit court nominees would not be confirmed, unlike the nominees of the prior three Presidents, even during their last years in office. That is why vacancies on the circuit courts more than doubled from 16 in 1995 to 33 when the Senate reorganized in the summer of 2001. That is why this President has had so many circuit vacancies to fill, and he has shown little bipartisanship in his choices. In fact, rather than uniting people with his choices for lifetime appointments, he has sent forward a slate of circuit court nominees that has generated tremendous controversy and division.

In essence, until Republicans had a Republican President, Republicans interpreted the Advice and Consent Clause of the Constitution to allow a handful of anonymous Republican Senators to prevent an ''up or down'' vote by the full Senate on scores of qualified and moderate, mainstream judicial nominees of President Clinton. Now, when Democratic Senators have expressed genuine concerns about the lack of information regarding Mr. Estrada and have made a well-founded request to see his writings as a public servant, Republicans claim it is wrong and unconstitutional for Senators to act in accordance with Senate rules and tradition and their longstanding role as a check and balance on the President's appointment power.

The disregard for rules and traditions is especially unfortunate when what is at stake in judicial nominations are lifetime appointment for judges who will have the power to change how the Constitution is interpreted and whether civil rights, environmental protections, privacy and our fundamental freedoms will be upheld. With respect to the Estrada nomination, what is at stake is a seat on the second highest court in the country and the swing vote on that important court.

Most of the decisions issued by the D.C. Circuit in the nearly 1,400 appeals filed per year are final because the Supreme Court now takes fewer than 100 cases from all over the country each year. This court has special jurisdiction over cases involving the rights of working Americans as well as the right to a cleaner environment. This is a court where federal regulations will be upheld or overturned, where privacy rights will either be retained or lost, and where thousands of individuals will have their final appeal in matters that affect their financial future, their health, their lives and their liberty.

This is a court that has vacant seats due to anonymous Republicans blocking the last two nominees to this court by a Democratic President. Those nominees had outstanding legal credentials and qualifications but during President Clinton's last term, the Republican-controlled Senate would not proceed to an up or down vote on either of them.

The word ''filibuster'' derives from the Dutch word for piracy, or taking property that does not belong to you. Under that ordinary definition, it would be accurate to say that at least two of the vacancies on the D.C. Circuit, for which Republicans blocked qualified nominees, were filibustered, as well. Republicans, who exploited every procedural rule and practice to block scores of Clinton nominees anonymously from ever receiving an up or down vote, now want to change the rules midstream, to their partisan advantage, again so that all of their nominees get votes as quickly as possible. The whole reason this President has so many circuit vacancies to fill is because this was the booty of their piracy, their filibustering of judicial seats that arose during the Clinton Administration while they prevented votes on that President's qualified nominees.

For example, a Mexican-American circuit court nominee of President Clinton, Judge Richard Paez, was forced to wait more than 1,500 days to be confirmed. Even after the Republican filibuster was broken by a cloture vote to end debate, many Republicans joined an unsuccessful motion to indefinitely postpone his nomination. None of the more than 30 Republicans who voted against cloture in connection with that nomination or who voted in favor of Senator SESSIONS unprecedented motion ''to indefinitely postpone'' the vote on Judge Paez's nomination, which had been pending for more than 1,500 days, should be

heard to complain if Democratic Senators seek more information about this President's nominees before proceeding to a vote for a lifetime appointment.

Senator Bob Smith, a straight talker from New Hampshire, outlined the Senate's history of filibusters of judicial nominees and said:

> Don't pontificate on the floor and tell me that somehow I am violating the Constitution . . . by blocking a judge or filibustering a judge that I don't think deserves to be on the court. That is my responsibility. That is my advise-and-consent role, and I intend to exercise it.

Thus, the Republicans' claim that Democrats are taking ''unprecedented'' action regarding the circuit court nomination of Mr. Estrada—much like the bogus White House claim that our request for Mr. Estrada's work while paid by taxpayers was ''unprecedented''—is simply untrue. Republicans' desire to rewrite their own history is wrong. They should come clean and tell the truth to the American people about their past practices on nominations. They cannot change the plain facts to fit their current argument and purposes.

Back in 2000, Senator HATCH candidly admitted after cloture was invoked on the Paez nomination and Senator SESSIONS made his unprecedented motion to indefinitely postpone any vote on that judicial nomination that Judge Paez's nomination had been filibustered. He said:

> Indeed, I must confess to being somewhat baffled that, after a filibuster is cut off by cloture, the Senate could still delay a final vote on a nomination. A parliamentary ruling to this effect means that, after today, our cloture rule is further weakened.

Republicans should not have come to the floor and told the American people over the last month that Democratic Senators had done something unprecedented in debating and opposing the Estrada nomination. They themselves did it quite recently and have done it repeatedly. Let us be honest about this and straight with the American people. Given the time allotted for today's debate, I cannot discuss them all but I will include in the record some of the other examples of Republican filibusters of presidential nominations from the nomination of Justice Abe Fortas to be Chief Justice of the United States Supreme Court through the nominations of Stephen G. Breyer, now Justice Breyer, to the First Circuit; Rosemary Barkett to the 11th Circuit; H. Lee Sarokin to the 3rd Circuit; and Marsha Berzon and Richard Paez to the 9th Circuit.

Even more frequent during the years from 1995 through 2001, when Republicans controlled the Senate majority, were Republican efforts to defeat President Clinton's judicial nominees through inaction and anonymous holds for which no Republican Senator could be held accountable. Republicans held up almost 80 judicial nominees who were not acted upon during the Congress in which President Clinton first nominated them, Republicans eventually defeated more than 50 judicial nominees without a recorded Senate vote of any kind, just by refusing to proceed with hearings and Committee votes due to the anonymous acts of one or more Republicans.

Beyond the question of judicial nominees, Republicans also filibustered President Clinton's nomination of Dr. Henry Foster to become Surgeon General of the United States. This was an Executive Branch nominee that Republicans filibustered successfully in spite of two cloture votes in 1995. Dr. David Satcher's subsequent nomination also required cloture but he was successfully confirmed.

Other executive branch nominees who were filibustered by Republicans included Walter Dellinger, whose name has been invoked with approval by Republicans during the debate on the Estrada nomination. Mr. Dellinger was nominated to be Assistant Attorney General for the Office of Legal Counsel and two cloture petitions were required to be filed and both were rejected by Republicans. In this case we were able finally to obtain a confirmation vote after significant efforts and Mr. Dellinger was confirmed to that position with 34 votes against him. He was never allowed to be a confirmed Solicitor General because Republicans had made clear their opposition to him.

In addition, in 1993, Republicans objected to State Department nominations and even the nomination of Janet Napolitano to serve as the U.S. Attorney for Arizona, resulting in cloture petitions. In 1994, Sam Brown was nominated to be an Ambassador. After three cloture petitions were filed, his nomination was returned to President Clinton without Senate action. This was another successful filibuster by Republicans, and this was to a short-term appointment to serve in the Executive Branch, not to a lifetime appointment. Also in 1994, Derek Shearer was nominated to be an Ambassador and it took two cloture petitions to get to a vote before he was confirmed. In 1994, Ricki Tigert was nominated to chair the FDIC and it took two cloture petitions to get to a vote and confirmation of that executive nomination.

In addition, some remember Republican unwillingness to allow a Senate vote on the nomination of Bill Lann Lee to serve as the Assistant Attorney General for the Civil Rights Division at the Department of Justice. He told the Judiciary Committee that he would follow the law and enforce the law. He was the choice of the President to serve in that President's administration, but Republicans would not accord him an up or down vote before the United States Senate.

Republicans now claim that extended debate on this nomination is somehow unprecedented. I would point out that we have had a lot of extended debates and cloture votes over the last decade. I lost count of the number of times we had to vote on cloture when President Clinton was making nominations. This chart shows some of the Republican filibusters of nominations, leaving out their filibusters of legislation.

So when Republican Senators now talk about the Senate Executive Calendar and presidential nominees, it must be remembered that they recently filibustered several nominees and they succeeded in blocking many nominees by cloture votes and through anonymous holds. Here is a more complete list of recent Republican filibusters:

REPUBLICAN FILIBUSTERS OF NOMINEES

Year	Nominee and position	Cloture petitions filed
1968	Abe Fortas, Supreme Court	*1
1980	William Lubbers, NLRB	3
1980	Don Zimmerman, NLRB	3
1980	Stephen Breyer, 1st Circuit	2
1987	Melissa Wells, Ambassador	1
1987	William Verity, Commerce	1
1993	Walter Dellinger, Justice	2
1993	Five State Department Nominees	2
1993	Janet Napolitano, Justice	1
1994	Larry Lawrence, Ambassador	1
1994	Rosemary Barkett, 11th Circuit	1
1994	Sam Brown, Ambassador	*3
1994	Derek Shearer, Ambassador	2
1994	Ricki Tigert, FDIC	2
1994	H. Lee Sarokin, 3rd Circuit	1
1995	Henry Foster, Surgeon General	*2
1998	David Satcher, Surgeon General	1
2000	Marsha Berzon, 9th Circuit	1
2000	Richard Paez, 9th Circuit	1

I would note that the Fortas, Brown and Foster cloture votes resulted in effect in the defeat of their lifetime or short-term appointments. Some of these filibusters occurred when the Republicans were in the minority—as with Senator Helms' filibuster of a State Department appointee of President Reagan, and some were while Republicans were in the majority—as with the filibuster of Judge Paez's nomination.

Notwithstanding the recent Republican efforts to filibuster that Hispanic circuit court nominee and their failure to give hearings or votes to three other Hispanic circuit court nominees of President Clinton in addition to other nominees, Republicans have come to this floor and made unfounded attacks against Democrats who have expressed concerns about Mr. Estrada's nomination. It appears the Senate Republican majority, at the direction of the White House, chose to extend this debate because political operatives hope to use it to falsely paint those who were not to be steamrollered as somehow anti-Hispanic. The Republican's approach of crass partisanship regarding this nomination——

Mr. SANTORUM. Mr. President, will the Senator yield for a question? These were not times when Republicans were in charge, is that correct?

Mr. LEAHY. Once I finish my speech I will be glad to yield to questions. I control the floor. Once I have finished my speech I will be glad to.

Mr. SANTORUM. Will he yield for a question?

Mr. SCHUMER. Regular order, Mr. President.

Mr. SANTORUM. I just want to make sure the RECORD is correct because the Senator said Republicans were in charge at that time.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Vermont has the floor.

Mr. SANTORUM. I just want to make sure the RECORD is correct.

Mr. LEAHY. The partisanship regarding this nominee disregards the legitimate concerns raised by many Senators. It is wrong because distinguished Latino leaders, who have spent their lives seeking justice and greater representation of Hispanic lawyers as judges, have been attacked by Republicans for showing courage and honesty in their judgment that this nomination is wanting. Joining the League of United Latin American Citizens, which previously wrote to the Senate disassociating itself with Republican attacks on Democratic Senators, yesterday the National Council of La Raza issued a statement condemning the treatment of Congressional Hispanic Caucus by Republicans. The NCLR statement notes how ''deeply offended'' it is by Mr. Estrada's supporters calling Congressional Hispanic Caucus members ''tyrannical,'' ''racist,'' and ''anti-Latino''.

Moreover, the Republican approach and the President's approach have been to divide the Senate, to divide the American people—may I have order, Mr. President? May I have order?

Mr. SCHUMER. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator from Vermont has the floor. He may or may not yield.

Mr. LEAHY. That is wrong. The President campaigned on a platform of uniting, not dividing. It is wrong because our country needs us to build consensus and we should work together especially in these most challenging times. These are the years of Republican filibusters of judicial or executive branch nominees: 1968, 1980, 1980, 1980, 1987, 1987, 1993, 1993, 1993, 1994, 1994, 1994, 1994, 1994, 1994, 1995, 1998, 2000, 2000.

For Republicans to claim that they have never filibustered a circuit court nominee is just incorrect. For them to claim that they have never ''successfully'' filibustered a lifetime or short-term appointee's nomination is also incorrect. The debate on Mr. Estrada's nomination is important.

I think in the debate on this nomination, this is not a nomination that unites rather than divides. Certainly within the Hispanic community itself, highly respected members of the Hispanic community oppose Miguel Estrada.

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

Mr. LEAHY. I would be glad to. Let me finish these comments, and then I will yield on the time of the Senator from Utah.

In this case, it appears to me that the White House really wants to play politics. They could end this debate today if they wanted to. They can make these papers available so that Miguel Estrada can be asked questions based on them. Miguel Estrada has said under oath that he is perfectly willing to answer the questions, but the White House told him he is not allowed to. Once they are willing to, let us have a hearing and then let us go forward on questions based on what is in there.

The administration, however, seems to believe that somehow the Senate is their own unit to be used for whatever type of politicking they want. They renominated Judge Charles Pickering despite his ethical lapses. They renominated Justice Priscilla Owen despite her record as a conservative activist judge and after being rejected by the Judiciary Committee. Both of these nominees were rejected by the Senate Judiciary Committee after fair hearings and open debate last year. Sending these renominations to the Senate is unprecedented. No judicial nominee who has been voted down in Committee has ever been renominated to the same position by the President. The White House in tandem with the new Republican majority in the Senate is choosing these battles over nominations purposefully. Dividing rather than uniting has become their modus operandi.

Among the consequences of this partisan strategy is that for the last month, the Senate has been denied by the Republican leadership meaningful debate on the situation in Iraq. I commend Senator BYRD, Senator KENNEDY and the other Senators on both sides of the aisle who have nonetheless sought to have the Senate fulfill its constitutional role as a forum for debate and careful consideration of our nation's foreign policy in accordance with the shared power provided in the Constitution. The decision by the Republican Senate majority to focus on controversial nominations rather than the international situation or the economy says much about their mistaken priorities. The Republican majority sets the agenda and they schedule the debate, just as they have here this morning.

Among the consequences of this partisan strategy, of course, what has happened by the Republican scheduling of debate on this nomination is we don't have sufficient time to debate the Iraq situation. We don't talk about war in Iraq even though there is great division in this country. We don't talk about an administration which inherited the largest surplus any administration has ever inherited. The Clinton administration left the largest budget surplus to this administration than any administration ever had, and now Republicans are creating the largest deficit in history. The Clinton administration created a million new jobs a year. This administration is losing a million jobs a year. But if the Republican controlled Senate continues to schedule debate on Miguel Estrada, they will not have to talk about that.

That kind of tells me why they are doing this. Here is the greatest deliberative body in the world, and we don't have a debate on the war in Iraq. The Canadian Parliament does. The British Parliament does. The U.S. Senate does not.

I would be willing to yield to the Senator from Utah on his time.

Mr. HATCH. I will ask the question on my time. Will the Senator answer on his time?

Mr. LEAHY. On the time of the Senator from Utah.

Mr. HATCH. Let me ask the question on my time. I would like the answer on the Senator's time.

As to the number of circuit court of appeals judges, No. 1, who was in charge of the Senate when Abe Fortas was defeated by a filibuster? No. 2, were any of those circuit court nominees defeated by filibuster, or were they all confirmed?

Mr. LEAHY. Mr. President, I will refer to this in my statement. All of these were Republican filibusters and a few times a few Democrats joined with the Republicans in their efforts to block these nominees. Some of the Republican filibusters were successful, and some were not, but they all were filibusters and they all involved cloture petitions. A filibuster is still a filibuster even if it does not succeed in blocking the nominee forever. The Republican filibuster of Judge Paez's circuit court nomination proves that.

I fear that what the Republican majority is trying to do is rewrite Senate history in order to rubberstamp the Federal judicial nominees of this White House and that this will cause long-term damage to the Senate and the courts.

I have served in the Senate for 29 years. I have never seen a President so eager to divide rather than unite. I have never seen such stridency on the part of an executive administration or such willingness as this Senate majority's to cast aside tradition, the rules, and those things that give us a check and balance. It is unfortunate because the country expects more of us.

We see the most deliberative body on Earth—the Senate—not even debating the war we are about to go to in a matter of days, if the news accounts are correct, and we are talking about this because this is the Republican agenda, packing the courts.

In the debate Republicans have insisted upon, a number of fictions have been told. The cloture votes, the extended debate, and the discussion of the views of nominees is not anything new or unprecedented. What is going on here is unprecedented—with the Republican blank slate, no past history, and they think they can do whatever they want to do.

During the time when President Clinton was here and the Republicans were in charge, there were scores of nominees on which we didn't even have a vote. We had anonymous holds by Republicans. We didn't have up-or-down votes. Now, when we express genuine concern, now, when we say why can't Mr. Estrada show us the writings that he has said under sworn testimony he is willing to show us but the White House blocks him from showing us, somehow we are blocking. Maybe it appears that the Republicans like the

rules when they are using them, but they don't like the rules when we are using them.

Even though Republicans blocked some Hispanic nominees of President Clinton and scores of others, I must add that the debate on the nomination of Mr. Estrada is not part of any retaliation. We have genuine concerns about his nomination, his answers and the documents we have requested to better understand his unvarnished views. In addition, we worked hard to move quickly on the vast majority of this President's judicial nominations, to demonstrate our fairness and bipartisanship. In just 17 months, the Democratic-led Senate confirmed 100 of President Bush's judicial nominees, even though Republicans averaged only 38 per year. We more than doubled the rate of confirmation. We also held hearings for 20 circuit court nominees and confirmed 17 of them in just 17 months, following on the heels of a Republican average of just 7 circuit nominees confirmed per year, and one year in which they allowed zero circuit court nominees to be confirmed. So, we worked very hard to return the nomination process to a more consistent and steady pace, after the obstruction in prior years. So far this year, 5 judicial nominees of this President have already been confirmed.

The confirmation of 100 judges nominated by this President was not enough for Republicans to be satisfied. They want every one of this President's judicial nominees to be confirmed no matter their ethical record or record of activism or their controversy. They want every judicial nominee on the courts immediately despite the serious concerns raised by Senators and citizens alike. They want to pack the court with many divisive judicial nominees who will tilt the balance of the courts for decades to come.

The fact is, it appears to me, the decision is being made not here in the Senate but by a political arm of the White House.

They have made these controversial appointments despite the recent history of the moderate nominees to these circuits of President Clinton who were blocked. If we use the ordinary definition of filibuster, we could say that at least two of the vacancies on the District of Columbia Circuit were filibustered despite the well-qualified nominees sent up by President Clinton. They were never allowed to be voted on. They didn't make it to the floor. Republicans blocked nominees in a far easier way. They didn't even bring them up. They were nonpersons—almost like the old Soviet Union. When you looked at the picture of the Politburo, you would find out the next year when the picture was shown they were X'd out.

Mr. SCHUMER. Mr. President, will my colleague yield for a question?

Mr. LEAHY. Certainly.

Mr. SCHUMER. How many of these nominees were never brought up even for debate? Does my colleague think it is even worse than trying to figure out what his views are than never having the debate on the floor and never bringing them up and never giving them a chance?

Mr. LEAHY. The Republicans wouldn't allow over 50 of President Clinton's nominees to ever have a hearing or ever have a vote. Many of these individuals were nominated years earlier. We never got to know what the reasoning behind the anonymous Republican holds was. Even when we finally did, for example, a Mexican-American circuit court nominee of President Clinton, Judge Richard Paez, was forced to wait more than 1,500 days to be confirmed. And even then, we had to vote in favor of cloture to get the up or down vote on his nomination. Fifteen Republicans voted against cloture—after he waited more than 20 months for a floor vote during the four-plus years he was pending before the Senate. In fact, one Republican Senator moved to indefinitely postpone Judge Paez's nomination, even though he had waited for 1,500 days, and 31 Republicans voted in favor of indefinitely postponing that nomination in March of 2000. If they had had the votes they never would have let him be confirmed. Not one Republican came to the floor during the time Judge Paez was waiting for a vote and suggested that the Republican filibuster during any of those 1,500 days was unconstitutional or anti-majoritarian.

In fact, today made me think of this when we have the two distinguished Presiding Officers, the distinguished Vice President and the distinguished Senator from Alabama. The distinguished Senator from Alabama actually objected to the Vice President at that time being in the chair in the closing moments of the debate on Judge Paez's nomination because the executive branch had nominated him and that was a conflict of interest in his view. Of course, Republicans did not make a similar motion today when it was a Republican Vice President in the chair during a debate about a Republican nominee.

Let us just be a little bit honest about what is going on here. This is sauce for the goose and sauce for the gander. And yet this Administration and many Republicans have not acknowledged our effort to turn the other cheek and confirm 100 of this President's judicial nominees in the prior 17 months of Democratic leadership of the Senate. Many of those nominations were to seats that were blocked from being filled during the prior period of Republican control of the Senate.

It cannot be that only the rules Republicans like at the times that they like them are the rules that are followed in the Senate, but more and more that seems to be what the Republican majority is demanding. They should not pretend the rules no longer apply simply because the Republican majority finds them inconvenient, but that is happening more and more in the Senate. Regrettably, it has occurred recently in connection with judicial nominees before the Judiciary Committee, when the Republicans insisted on breaching Rule IV, a longstanding rule of our Committee that allows for extended debate, as well.

I would like to address a most troubling development that demonstrates how Republicans are violating longstanding Senate rules to suit themselves. Two weeks ago in a meeting of the Senate Judiciary Committee, the Chairman unilaterally declared the termination of debate on two controversial circuit court nominations. Senator DASCHLE termed it deeply troubling and a ''reckless exercise of raw power by a Chairman,'' and he is right. The Democratic Leader observed that the work of this Senate has for over 200 years operated on the principle of civil debate, which includes protection of the minority. When a Chairman can on his own whim choose to ignore our rules that protect the minority, not only is that protection lost, but so is an irreplaceable piece of our integrity and credibility.

The Democratic Leader noted that faithful adherence to rules is especially important for the Senate and for its Judiciary Committee. He noted ''how ironic that in the Judiciary Committee, a Committee which passes judgment on those who will interpret the rule of law,'' that it acted in conscious disregard of the rules that were established to apply to its proceedings. If this is what those who pontificate about ''strict construction'' mean by that term, it translates to winning by any means necessary. If this is how the judges of the judicial nominees act, how can we expect the nominees they support as ''strict constructionists'' to behave any better? Given this action in disrespect of the rights of the minority, how can we expect the Judiciary Committee to place individuals on the bench who respect the rule of law? In my 29 years in the Senate and in my reading of Senate history, I cannot think of so clear a violation of Senators' rights.

I am gravely concerned about this abuse of power and breach of our Committee rules. When the Judiciary Committee cannot be counted upon to follow its own rules for handling important lifetime appointments to the federal judiciary, everyone should be concerned. In violation of the rules that have governed that Committee's proceedings since 1979, the Chairman chose to ignore our longstanding Committee Rules and short-circuit Committee consideration of the nominations of John Roberts and Deborah Cook. Senator DASCHLE spoke to that matter that day. Senator FEINSTEIN, Senator SCHUMER and Senator DURBIN have also spoken to the Senate about this breach of our rules as well as a number of other liberties that Republicans have been taking with the rules.

This protection for the minority has been maintained by the Judiciary Committee for the last 24 years under five different chairmen—Chairman KENNEDY, Chairman Thurmond, Chairman BIDEN, under Chairman HATCH previously and during my tenure as chairman.

Rule IV of the Judiciary Committee provides the minority with a right not to have debate terminated and not to be forced to a vote without at least one member of the minority agreeing. That rule and practice had until last month always been observed by the Committee, even as we have dealt with the most contentious social issues and nominations that come before the Senate.

Until last month, Democratic and Republican Chairmen had always acted to protect the rights of the Senate minority. The rule has been the Committee's equivalent to the Senate's cloture rule. It had been honored by all five Democratic and Republican chairman, including Senator HATCH, until last month.

It was rarely utilized but Rule IV set the ground rules and the backdrop against which rank partisanship was required to give way, in the best tradition of the Senate, to a measure of bipartisanship in order to make progress. That is the other important function of the rule.

Besides protecting minority rights, it enforced a certain level of cooperation between the majority and minority in order to get things accomplished. That, too, has been lost as the level of partisanship on the Judiciary Committee and within the Senate reached a new low when Republicans chose to override our governing rules of conduct and proceed as if the Senate Judiciary Committee were a minor committee of the House of Representatives.

In fact, the only occasion I recall when Senator HATCH was previously faced with implementing Committee Rule IV, he did implement it. In 1997 Democrats on the Committee were seeking a Senate floor vote on President Clinton's nomination of Bill Lann Lee to be the Assistant Attorney General for Civil Rights at the Department of Justice. Then, Senator HATCH acknowledged: ''Rule IV of the Judiciary Committee rules effectively establishes a committee filibuster right . . . .'' In 1997, Chairman HATCH acknowledged: ''Absent the consent of a minority member of the Committee, a matter may not be brought to a vote.'' In that case, in 1997, Chairman HATCH followed the rules of the Committee.

Last month the bipartisan tradition and respect for the rights of the minority ended when Chairman HATCH decided to override the rule rather than follow it. He did so expressly and intentionally, declaring: ''[Y]ou have no right to continue a filibuster in this committee.'' He decided, unilaterally, to declare the debate over even though all members of the minority were prepared to continue the debate and that debate was, in fact, terminated prematurely. Senator HATCH completely reversed his own position from the Bill Lann Lee nomination and took a step unprecedented in the history of the Committee.

In his recent letter to Senator DASCHLE, Senator HATCH now contends that he ''does not believe the Committee filibuster should be allowed and [he] thinks it is a good and healthy thing for the Committee to have a rule that forces a vote.'' I ask that the exchange of letters between Senator HATCH and the Democratic Leader be included in the RECORD.

Our Committee rule, while providing a mechanism for terminating debate and reaching a vote on a matter, does so while providing a minimum of protection for the minority. It is even that minimum protection that Chairman Hatch will no longer countenance. It is Senator HATCH who has ''turned Rule 4 on its head'' last month, after 24 years of consistent interpretation and implementation by five chairmen. Never before his letter to Senator DASCHLE has anyone since the adoption of the rule in 1979 ever suggested that its purpose was to be narrowed and redirected to thwart what he called ''an obstreperous Chairman who refuses to allow a vote on an item on the Agenda.'' After all, as Senator HATCH recognizes in his letter, it is the chairman's prerogative to set the agenda for the mark-up.

This revisionist reading of the rule is not justified by its adoption or its prior use and appears to be nothing other than an after the fact attempt to justify the obvious breaches of the longstanding Committee rule and practice that occurred last month. That novel interpretation was not even articulated contemporaneously at the business meeting.

The Committee and the Senate have crossed a threshold of partisan overreaching to rubber-stamp judicial nominees that should never have been crossed. I urge the Republican leadership to recommit the nominations of Deborah Cook and John Roberts to the Judiciary Committee so that they can be considered in accordance with the Committee's rules. The action taken last month should be vitiated and order restored to the Senate and to the Judiciary Committee. I urge the Judiciary Committee and the Senate to rethink the misstep taken last month and urge the Chairman and the Committee to disavow the misinterpretation and violations of Rule IV that occurred. Order and comity need to be restored to the Judiciary Committee. An essential step in that process is the restoration of minority rights under Rule IV and recognition of minority rights thereunder.

During the last four years of the Clinton Administration, his entire second term in office after being reelected by the American people, the Judiciary Committee refused to hold hearings and Committee votes on his qualified nominees to the D.C. Circuit and it refused to give hearings to three Sixth Circuit nominees in those four years as well as to numerous other circuit nominees. Last month, in sharp contrast, this Committee was required to proceed on two controversial nominations to those circuit courts in contravention of the rules and practices of the Committee. This can only be seen as part of a concerted and partisan effort to pack the courts and tilt them sharply out of balance.

In circumstances such as these, when the rights of the minority are being violated and Senate rules and longstanding practices are breached, the minority is left with very few options and very little choice in how it must proceed. This President has been the most politically aggressive and the most unilateralist President I have seen in my 29 years in the Senate in his nominations. The Republican majority is now choosing to abet his efforts at the expense of the Senate minority's rights and the constitutional role of the Senate. That is most regrettable.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. Nine minutes, 42 seconds; the other side has 40 seconds.

Mr. HATCH. I would like to correct the RECORD. When all of those circuit court judges were approved and confirmed, during the time when the filibuster occurred on Fortas—the only filibuster which was really a true filibuster—it was bipartisan and the Democrats controlled the Senate.

I yield 2 minutes to the distinguished Senator from Tennessee.

Mr. ALEXANDER. Mr. President, the Senator from Illinois earlier brought up the distinguished late Judge Frank Johnson of Alabama and commended him for doing the right thing. I wanted to remind the Senate of why Judge Johnson was able to do the right thing in desegregating the south. It was because of John Minor Wisdom of Louisiana and John Brown of Texas and Elbert Tuttle of Georgia, who were Republican appellate court judges appointed by a Republican President named Eisenhower at a time in the 1950s when the Democratic side of the Senate was using the filibuster to kill every important piece of civil rights legislation that was proposed in the Senate.

Senator Eastland of Mississippi, Senator Stennis of Mississippi would never have approved Judge Wisdom's nomination or never have agreed with it if they had known that he and Judge Brown and Judge Tuttle would order the admission of James Meredith to the University of Mississippi.

So at a time when these distinguished former Democratic Senators were filibustering every piece of civil rights legislation in the Senate, they didn't even consider filibustering an appellate judge. That way Judge Wisdom, Judge Brown, and Judge Tuttle all were confirmed, and all ordered James Meredith to be admitted.

The relevance of the point of the Senator from Illinois is that today's Democrats, our friends on the other side, are going further than the Democratic filibusters against the civil rights bills in the 1950s. They are denying the President the traditional right to nominate and appoint judges. I don't know what happened in the past, but I know what this one Senator will do in the future. If there is a Democratic President and I am in this body, and if he nominates a judge, I will never vote to deny a vote on that judge. If two or three more Senators on both sides will do the same thing, we could go back to having more respect for our judicial nominating process.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield 2 minutes to the distinguished Senator from Texas.

Mrs. HUTCHISON. Mr. President, when the Founding Fathers wrote our Constitution, they said that judicial nominees would be confirmed by the advice and consent of the Senate. Clearly that has always been a majority vote. They specified in the Constitution when a larger vote was necessary, such as treaties, which require two-thirds. In fact, when the 25th amendment to the Constitution was approved by the Senate in 1965, the Vice President of the United States, if appointed, would be required to receive a majority vote of the House and Senate for confirmation. So to say that a judge should require a supermajority is to amend the Constitution without going through the process.

That is what is happening today with Miguel Estrada. We are being required to muster 60 votes. We know we have 55 because we have had a vote now. We have had a cloture vote, and 55 people in the Senate believe Miguel Estrada should be confirmed for the Federal bench. And yet he is not confirmed because we have a higher threshold.

We can't amend the Constitution through a filibuster. We cannot take away the power of the President's appointments that are given in the Constitution with a filibuster. This is different from any other filibuster. A filibuster on an issue is a legitimate tool. But a filibuster on a judicial nominee takes the balance of power and skews it in favor of the legislature over the President's right to have his people appointed to the Federal bench.

The Senate needs to look carefully at the precedent being set. It is not right in a judicial nomination to hold a 60-vote threshold when the Constitution clearly says 51.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. HATCH. Mr. President, I yield 2 minutes to the distinguished Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, many years ago when the Senate was the Supreme Court's upstairs neighbor in this building, a significant event took place which provides us with a warning. A young Architect of the Capitol wanted to improve the sight lines in the Supreme Court Chamber on the first floor. Calculating that one of the support pillars was unnecessary, he brought in a crew to remove it. Halfway through the project, the ceiling fell in on the Supreme Court Chamber, which was also the floor of the Senate above, destroying both Chambers for a period of time. The lesson is that when you tamper with one branch of Government, it can affect others in a way you cannot anticipate, and any attempt to tamper with the delicate balance of power must be met with suspicion and repelled with conviction.

We are tampering with that balance when we now, through filibuster, require a supermajority to confirm a Federal court of appeals judge.

President Bush did not get all the popular votes or all the electoral votes. The election was decided in an unprecedented manner. But when he was sworn in, he received all the constitutional powers of the Presidency. His ability to be the Commander in Chief is not partial. His ability to sign or veto legislation is not compromised. His ability to submit judicial nominees to this body for an up-or-down vote, something every President has exercised for over 200 years, is in no way limited.

Politics has its place, but not to the extent of stopping a vote on a judge at any and all costs. Let's discuss the merits of this nominee, his qualifications, his judicial temperament, but then let us follow the constitutional process we have followed for two centuries and vote yes or no on advice and consent for the President's nominee to the court of appeals.

For my colleagues who have concerns about Mr. Estrada's answers, or if you didn't like the things he didn't answer, vote against him. But give him a vote. Let's follow the Constitution. Let's not change the constitutional standing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield the remainder of my time to the distinguished Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM of South Carolina. Mr. President, I am now going to read a June 18, 1998 statement of the Senator from Vermont involving Clarence Sundram and other judges who were subject to discussion on that day:

> If Senators are opposed to any judge, bring them up and vote against them. But don't do an anonymous hold, which diminishes the credibility and respect of the whole U.S. Senate.
>
> I have had judicial nominations by both Democrats and Republican Presidents that I intended to oppose. But I fought like mad to make sure they at least got a chance to be on the floor for a vote.
>
> I have stated over and over again on this floor that I would refuse to put an anonymous hold on any judge; that I would object and fight against any filibuster on a judge, whether it is somebody I opposed or supported; that I felt the Senate should do its duty.
>
> If we don't like somebody the President nominates, vote him or her down. But don't hold them to this anonymous unconscionable limbo, because in doing that, the minority of Senators really shame all Senators.

My statement is simply this: We are bearing witness to a constitutional change. And having looked at the statement of Senator LEAHY and his present conduct, we are bearing witness to a change on his part. He was right in 1998 to oppose the filibusters. He is wrong today to engage in one.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the Senator for being the first person on his side of the aisle to actually read my whole statement. It is obvious I was speaking of a filibuster by an anonymous hold.

I welcome the Vice President to the Senate today in your capacity as President of the Senate. It is not often that we see the Vice President in the chair. With the meeting of the United Nations Security Council today and the OPEC meeting and the unsettled and threatening circumstances in so many parts of the world, from the Middle East to the Korean peninsula to Iran and Iraq, the Vice President has chosen to be in the Senate this morning. I look forward to seeing him as well if the Senate ever turns its attention to the disastrous economic situation in this country and the loss of more than 2.5 million jobs in the last two years and more than 300,000 last month. Senator DASCHLE and the Democratic leadership have sought for weeks to proceed to debate on S. 414, the Economic Recovery Act of 2003, which includes the First Responders Partnership Grant Act, but the Senate Republican majority has blocked debate and action. This morning, instead of debating the international situation, the need to pass an economic stimulus package, the need for increased commitment to homeland defense, legislation to provide a real prescription drug benefit for seniors or the other matters so deeply concerning Americans, we are returning in some form to debate a nomination that we have debated for over a month and on which cloture was defeated last week.

I note that what has impeded a Senate vote on the Estrada nomination has been the political game being played by the White House with this nomination as part of its effort to pack the Federal courts. The White House could have long ago solved this impasse by honoring the Senate's role in the appointment process through providing the Senate access to Mr. Estrada's legal work—just as past administrations have provided legal memos in connection with the nominations of Robert Bork, William Rehnquist, Brad Reynolds, Stephen Trott, and Ben Civiletti and this administration did with a

nominee to the EPA—and through instructing the nominee to answer questions about his views—consistent with last year's Supreme Court opinion by Justice Scalia—and to stop pretending that he has no views. The White House is using ideology to select its judicial nominees but trying to prevent the Senate from knowing the ideology of these nominees when it evaluates them.

Instead, it appears that the Senate Republican majority, at the direction of the White House, chose to extend this debate because its political operatives hope to use it to falsely paint those who will not be steam rolled as somehow ''anti-Hispanic.'' The Republican's approach of crass partisanship regarding this nomination disregards the legitimate concerns raised by many Senators as well as by respected, Hispanic elected officials and Hispanic civil rights leaders. Moreover, the Republican approach and the President's approach have been to divide: to divide the Senate, to divide the American people and, on this particular nomination, to divide Hispanics against each other.

That is wrong. It is wrong because the President campaigned on a platform of uniting not dividing. It is wrong because our country needs us to build consensus and work together, especially in these most challenging times. It is wrong because distinguished Latino leaders, who have spent their lives seeking justice and greater representation of Hispanic lawyers as judges, have been attacked by Republicans for showing courage and honesty in their judgment that this nomination is wanting. Joining the League of United Latin American Citizens, which previously wrote to the Senate disassociating itself with Republican attacks on Democratic Senators, yesterday the National Council of La Raza issued a statement condemning the treatment of the Congressional Hispanic Caucus by Republicans. The NCLR statement notes how ''deeply offended'' it is by Mr. Estrada's supporters calling Congressional Hispanic Caucus members ''tyrannical,'' ''racist,'' and ''anti-Latino.''

This Administration has also shown disrespect for the concerns of Senators in renominating both Judge Charles Pickering, despite his ethical lapses, and Justice Priscilla Owen, despite her record as a conservative ''activist'' judge, both of whom were rejected by the Senate Judiciary Committee after fair hearings and open debate last year. Sending these re-nominations to the Senate is unprecedented. No judicial nominee who has been voted down has ever been re-nominated to the same position by any President. The White House in conjunction with the new Republican majority in the Senate is choosing these battles over nominations purposefully. Dividing rather than uniting has become their modus operandi.

Among the consequences of this partisan strategy is that for the last month, the Senate has been denied by the Republican leadership meaningful debate on the situation in Iraq. I commend Senator BYRD, Senator KENNEDY and the other Senators on both sides of the aisle who have nonetheless sought to have the Senate fulfill its constitutional role as a forum for debate and careful consideration of our Nation's foreign policy. The decision by the Republican Senate majority to focus on controversial nominations rather than the international situation or the economy says much about their mistaken priorities. The Republican majority sets the agenda and they schedule the debate, just as they have here this morning.

Many Democratic Senators have already spoken to the Constitution and the Senate's proper role in the confirmation process. I recall, in particular, statements by Senators DASCHLE, REID, BINGAMAN, BOXER, CLINTON, CORZINE, DODD, DORGAN, DURBIN, EDWARDS, FEINGOLD, FEINSTEIN, HARKIN, JOHNSON, KENNEDY, KOHL, LAUTENBERG, LEVIN, MIKULSKI, SARBANES and SCHUMER, among many others.

What is disconcerting about the recent debate is what appears to be the Republican majority's willingness to sacrifice the constitutional authority of the Senate as a check on the power of the President in the area of lifetime appointments to our Federal courts. I fear, Mr. President, that the Republican majority's efforts to re-write Senate history in order to rubber-stamp this White House's Federal judicial nominees will cause long-term damage to this institution, to our courts, to our constitutional form of government, to the rights and protections of the American people and to generations to come. I have served in the Senate for 29 years, and until recently I have never seen such stridency on the part of an executive administration or such willingness on the part of a Senate majority to cast aside tradition and upset the balances embedded in our Constitution so as to expand presidential power.

In the time set aside by the Republican majority for this debate today, I am glad to have an opportunity to shed light on the fiction that cloture votes, extended debate, and discussion of the views of nominees are anything new or unprecedented. What I do find unprecedented is the depths that the Republican majority and this White House are willing to go to override the constitutional division of power over appointments and longstanding Senate practices and history. It strikes me that some Republicans seem to think that they are writing on blank slate and that they have been given a blank check to pack the courts. They show a disturbing penchant for reading our Constitution in isolation from its history and the practices that have endured for two centuries to suit their purposes of the moment.

A few years ago, when Republicans were in the Senate minority and a democratically elected Democratic President was in the White House, columnist George Will, for example, had no complaint about a super-majority or 60 votes being needed to get an up or down vote on legislation or nominations proposed by the President. In fact, reflecting Republican sentiment at the time, what he said in his defense of the Republican filibuster of President Clinton's proposals, was the following:

> The Senate is not obligated to jettison one of its defining characteristics, permissiveness, regarding extended debate, in order to pander to the perception that the presidency is the sun about which all else in American government—even American life—orbits. (Washington Post, April 25, 1993.)

It apparently did not trouble him or other Republicans when they were in the Senate minority that the Constitution expressly requires more than a simple majority for only a few matters. In fact, Mr. Will wrote:

> Democracy is trivialized when reduced to simple majoritarianism—government by adding machine. A mature, nuanced democracy makes provision for respecting not mere numbers but also intensity of feeling.

Of course, that was in 1993 and President Clinton and a Democratic Senate majority were being contested by Republican filibusters. What is different a mere 10 years later? Just that the parties have switched roles and this year Democrats are in the Senate minority and a Republican occupies the White House. I ask unanimous consent that a recent article by Edward Lazarus that critiques Mr. Will's new position be included in the RECORD.

As George Will noted in 1993, one of the key attributes of the Senate is the venerable tradition of unlimited debate. In fact, not until 1917 was there even a provision in the Senate rules to allow for cloture, a procedure by which the Senate acts to cut off debate. The Senate first adopted the cloture rule in 1917. At that time, cloture was limited to and could only be sought on legislative matters. The cloture rule was extended in 1949 to nominations by amending it to include measures and matters, which included judicial nominations. Thus, prior to 1949, disputes over nominations—to the 100 seats in the Federal judiciary—were handled and resolved by Senators behind closed doors and many judicial nominations were defeated in the Senate by inaction or the threat of a filibuster. Republicans resurrected those tactics in the years 1995–2001 to defeat more than 50 of President Clinton's judicial nominees.

In essence, until they had a Republican President, Republicans interpreted the Advice and Consent Clause of the Constitution to allow a handful of anonymous Republican Senators to prevent an ''up or down'' vote by the full Senate on scores of qualified judicial nominees. Now, when Democratic Senators have expressed genuine concerns about the lack of information regarding Mr. Estrada and have made a well-founded request to see his

writings, Republicans claim it is wrong and unconstitutional for Senators to act in accordance with Senate rules and tradition and their longstanding role as a check and balance on the President's appointment power.

It cannot be that only the rules Republicans like at the times that they like them are the rules that are followed in the Senate, but more and more that seems to be what the Republican majority is demanding. They should not pretend the rules no longer apply simply because the Republican majority finds them inconvenient, but that is happening more and more in the Senate. Regrettably, it has occurred recently in connection with judicial nominees before the Judiciary Committee, when the Republicans insisted on breaching Rule IV, a longstanding rule of our Committee that allows for extended debate, as well.

What is at stake in judicial nominations are lifetime appointment for judges who will have the power to change how the Constitution is interpreted and whether civil rights, environmental protections, privacy and our fundamental freedoms will be upheld. With respect to the Estrada nomination, what is at stake is a seat on the second highest court in the country and the swing vote on that important court.

Most of the decisions issued by the D.C. Circuit in the nearly 1,400 appeals filed per year are final because the Supreme Court now takes fewer than 100 cases from all over the country each year. This court has special jurisdiction over cases involving the rights of working Americans as well as the right to a cleaner environment. This is a court where Federal regulations will be upheld or overturned, where privacy rights will either be retained or lost, and where thousands of individuals will have their final appeal in matters that affect their financial future, their health, their lives and their liberty.

This is a court that has vacant seats due to anonymous Republicans blocking the last two nominees to this court by a Democratic President. Those nominees had outstanding legal credentials and qualifications but during President Clinton's last term, the Republican-controlled Senate would not proceed to an up or down vote on either of them.

The word ''filibuster'' derives from the Dutch word for piracy, or taking property that does not belong to you. Under that ordinary definition, it would be accurate to say that at least two of the vacancies on the D.C. Circuit, for which Republicans blocked qualified nominees, were filibustered, as well. Republicans, who exploited every procedural rule and practice to block scores of Clinton nominees anonymously from ever receiving an up or down vote, now want to change the rules midstream, to their partisan advantage, again. The whole reason this President has so many circuit vacancies to fill is because this was the booty of their piracy, their filibustering of judicial seats that arose during the Clinton Administration while they prevented votes on that President's qualified nominees.

For example, a Mexican-American circuit court nominee of President Clinton, Judge Richard Paez, was forced to wait more than 1,500 days to be confirmed, and even after the Republican filibuster was broken by a cloture vote to end debate, many Republicans joined an unsuccessful motion to indefinitely postpone his nomination. None of the more than 30 Republicans who voted against cloture in connection with that nomination or who voted in favor of Senator SESSIONS' unprecedented motion ''to indefinitely postpone'' the vote on Judge Paez's nomination, which had been pending for more than 1,500 days, should be heard to complain if Democratic Senators seek more information about nominations before proceeding to a vote for a lifetime appointment.

I also recall that during the closing moments of that debate Senator SESSIONS objected that the Vice President of the United States was presiding over the Senate in his capacity as the President of the Senate. The Senator from Alabama objected that he should not be allowed to preside. I have not raised that objection to the Vice President presiding here today but have, instead, welcomed the Vice President. This is further demonstration that Democrats have been more moderate and much more cooperative with this Administration than Republicans were with the prior Democratic Administration.

I will include in my full statement for the RECORD the words of the Republican Senators who filibustered President Clinton nominees. Senator Bob Smith, a straight talker from New Hampshire, outlined the Senate's history of filibusters of judicial nominees and said:

> Don't pontificate on the floor and tell me that somehow I am violating the Constitution . . . by blocking a judge or filibustering a judge that I don't think deserves to be on the court. That is my responsibility. That is my advise-and-consent role, and I intend to exercise it.

Thus, the Republicans' claim that Democrats are taking ''unprecedented'' action—much like the bogus White House claim that our request for Mr. Estrada's work while paid by taxpayers was ''unprecedented''—is simply untrue. Republicans' desire to rewrite their own history is wrong. They should come clean and tell the truth to the American people about their past practices on nominations. They cannot change the plain facts to fit their current argument and purposes.

Senator HATCH candidly admitted after cloture was invoked on the Paez nomination and Senator SESSIONS made his unprecedented motion to indefinitely postpone any vote on that judicial nomination:

> Indeed, I must confess to being somewhat baffled that, after a filibuster is cut off by cloture, the Senate could still delay a final vote on a nomination. A parliamentary ruling to this effect means that, after today, our cloture rule is further weakened.

Republicans should not have come to the floor and told the American people over the last month that Democratic Senators had done something unprecedented in opposing the Estrada nomination. They themselves did it quite recently and have done it repeatedly. Let us be honest about this and straight with the American people. Given the time allotted for today's debate, I cannot discuss them all but I will include in the RECORD some of the other examples of filibusters of presidential nominations from the nomination of Justice Abe Fortas to be Chief Justice of the United States Supreme Court through the nominations of Stephen G. Breyer, now Justice Breyer, to the First Circuit; Rosemary Barkett to the 11th Circuit; H. Lee Sarokin to the 3rd Circuit; and Marsha Berzon and Richard Paez to the 9th Circuit.

Even more frequent during the years from 1995 through 2001, when Republicans controlled the Senate majority, were Republican efforts to defeat President Clinton's judicial nominees through inaction and anonymous holds for which no Republican Senator could be held accountable. Republicans held up almost 80 judicial nominees who were not acted upon during the Congress in which President Clinton first nominated them and eventually defeated more than 50 judicial nominees without a recorded Senate vote of any kind, just by refusing to proceed with hearings and Committee votes.

Beyond the question of judicial nominees, Republicans also filibustered the nomination of Dr. Henry Foster to become Surgeon General of the United States. This was an executive branch nominee that Republicans filibustered successfully in spite of two cloture votes in 1995. Dr. David Satcher's subsequent nominaton also required cloture but he was successfully confirmed. Other executive branch nominees who were filibustered by Republicans included Walter Dellinger, whose name has been invoked with approval by Republicans during the debate on the Estrada nomination. Mr. Dellinger was nominated to be Assistant Attorney General and two cloture petitions were required to be filed and both were rejected by Republicans. In this case we were able finally to obtain a confirmation vote after significant efforts and Mr. Dellinger was confirmed to that position with 34 votes against him. He was never confirmed to his position as Solicitor General because Republicans had made clear their opposition to him.

In addition, in 1993, Republicans objected to State Department nominations and even the nomination of Janet Napolitano to serve as the U.S. Attorney for Arizona, resulting in cloture petitions. In 1994, Sam Brown was nominated to be an Ambassador. After three cloture petitions were filed, his nomination was returned to President

Clinton without Senate action. Also in 1994, Derek Shearer was nominated to be an Ambassador and it took two cloture petitions to get to a vote before he was confirmed. In 1994, Ricki Tigert was nominated to chair the FDIC and it took two cloture petitions to get to a vote and confirmation of that executive nomination.

So when Republican Senators now talk about the Senate Executive Calendar and presidential nominees, they must be reminded that they recently filibustered many, many qualified nominees. [chart] In addition, some of us remember Republican unwillingness to allow a Senate vote on the nomination of Bill Lann Lee to serve as the Assistant Attorney General for the Civil Rights Division at the Department of Justice. He told the Judiciary Committee that he would follow the law and enforce the law. He was the choice of the President to serve in that President's administration, but Republicans would not accord him an up or down vote before the United States Senate.

Now let me turn to a most troubling development that demonstrates how Republicans are violating longstanding Senate rules to suit themselves. Two weeks ago in a meeting of the Senate Judiciary Committee, the Chairman unilaterally declared the termination of debate on two controversial circuit court nominations. Senator DASCHLE termed it deeply troubling and a ''reckless exercise of raw power by a Chairman,'' and he is right. The Democratic Leader observed that the work of this Senate has for over 200 years operated on the principle of civil debate, which includes protection of the minority. When a Chairman can on his own whim choose to ignore our rules that protect the minority, not only is that protection lost, but so is an irreplaceable piece of our integrity and credibility.

The Democratic Leader noted that faithful adherence to rule is especially important for the Senate and for its Judiciary Committee. He noted ''how ironic that in the Judiciary Committee, a Committee which passes judgment on those who will interpret the rule of law,'' that it acted in conscious disregard of the rules that were established to apply to its proceedings. If this is what those who pontificate about ''strict construction'' mean by that term, it translates to winning by any means necessary. If this is how the judges of the judicial nominees act, how can we expect the nominees they support as ''strict constructionists'' to behave any better? Given this action in disrespect of the rights of the minority, how can we expect the Judiciary Committee to place individuals on the bench that respect the rule of law? In my 29 years in the Senate and in my reading of Senate history, I cannot think of so clear a violation of Senators' rights.

I am gravely concerned about this abuse of power and breach of our Committee rules. When the Judiciary Committee cannot be counted upon to follow its own rules for handling important lifetime appointments to the federal judiciary, everyone should be concerned. In violation of the rules that have governed that Committee's proceedings since 1979, the Chairman chose to ignore our longstanding Committee Rules and short-circuit Committee consideration of the nominations of John Roberts and Deborah Cook. Senator DASCHLE spoke to that matter that day. Senator FEINSTEIN, Senator SCHUMER and Senator DURBIN have also spoken to the Senate about this breach of our rules as well as a number of other liberties that Republicans have been taking with the rules.

The protection for the minority has been maintained by the Judiciary Committee for the last 24 years under five different chairmen—Chairman KENNEDY, Chairman THURMOND, Chairman BIDEN, under Chairman HATCH previously and during my tenure as chairman.

Rule IV of the Judiciary Committee provides the minority with a right not to have debate terminated and not to be forced to a vote without at least one member of the minority agreeing. That rule and practice had until last month always been observed by the Committee, even as we have dealt with the most contentious social issues and nominations that come before the Senate.

Until last month, Democratic and Republican Chairmen had always acted to protect the rights of the Senate minority. The rule has been the Committee's equivalent to the Senate's cloture rule. It had been honored by all five Democratic and Republican chairmen, including Senator HATCH until last month.

It was rarely utilized but Rule IV set the ground rules and the backdrop against which rank partisanship was required to give way, in the best tradition of the Senate, to a measure of bipartisanship in order to make progress. That is the other important function of the rule.

Besides protecting minority rights, it enforced a certain level of cooperation between the majority and minority in order to get anything accomplished. That, too, has been lost as the level of partisanship on the Judiciary Committee and within the Senate reached a new low when Republicans chose to override our governing rules of conduct and proceed as if the Senate Judiciary Committee were a minor committee of the House of Representatives.

In fact, the only occasion I recall when Senator HATCH was previously faced with implementing Committee Rule IV, he did so. In 1997, Democrats on the Committee were seeking a Senate floor vote on President Clinton's nomination of Bill Lann Lee to be the Assistant Attorney General for Civil Rights at the Department of Justice. Then, Senator HATCH acknowledged: ''Rule IV of the Judiciary Committee rules effectively establishes a committee filibuster right. . . .'' In 1997, Chairman HATCH acknowledged: ''Absent the consent of a minority member of the Committee, a matter may not be brought to a vote.'' In that case, in 1997, Chairman HATCH followed the rules of the Committee.

Last month the bipartisan tradition and respect for the rights of the minority ended when Chairman HATCH decided to override the rule rather than follow it. He did so expressly and intentionally, declaring: ''[Y]ou have no right to continue a filibuster in this committee.'' He decided, unilaterally, to declare the debate over even though all members of the minority were prepared to continue the debate and it was, in fact, terminated prematurely. Senator HATCH completely reversed his own position from the Bill Lann Lee nomination and took a step unprecedented in the history of the Committee.

In his recent letter to Senator DASCHLE, Senator HATCH now contends that he ''does not believe the Committee filibuster should be allowed and [he] thinks it is a good and healthy thing for the Committee to have a rule that forces a vote.'' I ask that the exchange of letters between Senator HATCH and the Democratic Leader be included in the RECORD.

Our Committee rule, while providing a mechanism for terminating debate and reaching a vote on a matter, does so while providing a minimum of protection for the minority. It is even that minimum protection that Chairman HATCH will no longer countenance. It is Senator HATCH who has ''turned Rule 4 on its head'' last month, after 24 years of consistent interpretation and implementation by five chairmen. Never, before his letter to Senator DASCHLE, has anyone since the adoption of the rule in 1979 ever suggested that its purpose was to be narrowed and redirected to thwart ''an obstreperous Chairman who refuses to allow a vote on an item on the Agenda.'' After all, as Senator HATCH recognizes in his letter, it is the chairman's prerogative to set the agenda for the mark-up.

This revisionist reading of the rule is not justified by its adoption or its prior use and appears to be nothing other than an after the fact attempt to justify the obvious breaches of the longstanding Committee rule and practice that occurred last month. It was not even articulated contemporaneously at the business meeting.

The Committee and the Senate have crossed a threshold of partisan overreaching that should never have been crossed. I urge the Republican leadership to recommit the nominations of Deborah Cook and John Roberts to the Judiciary Committee so that they can be considered in accordance with the Committee's rules. The action taken last month should be vitiated and order restored to the Senate and to the Judiciary Committee. I urge the Judiciary Committee and the Senate to rethink the misstep taken last month and urge

the Chairman and the Committee to disavow the misinterpretation and violations of Rule IV that occurred. Order and comity need to be restored to the Judiciary Committee. An essential step in that process is the restoration of minority rights under Rule IV and recognition of minority rights thereunder.

During the last four years of the Clinton Administration, his entire second term in office after being reelected by the American people, the Judiciary Committee refused to hold hearings and Committee votes on his qualified nominees to the D.C. Circuit and the Sixth Circuit. Last month, in sharp contrast, this Committee was required to proceed on two controversial nominations to those circuit courts in contravention of the rules and practices of the Committee. This can only be seen as part of a concerted and partisan effort to pack the courts and tilt them sharply out of balance.

In circumstances such as these, when the rights of the minority are being violated and Senate rules and longstanding practices are breached, the minority is left with very few options and very little choice in how it must proceed. This President has been the most aggressive and unilateral I have seen in my 29 years in the Senate in his nominations. The Republican majority is now choosing to abet his efforts at the expense of the Senate minority's rights and the constitutional role of the Senate. That is all most regrettable.

I yield back my time.

Mr. KYL. Mr. President, in order to understand the constitutional problem we face with the filibuster of Miguel Estrada, it is important for the Senate and the public to focus on what is really going on here.

This filibuster is not a dispute about Mr. Estrada's answers to questions. If it were about unanswered questions then more than two Democrats would have taken up the White House's offer to pose new written questions to Mr. Estrada or to meet with him privately and ask them in person. But they did not, and it is now clear that the repeated refusal even to ask questions has exposed the emptiness of that argument. I hope we hear no more of it.

This filibuster also is not a dispute about confidential documents from the Solicitor General's office. Our filibustering colleagues must know that for the administration to comply with this demand is to undermine the effectiveness of the Department of Justice and its ability to defend the American people's interests in court. They must know that the President will not jeopardize the people's interests and that these confidential documents cannot be disclosed. So this document request is an unserious demand made precisely because the administration will not comply—just as four former Democrat Solicitors General have advised. No, this dispute is not about confidential memos.

The fact is that there is plenty of information available—more than enough information for a thoughtful Senator to make a decision whether to vote up or down. But don't take my word for it. Take Minority Leader DASCHLE'S word for it. Last week the distinguished minority leader said that Mr. Estrada is too conservative and that he opposes his confirmation. How could the minority leader possibly have reached that conclusion if the record is so bare? How could he have reached any conclusion? The answer is obvious: Mr. Estrada's record is more than ample for Senators to explore. Just as over 51 Senators have reviewed the record to their satisfaction and concluded that Mr. Estrada is qualified and should be confirmed, so must Senator DASCHLE have reviewed the record and concluded that he should not be confirmed. He did not need more information.

So, why are we still here? Why is does this debate continue? Let us put aside these arguments about supposedly unanswered questions and disclosure of confidential memoranda, and let's focus on what this is really about: power. An unprecedented power-play by a partisan minority to re-define our constitutional ''advice and consent'' obligation at least for circuit court judicial nominees. This filibuster is about changing the rules of the game forever.

For 214 years, the Senate has interpreted ''advice and consent'' to require majority approval for any judicial nominee who reaches the Senate floor. But if filibustering Democrats prevail here, that rule will forever be changed. No longer will the ''advice and consent'' clause mean majority rule. Instead, it will mean 60 votes.

Now, my filibustering colleagues may say, ''well, no—we're not trying to change the standard; we just want more information.'' The time for dodging the essence of this constitutional moment has passed. There can no longer be any question that the true goal of this filibuster is to defeat Mr. Estrada's nomination by preventing a vote, to change the standard from a simple majority to a 60-vote requirement.

A month ago the Senior Senator from Pennsylvania called this power-play a ''constitutional revolution,'' and it saddens me to say that I must agree. A key part of our Constitution is its ordering of power between the different branches and parts of Government. Our Constitution is written, but we rely upon more than just the written word to understand its meaning. We rely upon the considered opinions of those who are charged with its interpretation. In most cases, that is the Supreme Court and the inferior courts that Congress establishes. But the Supreme Court is not the only body charged with interpreting the Constitution, because some areas of the Constitution are not subject to conventional judicial review. One of those areas is the ''advice and consent'' obligation of Congress. To understand that clause, the Senate must do the interpreting. The Senate has long had the constitutional obligation to decide what those words mean.

Throughout our history the Senate has had one consistent answer to the question of what ''advice and consent'' meant for lower court judicial nominees. That settled, bipartisan constitutional understanding of ''advice and consent'' was that only a majority vote is required. Now, a determined minority is determined to change the meaning of those words. And that is indeed a ''constitutional revolution,'' just as Senator SPECTER has said.

Let's turn to the Constitution. I know some of my Republican colleagues have argued that the Constitution mandates ''advice and consent'' by a simple majority vote. They may be right. As has been said, the Constitution contains seven provisions calling for a supermajority from the legislature: overriding a veto, convicting on impeachment, expelling members of the House or Senate, ratifying treaties, proposing constitutional amendments, establishing Presidential incapacity, and during the Civil War era, removing the disabilities of rebellious officeholders. But the Constitution is silent as to ''advice and consent.'' The U.S. Supreme Court has observed that a simple majority is the background rule in legislatures. It is therefore understandable that many have concluded that ''advice and consent'' mandates a simple majority for confirmation. Certainly as a democratically-elected body we should always have a strong presumption in favor of rule by simple majority. Only when an alternative supermajority rule is clear should we depart from that democratic tradition.

I also appreciate the argument that a filibuster in this context is different than a filibuster on legislation because the appointment and confirmation of judges is a shared responsibility we have with the President. Respect and comity demand that we give proper deference to presidential prerogatives. I certainly agree that filibustering a presidential judicial nominee endangers the traditional respect between the branches of Government, and that as Senators we have a responsibility to protect the relationship between the branches both for present and future Senators and Presidents.

So it might be the case that the constitutional text and structure mandate a simple majority, but I must say that I am not 100 percent convinced. It is possible that the Constitution's silence on this question was exactly that: silence. And it is possible that by remaining silent, the Founding Fathers intended to leave the question open for its own interpretation. I think we should allow for that possibility. But my skepticism does not change my conclusion, which is that we should apply a simple-majority requirement for confirmations.

Why do I reach this conclusion? Because the weight and precedent of the

Senate's longstanding constitutional interpretation of its own ''advice and consent'' obligation compels it. Thus, even if the question was open in 1789, we have 214 years of experience and tradition to tell us what the right interpretation was. And the right interpretation is that the same interpretation that bipartisan majorities of the Senate have forever believed—that only a simple majority is required to confirm a lower court nominee.

The most obvious evidence of this tradition is the history itself. No lower court nominee has ever been rejected due to a heightened, 60-vote requirement. To be sure, some Senators have contemplated this change before. Over 30 Democrats tried to filibuster J. Harvie Wilkinson in 1984, Sidney Fitzwater in 1986, and Edward Carnes in 1992. A much smaller group of my fellow Republicans tried to filibuster Marsha Berzon and Richard Paez in 2000. So the issue has been raised before, although never in such a dramatic and pointed fashion as it is today.

Let me address for a moment the unique case of Abe Fortas. In 1968, Justice Abe Fortas was nominated for the Chief Justice position. Opposition was roughly divided between the political parties, based significantly upon alleged improper financial dealings and other ethical issues that eventually drove him to resign under threat of impeachment. Unlike the case at hand, there is no record in that case of a Senate majority willing to confirm Mr. Fortas. The single cloture vote failed 45–43. So it cannot be said that the will of the majority was thwarted, because no majority appears to have existed to confirm that nomination. The President withdrew the nomination before we ever found out the answer to that question. So unlike in the present case, the majority was not thwarted by filibuster.

But returning to the more recent history, it is important to point out that in every one of those cases, however, cooler heads prevailed. The Senate stepped back from that precipice and said ''No, this we will not do. We will not filibuster judicial nominees.'' Senators such as the ranking member of the Judiciary Committee, Senator LEAHY, were so opposed in principle to such a constitutional change that he declared that he would ''object and fight against any filibuster on a judge, whether it is somebody I opposed or supported.'' The Washington Post reports that in 1991 during the Clarence Thomas nomination battle, Senator LEAHY declared himself ''totally opposed'' to a filibuster, even as abortion activists urged such a step. And in 2000 a clear majority of Republicans joined with Democrats and invoked cloture on the Berzon and Paez nominations.

This is our tradition. We do not block judicial nominees by filibuster. This isn't a Republican constitutional interpretation. It isn't a Democrat constitutional interpretation. It is the Senate's interpretation. And in the Senate, where so much is based upon tradition, sometimes tradition is all we have to enforce constitutional norms. We rely upon our colleagues to say, as Senator LEAHY said, that they will fight on principle against the abuse of process regardless of whose particular ox is being gored. That is why I voted for cloture on the Paez nomination, and against confirmation. I refused to upset 214 years of settled constitutional interpretation and change our constitutional norms forever. I was unwilling to risk the damage to the Senate and to the nominations process that would result.

Let there be no mistake about it: If a minority of Senators are able to force a change to our 214-year-old constitutional tradition, we do great damage to this body and to the process by which judges are nominated and confirmed. And those changes will be permanent.

Now, I am a conservative, and I naturally resist unnecessary tinkering with our constitutional system. But I also understand that constitutional changes do happen, and that they are not always bad. I am an original sponsor of a constitutional amendment, S. 1, in this very Congress. But we have an amendment process for changes to the Constitution. We require 2/3 of each House of Congress, and then ¾ of the States. We have a process, and our constitutional stability depends on respecting that process.

This constitutional issue is unique, because the issue is probably not justiciable. I do know that a few professors have concluded that a judicial nominee in Mr. Estrada's shoes may have standing to challenge a filibuster, but the last thing we want is for a court to get involved. This is a Senate matter. And as a Senate matter, all we have is our wisdom and respect for a 214-year tradition to guide us. Can traditions change? Of course they can. We should be very wary of upsetting settled traditions because for the most part, traditions exist for a reason, but we should always be open to improvement.

However, if we are going to upset 214 years of constitutional interpretation and institutional tradition, shouldn't we require something more than the intransigence of 44 Senators who won't even admit that they are trying to change the constitutional rule? The Founding Fathers recognized that when we change constitutional rules, we should do so based on supermajority votes, not minorities' refusals to votes. As I said a moment ago, when we amend the Constitution, it takes two-thirds of both Houses of Congress. Then if it passes, it cannot be enacted until three-quarters of the States support it. That is not minority rule, but supermajority rule. I might add that even when the Supreme Court changes its constitutional interpretations through its decisions, they have to act by majority vote or new law is not created. Without a majority, there is no change to the constitutional rule.

What is happening here is dramatically different. Here, a minority—not a simple majority, and certainly not a supermajority—seeks to change a settled constitutional rule and overturn 214 years of the Senate's constitutional interpretation. I submit that this fundamental change to our constitutional understanding of the ''advice and consent'' power must not be allowed to take effect. And it certainly should not be undertaken by a minority of Senators for short-term gain. To do so jeopardizes not only the Senate's relationship with the President, who has the constitutional obligation to make judicial nominations, and the Judiciary, which is understaffed and in desperate need for a fair process consistent with our longstanding constitutional norms. It jeopardizes the respect that future Senates will give to our traditional constitutional norms. And it calls into question whether the Senate can be trusted with its stewardship over those norms in the future. Will the Supreme Court ultimately become involved in Senate affairs? I certainly hope not, but I have less confidence today than I did a month ago that no court would involve itself in these matters. And that is a day I do not want to see.

So, as I said, this is not about needing more information. The distinguished minority leader made that clear last week. Senator DASCHLE has enough information. He opposes the nominee. This is about power—the power of the minority to change 214 years of constitutional norms and interpretation. I urge my filibustering colleagues on the other side of the aisle to step back, look at the history, and ask themselves whether they truly believe that it should take 60 votes to confirm a judge. And, equally important, whether they believe that a minority of Senators should be able to wash away the Senate's longstanding traditional understanding of its advice and consent obligations. I submit that our obligation to the Constitution and to the institution of the Senate demands more than what we are seeing today.

Mr. HATCH. Mr. President, I rise in response to my colleagues' assertions about the Senate's role in the judicial confirmation process. I am compelled by their statement to provide a more complete record on the origins of the Senate's constitutional obligation to provide advice and consent on judicial nominees.

The constitutional duty of the President to nominate and appoint, and the intervening duty of the Senate to provide advice and consent, is set forth in Article II, Section 2:

> The President . . . shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . Judges of the Supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law.

Some of my Democratic colleagues have argued that the record of the debate of the Constitutional Convention leads to the conclusion that the Senate plays the central role in this process. This assertion is based on the Convention's initial—and, I should add, temporary—adoption of proposals that a national judiciary be established to be chosen by the national legislature, and its concurrent rejection of proposals that the President be given the sole power to appoint judges. My colleagues suggest that only in the final days of the Convention was the President given a role—the power to nominate judges—and that somehow this time line of events signals a more central role for the Senate than the actual text of the Constitution suggests.

It is first important to note that, contrary to the impression that my colleague from Massachusetts may have left, the record of the Convention indicates that the discussion of the establishment of the judiciary was limited to only a few actual days. During that time there were, indisputably, competing views as to how the judiciary should be established—by the Executive or by the legislature. But a careful review of the notes of the Constitutional Convention leads to the conclusion that the Framers bestowed on the President the paramount role in appointing judges.

There was significant opposition to the proposals to place the appointment power exclusively in the Senate. For example, according to the notes from the Convention for July 18, 1787, a delegate from Massachusetts, Nathaniel Ghorum, suggested ''that the Judges be appointed by the Executive with the advice & consent of the 2d. branch, in the mode prescribed by the constitution of Masts. This mode had been long practiced in that country, & was found to answer perfectly well.'' James Wilson, one of the leading figures at the Convention, made a motion ''that the Judges be appointed by the Executive.'' Mr. WILSON later wrote, ''Instead of controlling the President still farther with regard to appointments, I am for leaving the appointment of all the principal officers under the Federal Government solely to the President. . . .''

Thus the debate progressed over exclusive appointment by the legislature versus exclusive appointment by the President. James Madison sought a compromise when he suggested the power of appointment be given to the President with the concurrence of 1/3 of the Senate. This is an interesting suggestion, given that we now face a virtual veto by a minority. Madison's proposed compromise has been turned on its head. Rather than a supermajority to disapprove the President's nominee, this Senate is demanding a supermajority for approval.

Some of my colleagues on the other side of the aisle seem to want to continue the debate of the Constitutional Convention. That debate is over. The resolution of the respective roles of the President and the Senate are found in the language of the Constitution, which in Article II vests the nomination and appointment powers in the President.

As Alexander Hamilton explained in The Federalist No. 66:

It will be the Office of the President to nominate, and, with the advice and consent of the Senate, to appoint. There will, of course, be no exertion of choice on the part of the Senate. They may defeat one choice of the Executive, and oblige him to make another; but they cannot themselves choose they can only ratify or reject the choice he—may have made.

The distinguished Assistant Democratic Leader referred to The Federalist No. 76, wherein Alexander Hamilton discussed the appointing power of the Executive. Hamilton stated ''To what purpose then require the co-operation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity. In addition to this, it would be an efficacious source of stability in the administration.'' This passage indicates the Founders' understanding of a limited role for the legislature in the confirmation process. That role is for the Senate to act as a check on improper appointments resulting from favoritism or unfit character by the President.

The treatment of Mr. Estrada by the Senate is far different from the advice and consent role contemplated by the Framers. A vocal minority of Senators is blocking the majority, which stands ready to vote on his nomination. This is tyranny of the minority and it is unfair to all—to the Senate, to the President, to the nominee, and to the Judiciary.

Mr. President, I call upon my colleagues who are denying an up or down vote on the nomination of Mr. Estrada to let the Senate work its will. The President has done his duty in nominating Mr. Estrada. It is now our duty to consent or to withhold consent by an up or down vote. Let's end the debate on this nomination and proceed to that vote.

Thank you, Mr. President. I yield the floor.

Mrs. FEINSTEIN. Mr. President, I rise to speak about charges that the ongoing filibuster against Miguel Estrada is somehow unconstitutional, as some have claimed.

I take this job very seriously, and it is not often that I support preventing an up or down vote on any issue. In fact, this is the only time I have ever supported a filibuster against a judicial nominee, and I do so for very specific reasons, as do so many of my Democratic colleagues.

Contrary to the charges we have been hearing over the last few days, I believe this filibuster is precisely what the Founders of this Nation had in mind when they created a three-branched system of government with checks, balances, advice and consent.

This filibuster is not about preventing a conservative nominee from getting onto the court. Rather, this filibuster is about a failure of this administration to adequately seek the advice and participation of the U.S. Senate in the judicial nominations process, particularly with regard to this nominee.

I have spoken several times about Mr. Estrada specifically, and each time I have been clear, as have my colleagues—this is a nominee about whom we know very, very little, and he and this administration have simply not done enough to give us the kind of information we need to properly perform our constitutional duty of advice and consent. Because we are prevented from performing this constitutional duty, we have been forced to resort to a procedure, well within the Senate rules and by no means unprecedented, to enforce those rights.

The filibuster is one of the key devices throughout our nation's history that has protected the right of the minority party, or even of one Senator. Without a filibuster right on nominations, there might never be advice and consent at all. And that would turn the Constitution on its head.

My colleagues on the other side of the aisle have attempted to make much of the fact that the Constitution does not provide for a ''super-majority'' vote on nominations, unlike constitutional amendments or treaties. This is true—the Constitution is silent on the issue of how many votes a nomination should take.

But the Constitution is equally silent about how many votes it would take to proceed to other measures as well—a patient's bill of rights, for example. Or a ban on human cloning. Or the assault weapons ban. Or education bills. Or even major civil rights legislation. Yet nobody argues that it would be unconstitutional for one or more Senators to filibuster these bills. Unwise, perhaps. Subject to public outcry, maybe. A legitimate subject of reasoned debate, absolutely. But unconstitutional? No.

Now let me address the issue of whether this filibuster is ''unprecedented,'' as some have charged. If we look at the facts, we soon see that the only really unprecedented aspect of this filibuster may be its success. Many have tried, but few have succeeded. And this may be a good indication of how strongly we feel about enforcing our constitutional role of advice and consent to this and other nominations now before us.

The majority now argues that any filibuster of a judicial nominee is unconstitutional because it essentially establishes a new, 60-vote threshold for judicial nominees. But this 60-vote threshold has long been in place for

controversial nominees facing objections from one or more Senators.

Again, the only real difference between the situation with Miguel Estrada and the situations where cloture votes were required on other nominees is that here, today, there are not enough votes to meet that 60-vote threshold.

The procedure is the same—a cloture vote.

The debate is the same—over a nomination to the federal judiciary.

Only the outcome is different, and I don't see how the outcome can determine the constitutionality of the process.

Let me list some other filibusters and cloture votes throughout recent history.

In 1968, Abe Fortas was actually prevented from becoming Chief Justice of the Supreme Court by filibuster. The other side may argue that this was a bipartisan filibuster, and they are right—but this is not the point. The point is, a filibuster was used as a tool, and the nomination failed.

In 1980, Stephen Breyer had to go through two cloture motions to obtain a seat on the First Circuit—to debate, Miguel Estrada has only had one cloture vote.

In 1994, a cloture vote finally stopped a filibuster against Rosemary Barkett, a nominee to the 11th Circuit.

In 1994, H. Lee Sarokin's nomination to the Third Circuit required a cloture vote before it could proceed.

In 2000, the nominations of both Marsha Berzon and Richard Paez to the Ninth Circuit Court of Appeals—nominations which had been stopped dead in their tracks literally for years by that time—underwent cloture votes. Richard Paez had waited for more than 1,500 days before he was given that cloture vote.

To be perfectly frank, hearing these charges from the other side of the aisle is surprising given how many other Clinton nominees were stopped cold by secret holds and other parliamentary tactics, both in committee and on the floor.

For instance, Elena Kagan was a Clinton nominee to the D.C. Circuit Court of Appeals—the same circuit to which Miguel Estrada is now nominated. In fact, Ms. Kagan was Miguel Estrada's supervising editor on the Harvard law review, yet Republicans stopped her nomination cold without even getting to the point of a filibuster, or a public accounting of who was for, and who was against, that nominee.

Elena Kagan was never filibustered on the floor, but she was effectively ''filibustered'' in committee by one or two Senators who prevented a hearing or a committee vote.

Other nominees to the circuit courts who were denied hearings or committee votes include Helene White for the Sixth Circuit, Jorge Rangel for the Fifth Circuit, Bonnie Campbell for the Eighth Circuit, and the list goes on and on. In fact, dozens of Clinton nominees were blocked in committee by anonymous holds or other obstructionist tactics, so there was no need for a filibuster on the floor.

It is most surprising to hear these charges of unconstitutionality from the other side of the aisle, given that many of my Republican colleagues actually participated in filibusters against Clinton nominees.

Richard Paez, for example, was one of President Clinton's Hispanic nominees to the circuit court, and he could not move on the floor until a cloture petition was filed. When the vote finally came to end the filibuster, the majority of the Senate voted to do so and Richard Paez is now a federal judge.

But many of my Republican colleagues voted to continue that filibuster, just three short years ago. Indeed, almost exactly three years ago, on March 8, 2000, fourteen Republican Senators voted to continue the filibuster against Richard Paez, including some of those who now argue that filibusters themselves are unconstitutional.

And when the cloture vote came on that same day for Marsha Berzon, another Clinton nominee who waited years for a hearing and up or down vote, thirteen Republican Senators voted to continue that filibuster as well.

How can these Senators now argue that this filibuster is unconstitutional? Is it only unconstitutional when Democrats filibuster a nominee, but constitutional for Republicans to do the same? Is it only unconstitutional if the filibuster succeeds?

The fact is, this filibuster is very constitutional, and in fact it may even be necessary to enforce the constitution's other provisions, such as the advice and consent power granted to the U.S. Senate.

I do not relish where we find ourselves today, nor do any of my colleagues—on either side of the aisle.

We stand poised to enter a war against Iraq, and under the constant threat of international terrorism. Our budgets are running at record deficits, the economy is still in trouble, and we recently reorganized our entire homeland security apparatus. All of these issues require the attention in this body.

The nominations debate is clearly very important to the future of our judiciary and to the rule of law for decades to come, and there is no question that this issue should not, can not, and will not, be ignored.

But we should be concentrating our efforts, and our limited resources in terms of time, staff and attention, on these other important issues as well.

It is clear now that Miguel Estrada will not become a federal judge unless our requests are met. Any further debate on this nominee is really a distraction from the many other important issues we should address.

I appreciate the attendance of the distinguished Vice President of the United States here today, and I appreciate the gravity of this debate.

But I urge the Republican leader and my colleagues to move beyond this debate so we can resolve these other, very important issues.

The PRESIDING OFFICER. The Senate majority leader.

Mr. FRIST. Mr. President, I appreciate the consideration of both sides of the aisle. We extended the debate for an additional 20 minutes. Normally we would have completed at 12:30. I think that represents the fact that the debate has been valuable, informative, and I do appreciate so many Members on both sides of the aisle coming forward and speaking during this period of time where my objective, as I said 2 hours ago, was to elevate the debate and talk about advice and consent as spelled out in the Constitution.

Much of what we have heard about is larger than any single nominee, even one as distinguished and compelling as Miguel Estrada. I think most of us would agree that the process of advise and consent has gone awry. I suspect most of us will probably have different viewpoints on why that has happened, why it has evolved to the point where we are today. I respect those differing views.

One thing is clear to me—the system is not working well, it is broken, and that is a disheartening thought on my part. But to America it is an unfortunate truth. I think it is coming to the time we need to stop blaming each other and find a way to fix the system itself. With 17 unanimous consent requests, 100 hours of debate, still the nominee being subjected to a filibuster, where we don't see an end in sight, an up-or-down vote, I conclude the system is not working.

As has been pointed out, filibusters on executive nominations—until now, recently—has been exceedingly rare. As leader, that strikes me as a good thing. But it seems to be changing, and that is why it is important for us to carefully examine advise and consent as spelled out in the Constitution and our interpretation of that.

I do want to make a proposal for the other side of the aisle and I ask the assistant minority leader to think about it. The proposal is not in the form of a unanimous consent request at this point but possibly after lunch today. The proposal recognizes the context in which we find ourselves. It may be possible in the near future that we will have a military conflict, although I hope and pray that is not the case. But we need to begin later this week, and aggressively next week, addressing the issue surrounding the Federal budget. We want to focus on the economy and get it moving again. We have Medicare and prescription drugs, which we must address. We have a lot to do. The proposal that I will make—and I would like for the other side of the aisle to consider this—to the chairman and ranking member is that arrangements will be made for Miguel Estrada to appear again before the Senate Judiciary

Committee in exchange for a date certain for an up-or-down vote on his nomination.

The second hearing is something we had not believed was appropriate, but I want to show both sides of the aisle that we are trying to reach out to do everything possible to go that extra mile and try to get an answer that works.

This is not a formal unanimous consent request at this time, but I do want to offer that opportunity. Again, it would be in exchange for a vote, up or down, at a time certain—to actually have another formal Judiciary Committee hearing with Miguel Estrada. It is my hope the other side of the aisle will decide it is time to conclude the debate and that we can focus on the challenges that lie ahead.

Mr. REID. Will the leader allow me to respond? Otherwise, I will use leader time.

Mr. FRIST. Yes.

Mr. REID. I appreciate that since being chosen majority leader the Senator from Tennessee has gone out of his way to make sure we have ample debate. He has used the cloture motion rarely, and we appreciate that very much. But I say, regarding the Estrada matter, we have been very consistent in our requests. No. 1 is that he answer questions. The Senator said he would try to satisfy that. But until he supplies the memoranda from the Solicitor's office, it is not going to change the position of the people on this side of the aisle. So if he makes the unanimous consent request, we will simply renew our unanimous consent request, as we have done on other occasions.

Mr. FRIST. Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, would the distinguished majority leader take a moment just to make a quick observation?

Mr. FRIST. Mr. President, I will yield for 1 minute, and then we will go to lunch.

Mr. LEAHY. Mr. President, I appreciate very much the distinguished majority leader trying to figure out a way to get through this impasse. It is in the tradition of majority leaders, and I have served with every majority leader since the time of Mike Mansfield. Majority leaders try to work these matters out, and I appreciate that.

I urge him, in doing so, to look at the fact that Miguel Estrada has said he is willing to discuss his papers and find a way that that could be done. I think his suggestion of a hearing where questions would be asked based on that would be very workable. But I commend the distinguished majority leader for doing what is the tradition of leaders—to try to find a way through this.

Mr. FRIST. Thank you, Mr. President.

RECESS

The PRESIDING OFFICER. The hour of 12:30 p.m. having arrived and passed, the Senate is adjourned.

Thereupon, the Senate, at 12:56 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

LEGISLATIVE SESSION

PARTIAL-BIRTH ABORTION BAN ACT OF 2003—Continued

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session and continue consideration of S. 3, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3) to prohibit the procedure commonly known as partial-birth abortion.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR NOS. 32, 34, 35, 36 AND 55

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that with respect to Calendar No. 32, Jeffrey Sutton, to be a U.S. circuit judge for the Sixth Circuit, there be 4 hours for debate equally divided between the chairman and the ranking member, or their designees, and that following the conclusion of that time, the Senate proceed to a vote on the confirmation of the nomination, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, Mr. President, on the circuit court judges, we have a couple circuit court judges on which we believe we can work out an agreement. Jeffrey Sutton is not one of them. So I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that with respect to Calendar No. 34, Deborah Cook, to be a U.S. circuit judge for the Sixth Circuit, there be 4 hours for debate equally divided between the chairman and ranking member, or their designees, and that following the conclusion of that time, the Senate proceed to a vote on the confirmation of the nomination, without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, this woman, along with Mr. Roberts, is part of those nominations we believe were improperly reported out of the committee. So I object to her and to Mr. Roberts at this time until there is another hearing in the Judiciary Committee.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that with respect to Calendar No. 35, John Roberts, to be a U.S. circuit judge for the DC Circuit, there be 4 hours for debate equally divided between the chairman and ranking member, or their designees, and that following the conclusion of that time, the Senate proceed to a vote on the confirmation of the nomination, with no intervening action or debate.

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that with respect to Calendar No. 36, Jay S. Bybee, to be a U.S. circuit judge for the Ninth Circuit, there be 4 hours for debate equally divided between the chairman and ranking member, or their designees, and that following the conclusion of that time, the Senate proceed to a vote on the confirmation of the nomination, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, Mr. President, Senator BIDEN had an objection to this proposed judge. We heard from his staff earlier today that probably has been resolved, but we will not know that until they check with Senator BIDEN who, as my colleague knows, is indisposed having had surgery. We will get back later, hopefully today. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. Mr. President, there are five individuals who are on the Executive Calendar. This is the last of the five. I will ask unanimous consent for him, as well, but clearly we want to move ahead as much as possible and want to continue to work with the other side. We do want to reach out once again. These unanimous consent requests are a part of our efforts to reach out and advance the process. I hope we can resolve this shortly.

Mr. President, as in executive session, I ask unanimous consent that with respect to Calendar No. 55, Timothy Tymkovich, to be a U.S. circuit judge for the Tenth Circuit, there be 4 hours for debate equally divided between the chairman and ranking member, or their designees, and that following the conclusion of that time, the Senate proceed to a vote on the confirmation of the nomination, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, Mr. President, I have spoken to the leader and to the ranking member of the Judiciary Committee on the other judges. I have not spoken to either of them about this man. For that reason, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. Mr. President, with respect to the rejection of these five proposed unanimous consents, we do ask that the other side look at these as individuals. Once again, I state the willingness on our side of the aisle to bring these forward. I mentioned 4 hours for debate equally divided. If it takes 8 hours or 10 hours of debate, I would put that forward.

Rather than run through the unanimous consent request again, we will continue our conversations off the floor.

Mr. REID. Mr. President, through the Chair, I ask the leader this question: In regard to two of the names put forward, the woman from Ohio and Roberts, the best way to alleviate a very serious problem that has developed—and, you know, I think Senator LEAHY is right on his interpretation of the rules, but it really does not matter at this stage—why do we not have the Judiciary Committee reconvene regarding those two judges? If there are some more questions the Judiciary Committee members have, ask the questions and then those two matters, I am sure, will receive a number of Democratic votes, and we could have these two people on the floor. That could be scheduled under whatever the rules are in the Judiciary Committee.

I think we are creating problems for ourselves. I know Senator HATCH feels right the way he interprets the rules. We have people on this side who feel that he is wrong, and it would seem that an easy way to avoid that problem would be to reconvene the Judiciary Committee, see if Democratic members of the Judiciary Committee want to ask any more questions of those nominees, and we could move along. Otherwise, I am afraid that because of how we interpret the rules of the committee having been violated, it is going to unnecessarily throw another cloud over an already cloudy situation. I do not suggest the leader has to answer that publicly, but I would hope that he would follow through on that and see if that would be a way to avoid these problems.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, all five of these individuals are on the Executive Calendar for consideration on the floor of the Senate. We can continue our conversations, but all of these have gone through the Judiciary Committee and have been presented on the floor.

EXECUTIVE SESSION

NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA—Continued

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to executive session for the consideration of the Estrada nomination.

The PRESIDING OFFICER. Is there an objection?

Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

Mr. FRIST. Mr. President, earlier today we had a productive debate with the Vice President in the Presiding Officer's chair. The debate was constructive and did fulfill my goals to elevate the debate to the level of talking about advice and consent of the Constitution itself.

The nomination of Miguel Estrada has been pending before the full Senate for over a month. He was initially nominated 2 years ago. I have tried on numerous occasions to reach out for a time certain for a very simple up-or-down vote. That is all we ask for after these 5 weeks of debate. Each of the requests has been met with an objection from the other side of the aisle.

As I have stated, we are not going to give up on this nominee. We are going to continue to push for that very simple request that this nominee should have an up-or-down vote. He deserves an up-or-down vote, and I will continue to pursue every avenue possible in terms of reaching out. If the other side of the aisle says they want more information, we have responded by saying submit written questions and we will get the answers. The White House has made Miguel Estrada available individually to Senators to answer their questions, in an effort to keep this nomination moving forward.

Prior to lunch, I asked my Democratic friends if they would agree to a time certain for an up-or-down vote if a further hearing in the Judiciary Committee is scheduled. If they think they need more information regarding this nomination, they would agree to a hearing to be followed by an up-or-down vote. That would be another way to get information, if it really is the fact that the other side of the aisle wants more information. I hope it reflects to my colleagues on both sides of the aisle my attempt to reach out through every avenue possible to respond to their request for more information.

At the end of that hearing, I would expect as part of the proposal to have an up-or-down vote. If people do not like what they hear or, after that process, they say they do not know enough, then let them vote no, so they can express themselves with an up-or-down vote. I think it is time for a vote.

I am happy to yield for a brief response to my Democratic colleague, if he would like to comment.

Mr. REID. I thank the leader. As I indicated this morning, we would be willing to attend the hearing and ask questions of Mr. Estrada if, in addition to that, we had the documents that we have requested from the Solicitor's Office while he worked there.

Mr. FRIST. Mr. President, I ask unanimous consent that following a further hearing with respect to the Estrada nomination, there be an additional 4 hours for debate equally divided in the usual form, and the Senate then vote on the confirmation of the nomination of Miguel Estrada with no intervening action or debate.

Mr. REID. Mr. President, I ask unanimous consent that the request be modified to allow the provision of documents relevant to Mr. Estrada's Government service, which were first requested in May of 2001; that the nominee thereafter appear before the Judiciary Committee to answer questions which we believe he failed to answer in his confirmation hearing and any additional questions that may arise after reviewing the documents we have requested.

The PRESIDING OFFICER. Does the Senator so modify his request?

Mr. FRIST. Mr. President, reserving the right to object, as we have mentioned again and again, access to these SG confidential memorandum would be unprecedented and would jeopardize the integrity of our system. Therefore, I object to the request for modification.

The PRESIDING OFFICER. The objection is heard.

Is there objection to the initial request of the majority leader?

Mr. REID. Objection.

The PRESIDING OFFICER. The objection is heard.

CLOTURE MOTION

Mr. FRIST. Mr. President, given that response, I now send a cloture motion to the desk.

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

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 21, the nomination of Miguel A. Estrada to be United States Circuit Judge for the District of Columbia Circuit.

Bill Frist, Orrin Hatch, Trent Lott, Robert F. Bennett, Peter Fitzgerald, Jeff Sessions, John Ensign, Kay Bailey Hutchison, Rick Santorum, Don Nickles, Jim Talent, Lindsey Graham of South Carolina, Lisa Murkowski, Conrad Burns, John Warner, John Sununu, Gordon Smith, Elizabeth Dole, Saxby Chambliss, Christopher Bond, Susan Collins, Wayne Allard, Lamar Alexander, Norm Coleman, Pat Roberts, Craig Thomas, Larry E. Craig, Olympia Snowe, John McCain, James Inhofe, Jon Kyl, Lincoln Chafee, Judd Gregg, Richard G. Lugar, George Allen, Chuck Grassley, George V. Voinovich, Mike Capo, Michael B. Enzi, Thad Cochran, Mike DeWine, Arlen Specter, Sam Brownback, Ben Nighthorse Campbell, Richard Shelby, Ted Stevens, Chuck Hagel, John Cornyn, Pete

Domenici, Mitch McConnell, Jim Bunning.

Mr. FRIST. I ask unanimous consent that the live quorum provided for under rule XXII be waived.

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

LEGISLATIVE SESSION

Mr. FRIST. I ask unanimous consent that we resume legislative session.

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

PARTIAL-BIRTH ABORTION BAN ACT OF 2003—Continued

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. If I could ask a question of the manager of the bill, the distinguished Senator from Pennsylvania, has the Senator had an opportunity to look over the unanimous consent request that we submitted to staff earlier today regarding the late-term abortion matter that is now before the Senate?

Mr. SANTORUM. We have been reviewing the one amendment. Has the Senator submitted all the other amendments? Only one amendment has been submitted, to my knowledge.

Mr. REID. I apologize for that. I thought staff had all the amendments, but the Senator does have our amendment, of course. It has been filed.

Mr. SANTORUM. We have one amendment. That is the only one I am aware that we have.

Mr. REID. We will make sure the Senator gets all the amendments. Can we agree on a time on this amendment before us without any second-degree amendments?

Mr. SANTORUM. Yes. In fact, I just spoke to the Senator from Washington about this.

Mr. REID. I am sorry.

Mr. SANTORUM. I suggested we would be willing to accept the amendment. She has requested that we have a rollcall vote of some sort. I am happy to agree on a reasonable time agreement.

Mr. REID. That would be fine. We would be happy to.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SANTORUM. 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. SANTORUM. Mr. President, we are working in good faith. I thank the Democratic whip for his willingness to try to work through these amendments. We are reviewing, on our side, the Murray amendment. There may be some concerns about it. We are hopeful to get a resolution and enter into a unanimous consent agreement on the disposition of that amendment.

We have just been handed another amendment. That is a positive step, a step in the right direction. We are hopeful we can proceed with a vote on the Murray amendment sometime today, and maybe another vote later this evening; if not, tomorrow morning. So there are fewer than a half dozen amendments we are aware of on this legislation. It looks as though we are making some progress.

Again, I thank the other side of the aisle for their cooperation.

I want to go back and go over some of the issues that have been discussed today about the underlying bill, which is the Partial-Birth Abortion Ban Act, and provide the context in which this legislation comes to the floor of the Senate.

Back three Congresses ago, in 1995 and 1996, this procedure had been unearthed, if you will. There was some medical literature that some Members of Congress found so abhorrent, for obvious reasons, that there was a strong belief that this procedure should be banned. So for three consecutive Congresses, the House of Representatives and, for two of those Congresses, the Senate debated this issue—always being blocked by the President of the United States and then, on the third attempt, by the U.S. Supreme Court.

We are now here with a version of the bill that is different from the previous versions. The version that was considered by the U.S. Supreme Court.

The reason we are back is not just to say the Court was wrong or that we disagree with the Court's judgment on constitutionality, although I do. I have to say the Court's view of the constitutionality of abortion statutes is really quite remarkable. It is not, as has been depicted by many on the other side with whom we have debated this issue in the past, that Roe v. Wade allows absolute freedom of choice in the first trimester, provides some limitations in the second, greater limitations in the third trimester. Lots of statements have been made on the floor that that is the case. Statements have been reported in the press. The press themselves have adopted this analysis of Roe v. Wade.

That is not what Roe v. Wade says—or Doe v. Bolton, its companion case—and not what subsequent cases from the U.S. Supreme Court have held. If that were the case, then the U.S. Supreme Court would have upheld the partial-birth abortion case.

Why? Because if there are legitimate restrictions on the right to abortion in the second and third trimester, I can't imagine a more legitimate restriction. But that is not what the Court has said. The Court has basically said there are no restrictions on abortion. It really is quite amazing that a right that was created, as I understand, by judicial fiat, not by the legislative process and not by the constitutional amendment process—I dare anyone to look at the U.S. Constitution and find the right to abortion. It does not exist in the U.S. Constitution. But by judicial fiat, by an act of judicial activism, this right was created.

Interestingly enough, this right, since it was created by nine people, they have no limitation on how they define it because there is nothing in the written Constitution that limits their own interpretation. It is what they say it is. It is a pure case of positive law created by an unelected group of men at the time.

What they are saying is absolutely right. There are no restrictions—none. I would challenge any of you to go through the Constitution, go through the Bill of Rights, and look at the rights within our Constitution and find another right in the Constitution that has no limit, that has no restriction. Every other right written in the Constitution has a limit, has curbs. The courts have permitted it, except this right that doesn't exist in the Constitution.

When we approach this issue of partial-birth in trying to find, in a sense, a way to put this procedure outside of Roe, I would argue that was the argument all along. And I believe back in 1996 when I argued this, it did not belong under Roe v. Wade. There are no health concerns of the mother. That is what makes all of the abortion basically unlimited up until the moment that the child is separated from the mother; that there is always a reason for the health of the mother and health defined under Roe v. Bolton means anything—stress, anxiety, fear. Anything associated with mental or physical health counts for allowing abortion up to the time of the separation of the child from the mother.

That is why I said there are simply no restrictions. We looked and questioned whether the partial-birth abortion procedure affects the health of women. The answer is clearly no, It does not.

There is a huge amount of congressional testimony both here in the Senate, with debates on the floor, debates on the floor of the House, testimony, overwhelming evidence, dispositive evidence that this procedure is never—I underscore the word ''never''—medically necessary to preserve the health of the mother. That is a strong word, ''never.'' That is an absolute term—''never.'' I use it with complete comfort—and have for 7 years here on the floor of the U.S. Senate. I did earlier today when I said, as I have repeated over and over again to those who believe that a health exception is necessary, give me a medical case in which a partial-birth abortion is medically necessary to preserve the health of the woman. Give me a case where it is preferable—not just necessary, where it is preferable. I can give you quote after quote, from the AMA to C. Everett Koop to the experts in late-term abortions, all of whom have said not only isn't it medically necessary but it is bad medicine. It is unhealthy. It is contraindicated.

The overwhelming body of medical evidence is that it is outside the scope of medicine. It is not taught in medical

schools anywhere. It is not done in hospitals. It is done in abortion clinics. Why? Ask the doctor who designed the procedure. The doctor who designed the procedure said he did it for one reason. He could do more abortions in a day because this procedure took 15 minutes, and the other late-term abortion procedures took 40 minutes. He could do more abortions. He could make more money.

When we hear this debate from those on the other side who talk about how we have to be compassionate for the health of mothers, let me assure you, as a father of seven children, I am very compassionate to the health of mothers during pregnancy. This is not a procedure that was contemplated to be helpful to the health of mothers or is necessary or is even preferable to preserve the health of mothers. This is a rogue procedure. This is a gruesome, brutal procedure where the doctor delivers a child in a breech position.

I just try to imagine myself in that position, having been at the birth of seven children, seeing that delivery, being there and seeing how the doctor carefully handles the child being delivered. As you will see in the chart, the doctor is holding this child alive. This baby is alive in the abortionist's hand. He has his hand wrapped around this child, which is alive, moving, feeling, heart beating, and nerves feeling.

As you can see on the chart, a doctor is holding the child in his hand.

The Senator from Tennessee is here, and I will yield to let him speak.

But I know what doctors are instructed to do when faced with a living human being in their care. I know the instinct has to be, How can I help this patient? But in the case of a partial-birth abortion, this child doesn't count as a patient. Nevertheless, it is a human being.

If you look at this chart, this is clearly a human being. This is a child with 10 toes, 10 fingers, arms, and legs. This is a human being, and nothing but a human being.

Look at the hands of that doctor grasping this child, grasping this living human being, holding it—a doctor who took a Hippocratic oath holding this human being in his or her hand.

I just try to imagine what goes through the doctor's mind when he takes a pair of scissors and probes this living being whose nerves work, whose brain functions, whose heart is beating, and finds the place to thrust a pair of scissors into the baby's skull; holding this child, feeling the child's pain, feeling its reaction to being executed, and then proceeding to suction the child's brains.

I am just troubled that we allow this to continue in America; that we allow this procedure to be used by people who are there to heal. What we say to so many in our society is how we value life, and yet we let the most vulnerable among us be treated in such a fashion.

Our leader is here. I will be happy to stop with my remarks and yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The majority leader is recognized.

Mr. FRIST. Mr. President, I rise in support of the Partial-Birth Abortion Ban Act of 2003. I want to spend a few minutes discussing the underlying bill, and then later have an opportunity to come back and talk specifically about some amendments that will be coming to the floor.

I will in part be talking about the procedure as a medical procedure, and also discuss some of the myths that surround the very specific procedure that is defined in this particular bill.

I rise to speak on this particular issue with a deep passion not only for the protection of life but also for the ethical practice of medicine.

Before coming to the Senate, I had the opportunity to study and practice medicine for 20 years. Although I am not an obstetrician, I have delivered many babies in the past. I have had the privilege, as a cardiovascular surgeon, to operate on a number of premature infants born probably about 3 or 4 weeks later than the infant—or the fetus, in this case—that is depicted in this picture, about 3 weeks after that.

I do speak as a surgeon and a board-certified surgeon. This is a surgical procedure. I have had the opportunity to do thousands of surgical procedures as well as mend the hearts and vascular systems on babies this size.

As a surgeon, let me say that there are certain ethical bounds to the application of surgical procedures, and these are bounds that in a moral sense should never be crossed by a surgeon. It is interesting that the people who developed this procedure, and its loudest proponents, are not surgeons but practitioners, and they are not board certified in a field that would be consistent with performing procedures such as this. That is important because people have this image that once recognizing there are hundreds and indeed thousands of these procedures, in all likelihood, performed every year, that you would have certified surgeons performing them, but that is not the case. For the most part, general practitioners are performing these procedures.

From a medical standpoint, I took an oath to treat every human life with respect, with dignity, and with compassion. Abortion takes life away, and partial-birth abortion, this particular procedure, does so in a manner that is brutal, barbaric, and morally offensive to the medical community.

I will not concentrate on the politics of partial-birth abortion, but talk a little bit about the disturbing facts of partial-birth abortion as a surgical procedure, a procedure that clearly should and must be banned.

The fact is that partial-birth abortion is a repulsive procedure. The procedure is straightforward in description; people have seen the various charts. This depicts a late stage in that particular procedure. It begins, as described by its greatest advocate, by, inside the uterus, manipulating the fetus and turning the fetus around so it can be delivered feet first, delivering the feet through the uterus and through the cervical canal to the position that is depicted in this particular diagram, and then taking scissors which are about 8 inches long, called Metzenbaum scissors, and thrusting them into the back of the base of the skull. Then, because that opening is not sufficient to drain the brains from the fetus itself, it requires a forcible opening of the scissors. If you were to take a regular pair of scissors—although the Metzenbaum scissors are longer—forcibly opening those scissors so the end of the scissors will split the skull wider so the brain can be evacuated and other contents within the skull.

Once the skull is allowed to collapse because of the evacuation of the brain and the intracranial contents, the skull itself collapses. And you can see how large the skull is to actually come through the cervical canal and through the birthing canal. It is necessary at this late stage because, as you can see, this, if born now, would be a premature infant. I will come to what the survival is if at this stage this fetus was actually delivered alive instead of dead.

The thrusting of the scissors into the base of the skull and the cranium itself takes this living fetus and kills the fetus itself. One of the problems is at this late stage in development, the neurological system is fully developed, fully developed to the point that with cervical blocks, which is the type of anesthesia typically used, or as is described by the father to this procedure, the fetus itself will feel that pain of thrusting the scissors in the back of the head.

This particular procedure is most commonly performed between 20 and 27 weeks. That is in the second trimester of pregnancy. People ask how far developed the fetus is. Pictorially, that gives you a pretty good idea of how well developed the fetus is. But to put that in perspective, 20 to 27 weeks, that is when most of these are performed. If you look at the early side of that, between 20 and 23 weeks, if that fetus was not killed but was just delivered at that point in time, overall survival today is about 30 to 50 percent. If you go to the period of 24 to 25 weeks—remember, this procedure is performed between 20 and 27 weeks—overall survival if the fetus had not been killed by using the scissors, the survival rate would be around 60 to 90 percent.

So these are premature infants. That is why people such as Senator Moynihan, who used to be in this body, call it the equivalent of infanticide, because these are performed at a time where if the infant were not killed, the infant would be delivered and although, yes, premature, would have better than a 50/50 percent chance of survival.

So when you hear about the procedure itself and you listen to the description, it is hard to imagine a more

grotesque treatment or tortuous treatment of what, if delivered without being first killed, would face a fighting chance of being a healthy human being.

Partial-birth abortion exists today. The procedure is performed in America every day. That is the reason this body, I believe strongly, must act and act with a ban to put a stop to this morally offensive procedure that is a fringe procedure, that is a rogue procedure that is being applied each and every day. We must stop it.

The reason I describe—it is worth looking at these pictures—this procedure in detail is not to shock. That is not the purpose. It really is to inform. The description I gave you is a typical medical way of describing the procedure itself. I will say, being a physician and being board certified, it is my responsibility not to shock but to depict the procedure as spelled out in the bill, a very specific procedure as it really is, the reality of the procedure itself.

It is critical that we debate this in terms of that framework of reality, no matter how disturbing the reality is.

There are a number of arguments by people who say, no, we should allow this procedure, as morally offensive and repulsive as it is, to continue.

I would like to take some of those myths. I will present them as myths because that is what they are. First, some say that partial-birth abortion may be necessary to preserve the health of the mother. That is not true. Never has partial-birth abortion, the specific procedure that is described in the bill itself, never has it been the only procedure or the best procedure available in the case of a medical emergency. You have to remember that this procedure takes 3 days. In fact, the alternative procedure—I am not an advocate of the alternative procedure that is accepted within the medical community—does not take 3 days. So when you are talking about medical emergencies and people say, it is the best alternative out there, that is not true. It is a dangerous procedure.

The only advantage I can see of partial-birth abortion—which is a disturbing advantage; therefore, I wouldn't call it an advantage or a benefit—is the guarantee, by the thrusting of the scissors into the brain and evacuation of the brain, of a dead infant.

Still, in the remote chance—and I argue hypothetical, because I have not been able to talk to anybody today who has said partial-birth abortion would be required to save the life of a mother because, remember, it takes 3 days. When you have procedures that are within ethical bounds, accepted by the medical profession and taught in medical schools, you have alternative procedures. But in the remote chance—again I argue hypothetical—the ban would not apply if it were to save the life of the mother.

Second, some would say that partial-birth abortion is the best option to preserve the health of the mother. I argue, no, it is a dangerous option. Let me paraphrase an article in the Journal of the American Medical Association, published on August 26, 1998. There are ''no credible studies'' on partial-birth abortion that ''evaluate or attest to its safety'' for the mother. Partial-birth abortion, as described in the bill, is more dangerous to the health of the mother than the alternative procedures. There is a much greater danger.

The cervix itself is right here on the chart. This is the uterine cavity. You see the size of the head and the instrumentation of the hand and the instruments, which expand the cervix, which is the smallest part of the bottom of the uterus. When you overextend and expand that, you come to what is called cervical incompetence. This comes to the health of the mother long term, because cervical incompetence can have longstanding side effects to the mother.

Right here, those are the Metzenbaum scissors. It looks like a suction device. You can see those are about 8 inches long. Metzenbaum was the person who first described these scissors. The blunt instrumentation is done blindly. You cannot see. What you are doing is putting two fingers down, pulling down on the shoulders, putting the scissors on the top, and feeling this little indentation and thrusting inside. It is all done blindly—the manipulation of the two fingers and the manipulation of turning the fetus itself, as well as putting in the blunt instrument of the scissors. Once you insert the scissors that deeply into the uterus blindly, forcibly into the skull, if it doesn't go into the skull, it perforates the uterus.

The alternative procedures today—again, I am not supporting third trimester abortions and, to me, they are all repulsive. But it is important for people to know the alterative procedures don't involve the Metzenbaum scissors. It is done with an injection into the heart itself directly, or guided by ultrasound, very carefully controlled. It is not this blind procedure.

Comparing the various procedures is important because we keep hearing from certain people that this is the safest, or will be the safest or best alternative. It is simply not true. It is more dangerous. There is the danger of infection because of the increased manipulation that is required in this procedure itself, secondary to the performance of this procedure.

The third myth is the medical community—I was jotting notes when people were saying it infringes on the doctor-patient relationship. It says specific medical procedures that should not be banned by Congress. You know, first of all, that is not true. As a physician, you don't like big government coming in and telling you what you can and cannot do. Most people in life don't like Government intruding into their lives. And that doctor-patient relationship being as special as it is, you don't want Government coming in and saying yes, no, come in with that procedure. I feel the same way, generally. But as I opened up, I said there are certain ethical bounds and, yes, as a profession, we take certain oaths. One of them is the Hippocratic oath of doing no harm. But there is a certain ethical boundary and framework that, no matter who or what you are, you never go outside. But we have people going outside those ethical bounds. I argue that they are hurting women, when alternative procedures that are much safer are available. Thus, we must put a stop to that. And because it is performed every day, and it is outside of the ethical bounds, we are obligated to redefine those bounds in this particular case.

The bill says this is a rogue procedure that is never medically necessary and is condemned by the medical community. It has absolutely no place in the doctor-patient relationship. This is where the myth comes in, because that relationship is built on trust. That is the whole essence of the relationship between a woman and her physician, or a patient and a doctor. That trust has got to be built on moral behavior. What makes medicine a profession is this body of professional ethics, coupled with the specialized knowledge; and this goes outside the bounds of that framework of ethics, of morality.

Thus, I argue that this procedure, performed as it is across this country today, is offensive, is repulsive to this whole concept of the doctor-patient relationship, which is built on trust and moral behavior. This procedure is not moral.

People have made comments, ''Where is the AMA?'' There have been statements that the AMA does not oppose partial-birth abortion, or does. Let me just say the American Medical Association has supported this ban in the past. They oppose this specific procedure in this bill better, I would say, because it is more specifically defined than in the past bills; they oppose this specific procedure.

People say, well, the AMA is not out there saying this is the greatest bill on earth today. That is because it goes back to what I said, that they don't like the idea of anybody coming in and telling a professional what to do and what not to do. Let me leap back to what I said, and then I will go back.

The people who invented the procedure are not surgeons. They are not board certified. They operate outside the peer-reviewed literature. You cannot really go and find—because it is not accepted—this particular procedure in the peer-reviewed literature, which shows a certain amount of acceptance and respect in the mainstream community. It is simply not there.

The fourth myth I want to comment on is that some say making these specific techniques of partial-birth abortion a crime would make performing all late-term abortions almost impossible, and it would discourage doctors from performing legal abortions in all circumstances. I put this second to last

in terms of the myths. I oppose abortions, but for those people who believe in abortions, it is important for them to know this is a myth. I can say that because in the bill, the partial-birth abortion is very specifically and tightly worded and described, so that the ban, or the prohibition, would be just on the techniques that were described earlier and that have been pictorially described on the floor of the Senate—that is, the partial-birth abortion procedure.

There are alternative procedures, and I also find those offensive; but some people do not find them offensive. Those would still be legal. So this idea that a very tightly worded ban on a specific procedure, which is a subset of other types of procedures that are done, would stop, would make all abortions illegal, is simply not true. Again, I come back to those alterative methods are safer.

The fifth and last myth is that some say partial-birth abortion is accepted as mainstream medicine. That is not true. This is a fringe procedure. It is not found in the common medical gynecological textbooks, obstetrics textbooks that our medical students are taught with today. It is not taught in medical schools or surgical residency programs. It is outside the mainstream. If one looks at all the obstetrics and gynecologic residency programs, only 7 percent provide routine training for even mainstream third-trimester or late abortions. That is only 7 percent. To the best of my knowledge, none—none—in the residency programs teaches or would teach this specifically described partial-birth abortion procedure.

Today's doctors are simply not trained with this procedure—yet we have people performing it—because it is dangerous, because it is a rogue procedure, and because it is outside the mainstream of generally accepted medical and surgical practice.

I will mention one last time, the most prominent practitioners of partial-birth abortions are not trained obstetricians, but are general practitioners. Partial-birth abortion is an affront to the safe and reputable practice of medicine.

The question often arises as to how often these abortions, using this technique, are performed. It is hard to get good data, but if we look at the data that is provided and that we can collect, it is not as uncommon a practice as one might think.

In 1996, the research arm of Planned Parenthood asked doctors for the first time a question on partial-birth abortion. The question produced an estimate at that point in time, 1996, that 650 such abortions were performed using this technique annually in the United States. The same survey found that in the year 2000, over 2,200 partial-birth abortions were performed in the United States—2,200 deaths purposely caused by this technique, by this rogue procedure. That is why we have this call to action which we have debated on this floor now in this Congress and, indeed, in the last Congress and in the Congress before that.

An interesting side piece of data is that Kansas, the only State that requires separate reporting for partial-birth abortions, in 1999 said 182 procedures of partial-birth abortion were performed on viable fetuses. Of interest to all, 182 of those procedures were performed for mental health reasons, but not for physical health reasons—not for physical health reasons. It is important to understand because we have an exclusion for life of the mother, but none of those was performed for life of the mother. Why? Because there are alternative procedures that are safer and quicker and less invasive for the mother.

A vast majority of Americans support a ban on partial-birth abortion. Their will was reflected in the 104th Congress and in the 105th Congress, and in both of those Congresses the House of Representatives passed this ban and the Senate passed this ban. Sadly, both of those efforts were vetoed by President Clinton.

Today, partial-birth abortion remains the law of the land, and we are going to change that. It is going to be changed in this body, and hopefully we can complete this bill tomorrow night and then move to the House of Representatives and then a bill will be sent to the President which I expect will be signed.

Partial-birth abortion is a morally offensive procedure. It is time to ban it. We as a society respect human life far too much to let it be ravaged in such an inhumane way: a living infant partially delivered, stabbed with 8-inch scissors, emptied of the contents of its skull, and then pulled from its mother dead. Never has this procedure been the only or the best one available to protect the health of the mother. In fact, as I pointed out, partial-birth abortion carries a greater risk of doing harm. That is why this procedure is morally offensive to doctors, not only as individuals but as professionals.

In closing, I ask my colleagues, as we debate this bill, that we do so with the barbaric reality, with the brutal reality of this heinous procedure in mind, and not be sidetracked by the myths of partial-birth abortion, especially that would in any way imply that this is an accepted mainstream medical procedure. It simply is not.

Instead, we need to ask one simple question: Does partial-birth abortion carry the danger of doing unnecessary harm to a mother, to an infant, and to our conscience as a nation that values the sanctity of human life? The answer is yes. That is how I will vote, and I urge my colleagues to vote the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, will the distinguished leader yield?

Mr. FRIST. Mr. President, I will yield.

Mr. BYRD. Mr. President, I ask unanimous consent that I may ask a question without losing my right to the floor.

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

Mr. BYRD. How did I vote on this question the last time we voted?

Mr. FRIST. Mr. President, I will find out shortly how the distinguished Senator from West Virginia did vote.

Mr. BYRD. I thank the distinguished leader.

Mr. FRIST. Mr. President, I am informed that in the 106th Congress, the Senator from West Virginia voted yes to ban this procedure.

Mr. BYRD. I thank the distinguished leader.

Mr. President, I see two other Senators here who have been waiting. I have the floor, do I not?

The PRESIDING OFFICER. The Senator does have the floor.

Mr. BYRD. I thank the Chair. I hope I can yield to the distinguished Senator from California, Mrs. BOXER—for how long?

Mrs. BOXER. Ten minutes.

Mr. BYRD. Ten minutes, without losing my right to the floor, and then I may yield to the distinguished Senator from Ohio, my next-door neighbor, for 15 minutes, without losing my right to the floor, and that I will then be recognized as I am now recognized.

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

Mr. BYRD. I thank the Chair. I thank all Senators.

The PRESIDING OFFICER. The Senator from California is recognized for 10 minutes.

Mrs. BOXER. Will the Chair please inform me when I have a minute left?

The PRESIDING OFFICER. The Senator will be informed.

Mrs. BOXER. Mr. President, when a bill that deals with a medical procedure comes before the Senate, that in itself is very rare. When a bill comes before the Senate that bans a medical procedure that many women have stated saved their lives, preserved their fertility, stopped them from having a severe health impact, I think it is important to turn to the people who know the most about this, and that is the OB/GYNs who choose, as their way of life, delivering children, who get their satisfaction in their work by staying close to a pregnant woman and seeing her through a pregnancy.

Hearing Senator FRIST's comments is very interesting to me, but I have to say I have read his bio, and there is nothing in here about delivering babies. Maybe he did when he was in school or as a resident. But what we are talking about here is OB/GYNs. What do they think? Why is that important? Because that is their life.

Let me tell my colleagues what the OB/GYNs say:

> Partial-birth abortion does not exist.

They are not the only ones who say that. The fact is the Supreme Court said that. They said the bill is so

vague; it made up a term, ''partial-birth abortion.''

There is no such thing as partial-birth abortion, a very emotional term. But what we are talking about is a procedure that is used in a situation where any other procedure might cause grave harm to the woman.

Now, the AMA does not support S. 3. I hope Senator FRIST is aware of this. He is busy talking, which is fine, but I ask unanimous consent that the AMA statement that says they do not support S. 3 because it includes a provision that would impose a criminal penalty on physicians be printed in the RECORD.

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

AMERICAN MEDICAL ASSOCIATION,
March 10, 2003.

The Senate is considering a bill that would ban the procedure known as intact dilation and extraction, more commonly referred to as partial birth abortion. The American Medical Association (AMA) has previously stated our opposition to this procedure. We have not changed our position regarding the use of this procedure.

The AMA also has long-standing policy opposing legislation that would criminalize medical practice or procedure. Since S. 3 includes a provision that would impose a criminal penalty on physicians performing intact dilation and extraction, the AMA does not support this bill.

Mrs. BOXER. Then I want to tell a story. My colleagues have an artist's rendering, but I want to show a photograph of a woman named Coreen Costello. I want my colleagues to listen to this because it is not a made-up picture. It is a real picture of a real family and a real woman. Why don't my colleagues listen to it because I think this is what we are supposed to be about, real people facing real problems and what we are about to do by passing radical legislation, which is unconstitutional on its face. It did not even go to the committee. I say to my friends, it did not even go to the Judiciary Committee, although the Supreme Court said it was unconstitutional. The least they could have done was bring it back to the committee and look at what the Court said, that the definition was broad, it was vague, it could ban more than one procedure and that it had no exception for the health of a woman.

Listen to the story of Coreen Costello. She says:

I am writing to you on behalf of my family. I have testified before both the Senate and the House concerning the so-called partial-birth abortion ban. I have personal experience with this issue for at 30 weeks pregnant I had a procedure that would be banned by this legislation. When I was 7 months pregnant, an ultrasound revealed that our third child, a darling baby girl, was dying. She had a lethal neurological disorder and had been unable to move any part of her tiny body for almost 2 months. Her muscles had stopped growing and her vital organs were failing. Her lungs were so undeveloped, they barely existed. Her head was swollen with fluid and her little body was stiff and rigid. She was unable to swallow amniotic fluid and as a result, the excess fluid was puddling in my uterus. When we learned about our baby's condition, we sought out many specialists and educated ourselves. Our doctors, five in all, agreed that our little girl would come prematurely and there was no doubt that she would not survive. It was not a matter of our daughter being affected by a severe disability—her condition was fatal. Our physicians discussed our options with us. When they mentioned terminating the pregnancy, we rejected it out of hand.

I want my colleagues to hear this, and I ask that there be order in the Chamber.

The PRESIDING OFFICER. The Senate will come to order.

Mrs. BOXER. I have listened to my colleagues, and I would appreciate it if they would hear a story of a woman named Coreen Costello, because if this procedure were to be banned—and I see that Dr. FRIST has left the floor—this woman could have died. But they leave the floor, and that is their prerogative.

This is what Careen Costello writes:

We are Christians and we are conservative. We believe strongly in the rights, value and sanctity of the unborn. Abortion was simply not an option we would ever consider. This was our daughter. Instead, we wanted our baby to come in God's time and we did not want to interfere. We chose to go into labor naturally. It was difficult to face life knowing we were going to lose our baby but it became our mission to make the last days of her life as special as possible. We asked our pastor to baptize her in utero. We named her Katherine Grace. Another ultrasound determined Katherine's position in my womb. It was not conducive for delivery. Her spine was so contorted it was as if she was doing a swan dive, the back of her feet almost touching the back of her head. Her head and feet were at the top of my uterus. Her stomach was over my cervix. Due to swelling, her head was already larger than that of a full-term baby.

I say to my friends, this is real life. This is a situation of a woman who never, ever wanted an abortion. She said:

As my condition worsened, we again considered our options. Natural birth or induced labor were not possible. We considered a cesarean but the experts felt the risk to my health and my life were too great.

We have a bill before us that makes no exception for the health of the woman. I was in the Chamber yesterday. We had a very tough debate, and the question was asked, How low can we sink? I have to say, when we hear stories such as this, that happen to real people—and if this were our daughter or our wife or our aunt, would we not say, save her life and her health?

The bottom line is this: This woman had the procedure that would have been banned with this bill. I ask unanimous consent that the entire letter be printed in the RECORD.

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

TESTIMONY OF COREEN COSTELLO

My name is Coreen Costello and I am writing to you on behalf of my family. I have testified before both the Senate and the House concerning the so-called ''partial birth abortion'' ban and my family was with the President when he vetoed his legislation. I have personal experience with this issue for at 30 weeks pregnant I had a procedure that would be banned by this legislation.

On March 24, 1995, when I was seven months pregnant an ultrasound revealed that our third child, a darling baby girl, was dying. She had a lethal neurological disorder and had been unable to move any part of here tiny body for almost two months. Her muscles had stopped growing and her vital organs were failing. Her lungs were so underdeveloped, they barely existed. Her head was swollen with fluid and her little body was stiff and rigid. She was unable to swallow amniotic fluid and as a result, the excess fluid was puddling in my uterus (a condition known as polyhydramnios). When we learned about our baby's condition, we sought out many specialists and educated ourselves to see what we could do to save our child. My husband is a chiropractor and we are very proactive about our health care. We are generally skeptical about the medical profession and would never rely on the advice or diagnosis of just one doctor. However, our doctors (five in all) agreed that our little girl would come prematurely and there was no doubt that she would not survive. It was not a matter of our daughter being affected by a severe disability—her condition was fatal.

Our physicians discussed our options with us. When they mentioned terminating the pregnancy, we rejected it out of hand. We are Christians and conservative. We believe strongly in the rights, value and sanctity of the unborn. Abortion was simply not an option we would ever consider. This was our daughter.

Instead, we wanted our baby to come on God's time and we did not want to interfere. We chose to go into labor naturally. It was difficult to face life knowing we were losing our baby. But it became our mission to make the last days of her life as special as possible. We wanted her to know she was loved and wanted. We asked our pastor to baptize her in utero. We named her Katherine Grace—Katherine meaning pure, and Grace representing God's mercy.

Another ultrasound determined Katherine's position in my womb. It was not conducive for delivery. Her spine was so contorted it was as if she was doing a swan dive, the back of her feet almost touching the back of her head. Her head and feet were at the top of my uterus. Her stomach was over my cervix. Due to swelling, her head was already larger than that of a full term baby. For two weeks I tried exercises in an attempt to change her position, but to no avail. Amniotic fluid continued to puddle into my uterus at a rate of great concern to my doctors. I was carrying an extra nine pounds of fluid. It became increasingly difficult to breathe, to sit or walk. I could not sleep. My health was rapidly deteriorating. My family and friends were much more aware of my health decline than I was. My complete focus was on Katherine.

As my condition worsened, we again considered our options. Natural birth or an induced labor were not possible due to her position and the swelling of her head. We considered a Cesarean section, but experts at Cedars-Sinai Hospital felt that the risks to my health and possibly to my life were too great. A Cesarean section is done to save babies. It can be a life saving procedure for a child in stress or one who cannot be delivered vaginally. It is not the safest for a woman. There is an increased mortality rate with Cesarean section. In my case, even if a Cesarean could be done, Katherine would have died the moment the umbilical cord was cut. There was no reason to risk my health or life, if there was no hope of saving Katherine. She would never be able to take a breath.

Our doctors all agreed that an intact D&E procedure performed by Dr. James McMahon was the best option. I was devastated. I could not imagine delivering my daughter in an abortion clinic. But Dr. McMahon was an expert in cases similar to mine. My situation and Katherine's condition were not new to him. He explained the procedure to us. My cervix would be gently dilated to maintain its integrity. Once I was dilated enough, Dr. McMahon could begin the procedure. In order for Katherine to be delivered intact, cerebral fluid would be removed, which would allow her head to be delivered without damage to my cervix.

It took almost three hours to deliver our daughter. I was given intravenous anesthesia. Due to Katherine's weakened condition, her heart stopped beating during the procedure. She was able to pass away peacefully in my womb.

Some who support his bill have stated that I do not fit into the category of someone who had a so-called ''partial birth abortion'' because I contend my baby died while still in my womb. Is this relevant? When the procedure began, her heart was still beating—who could predict for certain when she would actually pass away? If this legislation were passed, an intact D&E would not have been an option for me. The fact is, I had the procedure outlined in this legislation. Since I present the procedure as humane, dignified, and necessary, somehow this means I must have had a different procedure and am not relevant to this bill. This is simply not true.

I come to you with no political motivation, rather I come with the truth. I have experience of an intact D&E. Some want you to believe their horrific version of this procedure. They have never experienced an intact D&E. I have. This procedure allowed me to deliver my daughter intact. My husband and I were able to see and hold our daughter. I will never forget the time I had with her, nor will I forget her precious face. Having this time with her allowed us to start the grieving process. I don't know how we would have coped if we had not been able to hold her. Moreover, because I delivered her intact, experts in fetal anomalies and genetics could study her condition. This enabled them to determine that her condition was not genetic. This was crucial for us in deciding whether or not to have another child.

No one predict how a baby's anomalies will affect a woman's pregnancy. Every situation is different. We cannot tie the hands of physicians in these life and health saving matters. It is simply not right.

With my health maintained, my cervix intact and my uterus whole, we were able to have another child. On June 4, we were blessed with a beautiful healthy baby boy. He is our delight! He is not a replacement for his sister. There will always be a hole in our hearts where Katherine Grace should be. He is, to us, a sign that life goes on. We cherish every moment we have with Tucker, and with our two other children, Chad and Carlyn. What precious gifts God has given to us.

Losing our daughter was the hardest thing we have experienced. It's been difficult to come to Washington and relive our loss. And it's ironic that I, with my profound pro-life views, would be defending an abortion procedure. God knows I pray for the day when no other woman will need this procedure. But until there is a cure for the cruel disorders that can affect babies, women must have access to this important medical option.

Mrs. BOXER. She concludes:

Losing our daughter was the hardest thing we have ever experienced. It has been difficult to come to Washington and relive our loss. And it's ironic that I, with my profoundly pro-life views, would be defending an abortion procedure. God knows I pray for the day when no other woman will need this procedure, but until there is a cure for the cruel disorders that can affect babies, women must have access to this important medical option.

The PRESIDING OFFICER. The Senator from California has 1 minute remaining.

Mrs. BOXER. In conclusion, in my last minute, I have told this story because what we are about to do, unless we adopt several of the amendments we will be offering, would mean that another woman such as this, another beautiful family such as this, might find that the woman has life-threatening illnesses if, in fact, she cannot have the procedure: hemorrhaging, uterine rupture, blood clots, embolism, stroke, damage to nearby organs, paralysis. This is what physicians tell us happens to women.

So my colleagues have a picture, and that is fine, although I have to say I hope the pages who feel a little queasy on this will not be forced to stay in the Chamber, but we are dealing with a circumstance that affects real people and these are the things that can happen to these women. I believe we have to have a voice, and the Murray amendment should pass because the Murray amendment would mean that women can have access to contraception and that abortion would become safe, legal, and rare.

I yield the floor back to Senator BYRD, who I believe has the time.

The PRESIDING OFFICER. Under the previous order, the Senator from Ohio now has 15 minutes.

The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I will continue the debate in regard to the partial-birth abortion ban. This afternoon, I will talk about the constitutionality of this statute, S. 3. The argument has been made that this statute is unconstitutional, but I differ with my colleagues who make this argument.

Reference has been made to the Stenberg case that overturned the Nebraska partial-birth abortion law. I argue that the law in front of us, or the statute in front of us, is fundamentally different.

First, the language is different. The Partial-Birth Abortion Ban Act of 2003 provides a very precise definition of partial-birth abortion so that it is clear on the face of the legislation exactly what procedure is to be banned, unlike the Nebraska statute that was declared unconstitutional.

The bill would outlaw one, and only one, abortion procedure, and that is the D&X procedure, the partial-birth procedure we have been describing in very vivid detail on the Senate floor, the procedure that no one really can argue is anything less than barbaric and inhumane.

There is absolutely nothing vague, unclear, or ambiguous about how this bill defines the partial-birth abortion procedure.

To make this even more clear, it is useful to examine the law struck down by the Supreme Court in the Stenberg case. The procedure was defined in that case by the Nebraska Legislature as follows, and I will read from that Nebraska law that was found to be unconstitutional, to show its difference from this law:

An abortion procedure in which the person performing the abortion partially delivers vaginally a living unborn child before killing the unborn child and completing the delivery.

That is what the Nebraska law said. The phrase ''partially delivers vaginally a living unborn child before killing the unborn child'' was further defined in the Nebraska statute as follows:

Deliberately and intentionally delivering into the vagina a living unborn child, or a substantial portion thereof, for the purpose of performing a procedure; that the person performing such procedure knows will kill the unborn child and does kill the unborn child.

The Supreme Court held this language of the Nebraska statute covered more than just one abortion procedure. The definition used in the Nebraska statute implicated not only partial-birth abortion procedures, but it also implicated the more common dilation and evacuation or D&E methods, which is different from a D&X method we are dealing with in this statute.

For the record, a D&E, according to the nonpartisan Congressional Research Service, is described as follows:

D&E involves the dilation of the cervix and the dismemberment of the fetus inside the uterus. The fetal parts are later removed from the uterus either with forceps or by suction.

In other words, in a D&E procedure, an unborn child is essentially dismembered, limb by limb, piece by piece. During a D&E, an arm or leg is sometimes pulled into the birth canal before being twisted off, while the baby is still alive. The Justices thought this might be considered a partial-birth abortion under the Nebraska law definition because that definition, as I have just stated, includes any procedure in which a baby is delivered vaginally, even if that vaginal delivery is just a partial delivery.

At this point, it is worth repeating exactly how a partial-birth abortion procedure, again also known as a D&X procedure, is distinguished from a D&E procedure. The D&X or partial-birth abortion procedure was very well described by U.S. Supreme Court Justice Clarence Thomas in his dissent in the Stenberg case.

This is what Justice Thomas wrote:

After dilating the cervix, the physician will grab the fetus by its feet and pull the fetal body out of the uterus into the vaginal cavity . . . While the fetus is stuck in this position, dangling partly out of the woman's body, and just a few inches from a completed birth, the physician uses an instrument such as a pair of scissors to tear or perforate the skull. The physician will then either crush the skull or will use a vacuum to remove the brain and other intracranial contents from the fetal skull, collapse the fetus' head and pull the fetus from the uterus.

That is depicted in a later phase of this procedure in this picture.

In order to avoid any possibility of confusion, the bill before the Senate, S. 3, defines the phrase ''partial-birth abortion'' so narrowly that only the D&X abortion procedure is covered. No other abortion procedures—including the D&E procedure in which an unborn baby's arm or leg is pulled into the birth canal before being twisted off—could possibly be implicated by S. 3.

While we have already heard it read on the Senate floor during the debate, while I read it last night in this debate, I think it is important to again repeat the bill's definition of the partial-birth abortion procedure. According to the definition in this bill, S. 3:

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

(A) the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

(B) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus;

My colleague from California and others have argued that the S. 3 definition of a partial-birth abortion still covers more than one abortion procedure. But she has never explained how this is possible. The description of partial-birth abortion in S. 3 is so precise and is based, frankly, on the description of a leading abortionist, Dr. Mark Haskell, a man about whom I spoke last night on the Senate floor, a man who regularly conducts these heinous procedures in my home State of Ohio. This is a very precise definition of a partial-birth abortion that leads absolutely nothing to the imagination.

Clearly, without question, S. 3 very precisely and very specifically addresses the first constitutional issue that was raised in the Stenberg case and is fundamentally different than the Nebraska statute that was declared unconstitutional by the U.S. Supreme Court. S. 3 would ban one and only one very specific abortion procedure. It simply imposes absolutely no undue burden on a woman's ability to obtain an abortion.

Let me turn now to the second issue, the second constitutional issue, and that is the health of the mother, which was the other issue raised in the Stenberg case. The so-called requirement that the statute must contain ''the health of the mother'' also springs from the notion of undue burden on the woman's ability to get an abortion.

The argument, as I understand, goes something like this: If a procedure is medically important to protect the health of the mother, banning that procedure would pose an undue burden on her ability to have an abortion. Yet in the case of the partial-birth abortion, medical experts have repeatedly confirmed that this callous act is never medically indicated. And because it is never medically indicated, banning it cannot possibly be an undue burden.

There is substantial evidence from past congressional hearings on this issue to support a finding obtained in the bill itself, and the bill makes these findings. It says in part, the following: Rather than being an abortion procedure that is embraced by the medical community, partial-birth abortion remains a disfavored procedure that is not only unnecessary to protect the health of the mother but, in fact, poses serious risk to the long-term health of women and, in some circumstances, their lives.

I remind my colleagues of a 1996 interview in which the former U.S. Surgeon General, C. Everett Koop, explicitly discussed partial-birth abortion. In that interview, a reporter for American Medical News posed the following question. This is what the interviewer asked.

President Clinton just vetoed a bill to ban partial-birth abortions, a late-term abortion technique that practitioners refer to as intact dilation and evacuation or dilation and extraction. In so doing, he cited several cases in which women were told these procedures were necessary to preserve their health and their ability to have future pregnancies. How would you characterize the claims being made in favor of the medical need for this procedure?

Dr. Koop responded as follows:

I believe that Mr. Clinton was misled by his medical advisers on what is fact and what is fiction in reference to late term abortions because in no way can I twist my mind to see that the late term abortion as described, you know, partial-birth, and then destruction of the unborn child before the head is born, is a medical necessity for the mother.

Similarly, in 1997 a House committee report on the subject cited over 400 OB/GYN and maternal/fetal specialists who have unequivocally stated:

Partial-birth abortion is never medically indicated to protect a woman's health or her fertility. In fact, the opposite is true. The procedure can pose a significant and immediate threat to both the pregnant woman's health and her fertility.

The majority leader of the Senate, a medical doctor, gave us, a few moments ago, the benefit of his wisdom, of his experience on this issue. The point I believe is worth repeating because it is notable that so many doctors are willing to come right out and say: No, this is absolutely not necessary; we can never find one instance in which it is medically indicated.

Doctors usually don't say things like this. They just don't like being that definite because medicine, by definition, is usually a case-by-case situation, a case-by-case profession. But this issue is different. On this issue, it is crystal clear, partial-birth abortions serve no legitimate medical purpose that cannot be served by other means. As my colleague from Pennsylvania stated earlier today:

Over the past several years the Senate advocates of partial-birth abortion have never produced even one case in which a partial-birth abortion is shown to be medically necessary.

Opponents of this bill go beyond just arguing about the merits of partial-birth abortion. They go further, probably because it is so gruesome that some of my colleagues are uncomfortable supporting it. Some of my colleagues would prefer to debate the issue of abortion more generally. They try to cast this debate as a debate about a broader issue, and that issue is reproductive freedom. But the issue before us today is not reproductive freedom; it is a much more narrow issue. The issue is very narrowly defined. It is simply the issue of partial-birth abortion. The issue before us is the very specific method of partial-birth abortion, a method that is particularly brutal and gruesome and wrong.

Brenda Pratt Shafer, a registered nurse who observed Dr. Haskell use the procedure to abort three babies in 1993, testified before our Senate Judiciary Committee in 1995. I would like to share with my colleagues what she said because she gave very gripping, very telling testimony.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DEWINE. I ask unanimous consent for 3 additional minutes.

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

Mr. DEWINE. Nurse Shafer described a partial-birth abortion she witnessed on a child of 26.5 weeks, and this is what she said:

Dr. Haskell brought the ultrasound in and hooked it up so that he could see the baby. On their ultrasound screen I could see the heart beat. As Dr. Haskell watched the baby on the ultrasound screen, the baby's heartbeat was clearly visible on the ultrasound screen.

Dr. Haskell went in with forceps and grabbed the baby's legs and pulled them down into the birth canal. Then he delivered the baby's body and arms. Everything but the head. The doctor kept the head right inside the uterus. The baby's little fingers were clasping and unclasping and his little feet were kicking. Then the doctor stuck the scissors in the back of his head and the baby's arms jerked out like a startle reaction, like a flinch, like a baby does when he thinks he is going to fall. The doctor opened up the scissors, stuck a high-powered suction tube into the opening, sucked the baby's brains out. Now the baby went completely limp. He cut the umbilical cord and delivered the placenta. He threw the baby in a pan along with the placenta and the instruments he had just used. I saw the baby move in the pan. I asked another nurse and she said it was just reflexes. That baby boy had the most perfect angelic face I think I have ever seen in my life.

As stated in a House committee report containing the transcript of this nurse's testimony:

The only difference between the partial-birth abortion procedure and infanticide is a mere 3 inches.

Three inches between life and death, between murder and lawful action, is clearly not enough. The time to ban this procedure once and for all is now. We cannot in good conscience let this

barbaric procedure continue to be legal.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, parliamentary inquiry: Has the Pastore rule run its course today?

The PRESIDING OFFICER. It has expired.

Mr. BYRD. It has. I thank the Chair.

Mr. President, I shall speak out of order, not long. My guess is that I will speak for 20 minutes or less.

The PRESIDING OFFICER (Mr. CHAFFEE). The Senator from West Virginia is recognized.

IRAQ

Mr. BYRD. Mr. President, the United Nations is in diplomatic disarray today as the foreign ministers from the world's most powerful nations scramble to find some scrap of common ground on the question of war with Iraq.

What a difference a few months makes. Last November, under the leadership of the United States, the 15-member U.N. Security Council unanimously approved Resolution 1441, strengthening the weapons inspection regime and giving Iraq a final opportunity to comply with its disarmament obligations.

The rapidity with which that unity has unraveled is astounding. What began as a constructive process to gain international support for war against Iraq has disintegrated into insults, accusations, and finger-pointing among the key members of the Security Council. Instead of forging an international coalition to deal with Iraq, as it set out to do, the Administration has managed to turn much world opinion against United States. With his insistence that the United Nations declare the inspection regime a failure and immediately authorize war against Iraq, the President has opened a chasm between the U.S. and Great Britain on one side and the remaining permanent members of the Security Council on the other.

Today, the White House is declaring the United Nations irrelevant—one of the most over used words in the English language as of today, I would say, and as of the last several days.

Today, the White House is declaring the United Nations irrelevant if it does not authorize immediate war against Iraq, and U.N. Secretary General Kofi Annan is countering that a U.S.-led invasion of Iraq without the sanction of the United Nations will violate the U.N. charter.

The knock-down, drag-out in the Security Council has tarnished the images of both the United Nations and the United States, and it has imperiled the political career of at least one world leader, one foremost leader, President Bush's staunchest ally, British Prime Minister Tony Blair.

What a high price to pay for the President's insistence on blindly following a war-first, war-now policy on Iraq. What a high price to pay.

Despite feverish activity this week on the part of the U.S. and Great Britain to persuade a majority of members of the Security Council to support a second resolution authorizing war with Iraq, the President and his chief advisers have made it clear that the activity is merely window dressing and that the United States is prepared to act with or without U.N. support. For the Bush Administration, war with Iraq seems to be no longer a question of if, but when and the window on ''when'' is rapidly closing.

Dr. Condoleezza Rice, the President's National Security Advisor, declared over the weekend, ''There is plenty of authority to act. We are trying very hard to have the Security Council one more time affirm that authority. But it's important to know that we believe the authority is there.''

In other words, the die has been cast. As Caesar said when he crossed the Rubicon, ''the die is cast.'' The rhetoric has hardened. U.S. forces are in place and poised to attack. The U.N. Security Council has been relegated to a classic Greek chorus of tragic protest while the United States takes center stage. The President has stopped listening.

The administration's strategy for war with Iraq is so far advanced that not only does the President have war plans on his desk, he also has a blueprint for the post-war reconstruction of Iraq.

On Monday, The Wall Street Journal reported that the U.S. Agency for International Development is soliciting bids from a handful of U.S. firms for a contract worth as much as $900 million to begin the reconstruction of Iraq. According to the Journal, the contract would be the largest reconstruction effort undertaken by the United States since the reconstruction of Germany and Japan after World War II.

With post-war contracts already in hand, can the onset of war be far behind?

My views, by now, are well known. I believe this coming war is not a necessity. I believe it is a grave mistake, not because Saddam Hussein does not deserve to be disarmed or driven from power, not because some of our allies object to war, but because Iraq does not pose an imminent direct threat to the security of the United States. There is no question that the United States has the military might to defeat Saddam Hussein. There is no question about that. But we are on much shakier ground when it comes to the question of why this Nation, the United States, under the current circumstances, is rushing to unleash the horrors of war on the people of Iraq.

In many corners of the world, the United States is seen as manufacturing a crisis in Iraq, not responding to one. Key members of the U.N. Security Council, including France and Russia, have vowed to veto any move to secure the imprimatur of the U.N. on war with Iraq. The U.N. weapons inspectors have pleaded for more time to do their work. Citizens by the thousands—nay, by the hundreds of thousands—have taken to the streets in countries around the globe, including the United States, Europe, and the Middle East, to protest the war.

The day after the September 11 terrorist attacks on America, the French newspaper Le Monde proclaimed, ''We are all Americans!'' Eighteen months later, the United States and France are hurling insults at each other, and the French are leading the opposition to the war against Iraq. In country after country, the United States has seen the outpouring of compassion and support that followed September 11 dissolve into anger and resentment at this Administration's heavy-handed attempts to railroad the world into supporting a questionable war with Iraq.

The latest report of the U.N. weapons inspectors only heightened the tensions in the Security Council and helped to precipitate the current scramble for a new resolution. On Friday—March 7—chief U.N. weapons inspector Hans Blix reported progress in the disarmament of Iraq and predicted that the inspection process could be completed in months—''not years, nor weeks, but months.''

At the same meeting, Mohamed ElBaradei, the Director General of the International Atomic Energy Agency, threw cold water on a key assertion of the Bush administration, that Iraq is actively pursuing a nuclear capability on two fronts—by importing high-strength aluminum tubes which could be used as part of a centrifuge to produce enriched uranium and by attempting to buy uranium from Niger. Dr. ElBaradei said the inspectors have found no evidence—none—that Iraq is attempting to revive its nuclear weapons program, concluding that the aluminum tubes were for a rocket engine program, as Iraq claimed, and that the documents used to establish the Niger connection were faked.

Not even reports of a chilling discovery by U.N. weapons inspectors of a new type of rocket in Iraq that appears to be designed to carry chemical or biological agents has swayed the hardening opposition in the United Nations to authorizing an immediate war against Iraq.

The world is awash in anti-Americanism. The doctrine of preemption enshrined in the Bush administration's national security strategy the policy on which the war with Iraq is predicated has turned the global image of the United States from that of a world class peacemaker into what many believe is dangerous warmonger.

The President is on the wrong track in insisting on rushing into war without the support of the international community, and specifically the United Nations. Not only is America's reputation on the line, but so is our war on terror. The recent arrest of Khalid Shaikh Mohammed and two of

his cohorts in Pakistan is evidence that the United States is making slow but steady progress in dismantling the al-Qaida organization, and that we are reaping huge dividends from the anti-terrorism efforts we have undertaken in cooperation with other nations in the Middle East.

Pakistan's cooperation is particularly important in the war on terror, and yet the majority of the Pakistani people are opposed to war with Iraq. How or whether Pakistani opposition to the war against Iraq will affect the war against terror is one of many unknowns.

The United States cannot bring down al-Qaida alone. We need support and cooperation from friendly nations in the region. We risk losing their friendship, and possibly causing major upheavals in the Middle East, if the President defies world opinion and launches a U.S. led invasion of Iraq.

Mr. SARBANES. Will the Senator yield for a question on that point?

Mr. BYRD. Yes, I am happy to yield, without losing my right to the floor.

Mr. SARBANES. On the al-Qaida front, we have just captured supposedly the third ranking person in al-Qaida.

Mr. BYRD. Yes.

Mr. SARBANES. We were able to do that because of cooperation from Pakistan.

Mr. BYRD. Yes.

Mr. SARBANES. Just to underscore the Senator's point about the necessity of having the cooperation of other countries to deal with the terrorism threat.

Mr. BYRD. Undoubtedly.

Mr. SARBANES. Yet Pakistan, which has been trying to work with us, has already announced that at best they will abstain at the Security Council with respect to the coming vote because it is applying such tremendous internal pressure in Pakistan that there is some danger that this Government that has been working with us may not survive and may collapse.

Mr. BYRD. Unquestionably.

Mr. SARBANES. Isn't that a dramatic example of the kind of problem the Senator is talking about that is being created for us around the world?

Mr. BYRD. It is a dramatic example and a most somber and chilling one. I thank the distinguished Senator for his observation.

The President may be lucky. We may be lucky. If we launch this war on Iraq, we may be lucky. I hope we will be. But we may not be.

The cost of war and the potential casualties—not only to American military personnel but also to innocent civilians in and around Iraq—are unknowns. The impact of war on the fragile fabric of the Middle East is also unknown. The administration seems to think that war with Iraq will pave the way to peace and democracy in the Middle East, but I believe that is merely wishful thinking. Saddam Hussein is not the cause of the strife between the Israelis and the Palestinians, and Saddam Hussein's downfall will not erase the deeply rooted conflict between the two sides.

War against Iraq may prove to be a fatal distraction from the war on terror. It could be. The danger to Americans today is from al-Qaida. Intelligence officials predict that war with Iraq will precipitate a new wave of terrorism against the United States and its allies and will serve as a powerful recruiting tool for anti-American extremists.

We need to keep the pressure on al-Qaida. We need to strengthen our defenses against a terrorist attack here at home. We need to focus the resources of our Nation on the war on terror and dismantle the al-Qaida network before it can mount another catastrophic attack on the United States.

The hour is late; the clock is ticking. But if the President would only listen to voices outside his war cabinet of superhawks, he might discover that it is not too late to stop the rush to war. There is still a chance that Saddam Hussein can be disarmed and neutralized short of war. As long as that possibility exists, the United States should drop its resistance to any slowdown in the march to war and should begin to talk with, and listen to, the other members of the Security Council.

The prospect of regaining unanimity within the United Nations on the question of Iraq is dim at best, but as long as there remains even a glimmer of hope, it is in the best interests of both the United States and the other members of the Security Council to regroup and strive to achieve that goal. The world community deserves nothing less.

Mr. DURBIN. Will the Senator yield for a question?

Mr. BYRD. Yes, I yield without losing my right to the floor. I am about finished.

Mr. DURBIN. I would like to say, before asking my question to the Senator from West Virginia, if the American people are looking for a debate on the war in Iraq, the looming possibility of war in Iraq—

Mr. BYRD. They have been looking for one. They have been entitled to one. And now they have received one.

Mr. DURBIN. The only place they can find it is in the House of Commons in London—

Mr. BYRD. Thank God.

Mr. DURBIN. And from the desk of the Senator from West Virginia and two or three other souls who come to this floor to raise the issue.

Mr. BYRD. Thank Providence again.

Mr. DURBIN. I say a commendation to the Senator from West Virginia. Thank you for your leadership in bringing us to this debate. I ask you, to make certain this point is clear on the record, is it the position of the Senator from West Virginia that we all believe the world would be a safer place without weapons of mass destruction in Iraq, even without the leadership of Saddam Hussein, but that in order to be strong in our war on terrorism, we need the cooperation of countries all around the world which now are questioning our wisdom in pursuing this war in Iraq?

Mr. BYRD. Indubitably, that is the way I see it. That is my opinion. I believe there is ample evidence of that fact. The world itself at large wishes to see that, wants to see that and hopes for that.

Mr. DURBIN. I might also ask the Senator from West Virginia, is the point he is making that if we stay working with the United Nations on a common plan to disarm Iraq and if it fails and we ultimately join with the other nations around the world to take whatever action is necessary against Iraq, we will have a better outcome, not only in terms of the military outcome but the responsibility of reconstruction of Iraq? Is that the Senator's point as well?

Mr. BYRD. Precisely so and importantly, emphatically on the second observation the Senator has made.

In other words, the morning after, what happens in Iraq? What does that cost? If we destroy much of Iraq, we have a responsibility to help to rebuild it. That is going to be a tremendous cost. I am afraid this administration has not thought that element through.

Moreover, the administration has not told the Congress very much about that, what the cost of that may be, what the administration's plans are in that case. I think that is a very soft underbelly of this whole matter.

Mr. DURBIN. I will ask one final question. I don't want to mischaracterize the Senator's position, but I think what I am about to say he and I share. There is no question in our minds about not only the goodness of the men and women serving in the American military today and their ability and skill to win any military challenge thrown their way. I hope the Senator agrees that it is far better for our military forces and our Nation, in the long run, for us to show wisdom in the decision of how to bring Iraq under control rather than just demonstrate that military strength.

Mr. BYRD. The Senator is preeminently correct. Let me add, as ranking member of the Senate Appropriations Committee, I will never yield to anyone when it comes to supporting America's fighting men and women who have been sent abroad, and those at home, once the war begins.

I do not believe this war is necessary. But I will support to the last degree the men and women who have to go. They didn't ask to go, but they have to go; they are answering the call. I will support them on the Appropriations Committee to the furthermost of my ability.

Mr. SARBANES. Will the Senator yield for a question?

Mr. BYRD. Yes.

Mr. SARBANES. The Senator spoke earlier about the preemption doctrine the administration has put forward.

Would the Senator agree that one of the dangers with the enunciation of that doctrine and the path the administration has now been pursuing—which is to assert that they may take unilateral action instead of trying to work in a cooperative way through international bodies—is that it will set a precedent for other countries around the world to pursue the same course? After all, here is the predominant superpower asserting a doctrine of preemption, apparently prepared to go the unilateral path. What is then in the future to prevent some other regional power that asserts that it is confronted with some danger, from some neighbor, from pursuing the same path? Are we not in the process of setting a very dangerous precedent on the international scene in terms of maintaining international peace?

Mr. BYRD. The Senator is right on point. This doctrine is exceedingly dangerous. It not only will set a precedent, it has set a precedent, as we have seen it begun to be put into play in Iraq. It will be a precedent. There will be a blotch on the escutcheon of the United States from now and until kingdom come. It is a dangerous precedent. Can't the Senator see that already it is beginning to have an impact on other nations, as we watch North Korea, as we watch Iran—why, those countries and others are going to say, well, if this bully on the block is going to do this, we had better get ready and get our things in order. Maybe we had better get ready to hit him or others within our reach. This is a genie that we will regret ever having let out of the bottle.

Mr. SARBANES. Let me ask the Senator one final question and be very clear. I take it the Senator would agree with me that none of us questions that if we were in imminent danger of being struck, we would be warranted in taking measures to protect ourselves against such dangers.

Mr. BYRD. No question about it. The President—whether it is a Republican or a Democrat—has an inherent power under the Constitution. If there is an imminent threat about to be carried out against the United States, of course, the President has a responsibility and a duty to act first.

Mr. SARBANES. Actually, the U.N. Charter grants the right of self-defense, which would in fact entitle us to act on our own accord if confronted with an imminent danger.

Mr. BYRD. No question. But even without the U.N. Charter, we have the inherent right. It is under the Constitution. I will be the last person to give up on that right.

Mr. SARBANES. I wanted to make that point because some are arguing that somehow we are giving over to someone else the decisionmaking authority, in case we are confronted with an imminent danger, to respond. That is not the case at all. So as we see this situation, that is not present. The question becomes how smart and how wise are we in exercising this unquestioned power, which we hold now on the international scene; is that not correct?

Mr. BYRD. Absolutely. We are taking a reckless course in advocating this doctrine. It is a nefarious doctrine, and it is scaring the world to death today. No wonder we are looked upon as being warmongers. When our friends begin to fear us, may I say to the distinguished Senator from Maryland—who is one of the foremost thinkers in this body. I have been in this Congress for 50 years now, and I have seen some thinkers. I remember John Pastore, for example, who was a thinker. The Senator from Maryland is a thinker. The Senator is right on point in what he is saying. This is a dangerous doctrine, a reckless doctrine. When our friends begin to fear us, we are in trouble.

Mr. SARBANES. I thank the distinguished Senator from West Virginia for the enormous contribution he has been making. He has been willing to speak the truth and raise these very important and serious questions, which I am frank to say I don't think have been given adequate attention downtown by the President or by, as the Senator characterizes it, his war cabinet. This course we are on has tremendous implications in all of the United States.

Mr. BYRD. It has vast implications. I will say to the Senator that some of us have trouble going to sleep at night as we ponder this question. I thank the Senator for his observations today and for the service he has rendered not only to the State of Maryland but to this country. I think the Framers of the Constitution would be proud of PAUL SARBANES. I think PAUL SARBANES could very well have been one of the 39 signers of the Constitution.

Mr. SARBANES. I thank the Senator. I would hope the circumstance would be that the Senator from West Virginia would have been presiding in the chair, if I may say so.

Mr. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. REID. Mr. President, I have no problem with the Senator from Utah getting the floor. We have a unanimous consent request we wish to propound if the Senator will withhold.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have listened to my distinguished friend and colleague from West Virginia. Everybody in this body knows the deep affection I have for him and for his feelings, and for his earnest and very important analysis of many of the issues we have had to live with over the years. I have deep respect for the distinguished Senator from Maryland, as well. We came to the Senate together. They are both great Senators, in my eyes.

Mr. BYRD. Mr. President, will the distinguished Senator yield? I thank the distinguished Senator. When he speaks of respect for the Senator from Maryland and for this Senator, may I say it is mutual. I have great respect for the Senator from Utah. There have been few occasions—not many—when we have differed on the floor. I have tremendous respect for him, for his leadership, for his dedication to his country, and for his State.

Mr. HATCH. Mr. President, I appreciate that. I listened carefully to much of what the distinguished Senator from West Virginia said, and he raised a number of very important issues, no question about it. I have great assurance as a member of the Select Committee on Intelligence in our President as we are considering one of those issues. It just points out how difficult it is to be President of the United States, especially during times of strife and difficulty; how difficult it is to make these decisions; how difficult it is to determine what imminence really is. Hugo Grotius, the father of international law, basically said imminency is a very hard thing to define.

I think the Senator raised a lot of interesting points, but I also believe the President and his advisers have gone over every one of those points. I wish to mention one problem, and that is, some people try to blame Israel for our positions—not the distinguished Senator from West Virginia. But some have tried to raise that point and blame Israel. The fact is Israel is important here, but so are all the Arab states. Keep in mind, this man, Saddam Hussein, has weapons of mass destruction. He came within a few weeks of having a nuclear device. We all know that. It was a matter of time. They had the ability. They had the capacity. They had the scientists. Who knows how close they are to having a nuclear device now, because there is no possible way that 100 inspectors, or even 1,000 inspectors, whose every action, every word, everything they do is monitored by more than 1,000 security people, intelligence people.

Everybody knows Iraq, being the size of California, it is virtually impossible to be absolutely sure that these inspections are even working. If, in fact, they continue to have—which we know they have—biological and chemical weapons, we know they have certain stores of them. We know pretty much how much they have. But if, in fact, they have a nuclear device, I am going to tell my colleagues, Israel is acting very restrained and has throughout these difficulties in the Middle East. I hope they will be able to continue to act restrained. They have one of the best intelligence forces in the world, if not the best, in the Mossad. They are not going to wait if we are not going to take the responsibility of stopping this type of madman with weapons of mass destruction.

There have been 17 U.N. resolutions that have been ignored—17 of them. We have had over 9, 10, 11 years now of watching him flagrantly violate the U.N. resolutions. I respect my colleagues for their thoughtful analysis of

this situation, but I also think there is a thoughtful analysis going on in the White House, the State Department, at the CIA, and in so many other ways.

With regard to the war on al-Qaida, anybody who thinks that war is not going on and we are not doing everything we possibly can ought to look at Khalid Shaikh Mohammed. Khalid Shaikh Mohammed is the director of operations for al-Qaida. We were not just sitting there worrying about Iraq. We were out there actively trying to find Khalid Shaikh Mohammed. I might add, we found him. We have him in custody now. We are learning a lot from what we found around Khalid Shaikh Mohammed.

That battle is ongoing. There is no letup in what we are doing against terrorism from that perspective. I can personally testify to that.

We may be very close to ascertaining the whereabouts of Osama bin Laden. So let no one misconstrue, the fact is, this administration is doing a very good job with regard to al-Qaida, with regard to terrorism. I happen to believe the administration listens carefully to my distinguished friend from West Virginia, and analyzing and realizing they have thought very carefully about the issues he raises, which are important issues, issues about which we all have to stop and think.

Keep in mind, imminence does not mean we have to wait until a nuclear device is blowing up New York or Washington, DC, or Los Angeles or Miami or Chicago. Imminence means the threat—it can happen tomorrow—and that threat is all around us. We know because we have been rounding up the people in America who are terrorist threats to us, who would not hesitate for a minute to take the lives of every American citizen they could possibly take.

I believe right now what we need is to rally together as much as we can. We do need wise men to raise these issues, as my distinguished friend from West Virginia has done, and he has done it continuously throughout his career. Many times he has been right. But I also believe there comes a time when we have to act, too, in the direct care and nurturing of our own country.

I believe the administration is listening to everything that has been said by my dear colleagues on the other side, and I think they are doing everything they can to protect this Nation and to protect the world from a third world war.

One of the worst happenings would be to leave Israel to have to defend itself over there and to leave the moderate Arab nations to have to defend themselves over there. There are a significant number of moderate Arab nations. If they have to go in, then we are really in very dire straits.

I mention these points hopefully in a way of helping all of us understand these are important issues. It is important we discuss them. It is also important we support the administration, which has the ultimate responsibility, and we do, too, here, no question about it.

We have passed a resolution that says we have to do what is in the best interest of our country. I believe this President and his advisers are doing that. They have, across the board, people who have philosophical differences in the administration. I think it is a good balance between those in the Defense Department and those in the State Department. I say with particularity, no one can say Colin Powell goes to war willingly, that he goes to war without having thought through every possible problem. No one believes he would risk our young men and women or our country in any way without thoughtful reflection and consideration.

I believe that is true of Donald Rumsfeld, who would be perhaps on the other side of the equation because he has the obligation of making sure our military is the best in the world, and that when we have to deploy our military, we do so in a manner that will let anybody know the United States is no pushover, and that you better think twice before you start taking on our people.

I respect my colleagues and I respect their viewpoints. I happen to differ with them on some of them, but the fact is my main difference is I believe these viewpoints have been considered and reflected upon by people of good will who, I believe, are trying to do the very best they can. In that regard, I compliment the distinguished Prime Minister of England who, against some very bad odds and some very difficult times, has stood as a very strong leader in this world. I think he will go down in history as a very strong leader, recognizing the threat of terrorism throughout the world, at least in part emanating from Iraq and the leadership of Saddam Hussein.

I also pay respect to our colleagues and friends in Pakistan who, under very stringent and difficult circumstances, have been willing to assist us in the capture of Khalid Shaikh Mohammed.

At this point, I would like to change the subject.

Mr. REID. Mr. President, could we do our UC? I am sorry to interrupt.

Mr. HATCH. Without losing my right to the floor.

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

The Senator from Pennsylvania.

AMENDMENT NO. 258

Mr. SANTORUM. Mr. President, on behalf of Senator NICKLES, I state that the pending amendment offered by the Senator from Washington, Mrs. MURRAY, increases mandatory spending and, if adopted, would cause an increase in the deficit. Therefore, I raise a point of order against the amendment pursuant to section 207 of H. Con. Res. 68, the concurrent budget resolution on the budget for fiscal year 2000, as amended by S. Res. 304 from the 107th Congress.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I move to waive the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the vote on the motion to waive the Budget Act with respect to the pending Murray amendment 258 occur at 6 p.m. today; that the time prior to the vote be equally divided in the usual form.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Who yields time?

Mr. REID. We have another unanimous consent.

Mr. HATCH. I will be happy to yield to my colleague, without losing my right to the floor.

Mr. SANTORUM. Mr. President, I further ask unanimous consent that following the disposition of the Murray amendment, Senator DURBIN be recognized in order to offer an amendment regarding health exceptions. I further ask unanimous consent that following the debate this evening, the amendment be temporarily set aside; provided further that when the Senate resumes consideration of S. 3 beginning at 9:30 tomorrow morning, Senator BOXER be recognized in order to offer a motion to commit; further, there be 2 hours equally divided in the usual form, and that following that debate the motion be temporarily set aside and the Senate resume consideration of the Durbin amendment for 1 additional hour of debate, equally divided. Finally, I ask unanimous consent that following the use or yielding back of the time, the Senate proceed to a vote in relation to the Durbin amendment, to be followed by a vote in relation to the Boxer motion to commit; provided further that no amendments be in order to either the motion or the amendment prior to the votes, with 4 minutes equally divided prior to the second vote.

Mr. REID. Reserving the right to object, Mr. President, we made progress on this most difficult issue today. If this unanimous consent agreement is entered, we will have gone at least halfway.

There are a couple of other amendments that have been submitted to the majority. We hope they would review those and maybe before the night is out enter into an agreement to have some end game for this legislation.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I thank the Senator from Nevada for his cooperation, and I appreciate the good work. We are making good progress. I encourage Members who have statements they would like to make on the bill, there will be time in the debate of the Durbin

amendment tonight to make those statements, and we encourage Members to do that.

I ask unanimous consent that Senator MURKOWSKI be added as a cosponsor to this bill, S 3.

The PRESIDING OFFICER. Without objection, both requests are agreed to.

Mr. HATCH. Mr. President, I rise today in strong support of S. 3, the Partial-Birth Abortion Ban Act of 2003. To begin, I would like to thank my colleague from the State of Pennsylvania, Senator SANTORUM, and applaud his leadership on this bill particularly, and on this issue generally, over the years. He is clearly very passionate about it, and is also one of the most extremely knowledgeable people anywhere on this issue. I respect him and am very proud of the work he has done on this issue.

I have spoken on the need to ban partial birth abortions many times since we began this effort many years ago. I have done so out of my personal conviction, and also because I am here to represent the people of Utah. By a huge margin, Utahns find the practice of partial-birth abortion offensive, immoral and impossible to justify as legal in America, or anywhere else in the world.

As chairman of the Senate Judiciary Committee, I have chaired several hearings about partial-birth abortions in past sessions, and I remain as convinced as ever that this important legislation is essential and will go a long way toward helping us restore our sense of human dignity in this country.

This bill does only one thing: it prohibits one particularly gruesome abortion procedure—so gruesome that only a handful of doctors are willing to perform it. This procedure is never medically necessary. It is simply morally reprehensible, indefensible, and should be banned. I honestly do not know how anyone, after learning of this procedure, could continue to defend it.

Those Members of this body who disagree with me, I think they should have to actually watch this procedure being done. Once they have seen the baby's legs kicking while it is being killed—I challenge them to defend it then, because as one can see, the legs and hands are outside, and anybody watching will know this is a fully living human being.

The procedure, known as dilation and extraction—or ''D&X''—involves the partial delivery of an intact baby into the birth canal. In the case of a breech presentation, the baby is delivered from the feet through the shoulders so only the head remains in the birth canal. And in the case of a head-first presentation, the body's full head is delivered outside the birth mother. Then, either scissors or another instrument are used to stab a hole in the base of the skull. There is no doubt that this is a living baby at this point—a baby that feels pain, make no mistake about it. After the scissors are stabbed into the head a suction catheter is inserted to suck out the baby's brains and collapse the skull. That is about as barbaric as anything I have seen or heard.

Each time I read the description of this procedure I am sickened. It is not done as a mass of tissue but to a living baby capable of feeling pain and, at the time this procedure is typically performed, capable of living outside of the womb with appropriate medical attention.

All this bill would do is ban this grotesque, barbaric procedure. We are not talking about the entire framework of abortion rights here but just one procedure. And S. 3 also provides an exception for cases where the life of the mother is endangered by a physical disorder, illness or injury.

At least 31 States—including my home State of Utah—have enacted their own partial-birth abortion bans but, sadly, many have not taken effect due to temporary or permanent injunctions. S. 3 would create a Federal ban on just the D&X procedure I have described, and it carefully conforms to the constitutional jurisprudence in this area.

Now, let me explain how this bill differs slightly from previous versions. A couple of years ago, the Supreme Court handed down an opinion in Stenberg v. Carhart, which addressed a partial-birth ban in Nebraska. The Stenberg court, relying in part on a dubious trial court finding that it was forced to accept, struck down the statute.

In fact, the trial court's finding that partial-birth abortions could be necessary to protect the health of the mother was just wrong, and the findings outlined in S. 3 clarify this point.

The record in support of the fact that D&X is never medically necessary is long. In November, 1995, I presided over a 6½ hour Senate Judiciary Committee hearing on partial-birth abortions, and we also had a 1997 joint hearing with the Constitution Subcommittee in which we heard that D&X is not done for medical reasons.

The former U.S. Surgeon General, C. Everett Koop has said:

> . . . in no way can I twist my mind to see that [partial-birth abortion] . . . is a medical necessity for the mother. And it certainly can't be a necessity for the baby.

And Dr. Daniel Johnson, the former president of the American Medical Association said in 1997 that he and others investigating the issue:

> could not find any identified circumstances in which the procedure was the only safe and effective abortion method.

The fact is that there is no medical need to allow this type of barbaric procedure.

The 5–4 Stenberg court also had concerns that the procedure, as defined in the Nebraska statute, could have been construed to ban more than one type of abortion procedure, including one which could theoretically be used to protect the health of the mother. Based on this, the court found that the lack of a ''health of the mother'' exception created an ''undue burden'' because it could prevent a procedure that could be necessary for the health of the mother.

S. 3, the Partial-Birth Abortion Ban Act of 2003, addresses that problem as well by very specifically defining the procedure so that it only prohibits the D&X procedure, which, as our hearings have shown, and the findings in S. 3 confirm, is never necessary to protect the health of the mother.

Let me repeat, the carefully-drafted definition used in S. 3 for partial-birth abortion cannot be construed to include any abortion procedure other than the D&X procedure.

In other words, other alternative procedures, all of which will remain legal under S. 3, will be available in the event that the health of the mother needs to be preserved. For this reason, this bill does not require an exception for the health of the mother.

Now, let me address a misrepresentation that has been floated over the years—that is, that this barbaric procedure is rare. The record indicates that this is clearly not the case. In fact, one clinic in New Jersey alone admitted to 1500 of these procedures in just one year! And that is just one state. How can anyone claim that is ''rare''?

And in the State of Kansas, which requires that doctors report partial-birth abortions and also cite the reasons given for having the abortion, we found out that doctors there performed 182 partial-birth abortions in just one year on babies they deemed viable. And every one of these reports, by the way, cited ''mental health'' as the reason for having this barbaric procedure.

It is likely that there are at least 3,000 to 5,000 of these procedures performed every year, despite what some try to claim.

To further expose the lack of credibility of those who claim this procedure is rare, we need only listen to Ron Fitzsimmons of the National Coalition of Abortion Providers. He admitted in 1997 that when he told us the procedure was rare, he ''lied through my teeth.'' He added that he only represented it as being rare because, ''I just went out there and spouted the party line.'' That shows how far these people will go. Abortion is so sacred to them they see no reason to ban any aspect of it, not even this barbaric procedure.

The truth always eventually prevails over the party line, and the truth is that this procedure is not rare, and it should be banned.

I think former Sen. Daniel Moynihan had it about right when speaking in favor of this ban in previous debates he called the procedure ''close to infanticide.'' It is infanticide.

In recent years, we have heard about teenaged girls giving birth and then dumping their newborns into trash cans. One young woman was criminally charged after giving birth to a child in a bathroom stall during her prom, and then strangling and suffocating her child before leaving the body in the trash. Tragically, there have been several similar incidents around the country in the past few years.

This is what happens when we devalue human life.

William Raspberry argued in a column in the Washington Post several years ago that ''only a short distance [exists] between what [these teenagers] have been sentenced for doing and what doctors get paid to do.'' How right he is.

When you think about it, it is incredible that there is a mere three inches separating a partial-birth abortion from murder.

Now, I have sympathy for any young woman who contemplates an abortion. The circumstances that drive a woman to it must certainly be complex and appear to her to be overwhelming and insoluble.

But the D&X procedure is not an ordinary abortion. It is not contemplated by the Roe v. Wade decision. Even the Stenberg court confirmed, and I quote, ''By no means must physicians [be granted] 'unfettered discretion' in their selection of abortion methods.'' So this is not about overturning Roe v. Wade—that is a red herring.

The D&X procedure is one method which we ought not give doctors the discretion to perform. It is never medically necessary, it is never the safest procedure available, and it is morally reprehensible and unconscionable.

Partial-birth abortion simply has no place in our society and rightly should be banned.

President Bush has described partial-birth abortion as ''an abhorrent procedure that offends human dignity.'' I wholeheartedly agree. I strongly urge my colleagues to join me in voting in favor of S. 3, the Partial Birth Abortion Ban Act of 2003, and help restore human dignity.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, this would be an easier debate if we were speaking to an issue that only dealt with healthy mothers and healthy fetuses. The fact is, we are not. The Senator from California outlined a number of very difficult, troubling cases of women who have had to make very difficult choices that no one on this floor can comprehend without having gone through.

If we can reduce unintended pregnancies we can go a long way to reducing abortions in this country and not have these kinds of debates in the Senate. That is precisely what the current pending amendment is about that we are discussing at this time. It is an amendment that provides contraceptive equity for women. It provides emergency contraception education. It provides emergency contraceptives in the emergency room and it expands SCHIP and Medicaid to include low-income pregnant women so the mother and the fetus are both covered—unlike the current administrative rule.

My colleagues on the other side have offered a point of order against this amendment. I say to them, no one can hide behind a point of order. If we truly believe we want to reduce the number of abortions in this country, if we reduce the number of unintended pregnancies and allow help for women, as this amendment will do, we will all have made a step in the right direction.

I will have more to say but my colleague from Illinois is here. I yield 15 minutes to the Senator.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Illinois.

Mr. DURBIN. I thank the Senator from Washington.

I come to the floor to discuss an issue which is highly charged and emotional. In the 20 years I have served in both the House and the Senate, I can say the debates on this issue have been some of the most painful. No matter who you are, in the Senate or the House, whatever your political party, whatever your background, if you take this issue as seriously as you must, you have to reflect every time as to whether or not your vote makes sense, is fair, is a policy that America should follow.

Now, of course, we are debating the so-called partial-birth abortion procedure. I came to Congress many years ago personally opposed to abortion. It was part of my faith tradition, part of my personal value system. I came here to find that many of the people I assumed would be my allies opposed abortion but had other elements in their belief which started to trouble me.

I believe that a woman pregnant, facing extraordinary medical circumstances, a woman who is pregnant, having been impregnated by a rape or incest, should be given special concern and consideration. But I found many times that those who opposed abortions would make no exception no matter what the circumstances leading up to a pregnancy. And that troubled me.

I also found that in those extraordinary situations where a woman found in her pregnancy, one that she anticipated to be normal, uneventful, that something awful had occurred, that, in fact, many of the people who opposed abortion would not even allow that procedure in those extraordinary medical situations. I was surprised by that. I didn't expect to find it.

Then I met with some of the women and talked to them about their personal experiences. One of them is a woman I met from my home State of Illinois, Vikki Stella. This is a picture of Vikki, her husband, her family. Vikki's is an extraordinary story.

When Vikki was pregnant several years ago, she learned late in her pregnancy that her much wanted son was suffering from some extraordinary, serious abnormalities. Vikki, who is diabetic, was told that if she continued her pregnancy through to its natural conclusion, she could endanger her own health.

She told me personally—I had a chance to meet with her—that she couldn't believe it. This was supposed to be a very normal pregnancy. As you can see, she has other children. She learned, much to her surprise and amazement, that she faced an extraordinarily complicated pregnancy, and her doctor sat down with her and her husband, who is also a doctor, and said to them: You need to do something; you need to do it now to protect Vikki's survival and her own health.

She was faced with a terrible decision. She had already created the nursery in her home for the new baby. They had the walls painted, the furniture picked out; they expected in just a few weeks to have this new baby—to be told, instead, that she was facing a medical crisis in her own life. As she said, she could barely walk, it hit her so hard. Her husband had to help her walk away from the doctor's office.

She went home, she told me, in tears, saying to her husband: What are we going to do? I don't believe in abortion. He explained to her, as her doctor explained to her, that unless she did something right then and there to terminate that pregnancy, she would endanger her own life and her ability to have other children.

She prayed over it, thought about it long and hard with her husband and family, and decided to go through with the termination of the pregnancy.

Would you want to face that decision? I am sure glad I never had to as a father and husband. But she faced it. She terminated that pregnancy.

One of the last times I saw Vikki was here, right in front of the Capitol Building. She was pushing a stroller with her new baby in it—Nicholas. Nicholas came into this world as healthy and normal as you could ever ask.

So people who are arguing that those who go in for these extraordinary abortion procedures somehow hate babies, or look at these things lightly—please. If you listen to the women who have been through it, if you talk to them and their families, you will understand the tragedy that comes into their life, the crisis that comes into their life.

What we are saying on the floor of the Senate with S. 3, a bill sponsored by Senator SANTORUM, is that we do not want the doctor to make the decision. No. And we don't want the mother or her husband to make the decision. We want to make the decision. The Government should make the decision. The Government should overrule the doctor. The Government should say to her: Finish your pregnancy regardless of the outcome. You can't use the procedure.

Is that the right thing to do, for us to inject ourselves into those medical crisis situations? I don't think it is.

Whatever your view on abortion personally, for goodness' sake, I think you should have the heart to understand that you don't know everything; that, frankly, there are doctors in disagreement as to whether these abortion procedures are needed. If there is true medical disagreement, are we going to choose one side and say this will be the

official Government medical position? That is what we are hearing today. We are hearing, when it comes to abortion, don't let your doctor decide; let your Senator decide for you.

I may have some expertise in some areas, but it certainly is not in medicine. I rely on professionals for my family, for myself, and when it comes to making these important decisions.

If you listen to these doctors, they are telling us: For goodness' sake, Senator, stop and think. Do you want to say that you can imagine every possible complication a mother would find late in her pregnancy and you want to rule that certain surgical procedures cannot be used to save a mother's health or her life? That is how far this goes. And it goes too far.

The other thing I learned when I came here was that many of the people who oppose abortion very strongly, with the deepest of convictions, feel just as strongly in opposition to contraception. I couldn't believe that part because—think about it—if you don't offer to a woman, a wife, for example, in a family situation, an option to plan her pregnancies, then you are just inviting an unplanned or unwanted pregnancy, inviting the possibility of abortion.

So to oppose contraception is to say to the woman: We are not going to stand by you even making your own decision and your family decision on when a child should come to your household. Of course, you know what happens. The likelihood of abortion increases when there are unwanted, unplanned pregnancies.

I always thought if you opposed abortion, it was common sense to say we would make contraception, family planning, birth control information available to women in America. That seems to me just common sense, so that you wouldn't have the unwanted, unplanned pregnancies leading to abortions.

I was stunned when I came to Congress many years ago to find that the people most vehemently opposed to abortion were equally opposed to contraception. How can that make any sense? Thank goodness Senator PATTY MURRAY of Washington, along with Senator REID of Nevada, came to the floor today on this abortion debate and said we really need to be on the record as to whether or not we are going to provide contraception in health insurance plans so that women can get birth control pills to decide when they are going to have children, when it is the right thing for them and their family.

Isn't it ironic that these health insurance plans will provide Viagra to men but will not provide birth control pills to women? That is a fact. Senator MURRAY's amendment comes to the floor and says we are going to put an end to that. We are going to provide that these women and families will have the contraception that they need to make their decisions on planning their families so there are wanted and planned children as often as possible, and the likelihood of abortion is diminished. That seems so patently obvious.

I commend Senator MURRAY again. She goes on to say if your feelings and emotions are strong when it comes to mothers and babies, for goodness' sake, prove it—not just by voting against abortion but voting for the mother, the pregnant mother, making certain that she has access to health care during her pregnancy.

Senator MURRAY offers a provision in her amendment which says we are going to allow pregnant women across America to come into what we call the SCHIP plan, a basic health insurance program offered by the States so that more and more working mothers have a chance to get prenatal care and have healthy babies. Why in the world would anybody even debate this: Contraception, birth control, family planning available for mothers, women and their families, and health insurance coverage for the pregnant mother so she can be certain to come out of this pregnancy healthy herself with a healthy baby?

This is a good amendment. This is a pro-life amendment.

What do we hear? We hear that the Senators on the other side of the aisle who say they are opposed to abortion—and I believe they are—are now going to try to kill the Murray amendment. They don't want the Senate to go on record in favor of family planning and birth control in the health insurance plans for women across America. They don't want the Senate to go on record so rape and incest victims brought into emergency rooms can have the contraceptive care they need immediately so they do not end up pregnant because of the crime that was committed against them. They don't want to vote for the Murray amendment that says pregnant mothers will have health insurance so that the babies will be healthy and the mothers will be healthy. And they call themselves pro-life.

I am sorry, it doesn't work. It is not consistent. If they are consistently pro-life, they should stand by the woman, stand by the mother, do everything in their power to make certain that that baby is born into a loving family and is as healthy as it possibly can be. That is what this amendment comes down to.

It is hard to imagine there is any opposition, and yet there is. In fact, a Senator will come to the floor here, he will make a procedural motion, and it will take more than a majority for Senator MURRAY to prevail. Do I understand right, we will need 60 votes? Is that correct? Sixty votes out of a hundred. So they have just raised the bar, and they said to Senator MURRAY: If you want to protect women in terms of family planning and birth control, you need more than a majority, Senator MURRAY; you need 60 votes.

Mr. REID. Will the Senator yield?

Mr. DURBIN. I will just finish, and I will be happy to yield.

If you want to protect women who have been raped who are going into the emergency rooms—can you imagine the emotional problem they are facing right then and there? If you want to protect them so they can have emergency contraception and not be pregnant, you need 60 votes. Fifty-one will not do. If you want to give women basic health insurance so they can have a successful pregnancy, you need 60 votes. That is what is coming from the Republican side of the aisle. I don't believe it is consistent with the ethic that says we care not just about babies but about the mothers as well.

I yield to the Senator from Nevada for a question.

Mr. REID. Madam President, in the debate which took place from 11 until about quarter to 1 today, there was a lot of talk about 60 votes. I am wondering if this is a constitutional vote. They are asking for 60 votes. Does the Senator have anything to say about that?

Mr. DURBIN. The Senator from Nevada is right. When it comes to judicial nominations, the floor was filled earlier this morning with Republican Senators objecting to 60 votes. They set an outrageous standard to live by. Now they have turned around here. When it comes to Senator MURRAY's amendment to stand by women, to stand by pregnant mothers, to stand by victims of crimes, they have said to her that she is going to need 60 votes. In other words, they have been trying their best to stop her from protecting women in this circumstance.

I have to say to the Senator from Nevada, whether you are pro-choice, pro-life, or anti-abortion, it really is a woman's right to choose. Wouldn't you stand by a woman's right to plan for her own family and to be able to have at her disposal health insurance, birth control pills, and family planning information? We certainly say if a husband decides he needs Viagra in order to have a family, health insurance will cover that. Why wouldn't we cover birth control pills? That is what this says. Senator REID of Nevada has a bill. Senator MURRAY has added it to her amendment. It is eminently sensible.

We come down in this debate to pretty basic values and issues. As far as I am concerned, whatever you call yourself on the abortion issue, I think most people across America will agree we want to reduce the number of unplanned and unwanted pregnancies. We want to reduce those tragic circumstances in the case of crimes of rape or incest, and we want to make sure mothers have health insurance protection so they and their babies will be helped and taken care of in the best medical profession. Sadly, the opposition on the other side makes that very difficult, if not impossible.

This will be a good test vote when it comes to families and the rights of women and children. It really gets down to some fundamentals. It is not enough to stand up, as did my colleague from Wisconsin, DAVID OBEY,

and pose for holy pictures and say, I am opposed to abortion, and then turn around and vote against family planning that can avoid abortion; turn around and vote against those contraception techniques of an emergency nature and avoid unwanted pregnancies; to vote against health insurance for these mothers.

The Senator from Washington has put this debate in the right perspective. If we are going to be honest about this issue, we need to support Senator MURRAY. I will be one who votes for her amendment.

I yield the floor.

Mr. REID. Madam President, was the time evenly divided?

The PRESIDING OFFICER. Yes.

Mr. REID. How much time remains on each side?

The PRESIDING OFFICER. The Senator from Washington controls 21 minutes 11 seconds. The Senator from Pennsylvania controls 25 minutes 38 seconds.

Mr. REID. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SANTORUM. Madam President, I want to make a couple of points, and then I will yield to my colleague.

No. 1, the Senator from Oklahoma asked me to make a budget point of order on his behalf. I want to make it clear he has an SCHIP provision that is in the budget which they are marking up later this week. We will be on that subject. We will have plenty of opportunity to deal with this issue next week.

I agree with the Senator from Illinois. We should have a provision covering women going through pregnancy, and be supportive of that. I will not be supportive of covering medications that would lead to a fertilized egg not implanted in the uterus. I believe life begins at conception. I will not support drugs that would prevent a conceived embryo to be implanted.

I have mixed emotions about this amendment. But, nevertheless, it is roughly a $1 billion addition to the budget, and that should be done in the context of the budget, not on a partial-birth abortion bill.

Finally, I would like to add to the record by unanimous consent a letter from Dr. Pamela Smith, who was the director in 1996 of the Department of Obstetrics and Gynecology at Mt. Sinai Medical Center in Chicago. She is a member of the Association of Professors of Obstetrics and Gynecology. In response to the case Senator DURBIN has laid out, she has a response that is rather lengthy. But I will just quote one comment she said.

> . . . medically I would contend of all the abortion techniques currently available to her this was the worst one that could have been recommended for her.

Again, that just proves the point.

I ask unanimous consent to have this letter printed in the RECORD.

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

PHYSICIANS' AD HOC COALITION FOR TRUTH,
Chicago, IL, September 23, 1996.

DEAR MEMBER OF CONGRESS: My name is Dr. Pamela E. Smith. I am a founding member of PHACT (Physicians' Ad Hoc Coalition for Truth). This coalition of over three hundred medical providers nationwide (which is open to everyone, irrespective of their political stance on abortion) was specifically formed to educate the public, as well as those involved in government, in regards to disseminating medical facts as they relate to the Partial-Birth Abortion procedure.

In this regard, it has come to my attention that an individual (Ms. Vicki Stella, a diabetic) who underwent this procedure, who is not medically trained, has appeared on television and in Roll Call proclaiming that it was necessary for her to have this particular form of abortion to enable her to bear children in the future. In response to these claims I would invite you to note the following:

1. Although Ms. Stella proclaims this procedure was the only thing that could be done to preserve her fertility, the fact of the matter is that the standard of care that is used by medical personnel to terminate a pregnancy in its later stages does not include partial-birth abortion. Casarean section, inducing labor with pitocin or protoglandins, or (if the baby has excess fluid in the head as I believe was the case with Ms. Stella) draining the fluid from the baby's head to allow a normal delivery are all techniques taught and used by obstetrical providers throughout this country. These are techniques for which we have safety statistics in regards to their impact on the health of both the woman and the child. In contrast, there are no safety statistics on partial-birth abortion, no reference of this technique in the national library of medicine database, and no long term studies published that prove it does not negatively affect a woman's capability of successfully carrying a pregnancy to term in the future. Ms. Stella may have been told this procedure was necessary and safe, but she was sorely misinformed.

2. Diabetes is a chronic medical condition that tends to get worse over time and that predisposes individuals to infections that can be harder to treat. If Ms. Stella was advised to have an abortion most likely this was secondary to the fact that her child was diagnosed with conditions that were incompatible with life. The fact that Ms. Stella is a diabetic, coupled with the fact that diabetics are prone to infection and the partial-birth abortion procedure requires manipulating a normally contaminated vagina over a course of three days (a technique that invites infection) medically I would contend of all the abortion techniques currently available to her this was the worse one that could have been recommended for her. The others are quicker, cheaper and do not place a diabetic at such extreme risks for life-threatening infections.

3. Partial-birth abortion is, in fact, a public health hazard in regards to women's health in that one employs techniques that have been demonstrated in the scientific literature to place women at increased risks for uterine rupture, infection, hemorrhage, inability to carry pregnancies to term in the future and maternal death. Such risks have even been acknowledged by abortion providers such as Dr. Warren Hern.

4. Dr. C. Everett Koop, the former Surgeon General, recently stated in the AMA News that he believes that people, including the President, have been misled as to ''fact and fiction'' in regards to third trimester pregnancy terminations. He said, and I quote, ''in no way can I twist my mind to see that the late term abortion described . . . is a medical necessity for the mother . . . I am opposed to partial-birth abortions.'' He later went on to describe a baby that he operated on who had some of the anomalies that babies of women who had partial-birth abortions had. His particular patient, however, went on to become the head nurse in his intensive care unit years later!

I realize that abortion continues to be an extremely divisive issue in our society. However, when considering public policy on such a matter that indeed has medical dimensions, it is of the utmost importance that decisions are based on facts as well as emotions and feelings. Banning this dangerous technique will not infringe on a woman's ability to obtain an abortion in the early stage of pregnancy or if a pregnancy truly to be ended to preserve the life of health of the mother. What a ban will do is insure that women will not have their lives jeopardized when they seek an abortion procedure.

Thank you for your time and consideration.

Sincerely,

PAMELA SMITH,
Director of Medical Education, Department of Obstetrics and Gynecology, Mt. Sinai Medical Center.

Mr. SANTORUM. Second, I have another letter with an analysis done by Dr. Curtis Cook, Maternal Fetal Medicine, Michigan State College of Human Medicine, on the case of Coreen Costello. I will discuss both of these in detail later. But I ask unanimous consent that this letter be printed in the RECORD.

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

[Physicians' Ad Hoc Coalition for Truth]

THE CASE OF COREEN COSTELLO

Partial-birth abortion was not a medical necessity for the most visible ''personal case'' proponent of procedure.

Coreen Costello is one of five women who appeared with President Clinton when he vetoed the Partial-Birth Abortion Ban Act (4/10/96). She has probably been the most active and the most visible of those women who have chosen to share with the public the very tragic circumstances of their pregnancies which, they say, made the partial-birth abortion procedure their only medical option to protect their health and future fertility.

But based on what Ms. Costello has publicly said so far, her abortion was not, in fact, medically necessary.

In addition to appearing with the President at the veto ceremony, Ms. Costello has twice recounted her story in testimony before both the House and Senate; the New York Times published an op-ed by Ms. Costello based on this testimony; she was featured in a full page ad in the Washington Post sponsored by several abortion advocacy groups; and, most recently (7/29/96) she has recounted her story for a ''Dear Colleague'' letter being circulated to House members by Rep. Peter Deutsch (FL).

Unless she were to decide otherwise, Ms. Costello's full medical records remain, of course, unavailable to the public, being a matter between her and her doctors. However, Ms. Costello has voluntarily chosen to share significant parts of her very tragic story with the general public and in very highly visible venues. Based on what Ms. Costello has revealed of her medical history—of her own accord and for the stated purpose of defeating the Partial-Birth Abortion Ban Act—doctors with PHACT can only conclude that Ms. Costello and others who

have publicly acknowledged undergoing this procedure ''are honest women who were sadly misinformed and whose decision to have a partial-birth abortion was based on a great deal of misinformation'' (Dr. Joseph DeCook, Ob/Gyn, PHACT Congressional Briefing, 7/24/96). Ms. Costello's experience does not change the reality that a partial birth abortion is never medically indicated—in fact, there are available several alternative, standard medical procedures to treat women confronting unfortunate situations like Ms. Costello had to face.

The following analysis is based on Ms. Costello's public statements regarding events leading up to her abortion performed by the late Dr. James McMahon. This analysis was done by Dr. Curtis Cook, a perinatologist with the Michigan State College of Human Medicine and member of PHACT.

''Ms. Costello's child suffered from at least two conditions: 'polyhydramnios secondary to abnormal fetal swallowing,' and 'hydrocephalus'. In the first, the child could not swallow the amniotic fluid, and an excess of the fluid therefore collected in the mother's uterus. The second condition, hydrocephalus, is one that causes an excessive amount of fluid to accumulate in the fetal head. Because of the swallowing defect, the child's lungs were not properly stimulated, and an underdevelopment of the lungs would likely be the cause of death if abortion had not intervened. The child had no significant chance of survival, but also would not likely die as soon as the umbilical cord was ctut.

The usual treatment for removing the large amount of fluid in the uterus is a procedure called amniocentesis. The usual treatment for draining excess fluid from the fetal head is a procedure called cephalocentesis. In both cases the excess fluid is drained by using a thin needle that can be placed inside the womb through the abdomen (''transabdominally''—the preferred route) or through the vagina (''transvaginally''). The transvaginal approach however, as performed by Dr. McMahon on Ms. Costello, puts the woman at an increased risk of infection because of the non-sterile environment of the vagina. Dr. McMahon used this approach most likely because he had no significant expertise in obstetrics and gynecology. In other words, he may not have been able to do it well transabdominally—the standard method used by ob/gyns—because that takes a degree of expertise he did not possess. After the fluid has been drained, and the head decreased in size, labor would be induced and attempts made to deliver the child vaginally.

Ms. Costello's statement that she was unable to have a vaginal delivery, or, as she called it, 'natural birth or an induced labor,' is contradicted by the fact that she did indeed have a vaginal delivery, conducted by Dr. McMahon. What Ms. Costello had was a breech vaginal delivery for purposes of aborting the child, however, as opposed to a vaginal delivery intended to result in a live birth. A caesarean section in this case would not be medically indicated—not because of any inherent danger—but because the baby could be safely delivered vaginally.''

Given these medical realities, the partial-birth abortion procedure can in no way be considered the standard, medically necessary or appropriate procedure appropriate to address the medical complications described by Ms. Costello or any of the other women who were tragically misled into believing they had no other options.''

Mr. SANTORUM. Madam President, I want to yield 10 minutes to the Senator from Kansas, and thank him.

Mr. DURBIN. Madam President, will the Senator from Pennsylvania be kind enough to yield for 2 minutes so I might respond? And I would be happy to yield.

Mr. SANTORUM. On the Senator's time. That is fine.

Mrs. MURRAY. I yield 2 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I hope you listen carefully to what the Senator from Pennsylvania just entered into the RECORD. He entered into the RECORD an opinion of another doctor which said the woman who faced that crisis pregnancy should have done it differently. I don't know if the Senator from Pennsylvania is aware of the fact that she not only had the counsel of her own obstetrician/gynecologist, but she had the counsel of her husband who was a practicing physician. She was relying on her husband's medical knowledge and the advice of her obstetrician/gynecologist. The Senator from Pennsylvania has found another doctor who disagrees. And he says that is why we should overrule her personal doctor and her personal obstetrician in this case; that we should make the decision here; that Senators and politicians should be making the decisions about what was the right information for her in that circumstance.

Is there something wrong with that picture? I think there is. We should leave the decisions in a crisis pregnancy, in a case where literally disaster occurs to the family, to the woman and her doctor, to her family, and to her God. For us to step in and say we are going to make medical decisions goes way too far.

The American College of Obstetricians and Gynecologists, representing 45,000 OB/GYNs, agrees:

> The intervention of legislative bodies in the medical decisionmaking is inappropriate, ill-advised, and dangerous.

I yield the floor.

Mr. SANTORUM. Madam President, if I may respond very briefly, there is no evidence in any record, nor did she give any testimony, that this was a crisis pregnancy. Second, there is ample testimony and overwhelming evidence that this procedure is never necessary for the life or health of the mother. It is never used in a 3-day procedure.

I won't go into great detail. That is the reason we have malpractice laws in this country. Doctors make very bad decisions and give bad advice to patients. It happens all the time. In this case, it happens with frequency. But there is dispositive, overwhelming evidence that the advice she was given was wrong. Because someone gives advice doesn't mean it is correct advice. She got bad advice and, unfortunately, it resulted in a heinous act being perpetrated in this case.

I yield 10 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I thank my colleague from Pennsylvania for yielding the time. This debate is about a very difficult and very important topic of our era and our day.

I believe a true mark of a civilized society is not the level of human dignity it confers upon the strong or wealthy, but a true mark is on how much it confers upon the vulnerable and the oppressed. Clearly an abortion procedure that dismembers and kills partially-born human beings has no place in a civilized society.

I think it is becoming increasingly clear that the impact of abortions on society is profound. I want to spend some time talking about the impact on society, particularly when you take such a risky procedure as this which is not necessary and allow it to continue within the context of this society today.

I ask unanimous consent to have printed in the RECORD some statistics of the Kansas Department of Health and Environment on partial-birth abortions, when they were being conducted in the State, and the reasons they were being done.

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

KANSAS DEPARTMENT OF HEALTH & ENVIRONMENT, CENTER FOR HEALTH AND ENVIRONMENTAL STATISTICS,

Topeka, KS, March 24, 2000.

DEAR INTERESTED PARTY: State statutes require physicians, ambulatory surgical centers, and hospitals to report abortions to the Kansas Department of Health and Environment. The law also requires physicians, who perform abortions, to report to KDHE the number of certifications received under the Women's Right-to-Know Act. These data are compiled by the Center for Health and Environmental Statistics, Office of Health Care Information.

The collection of these vital statistics reports for 1999 is now complete. This report is a summary of the preliminary analysis of that data. Additional analysis of the 1999 abortion data will be included in the Kansas Annual Summary of Vital Statistics.

This report also contains information the Legislature requires physicians to report regarding (a) abortions performed at 22 weeks or more and (b) ''partial birth'' procedures. Responses to each of the numbered questions in these two categories are included and tabulated.

Please feel free to contact me regarding any questions you have.

Sincerely,

LORNE A. PHILLIPS, Ph.D.,
State Registrar & Director,
Center for Health and Environmental Statistics.

SELECTED INCLUDED ABORTION STATISTICS, KANSAS, 1999

Selected statistics	Number	Percent
Total [1] induced abortions reported	12,421	100.0
Total [2] physician certifications reported	12,708	100.0
Residence of patient:		
Number of in-state residents	6,392	51.5
Number of out-of-state residents	6,029	48.5
Not Stated	.....	n.a.
Total Reported	12,421	100.0
Age group of patient:		
Under 15 years	114	1.0
15–19 years	2,622	21.1
20–24 years	4,149	33.4

SELECTED INCLUDED ABORTION STATISTICS, KANSAS, 1999—Continued

Selected statistics	Number	Percent
25–29 years	2,728	22.0
30–34 years	1,499	12.0
35–39 years	960	7.7
40–44 years	328	2.6
45 years and over	21	0.2
Not Stated [3]	.....	n.a.
Total Reported	12,421	100.0
Race of patient:		
White	9,044	73.0
Black	2,668	21.5
Native American	133	1.1
Chinese	100	1.0
Japanese	15	0.1
Hawaiian	3	0.0
Filipino	16	0.1
Other Asian or Pacific Islander	387	3.1
Other Nonwhite	17	0.1
Not Stated [3]	38	n.a.
Total Reported	12,421	100.0
Marital Status of Patient:		
Yes	2,472	19.9
No	9,921	80.1
Not Stated [3]	28	n.a.
Total Reported	12,421	100.0
Weeks Gestation:		
Less than 9 weeks	7,444	60.0
9–12 weeks	2,998	24.1
13–16 weeks	841	6.8
17–21 weeks	564	4.5
22 weeks & over	574	4.6
Not Stated	.....	n.a.
Total Reported	12,421	100.0
Method of Abortion:		
Suction curettage	10,650	85.7
Sharp curettage	2	0.0
Dilation & Evacuation	929	7.5
Medical Procedure I	.....	.....
Medical Procedure II	289	2.3
Intra-uterine prosta-glandin instillation	3	0.0
Hysterotomy	.....	.....
Hysterectomy	.....	.....
Digoxin-Induction	366	3.0
''Partial Birth'' Procedure	182	1.5
Other	.....	.....
Not Stated	.....	n.a.
Total Reported	12,421	100.0

[1] All reported, includes 26 Kansas resident abortions that occurred out-of-state.
[2] Occurrence data.
[3] Patient(s) refused to provide information.

Source: KDHE, Center for Health and Environmental Statistics, Office of Health Care Information.

''PARTIAL BIRTH'' PROCEDURE STATISTICS

Physicians reporting ''partial birth'' abortions were required to fill out three numbered questions on the back of the VS–213 form. Those questions and the answers are provided below for Kansas and out-of-state residents. The questions would be in addition to those filled out if gestation was 22 weeks or more. All data are occurrence. The data represent a full year of reporting. A sample VS–213 form is in the appendices.

Number of ''partial birth'' procedures:

Time period	KS residents	Out-of-state residents	Total
January 1–March 31	2	65	67
April 1–June 30	2	60	62
July 1–September 30	3	50	53
October 1–December 31	–	–	–
Total	7	175	182

17a) For terminations where ''partial birth'' procedure was performed, was fetus viable?

Answers	KS residents	Out-of-state residents	Total
Yes	7	175	182
Total	7	175	182

17b) Reasons for determination of fetus viability:

Answers	KS residents	Out-of-state residents	Total
It is the professional judgement of the attending physician that there is a reasonable probability that this pregnancy is not viable.	–	–	–
It is the professional judgement of the attending physician that there is a reasonable probability that this pregnancy may be viable.	7	175	182
Total	7	175	182

18a) Was this abortion necessary to:

Answers	KS residents	Out-of-state residents	Total
Prevent patient's death.	–	–	–
Prevent substantial and irreversible impairment of a major bodily function	7	175	182
Total	7	175	182

18a) If the abortion was necessary to prevent substantial and irreversible impairment of a major bodily function, was the impairment:

Answers	KS residents	Out-of-state residents	Total
Physical	–	–	–
Mental	7	175	182
Total	7	175	182

18b) Reasons for Determination of 18a:

Answers	KS residents	Out-of-state residents	Total
Based on the patient's history and physical examination by the attending physican and referral and consultation by an unassociated physician, the attending physician believes that continuing the pregnancy will constitute a substantial and irreversible impairment of the patient's mental function.	7	175	182
Total	7	175	182

Mr. BROWNBACK. I would just note, in citing this statistic, it has been cited previously, the statistical year we have available to us, 182 partial-birth abortions were done and reported within the State of Kansas. Of those, when they asked if the abortion was necessary to prevent substantial and irreversible impairment of a major bodily function, was the impairment physical or mental, they were asking, are you asking for this abortion, this partial-birth abortion to be done for physical reasons or for mental reasons, all 182 partial-birth abortions done in Kansas this year were for mental reasons. Zero were for physical reasons. The doctors conducting these, the patients doing it, said this is all for a mental reason.

The notion that some have put forward that there is not another physical option, that you are jeopardizing the physical health of the mother, the life of the mother by banning a partial-birth abortion procedure is certainly not borne out by the statistics in my State. You would think there should be at least one, maybe five that were for physical reasons of the mother. In our instance, in Kansas, where we require by law that partial-birth abortion be reported, and the reasoning, zero were for physical reasons. These were all for mental reasons that were put forward. I would hope we could put to rest the debate point about we have to maintain this procedure for the life of the mother, the health of the mother. Our experience in the State is that is simply not the reason. I am delighted to be able to provide that to my colleagues for the RECORD.

Regardless of your view overall on abortion, to have this grisly practice of partial birth continuing is something we should not have taking place. It is something we don't need to take place, and it does lead to a more callous society. That is the point I want to discuss, its overall impact on society. I hope we can step back a moment and philosophize a bit about what it does.

Aside from partial-birth abortion, it has become increasingly clear that the impact abortion has had on society is in itself profound. I am quite convinced the widespread acceptance of this brutal practice has already significantly coarsened public attitudes toward human life in general, particularly toward the most vulnerable in society, whether they are unborn or old or infirm. This coarsening of public attitude over the past several years has made other assaults against the dignity of humans and human life more acceptable and more accessible.

It is one of those slopes that you start down. If you say as a society, partial-birth abortion, we really don't like it that much but we will go ahead and let it take place, when you say it from a large legislative body such as this one, the Senate, the House of Representatives, to say we really don't care for it but we will let it take place, and we know what this procedure is and we know most of it, if not all of it, is on a choice basis of a mental concept, it is not on physical consequence for the mother, we know most of this is about a mental choice on the mother's part, and yet we are going to let this continue, what message does that send overall to society? What does it say to the country? What does it say to the world?

Does it make other assaults on human dignity possible? Euthanasia; assisted suicide; let's do embryo research; now let's clone human beings. We continue to move upon that path of saying the human being is not sacred; it is not precious; it is another entity; and we can countenance that such coarseness takes place, and it continues to move us on down that road.

Mother Teresa was quoted as once saying that ''if we can accept that a mother can kill her own child, how can we tell other people not to kill one another?''

That is a really good question she was asking. If we accept that a mother would do this, particularly a partial-birth abortion procedure, how can we tell other people not to kill one another?

We all have a duty, an obligation, as citizens of the United States to stand up against such a moral outrage as partial-birth abortion. Human life is sacred. It is a precious gift. Human life is not something to be disposed of by those with more power. One of the most extreme assaults against human dignity is made against some of the most innocent among us, whether from the first moments of life to the moments just before birth, a child continues in that point to be a precious

and unique gift, a gift never to be given or to be created again. It is given once. That is it. It seems therefore that in some measure this debate is about whether or not that child prior to birth is a child at all. Is this young human a person? Is it a child or is it a mere piece of property?

Some who support partial-birth abortion will argue this young human is not a person and can therefore be disposed of as property, as need sees. To me, this would be a ghastly concept. Elizabeth Cady Stanton, a lady whose statue is in this building, one of the women depicted in the portrait monument, foresaw this awful view of humanity, of human life. She wrote a letter to Julia Ward Howe in October of 1873 and said:

> When we consider that women are treated as property, it is degrading to women that we should treat our children as property to be disposed of as we see fit.

That is a quote from 1873. The Congress must speak out against this atrocity. We must speak out against this degradation of human life. These are life issues of enormous consequence, and they are issues by which history will rightly judge us.

I thank those who have brought the debate forward. I know everybody who has entered into it does so with deep convictions, deep desires to do what is right. I hope we would back up as a society and ask ourselves, what coarsening does this do to us; what message is this sending, and what are we really saying about that young human life? Is it a person or is it a piece of property? It is one or the other in our jurisprudence, it has to be. Everything in this building right now, everything in this country is either a person or a piece of property. I am a person; my clothes are property. The building is property. The people in here are personages. What is the young human? We have had this debate before. We really need to consider that that is a child. It is a gift.

I want to quote one more time Mother Teresa and her concern on this particular issue and this particular issue of abortion itself. I don't think anybody could question her bona fides for being willing to take care of the weakest and the poorest in society and in the culture overall and her willingness to work and her work being carried on of taking care of the most vulnerable in society. She said this one time about the whole issue of abortion. She spoke very passionately, clearly about this topic. She said:

> Many are concerned with the children of India, with the children of Africa where quite a few die of hunger and so on. Many people are also concerned about the violence in this great country of the United States. These concerns are very good. But often these same people are not concerned with the millions being killed by the deliberate decision of their own mothers. And this is the greatest destroyer of peace today—abortion which brings people to such blindness.

We are confronted with an issue that is difficult and has been in front of us before. We have a chance for the first time in a number of years to limit a particular ghastly abortion procedure. It has been adequately described over and over. This is the time. This is the place. This is the moment for the Senate to pass this bill, to pass it without amendment, to get it on through to the House and to the President, who will sign it into law. We can do something that really will send a right signal to society, a right signal overall to the culture, away from the coarsening and towards a life that does support a culture of life and not one of death.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mrs. MURRAY. How much time do we have remaining?

The PRESIDING OFFICER. The Senator from Washington has 19 minutes and 43 seconds remaining.

Mr. KYL. I would like to take 20 seconds.

Mrs. MURRAY. Off of your time, I would be happy.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I wanted to compliment the Senator from Kansas for his leadership on this issue, as well as the Senator from Pennsylvania for his leadership. While they have done the bulk of the discussion on this issue, they represent a lot of us who feel just as strongly about the issue. I want them to know how much those of us who haven't spoken appreciate their leadership in proposing this legislation.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Madam President, I yield 5 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, I want to take 5 minutes to thank my friend from Washington, Senator MURRAY, for her extraordinary leadership on women's health. The fact that this amendment is being debated is very encouraging to me, because when people stand up and say we want to prohibit a procedure that doctors tell us, OB/GYNs tell us is absolutely necessary in some cases in order for a woman to have her life saved or her health preserved, that is not something we should be doing here. We are not physicians; we are Senators.

What we would be doing is making sure that every woman in this country, when faced with a very difficult life-threatening or a health-threatening pregnancy can make decisions based on the best advice that she can get, the best science, because if we look at these families—and I have been showing these portraits of real women. This is a woman who, in her own words, said, ''I am a conservative pro-life Christian.'' Those are her words. She said, ''Abortion, to me, is something unthinkable.'' Yet she said in her own words, far more eloquent than mine, that had she not been able to have the procedure that my colleagues on the other side of the aisle want to ban, she might not have been able to bear another child. In fact, the possible health impacts of her not being able to have the procedure have been spelled out by physicians.

I am so happy to see my friend from Illinois in the Chamber because he is going to be offering an amendment to make sure that if this bad law moves forward, there is an exception, so that women won't hemorrhage, won't have uteruses rupture, won't suffer blood clots, won't have embolism or strokes, or won't suffer damage to nearby organs or have paralysis. Can you imagine us doing something that could lead to a woman—like this beautiful woman and the others I have talked about having to suffer one of those consequences—being ripped away from her family?

Mr. DURBIN. Will the Senator yield for a question?

Mrs. BOXER. I am happy to yield.

Mr. DURBIN. We had a conversation on the floor about another woman whose photograph is here, whom I met, Vikki Stella, from my home State of Illinois. We talked about the complications she faced. It was interesting to me that as I told her tragic story—I wonder if the Senator from California is aware of the fact—the Senator from Pennsylvania took the floor and said that, in his opinion, she did not face a medical crisis in her pregnancy. I wonder if the Senator from Pennsylvania or the Senator from California are aware of the fact that at 32 weeks in her pregnancy an ultrasound disclosed that her son had nine major anomalies, including a fluid-filled cranium with no brain tissue at all; compacted, flattened congenital hip dysplasia; and skeletal dysplasia; and hypertoloric eyes, and he would never have survived outside the womb.

I wonder if the Senator believes it is within our purview, within our authority and knowledge, to judge that that terrible outcome in a pregnancy was not a medical crisis.

Mrs. BOXER. My friend has put it in a very stark way—that what is happening in this Chamber, and as my friend, Senator MURRAY, has eloquently pointed out, as we are amassed to go to war in Iraq, as we have a building crisis in North Korea, as we have the worst economy I have seen in decades, what is on this floor is banning a procedure that your constituent—is she yours?

Mr. DURBIN. Yes.

Mrs. BOXER. That your constituent needed in order to spare her son horrific health consequences. And the fact that somebody would say that is not a crisis, when you have described the status of this pregnancy, is stunning to me. I know people around here have big egos. I don't doubt that. We all have——

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mrs. BOXER. I ask for an additional 3 minutes.

Mrs. MURRAY. I yield an additional 3 minutes to the Senator from California.

Mrs. BOXER. I know that most politicians—and we are all included—think we really know a lot, and we are really pretty smart, and we have to work hard at our jobs, and we feel confident and comfortable in our work, but when we start doing things such as this—outlawing a medical procedure that OB/GYNs tell us is necessary to preserve the health of a woman, and when we start telling women such as this woman here, and others I have shown, that they don't know what they are talking about, they were not in crisis, this isn't an emergency—I actually heard someone on the floor today say this isn't an emergency situation if it takes 3 days.

Well, let me tell you, it may take 3 days because of these complications that we are talking about. These are very complicated, difficult situations that are delicate. If it takes 3 days, it is because it is delicate.

I have to say, if we wind up banning this procedure—which, by the way, the way the bill as written is unconstitutional because the lawyers who have fought the previous case said it is legally identical to the case that the Supreme Court said was unconstitutional—and it is upheld because of a change in the Court, or whatever, we are going to find some tragedies that we are going to bring to the floor.

I don't want to see that day come. Doctors take an oath to do no harm. I wish we can take that same oath to do no harm. Roe v. Wade was a very important decision. It said in the first few months of a pregnancy, before viability, a woman has a right to choose what she wants to do with the pregnancy. That is Roe. After viability, we all support restrictions—but always with an exception for the life or the health of the mother.

This bill is so radical, it has no exception for health. The women I have brought to you have told me they could have suffered any one of these on this list of problems. How we can stand here on the floor, when physicians are telling us these are the problems—the hemorrhages, blood clots, strokes, paralysis—that could result If this particular method is banned, it seems to me we are doing harm. We are doing harm to the women of this country.

I would like to see us finish this bill. I would like to see these amendments pass. Senator MURRAY's amendment is so important. They are so important because what they will do if they pass and are signed into law is make abortion rare because it is talked about in every aspect of contraception being available to women. That is what we ought to be doing so we don't have to have this debate on abortion.

The PRESIDING OFFICER. The Senator has used her time.

Mrs. BOXER. I yield the floor at this time.

Mr. SANTORUM. Madam President, I ask the Senator from California this. She keeps making the statement and I want to make sure I give her an opportunity to substantiate this statement. The statement is made repeatedly that obstetricians and gynecologists around the country are saying that this is medically necessary to preserve the health of the mother.

Has one of those obstetricians or gynecologists submitted a circumstance by which this would be the case? And where have they said this is the case? I am asking. If the Senator from California is going to make a statement that obstetricians believe this is medically necessary to preserve the health of a mother, substantiate the statement.

For 7 years I have asked this question. Seven years. It has been asked at hearings and in a variety of different forums. I understand why the OB/GYN association opposes this ban because they do not like anything that criminalizes their behavior. I understand that. I am sure anybody who does behavior outside the bounds of morality and, therefore, potentially criminal, would like laws that do not stop them from doing what they want to do. I understand why people do not want constraints on their actions, but we have laws because we believe there are certain actions that are so morally reprehensible that we want to prohibit them and at which we want consequences directed.

Mrs. BOXER. Will the Senator yield for an answer to the question?

Mr. SANTORUM. I ask the question, as I have repeatedly: Provide for me an instance, a circumstance, a medical situation in which this procedure would be necessary to preserve the health of the mother. That is what I am asking. Give me a circumstance where this would be necessary and there would be no other procedures available. Give me a circumstance where this would be the best procedure.

Mrs. BOXER. I assume I am answering on my friend's time.

Mr. SANTORUM. If you can answer the question.

Mrs. BOXER. Yes, I would like to submit for the record a letter from the University of California, San Francisco, Dr. Felicia Stewart, in which she says very clearly that this bill:

> . . . fails to protect women's health by omitting an exception for women's health; it menaces medical practice with the threat of criminal prosecution; it encompasses a range of abortion procedures; and it leaves women in need of second trimester abortions with far less safe medical options: hysterotomy and hysterectomy.
>
> The proposed ban would potentially encompass several abortion methods.

She goes on:

> If the safest medical procedures are not available to terminate a pregnancy, severe adverse health consequences are possible for some women who have underlying medical conditions.

And she says here is what happened to them: Death, infertility, paralysis——

Mr. SANTORUM. Reclaiming my time.

Mrs. BOXER. Coma, stroke, hemorrhage, brain damage, infection, liver damage, and kidney damage.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. SANTORUM. Madam President, with all due respect to the Senator from California, she has not answered my question. That letter does not answer my question. I have asked not what could happen if abortions are not available. What I have asked is for a specific medical circumstance that someone can provide me where this procedure would be necessary to save the health of the mother.

In 7 years of asking that question, I have not gotten an answer. I think that is significant, that if this is so important, if Members of the Senate are going to come here and say this is medically necessary to protect the health of the mother, then they have to have evidence to support that statement. Saying that this limits options and saying potentially it could have adverse—give me a circumstance, give me a case.

The reason that no cases have been brought forward is because we have overwhelming testimony, dispositive testimony from physicians all across this country who say that it is never medically necessary, including the American Medical Association, which says this is a bad practice.

Take the cases that are being presented today. Vikki Stella. Did I say the pregnancy was not a crisis in the sense the child had multiple birth defects? Is that a crisis pregnancy? Of course it is in the sense that the child does not have a chance or very much of a chance to survive long after birth. But that is not what I said. What I said was it was not a medical crisis for the mother, and there is no evidence the mother was in any physical danger. I have gone through this personally as——

Mr. DURBIN. Will the Senator yield?

Mr. SANTORUM. Let me finish, and I will be happy to yield as I have continually. The fact that a child in utero is going through a crisis does not equate that the mother is going through a health crisis. There are lots of mothers of babies with multiple defects who carry that child to term or do things to try to help that child in utero survive. One does not equate to the other.

The case of Vikki Stella—and I am just reporting—I understand the fact she was carrying a child with multiple disabilities. My heart grieves for her and for all women who have to go through such difficult pregnancies. It is horrible to find out that a child you want may not live long after birth. It is as compelling a story as you can present to me. The point is, the answer does not have to be the death of the child.

Mr. DURBIN. Will the Senator yield for a question?

Mr. SANTORUM. I will be happy to yield for a question.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SANTORUM. Without losing my right to the floor.

Mr. DURBIN. The Senator is an accomplished legislator. He is an accomplished lawyer with good background and understanding, but he is not a medical doctor. In this case, her medical doctor said because of her diabetic condition and complications that the fetus she was carrying could not survive outside the womb, if she had a C-section to deliver this child, it would have put her life and health at risk. The Senator from Pennsylvania comes to the floor and says: No, I understand it better. I can make a better diagnosis. She was not at risk.

Mr. SANTORUM. I reclaim my time.

Mr. DURBIN. How can the Senator stand here and make a medical judgment on a person he has never seen?

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. SANTORUM. One, you make it sound like the doctor who diagnosed the fetal abnormality was the one who performed the abortion. In fact—I am reading her story—the diagnosis was made by a perinatologist and the abortion was performed by an abortionist in a clinic, not the same person.

Mr. DURBIN. What is the point?

Mr. SANTORUM. The point is that this is not done in hospitals. This is done in abortion clinics. This is not a procedure that was developed to protect the health of the mother. This was a procedure that was developed so the abortionist could do multiple abortions and do more of them at the same time.

The case we are laying out here—and by the way, we are arguing a case of where you have a fetal abnormality which, by the way, is less than 1 percent of the abortions that are performed.

Mr. DURBIN. Does the Senator make that exception in his bill?

Mr. SANTORUM. Excuse me, there need not be an exception, but you are arguing these compelling cases and they are compelling because they are talking about women going through very difficult decisions, but there is no medical reason to do this procedure. There are other procedures available and safer. There are better procedures for abortion available. I am not talking about C-sections, but other abortion procedures that are better.

Mr. DURBIN. Will the Senator please tell me what procedure would have been better for Vikki Stella?

Mr. SANTORUM. Look, this procedure is not done in hospitals. So all I suggest is there are other safer, peer-reviewed procedures that can and are used on a routine basis by a physician——

Mr. DURBIN. Will the Senator please tell me, since he said it was not a medical crisis, and she did not need this procedure——

Mr. SANTORUM.—which is a standard D&E, which is the most common late-term abortion performed at hospitals, taught in medical school, and peer reviewed. This is not RICK SANTORUM talking. This is not the Senator from Tennessee talking. This is a variety of obstetricians.

The point is, they are giving a reason for keeping this procedure legal that is a red herring. This procedure is not taught in hospitals. It is not performed in hospitals. It is not done by advanced perinatologists who run into difficult pregnancies. Why? Because it is not safe. Why? Because there are better methods.

What we are trying to do here is protect women's health. We hear so much passion here about protecting women's health. We have a procedure that has been demonstrably proven is dangerous to women's health; that there are other procedures that are safer.

Why are we not concerned about women's health when we want to keep a procedure legal that is unsafe? Are we really concerned about women's health, or are we really concerned about eroding, chipping ever so slightly at this oracle of abortion in America? This is trying to stop something that is unsafe for women, that is obviously brutal for children, and is simply not necessary to protect the health of a woman.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Washington.

Mrs. MURRAY. Madam President, I think this discussion shows exactly why this Senate should agree on the women's health amendment that is now before this body and that we will vote on in a few minutes.

Senator REID and I have said that the goal of all of us should be to reduce the number of unintended pregnancies so that this issue that is being debated does not have to be debated on the floor of the Senate; that this issue should be decided between a women and her doctor, her family and her faith.

I commend Senator REID for working with me on this very important amendment, and I yield 8 minutes of my remaining time to Senator REID.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, this amendment is to end insurance discrimination against women and improve awareness and understanding of emergency contraception, ensure that rape victims have information about and access to emergency contraception, and promote healthy pregnancies of babies by allowing States to expand coverage for prenatal and postpartum care. That is what this amendment is.

The debate that has been going on in the last few minutes has nothing to do with the amendment offered by the Senators from Washington and Nevada.

As I mentioned earlier today, the abortion debate has been a divisive one for our Nation for many years. We recognize the issue is not going to go away soon, but there is a need—and I thought we had an opportunity, and I hope we still do—to find common ground and to take steps toward a goal I hope we all share: Reducing the number of unintended pregnancies in America and reducing the number of abortions.

We put forth a good-faith effort to find common ground by offering commonsense solutions in our amendment. Instead of giving serious consideration to our amendment that would improve access to contraception and improve access to care for pregnant women, the other side has instead chosen to hide behind a technicality. That is what it is. If my friends on the other side of the aisle were serious about improving women's health, serious about improving access to contraception, and serious about reducing unintended pregnancies, they would not dismiss this amendment on a technicality.

When the Bush administration decided it would allow a fetus to be covered through the SCHIP program but it was all right to exclude the mother from coverage, we did not have the opportunity to dismiss this shameful and absurd regulation on a technicality. As a result, we are missing the opportunity to provide critical health care coverage for low-income women and their babies.

The sad irony of tonight's vote is that the measures contained in our amendment would actually save the country money. In fact, as the Washington Business Group on Health has found in its report ''Business, Babies and the Bottom Line,'' more than $6 of neonatal intensive care costs could be saved for every $1 spent on prenatal care, and low-birth-weight babies are 64 percent more likely to attend special education classes than normal-birth-weight babies. That is why the neonatologists came to see me, as I reported earlier today. They want women who have not had the opportunity to have prenatal care to have prenatal care. It saves the Government money.

Furthermore, an Agency for Health Care Research and Quality report has found 4 of the top 10 most expensive conditions in the hospital are related to care of infants with complications, respiratory diseases, prematurity, health defects, and lack of oxygen. All of these conditions can be improved and, in most cases, eliminated through quality prenatal care.

The same holds true for EPICC legislation that would improve access to contraception by requiring insurance plans which provide coverage for prescription drugs to provide the same coverage for prescription contraceptives.

The Washington Business Group on Health estimates that not covering contraceptives in employee health plans would cost 17 percent more than providing the coverage. It is a loser to vote against this amendment. If my colleagues are concerned about money—and that is what this technicality is all about—then vote with us because we are going to save the State, local, and Federal Governments money.

The Federal Employee Health Benefits Program, which has provided contraceptive coverage for several years now as the result of an amendment made on this floor, shows that adding such coverage does not make the plan more expensive.

This vote is not about money. If the other side were serious about improving women's health, serious about improving access to contraception, and serious about reducing unintended pregnancies, they would not dismiss this amendment on a technicality.

I hope people will vote their conscience, the conscience to help women have healthy babies.

Mrs. LINCOLN. Madam President, I support the prevention package amendment offered today by Senators MURRAY and REID to reduce the high rates of unintended pregnancy in our country as well as improve access to prenatal and postpartum care for pregnant women.

I urge my colleagues to support this commonsense approach to the health of women and their babies. If Senators really want to make our country a better place for babies, women, and their families, they should support this amendment.

Half of the 4 million pregnancies that occur in the United States every year are unintended. This amendment seeks to curb that trend by helping women better plan their pregnancies, improving knowledge of and access to contraception, and expanding insurance coverage for prenatal and postpartum care. If the provisions in this amendment were already law, I sincerely believe we wouldn't be here debating the underlying bill.

A recent report showed that abortion rates are at their lowest level since 1974. Most of this decline is attributed to women becoming better educated about how to care for their bodies. We are gaining greater access to safe contraceptive measures. That is the good news.

However, while there was an overall decline in abortion rates, the abortion rate among women of lower economic status actually rose. These women face greater barriers to contraception. To really reduce abortions in our country, we need to ensure that all women—poor and wealthy—have access to affordable and timely contraceptives.

This prevention amendment makes significant progress towards that goal. First, the amendment makes contraception more affordable for privately insured women, an important provision based on bipartisan legislation introduced by Senators SNOWE and REID. This provision establishes parity for prescription contraception by requiring private health plans to cover FDA-approved prescription contraceptives and related medical services to the same extent that they cover prescription drugs and other outpatient medical services. By making contraception affordable for working women and families, this provision takes a positive step forward in the effort to reduce abortions in our country.

Second, this amendment seeks to make women and health care providers more aware of emergency contraception, which is really just a specified dose of standard birth control pills that can be taken up to 72 hours after unprotected sex. Despite the potential for emergency contraception to drastically reduce unintended pregnancies and the need for abortion, it is underutilized and misunderstood. This amendment seeks to correct that. Emergency contraception is FDA-approved to be a safe and effective form of contraception, and it is often the only contraception option for women who have been raped.

Of the 300,000 women in our country who report rapes every year, 25,000 of them become pregnant. Women who have been raped deserve to be given information about emergency contraception when they seek medical help following their sexual assault. Rapes can happen at any time, day or night. Oftentimes, women are treated in hospital emergency rooms. This amendment also ensures that hospitals counsel raped women about their risk of pregnancy and offer them emergency contraception as an option. This policy is in line with emergency care standards established by the American Medical Association and could significantly reduce future abortions.

Lastly, I am glad that this amendment gives States the option of covering pregnant women in their Children's Health Insurance Programs. Based on bipartisan legislation we passed unanimously in the Finance Committee last summer, this bill allows coverage for prenatal care, delivery, and postpartum care. This provision could drastically improve the lives and health of thousands of women and children throughout our Nation.

The infant and maternal mortality statistics in this great country of ours are shocking. According to the Centers for Disease Control and Prevention, the United States ranks 28th in the world in infant mortality. We rank behind countries like Cuba and the Czech Republic. It is amazing to me that the United States lags far behind these nations in this area. Another shocking statistic from the CDC is that the United States ranks 21st in the world in maternal mortality. The World Health Organization estimates that the U.S. maternal mortality rate is double that of Canada.

When we are ahead of every other nation in almost every other arena, I am deeply saddened that we have not taken a course of action that would prove to the rest of the world that we truly do value life in this country, and that we want to do all we possibly can to ensure the healthy delivery of children, as well as the health of their mothers.

The fact is, we know how to address this problem. The solution lies in prenatal and postpartum care. Studies have shown that this care significantly reduces infant mortality, maternal mortality, and the number of low-birthweight babies. Prenatal care is also cost-effective. For every dollar we spend on prenatal care, we save more than 6 dollars in neonatal intensive care costs. Pre-term births are one of the most expensive reasons for a hospital stay in the United States.

I cannot emphasize enough the great opportunity we have here in the Senate to drastically improve the lives and health of women and babies in our country. We must allow States to cover pregnant women under SCHIP—the States want to do it, and the Federal government should give them the option.

I do not understand why anyone would stand in the way of common sense, practical solutions like the ones offered in this amendment. If my colleagues are serious in their quest to reduce abortions, they will support this amendment. Instead of debating the same bill we did 5 years ago—a bill that will ultimately be decided by the courts—let's do something proactive for our Nation's most vulnerable women and families. I urge all my colleagues to support this amendment today.

Mr. GRASSLEY. Madam President, I am aware that an amendment has been offered to the Partial-Birth Abortion Ban Act of 2003 that would provide coverage through the State Children's Health Insurance Program (S–CHIP) to pregnant women.

The amendment is similar to a bill that passed out of the Finance Committee last July. The bill providing health care to low-income pregnant women was never enacted in the 107th Congress. I support caring for low-income mothers and their unborn children. It is sound health policy.

It is a new Congress, and unfortunately, I can't support this amendment. This policy has not been properly debated in the 108th Congress.

Policies that alter our Nation's safety net programs deserve the Senate's proper attention. We must address policy changes to the safety net through regular order. By accepting this amendment, we are not allowing for this process to work.

Earlier this year, I worked with Senator NICKLES, Senator SNOWE and others to setup a process to address the need to redistribute unspent S–CHIP funds. Together we have set up a solid process to address S–CHIP redistribution through regular order.

I assure my colleagues that, as Chairman of the Finance Committee, I am willing to address pertinent S–CHIP issues in the near future and discuss the possibility of extending S–CHIP coverage to pregnant women.

Ms. MIKULSKI. Madam President, I rise in strong support of the Murray-Reid amendment. This amendment protects women's health. It makes abortions more rare—not more dangerous. It tries to find common ground.

I acknowledge the seriousness of this debate. My colleagues have raised troubling ethical issues about these grim and ghoulish procedures. But there are other equally troubling ethical issues at stake about who should decide how best to protect a women's health.

Proponents of the Santorum bill that we are debating deny that their legislation will have any consequences for women's health. They are wrong.

Denying women access to the abortion that could save their life and physical health is unconscionable—and unconstitutional.

A pregnant woman facing the most dire circumstances must be able to count on her doctor to do what is medically necessary to protect her from serious physical harm.

I want every woman who hears this debate to know: I am on your side. I will fight to protect your health.

That is why I am proud to support this amendment. It builds on my two decades of advocacy—to protect women's health, to give women access to appropriate medical treatments, and to make sure women are treated fairly and equally under the law.

When I was still a Congresswoman on the House side, there was study after study on how women were not included in the clinical trials at the National Institutes of Health (NIH).

Studies were being done with men only. One study examined whether aspirin decreases cardiovascular deaths on 22,000 men. A study on heart disease risk factors was conducted on 13,000 men—and not one woman. But the results of these studies were applied to both men and women.

What did this mean for women? Millions of men benefited from a study that found taking aspirin reduced their incidence of heart attacks. But since women weren't included in the clinical trial, we didn't know whether it would hurt us, help us, or have no effect.

This policy was unfair. It was harming women.

So one day, I called up Pat Schroeder, Connie Morella, and OLYMPIA SNOWE. We decided to go to NIH—to light a fire so they would take action.

It was a hot day in August. We pulled up in our cars, up to the curb at the front door of NIH. They knew we were there, they knew we were serious. They knew we were going to have a Seneca Falls on NIH if necessary. True story and the rest is history.

Within 1 month after that, working with TED KENNEDY, TOM HARKIN and the women of the House, there was an Office of Women's Health at NIH. NIH finally moved and I moved Congress.

We mow know that men and women often have different symptoms before a heart attack. We know that men and women have biological differences that must be studied and understood so women's symptoms can be recognized and treatments can be developed that are effective for both women and men.

Including women in clinical trials and making sure investments in biomedical research benefit men and women equally is about basic fairness.

This amendment is also about fairness. It includes the Equity in Prescription Insurance and Contraceptive Coverage Act (EPICC). EPICC requires health plans that cover prescription drugs to provide the same coverage for prescription contraceptives. 98 percent of workers with health insurance have prescription drugs benefits,but only 64 percent of workers have plans that cover birth control pills. Only 40 percent of workers have plans that cover all forms of contraceptives.

When health plans cover other prescription drugs but exclude the drugs that only women take, it is gender discrimination. It is wrong.

The Equal Employment Opportunity Commission (EEOC) agreed. I chaired a hearing of the Health, Education, Labor, and Pensions Committee on this legislation. The Committee heard testimony from Jennifer Erickson, a 28-year-old pharmacist from Seattle. Jennifer used this EEOC decision to take her employer to court. She won.

This was a landmark victory for women. But women should not have to sue their employers to get their health plans to treat them fairly.

That is why I am such a strong supporter of this legislation. EPICC protects every woman from illegal gender discrimination. It reaffirms our commitment to basic fairness for women under the law. It leaves medical decisions in the hands of women and their doctors—not legislators, and not insurance company bureaucrats. It expands access to contraceptives that help prevent unwanted pregnancies.

EPICC also builds on past successes. In 1998, I worked with Senators SNOWE and REID to require Federal Employee Health Benefit Plans that covered other prescription drugs to also cover prescription contraceptives. I have stood sentry in the Appropriations Committee to keep this promise to Federal employees.

Contraceptive equity for Federal employees was a downpayment. It created a model for employers—and other States—to follow, like my own state of Maryland. Maryland was the first state to pass a contraceptive equity law.

This legislation will make the final payment—so every woman can count on her health plan to treat her fairly and to cover her basic medical care.

This amendment also expands access to medical treatment for women by giving women who have been raped access to emergency contraceptives, and giving low-income pregnant women health insurance through the Children's Health Insurance Program.

The Murray-Reid amendment builds on past efforts to make sure every woman has access to the medical care she deserves. In 1990, I fought to make sure low-income women could get screened for breast and cervical cancer. Since this screening program started, over 1.5 women have been screened, more than 9,000 breast cancers have been diagnosed, and over 48,000 precancerous cervical lesions have been detected.

This screening program was a good start—but it left a serious gap. The program paid for women to get screened, but it did not pay the costs of treatment for women who were diagnosed with breast and cervical cancer through the program. Women were left to fend for themselves or rely on volunteers to provide free or reduced-cost treatment. I fought to change that.

In 2000—after years of effort—Senator John Chafee and I passed a law to give women who were diagnosed with breast and cervical cancer through this program access to the medical treatment they needed.

Let's continue to build on these efforts to make sure every woman has access to quality health care. Millions of Americans do not have access to health care, because they cannot afford health insurance. There are 267,000 women in Maryland without health insurance, 11 percent of Maryland women under age 65.

The Murray-Reid amendment will expand health insurance coverage. It includes legislation that I strongly support that allows states to expand their children's health insurance program to give pregnant women earning less than $17,000 a year access to the health care they need.

This amendment sends a message to women. I am on your side. I will fight to protect your health. I will fight to make sure you get treated fairly. I urge you to support it.

I am also here in support of the Murray-Reid amendment because it sends a message about the importance of prevention. This amendment will help prevent unwanted pregnancies—by expanding access to contraceptives through fair, equitable insurance coverage, guaranteeing that women who have been raped can get emergency contraceptives (ECs), and getting information to women and their doctors about ECs. It will prevent abortions.

Unlike this amendment, the Santorum bill that we are debating does not prevent a single abortion. It prohibits certain abortion procedures, but allows doctors to use other procedures in its place. The Santorum bill directs doctors to use other procedures that may be more dangerous to women. It is a hollow and ineffective approach.

Improving access to contraceptives makes sense. This amendment makes abortions more rare, not more dangerous.

Preventing unwanted pregnancies in the first place is something we can all agree on. People of good conscience and good will disagree on some of these difficult issues. I support commonsense ways to find middle ground. The Durbin amendment I will support is a commonsense approach to prohibit late-term abortions and protect women's life and health from serious harm.

There is too much at stake to angle for partisan advantage or to be driven

by narrow ideology. Let's work together to prevent abortions and protect the health and lives of American women. I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. How much time is remaining on both sides?

The PRESIDING OFFICER. The Senator from Washington has 5 minutes 48 seconds. The Senator from Pennsylvania has 38 seconds.

Mrs. MURRAY. Madam President, I state for all of our colleagues that we are going to vote in a few minutes on a very important amendment. We have heard a lot of rhetoric in the last few days saying that people care about women, care about women's health, care about the health of a child. I think what we all can agree on is that if we can help prevent unintended pregnancies and ensure access to health care coverage for low-income women, we have taken a major step forward in this country.

The Murray-Reid amendment we are going to vote on in a few minutes does several really important things. Today, in this country, in too many States, women do not have access to contraceptives simply because they are discriminated against by their insurance company.

What this amendment merely says is that it would prohibit those insurance plans from discriminating against contraception, so that women would not be denied the ability to make their own choices for their own family in their own homes with contraception that they can afford. I think this is something many Members agree on, many Members have supported, and it is a step in the right direction in this country for women's health.

Secondly, it provides emergency contraceptive education. It simply authorizes a $10 million education program to help people know and get information to women and health care providers on the availability and effectiveness of emergency contraceptives—again, preventing unintended pregnancies. It provides emergency contraceptives in the emergency room.

Senator REID spoke very eloquently this morning about a young woman who was raped, who had no knowledge of what she could do to make sure she would not have an unintended pregnancy as a result of the rape. This simply makes sure that emergency contraceptives are available in our emergency rooms so that victims of sexual assault can get the care they need and be taken care of without having to have an unintended pregnancy that would be devastating. This is something of which everyone in this Chamber can be supportive.

Finally, it expands the SCHIP and Medicaid Program to include low-income pregnant women. As we all know, the administration moved to make the fetus eligible under SCHIP but left out the woman. I find that reprehensible. I do not know how a woman's health can be separated from her fetus and one can say this procedure and this medical condition only applies to the fetus. For all of us who have been pregnant, we know that oftentimes when you are not feeling well, you are not sure why you are not feeling well. You cannot separate a woman from her womb when she is pregnant, and you cannot make that kind of coverage just for the fetus. You have to make sure the woman is healthy. That is what this amendment will do. I think it is something all of us can support.

What we have found this evening is that our colleagues on the other side, who have not spoken against this amendment because they do not want to speak against it, are hiding behind a budget waiver. To me, that is a technicality to hide behind. How can they go home and tell women that they are for women's health; that they are for making sure women have the opportunity to prevent unintended pregnancies so that we do not have these difficult choices on the floor of the Senate, and hide behind a budget waiver?

I tell all of my colleagues, a vote to waive the Budget Act is a vote to help prevent unintended pregnancies. It is a vote for women's health, a vote to make sure that women have access and the ability to make these choices for themselves.

I hope all of my colleagues will vote to waive the Budget Act so that we can put in place a bill that will allow women to make good choices for themselves that will allow them to be healthy and for their children to be healthy. Certainly, that is something on which we can all agree.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SANTORUM. Madam President, a couple of points on the Murray amendment: No. 1, this amendment puts conditions on the receipt of enhanced SCHIP dollars. In order to get the enhanced match, a State must first expand eligibility up to 185 percent of the Federal poverty level with the regular Medicaid match rate. In other words, we will force States which are already facing tough budgetary times—and they are pounding on our door because of the cost of Medicaid already—to expand Medicaid before they are able to receive the benefits of this enhanced match.

I do not think this is going to accomplish what they want to accomplish anyway. We are going through the process right now in the budget to deal with this issue. Senator NICKLES has already said this is going to be dealt with in the budget. We will have a full discussion about this next week. That is the proper place for this discussion, not on this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Washington.

Mrs. MURRAY. The Senate is about to vote on the Murray-Reid amendment. This is a prevention amendment. It is an amendment that supports women's health. If our colleagues choose to hide behind the technicality, that is their choice, but the American people want us to stand behind women's health. I urge my colleagues to support the motion to waive.

The PRESIDING OFFICER. The time has expired.

The question is on waiving section 207(b) of H. Con. Res. 68 of the 106th Congress as extended by S. Res. 304 of the 107th Congress. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FRIST. I announce that the Senator from Kentucky (Mr. MCCONNELL) is necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Florida (Mr. GRAHAM), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting the Senator from Massachusetts (Mr. KERRY) would vote ''aye''.

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

The result was announced—yeas 49, nays 47, as follows:

[Rollcall Vote No. 45 Leg.]

YEAS—49

Akaka	Dorgan	Lincoln
Baucus	Durbin	Mikulski
Bayh	Edwards	Murray
Bingaman	Feingold	Nelson (FL)
Boxer	Feinstein	Pryor
Byrd	Harkin	Reed
Campbell	Hollings	Reid
Cantwell	Inouye	Rockefeller
Carper	Jeffords	Sarbanes
Chafee	Johnson	Schumer
Clinton	Kennedy	Smith
Collins	Kohl	Snowe
Conrad	Landrieu	Stabenow
Corzine	Lautenberg	Warner
Daschle	Leahy	Wyden
Dayton	Levin	
Dodd	Lieberman	

NAYS—47

Alexander	Dole	McCain
Allard	Domenici	Miller
Allen	Ensign	Murkowski
Bennett	Enzi	Nelson (NE)
Bond	Fitzgerald	Nickles
Breaux	Frist	Roberts
Brownback	Graham (SC)	Santorum
Bunning	Grassley	Sessions
Burns	Gregg	Shelby
Chambliss	Hagel	Specter
Cochran	Hatch	Stevens
Coleman	Hutchison	Sununu
Cornyn	Inhofe	Talent
Craig	Kyl	Thomas
Crapo	Lott	Voinovich
DeWine	Lugar	

NOT VOTING—4

Biden	Kerry
Graham (FL)	McConnell

CHANGE OF VOTE

Mr. WARNER. Mr. President, on rollcall vote No. 45, I voted nay, and it was my intention to vote aye. Therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome.

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

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 47.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

The Senator from Illinois.

AMENDMENT NO. 259

Mr. DURBIN. Mr. President, I have an amendment which I will be offering. At this point, I am prepared to commence debate on the amendment. I see the majority leader in the Chamber. If there is no other business to come before the Senate this evening, I will just continue the debate on the issue before us.

I would like to bring the attention of my colleagues to an amendment which I will bring to a vote tomorrow afternoon. This is an amendment which I have prepared and offered with a number of cosponsors. I would like to acknowledge their support in offering this amendment with me. They include a bipartisan group of Senators who, frankly, are on different places on the political spectrum when it comes to the issue of abortion. This may be one of the only amendments to be offered which brings together people who don't see eye to eye, usually, on this issue. It is a good-faith effort on the part of myself and the cosponsors to bring this amendment forward in an effort to find a reasonable way to resolve an extremely difficult issue.

I have said in previous debates, and I repeat that those who are on both sides of the issue come to it in good faith. Anyone who is in political life knows this is not an issue on which you are ever going to win. When it comes to the issue of abortion, there are a substantial portion of Americans who believe very strongly against a woman's right to choose, and a substantial portion who strongly favor a woman's right to choose. No matter which position you take, you are bound to make some enemies.

What I have found is that between these two positions on the issue, you will find most Americans. And most Americans when pressed come to the following conclusion: They believe that we should keep abortion procedures safe and legal but make them as rare as possible, do not encourage them, have them available in extraordinary situations, but do not encourage them.

That is the nature of the amendment which I am offering tomorrow, an amendment which I hope goes to the heart of the issue before us.

We are debating what is known as the partial-birth abortion procedure. It has been graphically described during the course of this debate, and I am sure will be described again. It is one of the procedures that is used to terminate a pregnancy.

There are those, including medical doctors, who argue that there is no such thing as a so-called partial-birth abortion. This was a term created for political purposes and that, in fact, when you look at all of the various abortion procedures available, you won't find this one listed. Some have called this the D&X procedure, dilation and extraction. Others say, no, it is somewhat different.

The reason the definition of that procedure is important is that across the street from the Senate in the Supreme Court, they have thrown out State statutes that just refer to partial-birth abortion by saying that it is so vague, they can't reach a conclusion as to what the State legislature in that case intended.

We come in this general debate on partial-birth abortion to the same impasse. The procedure is not well defined. But the amendment I offer is not an amendment that focuses on this procedure. What I focus on with the amendment is all abortion procedures postviability.

That is an important distinction. What we are saying is that regardless of the abortion procedure you are talking about, I am looking at that period of time after it is medically determined that the fetus that the mother or woman is carrying is viable, could survive outside the womb. That was a critical distinction made in Roe v. Wade over 25 years ago. They said, when it comes to a case where that fetus could survive and is viable, only under the most extraordinary circumstances could you end a pregnancy, could you terminate with an abortion.

That is reasonable. My amendment says that all abortion procedures postviability, after the fetus is viable, are prohibited except in two specific instances. You can only terminate a pregnancy legally through an abortion procedure after the fetus is viable if the life of the mother is at stake—same thing as said by my colleagues offering S. 3—or a woman, if she continued the pregnancy, has a risk of grievous physical injury. I will explain these terms a little later.

We also go on to say that in order to determine whether that late in the pregnancy, after the fetus could nominally survive outside the womb, in order to determine whether a woman's life is at risk to continue the pregnancy, or if she faces a grievous physical injury if she continues that pregnancy, you need not one but two doctors to certify that. But a reason that the two-doctor certification is important is that arguments were made that the same doctor performing the abortion would happily certify that the woman is eligible for the abortion. I don't believe that, but the critics have raised that point.

To overcome that point, we have added the requirement for a second medical certification of a doctor who is not performing the abortion procedure—a doctor who will certify that continuing the pregnancy threatens the life of the mother, or would expose this mother to grievous physical injury.

Then we add a very tough section in the bill that says that doctors who certify need to tell the truth. If they falsify information to justify a termination of a pregnancy, they face not only substantial fines of $100,000 in the first instance, $250,000 in the second instance, but in either case, if they falsify information about whether a woman's medical condition qualifies her for a late-term abortion, they can lose their licenses to practice medicine. That is about as serious a penalty as you can impose on a doctor.

So when you look at the span of what this amendment will do, it, in fact, limits all late-term abortions, regardless of the procedure—limits all late-term abortions, only allowing them in two cases: where the life of the mother is at stake if she continues the pregnancy, or whether she faces grievous physical injury—which we define—if she continues the pregnancy. She needs two doctors to stand by her.

We create an exception for an emergency. A woman late in her pregnancy, whose life is at risk, may not be able to find a second doctor; and if she can have a certification that it is an emergency situation, the second doctor's opinion will not be necessary. But that is the only exception. I think this is a very strict approach. I think it is one that is reasonable.

There has been a lot said on the floor as to whether the partial-birth abortion procedure is ever medically necessary. I have said repeatedly in debate that I am not a doctor; I cannot reach that conclusion on my own. I have to turn to others for advice. The American College of Obstetricians and Gynecologists says it is never the only thing you can do, but in some cases it may be the most appropriate thing for you to do.

I have a statement of policy from the American College of Obstetricians and Gynecologists which restates their earlier position of 1997. I ask unanimous consent that this be printed in the RECORD at this point.

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

AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS,
Washington, DC, March 6, 2003.

Hon. BARBARA BOXER,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR BOXER: The American College of Obstetricians and Gynecologists (ACOG) reaffirms its Statement of Policy on Intact Dilation and Extraction, initially approved by the ACOG Executive Board in 1997.

Sincerely,

RALPH HALE, MD,
Executive Vice President.

Attachment.

ACOG STATEMENT OF POLICY

(As issued by the ACOG Executive Board)

STATEMENT ON INTACT DILATATION AND EXTRACTION

The debate regarding legislation to prohibit a method of abortion, such as the legislation banning ''partial birth abortion,'' and ''brain sucking abortions,'' has prompted questions regarding these procedures. It is difficult to respond to these questions because the descriptions are vague and do not

delineate a specific procedure recognized in the medical literature. Moreover, the definitions could be interpreted to include elements of many recognized abortion and operative obstetric techniques.

The American College of Obstetricians and Gynecologists (ACOG) believes the intent of such legislative proposals is to prohibit a procedure referred to as ''Intact Dilatation and Extraction'' (Intact D&X). This procedure has been described as containing all of the following four elements:

1. deliberate dilatation of the cervix, usually over a sequence of days;
2. instrumental conversion of the fetus to a footling breech;
3. breech extraction of the body excepting the head; and
4. partial evacuation of the intracranial contents of a living fetus to effect vaginal delivery of a dead but otherwise intact fetus.

Because these elements are part of established obstetric techniques, it must be emphasized that unless all four elements are present in sequence, the procedure is not an intact D&X.

Abortion intends to terminate a pregnancy while preserving the life and health of the mother. When abortion is performed after 16 weeks, intact D&X is one method of terminating a pregnancy. The physician, in consultation with the patient, must choose the most appropriate method based upon the patient's individual circumstances.

According to the Centers for Disease Control and Prevention (CDC), only 5.3 percent of abortions performed in the United States in 1993, the most recent data available, were performed after the 16th week of pregnancy. A preliminary figure published by the CDC for 1994 is 5.6 percent. The CDC does not collect data on the specific method of abortion, so it is unknown how many of these were performed using intact D&X. Other data show that second trimester transvaginal instrumental abortion is a safe procedure.

Terminating a pregnancy is performed in some circumstances to save the life or preserve the health of the mother. Intact D&X is one of the methods available in some of these situations. A select panel convened by ACOG could identify no circumstances under which this procedure, as defined above, would be the only option to save the life or preserve the health of the woman. An intact D&X, however, may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, and only the doctor, in consultation with the patient, based upon the woman's particular circumstances can make this decision. The potential exists that legislation prohibiting specific medical practices, such as intact D&X, may outlaw techniques that are critical to the lives and health of American women. The intervention of legislative bodies into medical decision making is inappropriate, ill advised, and dangerous.

Approved by the Executive Board, January 12, 1997.

Mr. DURBIN. Mr. President, we have a difference of opinion. Senator SANTORUM and others have said, wait a minute, we have doctor statements that say just the opposite. Some doctors and some doctor associations say this procedure is never needed, never necessary. Yet other doctors, such as the ones to whom I have referred, who do this for a living, say it may be the best thing to do. So when you have a difference of medical opinion, the obvious question is, Why would we, as a matter of law, come down on one side of this medical debate?

It is not unusual for a patient who is facing a serious medical decision to get a second opinion because sometimes doctors disagree. You have to decide as a patient, or as a parent of a patient, what is the right thing to do. To say we are only going to take one approach, one opinion, and that will be the law of the land is to foreclose medical options. To foreclose options in a case where there may be a medical crisis, a serious complication in the pregnancy, I don't think is a wise course of action. As visceral and emotional as this issue is, our responsibility is to step back and say let's deal with this honestly and deal with it in a way that we can defend in medical terms.

The bill before us bans only certain procedures and allows others to take place. Earlier, I had a conversation on the Senate floor with the Senator from Pennsylvania, Mr. SANTORUM, who is the lead sponsor. We talked about a particular case of a woman whom I have met from my State. She was the mother of two children. She was in her third pregnancy. Her husband, a businessman, had also been a practicing physician. She believed she was in a very normal pregnancy—until late, late, late in the pregnancy, the 32nd week, or 8 months into the pregnancy. She went in for an ultrasound because she had personal medical conditions they were worried about, and they determined by the ultrasound that the baby she was carrying had horrible birth anomalies and would not survive outside the womb, at which point her doctor said to her: If you go ahead with this pregnancy, normal labor in this pregnancy, or if you submit yourself to a C-section, it could be extremely dangerous. We recommend that you use the very procedure that is being banned by S. 3.

She tells the story of almost collapsing in the doctor's office when she learned this. She told me personally that she wasn't a person who supported abortion. She told many people she was opposed to it. Here she was facing a medical emergency with few choices. So she prayed over it, talked to her husband, and made the decision to go for this procedure.

The Senator on the floor, the Senator from Pennsylvania, Mr. SANTORUM, said she did the wrong thing. He has interposed his medical judgment, for what it is worth, and said she should have had a different form of abortion. I would not be so bold as to stand here on the floor and suggest that I can make that call or that decision. But it is interesting to me that, even being pro-life, he was saying she should have had an abortion procedure other than the one she chose.

The reason I raise that is that this amendment deals with all abortion procedures, not just one, not just the D&X, or the partial-birth abortion procedure, but all abortion procedures postviability. I think that is important to remember in what we are trying to achieve.

If your goal is to reduce the number of late-term abortions in America, this amendment I am offering today has a greater likelihood of reducing that number than the underlying bill, S. 3. There is no question about it because only a very small percentage of cases use the so-called partial-birth abortion procedure. In fact, this amendment deals with all late-term abortions, all postviability abortion procedures. It would actually reduce the number of abortions performed.

My amendment bans all postviability abortions regardless of procedure, unless ''the continuation of pregnancy would threaten the mother's life or risk grievous injury to her physical health.'' This exception is very important.

The Santorum bill violates a woman's constitutional right to have her health protected. If you will read S. 3—and I have read it—the biggest problem they have is that the language of the bill before us is virtually identical to a Nebraska statute that has already been rejected by the Supreme Court. The Senators who offer this believe that by passing this bill and putting in the findings of the earlier Supreme Court decision, that is good enough.

I don't think any student of constitutional law would agree with that. If the Supreme Court has reached the conclusion that this language fails to meet the test of Roe v. Wade, why in the world are we going through this exercise again?

I think it is better for us to consider my alternative because the substitute I am going to offer takes a different approach—I hope a better approach. The Santorum approach, S. 3, violates a woman's constitutional right to choose under Roe v. Wade. Don't take my word, take the word of the Supreme Court. That was their decision in the case involving the Nebraska statute with the identical language.

My amendment specifically protects a woman's constitutional right to choose before viability, before the fetus can survive outside the woman. That is an important distinction. Viability is, of course, a moving target. When Roe v. Wade was decided—I think the year was 1973—the last 3 months was considered the time that a fetus would be viable. Medical technology has made great leaps forward, and now there are fetuses that are viable even before the third trimester. So we say to use as a standard, as in Roe v. Wade viability in general, the trimester system. They said in Roe v. Wade that until the time the fetus is viable there are certain legal rights in this country. We protect them. Once viability is reached, those rights change and we start acknowledging the fact that the fetus has now become a potential human being at birth.

Roe v. Wade said we will define the laws of America based on viability. The amendment I offered does the same thing. The problem with S. 3—the reason this bill and versions have been

found unconstitutional repeatedly is they refuse to accept the basic premise of Roe v. Wade, the premise of existing law in this country.

They just will not acknowledge that you should have a law banning a certain procedure only after viability, which is why the Supreme Court rejected the Nebraska statute. Each time it is stricken because it would, in fact, restrict the right to abortion before viability, before the fetus could survive. Court after court has stricken down State laws that have followed S. 3, the Santorum model. Yet here we are again: same language, same outcome.

My amendment represents a good-faith effort to deal with this issue. It draws the line with two specific cases: where the continuation of the pregnancy would threaten the mother's life, or risk grievous injury to her physical health. That is it, grievous physical injury.

Here is why I believe this is reasonable. At this late stage in the pregnancy, seventh, eighth, or ninth month, I believe Roe v. Wade tells us we have to look at the pregnancy in different terms. We are now postviability. We are now in a circumstance where the fetus can survive.

In those circumstances, I say the only way legally you can terminate the pregnancy is if continuing it could threaten the mother's life or continuing it could subject her to grievous physical injury, which is defined in my amendment.

What does grievous physical injury include? What if you diagnosed a mother in the course of her pregnancy with serious cancer? And what if you found that continuing the pregnancy somehow compromised your ability to treat her for that cancer? My alternative retains the abortion option for mothers facing extraordinary heartbreaking medical conditions, such as breast cancer, discovered during the course of pregnancy.

It also allows for postviability abortions in cases of uterine rupture, which could leave a woman sterile, future infertility, or non-Hodgkin's lymphoma.

The two-doctor requirement is an important element, too. Some have said one of the objections is if you allow a doctor to certify a mother's life is at stake or she runs the risk of grievous physical injury if the pregnancy continues, you are playing right into the hands of the people who perform the abortions. I have heard this argument so many times. We have addressed it directly in the amendment.

I require a second doctor to certify. You have two doctors who come forward and say exactly what the conditions are to terminate a pregnancy. I also have a requirement that this can be waived in case of a medical emergency.

What risks do doctors take if they are falsifying this information? If they do not tell the truth that a mother's life is at risk, they face substantial fines and the suspension or revocation of their license to practice medicine. It could not be more serious.

There are two reasons to support my substitute amendment. One, it would actually reduce the number of abortions performed in this Nation and, two, because it has a health exception not contained in S. 3, the Santorum bill now under consideration, it is more likely to withstand the constitutional challenge and scrutiny across the street at the Supreme Court.

I am honored a number of my colleagues on both sides of the aisle have joined me as cosponsor of the amendment. I particularly note the presence of my friend and cosponsor, Senator COLLINS of Maine. Her colleague, Senator SNOWE of Maine, is also a cosponsor, as is Senator AKAKA, Senator BINGAMAN, Senator LANDRIEU, and Senator MIKULSKI.

As I said at the outset, it is the only amendment I know that will be considered in this debate which has the support of Senators across the spectrum on the issue of abortion:

those who consider themselves closer to a pro-life position, those who consider themselves closer to a pro-choice position. I think that speaks to the wisdom of the amendment. I hope my colleagues will consider that when the issue comes before us for a vote.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. I thank the Chair. I am going to address most of my remarks to the bill. I do not think the amendment has been offered yet.

Mr. DURBIN. I ask the Senator's indulgence for a moment. That is correct, I have not offered the amendment. If I might at this time offer the amendment and then yield to the Senator to continue his speech.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Ms. COLLINS, Ms. SNOWE, Mr. AKAKA, Mr. BINGAMAN, Ms. LANDRIEU, and Ms. MIKULSKI proposes an amendment numbered 259.

Mr. DURBIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Late Term Abortion Limitation Act of 2003''.

SEC. 2. BAN ON CERTAIN ABORTIONS.

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

''CHAPTER 74—BAN ON CERTAIN ABORTIONS

''Sec.
''1531. Prohibition of post-viability abortions.
''1532. Penalties.
''1533. Regulations.
''1534. State law.
''1535. Definitions.

''§ 1531. Prohibition of Post-Viability Abortions.

''(a) IN GENERAL.—It shall be unlawful for a physician to intentionally abort a viable fetus unless the physician prior to performing the abortion, including the procedure characterized as a ''partial birth abortion''—

''(1) certifies in writing that, in the physician's medical judgment based on the particular facts of the case before the physician, the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health; and

''(2) an independent physician who will not perform nor be present at the abortion and who was not previously involved in the treatment of the mother certifies in writing that, in his or her medical judgment based on the particular facts of the case, the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health.

''(b) NO CONSPIRACY.—No woman who has had an abortion after fetal viability may be prosecuted under this chapter for conspiring to violate this chapter or for an offense under section 2, 3, 4, or 1512 of title 18.

''(c) MEDICAL EMERGENCY EXCEPTION.—The certification requirements contained in subsection (a) shall not apply when, in the medical judgment of the physician performing the abortion based on the particular facts of the case before the physician, there exists a medical emergency. In such a case, however, after the abortion has been completed the physician who performed the abortion shall certify in writing the specific medical condition which formed the basis for determining that a medical emergency existed.

''§ 1532. Penalties.

''(a) ACTION BY THE ATTORNEY GENERAL.—The Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney specifically designated by the Attorney General may commence a civil action under this chapter in any appropriate United States district court to enforce the provisions of this chapter.

''(b) FIRST OFFENSE.—Upon a finding by the court that the respondent in an action commenced under subsection (a) has knowingly violated a provision of this chapter, the court shall notify the appropriate State medical licensing authority in order to effect the suspension of the respondent's medical license in accordance with the regulations and procedures developed by the State under section 1533(b), or shall assess a civil penalty against the respondent in an amount not to exceed $100,000, or both.

''(c) SECOND OFFENSE—Upon a finding by the court that the respondent in an action commenced under subsection (a) has knowingly violated a provision of this chapter and the respondent has been found to have knowingly violated a provision of this chapter on a prior occasion, the court shall notify the appropriate State medical licensing authority in order to effect the revocation of the respondent's medical license in accordance with the regulations and procedures developed by the State under section 1533(b), or shall assess a civil penalty against the respondent in an amount not to exceed $250,000, or both.

''(d) HEARING.—With respect to an action under subsection (a), the appropriate State medical licensing authority shall be given notification of and an opportunity to be heard at a hearing to determine the penalty to be imposed under this section.

''(e) CERTIFICATION REQUIREMENTS.—At the time of the commencement of an action under subsection (a), the Attorney General, the Deputy Attorney General, the Associate

Attorney General, or any Assistant Attorney General or United States Attorney who has been specifically designated by the Attorney General to commence a civil action under this chapter, shall certify to the court involved that, at least 30 calendar days prior to the filing of such action, the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney involved—

''(1) has provided notice of the alleged violation of this chapter, in writing, to the Governor or Chief Executive Officer and Attorney General or Chief Legal Officer of the State or political subdivision involved, as well as to the State medical licensing board or other appropriate State agency; and

''(2) believes that such an action by the United States is in the public interest and necessary to secure substantial justice.

''§ 1533. Regulations.

''(a) FEDERAL REGULATIONS.—

''(1) IN GENERAL.—Not later than 60 days after the date of enactment of this chapter, the Secretary of Health and Human Services shall publish proposed regulations for the filing of certifications by physicians under this chapter.

''(2) REQUIREMENTS.—The regulations under paragraph (1) shall require that a certification filed under this chapter contain—

''(A) a certification by the physician performing the abortion, under threat of criminal prosecution under section 1746 of title 28 that, in his or her best medical judgment, the abortion performed was medically necessary pursuant to this chapter;

''(B) a description by the physician of the medical indications supporting his or her judgment;

''(C) a certification by an independent physician pursuant to section 1531(a)(2), under threat of criminal prosecution under section 1746 of title 28, that, in his or her best medical judgment, the abortion performed was medically necessary pursuant to this chapter; and

''(D) a certification by the physician performing an abortion under a medical emergency pursuant to section 1531(c), under threat of criminal prosecution under section 1746 of title 28, that, in his or her best medical judgment, a medical emergency existed, and the specific medical condition upon which the physician based his or her decision.

''(3) CONFIDENTIALITY.—The Secretary of Health and Human Services shall promulgate regulations to ensure that the identity of a mother described in section 1531(a)(1) is kept confidential, with respect to a certification filed by a physician under this chapter.

''(b) STATE REGULATIONS.—A State, and the medical licensing authority of the State, shall develop regulations and procedures for the revocation or suspension of the medical license of a physician upon a finding under section 1532 that the physician has violated a provision of this chapter. A State that fails to implement such procedures shall be subject to loss of funding under title XIX of the Social Security Act.

''§ 1534. State Law.

''(a) IN GENERAL.—The requirements of this chapter shall not apply with respect to post-viability abortions in a State if there is a State law in effect in that State that regulates, restricts, or prohibits such abortions to the extent permitted by the Constitution of the United States.

''(b) DEFINITION.—In subsection (a), the term 'State law' means all laws, decisions, rules, or regulations of any State, or any other State action, having the effect of law.

''§ 1535. Definitions.

''In this chapter:

''(1) GRIEVOUS INJURY.—

''(A) IN GENERAL.—The term 'grievous injury' means—

''(i) a severely debilitating disease or impairment specifically caused or exacerbated by the pregnancy; or

''(ii) an inability to provide necessary treatment for a life-threatening condition.

''(B) LIMITATION.—The term 'grievous injury' does not include any condition that is not medically diagnosable or any condition for which termination of the pregnancy is not medically indicated.

''(2) PHYSICIAN.—The term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions, except that any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs an abortion in violation of section 1531 shall be subject to the provisions of this chapter.''.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

''74. Ban on certain abortions ..... 1531.''.

Mr. DURBIN. I thank the Senator.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I am proud today to join Senator SANTORUM from Pennsylvania and a large majority of my colleagues in support of S. 3, the Partial-Birth Abortion Ban Act of 2003. I urge my colleagues to join me in passing this bill.

Since the amendment has been laid down, I will ask my colleagues to join me in opposing the amendment that has been put forth. My colleague said the procedure is not well defined. Read the bill. Partial-birth abortion is the best description of what we are talking about: allowing a baby to come within a heartbeat of being born and then killing it.

I am also fascinated by this term ''viable fetus.'' I think that means a real baby. It is nice to phrase it in some other terms, but if it is viable, that is what we are talking about.

The argument is this is about health. No, it is not. This is about life and death, and that is why the bill speaks specifically to life. What we tried to do in framing this argument was to come up with the most definite situation where those who are in favor of abortion are separated from those opposed to abortion. It is pretty much that simple. There will be some efforts to try to bring it back a little more to the middle so people can put a little bit of a spin on their decision, but that is what this is about. That is why a procedure was picked that is not taught any longer; a procedure was picked that the American Medical Association said is not needed anymore. That makes it pretty clear.

You can add all the qualifications you want to it, but if you cannot oppose partial-birth abortion, then you must be in favor of abortion.

We are debating an issue that has an important bearing on the future of this Nation. Partial-birth abortion is a pivotal issue because it demands we decide whether we as a civilized people are willing to protect the most fundamental of rights: the right to life itself.

If we rise to this challenge and safeguard the future of our Nation's unborn, if we make this statement, we will be protecting those whose voices cannot yet be heard by the polls and the surveys and those whose votes cannot be weighed in the political process. If we fail in our duty, we will justly earn the scorn of future generations when they ask why we stood idly by and did nothing in the face of national infanticide.

Opponents have argued this procedure is necessary in some circumstances: to save the life of the mother or to protect her health or future fertility. These arguments do not have foundation in fact.

First, this bill provides an exception if the procedure is necessary to save the life of the mother and no alternative procedure could be used for that purpose. Moreover, leaders in the medical profession, including former Surgeon General C. Everett Koop, have stated unequivocally that partial-birth abortion is never medically necessary to protect a mother's health or her future fertility; on the contrary, this procedure can pose a significant threat to both.

A coalition of over 600 obstetricians, perinatologists, and other medical specialists have similarly concluded there is no sound medical evidence to support the claim that this procedure is ever necessary to protect a woman's future fertility.

These arguments are offered as a smokescreen to obscure the fact that this procedure results in taking an innocent life at the moment of birth.

The practice of partial-birth abortion has shocked the conscience of our Nation and it must be stopped. Even the American Medical Association has endorsed this legislation. In a letter to the chief sponsor of this bill, Senator SANTORUM, the American Medical Association explained:

> Although our general policy is to oppose legislation criminalizing medical practice or procedure, the AMA has supported such legislation where the procedure was narrowly defined and not medically indicated. The Partial-Birth Abortion Ban Act now meets both of these tests. . . . Thank you for the opportunity to work with you towards restricting a procedure that we all agree is not good medicine.

I have based my decision on every bill that has come before this body on what effect it will have on those generations still to come. We in the Senate have deliberated about what steps we can take to make the society a better place for our families and the future of our children. We, as Senators, will cast no vote that will more directly affect the future of our families and our children than the vote we cast on this bill.

When I ran for office, I promised my constituents I would protect and defend the right to life of unborn babies.

The sanctity of human life is a fundamental issue on which we as a nation should find consensus. It is a right that is counted among our unalienable rights in our Nation's Declaration of Independence.

We must rise today to challenge what has been laid before us to protect innocent human life. I urge my colleagues to join me in casting a vote for life by supporting the Partial-Birth Abortion Ban Act.

All of us in this body have had significant life experiences that have helped to shape our political philosophies. Eight years ago I had a torn heart valve and I was rushed to the hospital for emergency surgery. I had never been in a hospital except to visit sick folks. It was a tragic surprise to me. I am impressed with what they are able to do, but I have also been impressed with what doctors do not know, and that is not a new revelation for me.

Thirty-one years ago, my wife and I were expecting our first child. One day early in the sixth month of pregnancy my wife started having some pains and contractions. We were so new to the game we did not even know what that was, but fortunately she had a visit to the doctor scheduled that same day. I took her there and I went back to work. Then I received a call from the doctor who said: You need to come down here, too.

That is never good news when the doctor tells you to come to the doctor's office.

I went down there and the doctor said: You may have a baby right now. We know it is early, 3 months early, and that does not bode well. We will try to stop it and we can probably stop it.

Well, they could not. The baby came that night and weighed just a little over 2 pounds. I wanted to know what the doctor was going to do. The doctor said: Well, we will just have to wait until morning and see if she lives—not exactly the kind of medical technology and knowledge that one wants somebody to have about a baby.

He admitted that he did not have any control over it. It was in our hands at that point in time. We sweated through that night. I could not believe that the doctors could not stop a premature birth. Then I could not believe that they could not do something to help the newborn baby. Until someone sees one of these babies, they will not believe what a 6-month-old baby looks like. At the same time my wife gave birth to this 2-pound baby, a friend of ours gave birth to a 10-pound baby. This was a small hospital in Wyoming. They put them side by side. It was a tremendous contrast. Some of the people viewing the babies said: Oh, look at that one. Looks like a piece of rope with some knots in it; too bad.

We were watching her gasp and struggle with every breath. We watched the whole night to see if she would live, and we prayed.

The next day we were able to take this baby to a hospital that provided excellent care. She was supposed to be flown to Denver where they have the best care in the world for premature babies, but it was a Wyoming blizzard and we could not fly. So we took a car from Gillette, WY, to the center of the State to Wyoming's biggest hospital to get the best kind of care we could find. We were supposed to be going down in a four-wheel drive ambulance but we wound up going in an Edsel. They thought there might be a bigger medical emergency in the county so they could not get the four-wheel drive. I can say I thought the biggest emergency in the county was my daughter.

On the way down, we ran out of oxygen. We noticed a whole bunch of highway patrolmen going the other way. When we got to the hospital, we asked if there had been an accident, and they said, no, that they were looking for a premature baby who should have gotten to the hospital quite awhile ago. I said: Well, that was us.

We did receive exceptional care, but the doctor's words when we first talked to him at that hospital were: Well, another 24 hours and we will know something. Another 24 hours before we could do anything.

After those 24 hours, there were still several times when we went to the hospital and there would be a shroud around her isolette. We would knock on the window. The nurses would come over and say: It is not looking good. We had to make her breathe again. One time when they said, have you had the baby baptized, that is kind of the ultimate of dropping your heart in your shoes.

We had had the baby baptized in the first few minutes after birth using some water in a coffee cup from the kitchen of the hospital. A minister had come over and done that. We did learn from the nurse that they had no records of ever having lost a baby who had been baptized. But that child worked and struggled to live. Feeding was a major procedure. Losing the ability to get blood through the navel was a major procedure. She was 3 months premature, did not have any gristle in her ears. They flopped over. That had to be a part of the procedure yet that would come with growth.

We went through 3 months of waiting to get her out of the hospital. Every step of the way the doctor said: Her ability to live is not our duty. It gave me a whole new outlook on life, and now I want to tell everyone the good news. The good news is that the little girl who struggled so hard to live, who would be considered barely viable by most people who perform abortions, is now an outstanding public school principal in Chugwater, WY; population, 256; enrollment, 126 kids, kindergarten through 12th grade. She is doing a marvelous job. She has taught school for several years.

That does not mean she came out of this problem free. She was very lucky. There was a hum in that isolette that was sometimes covered up, and that hum wiped out a wide range of tones to her. So she cannot hear the same way that you and I do, but, oh, can she read lips, which in a classroom is really a very good thing for a teacher to be able to do. Even after they know she can read lips, they usually test her with it.

This experience has given me an appreciation for all life, and it continues to influence my vote now and on all issues protecting human life.

I have come to know what an incredible thing that is as I watch some of life's situations. For instance, death row, how come those people do not want to die? It is not common to life.

I watch these young babies. They want to live. They struggle with every fiber of their being to live. It is an incredible struggle—one we do not see in kids who come to term or kids as they grow up—when they have no meat on their bones and lungs that are underdeveloped and fingernails that have not come on yet. It is an incredible struggle that gives a new appreciation of life. It is such a miracle that we have to respect it. We have to work for it every single day in every way that we can.

I think this bill will help that effort. I think this bill will bring a little conscience, a little consideration, and a whole lot of thought to this country. It is something we have needed and we do need and we will need for the future of our kids.

I yield the floor.

Ms. COLLINS. Mr. President, I rise in support of the amendment offered by my friend and colleague from Illinois, Senator DURBIN, to ban all late-term abortions, including partial-birth abortions that are not necessary to save the woman's life or to protect her physical health from grievous harm.

This debate should not be about one particular method of abortion but, rather, about the larger question of under what circumstances should late-term or post-viability abortions be legally available. Let me be clear from the outset that I am strongly opposed not just to partial birth abortions, but to all late-term abortions. I agree they should be banned.

Such a ban, however, must have an exception for those rare cases when it is necessary to save the life of the woman or to protect her physical health from grievous harm. Fortunately, late-term abortions are extremely rare. In my state, according to the Maine Department of Human Services, just five late term abortions have been performed in the last 20 years.

Our amendment goes far beyond, in many ways, what the Senator from Pennsylvania is attempting to accomplish. His legislation would only prohibit one specific form of abortion. In fact, the bill he supports would not prevent a single late-term abortion. Let me emphasize that point. The partial-birth legislation before us would not prevent a single late-term abortion. A

physician could simply use another, perhaps more dangerous, method to end the pregnancy.

By contrast, Senator DURBIN's proposal would prohibit the abortion of any viable fetus by any method unless the abortion is necessary to preserve the life of the woman or to prevent grievous injury to her physical health.

Those of us who have worked with Senator DURBIN on this amendment have taken great care to tightly limit the health exception. Grievous injury is limited to physical health. It is defined as a severely debilitating disease or impairment specifically caused or exacerbated by the pregnancy or an inability to provide necessary treatment for a life-threatening condition.

The Maine Medical Association has said that when ''a pregnant woman develops a life or health-threatening medical condition that makes continuation of the pregnancy dangerous, abortion may be medically necessary. In these cases, intact dilation and evacuation procedures may provide substantial medical benefits or, in fact, may be the only option. This procedure may be safer than the alternatives, maintain uterine integrity, reduce blood loss, and reduce the potential for other complications.'' That is what the experts the doctors are telling us.

Senator DURBIN's amendment also includes a very important second safeguard. If the treating physician determines that continuation of the pregnancy would threaten the woman's life or risk grievous injury to her physical health, before the abortion could be performed, a second opinion, in writing, must be obtained from an independent physician. This second opinion must come from a physician who would not be involved in the abortion procedure and who has not been involved in the treatment of the woman.

Unlike the pending bill, which I believe is unconstitutional, the Durbin amendment is consistent with the U.S. Supreme Court's 2000 decision in Stenberg v. Carhart. In Stenberg, the Court struck down Nebraska's partial-birth abortion ban statute because it lacked any exception for the preservation of the health of the woman. The Court reaffirmed its earlier decisions in Roe v. Wade and Planned Parenthood v. Casey that abortion regulation must include an exception where it is ''necessary, in appropriate medical judgment, for the preservation of the life or health of the woman.''

The Durbin amendment is a fair and compassionate compromise on this extremely difficult issue. It would ensure that all late-term abortions—including partial-birth abortions—are strictly limited to those rare and tragic cases where the life or the physical health of the woman is in serious jeopardy. This amendment presents an unusual opportunity for both ''pro-choice'' and ''pro-life'' advocates to work together on a reasonable approach, and I urge our colleagues to join us in supporting it.

I yield the floor.

Mr. SANTORUM. Mr. President, I rise in opposition to the Durbin amendment. The Durbin amendment is virtually identical to the amendment we voted on 3 years ago, I believe it was. It adds simply nine words at the beginning of the amendment. It says:

> It shall be unlawful for a physician to intentionally abort a viable fetus unless the physician prior to performing the abortion——.

And then adds these words——

> including the procedure characterized as a partial birth abortion.

And then it goes on. The only difference between that amendment and this amendment are the words ''including the procedure characterized as partial-birth abortion.'' So all of the operative language that seeks ostensibly to ban certain abortions is the same.

What are the problems I have, and hopefully the majority of Senators have with this ban? No. 1, it only limits—the partial-birth abortion amendment is limited to postviability abortions. As we have discussed here over and over, the fact that babies who are delivered in a partial-birth abortion, partially delivered, are of gestational age that is in excess of 20 weeks and would otherwise be born alive, that doesn't necessarily mean that they would necessarily survive long-term or ''be viable.'' Viability means not that they wouldn't be born alive, but they would have a reasonable chance of survival. That is a very subjective thing. There is no definition of viability, no standard set in this legislation, and it is purely the abortionist's determination as to whether the child being aborted is viable or not.

We have survival rates of infants born at different gestational ages. Senator FRIST, earlier today, went through some of those. I will review them.

Prior to 23 weeks, a child being delivered at that time has a small chance. There are probably single digits or less at 21 weeks; 22 weeks maybe high single digits. I don't have those numbers but that is my recollection from years past debating this.

When we get to 23 weeks, you have a survival rate of about a third; 24 weeks, two-thirds; 25 weeks, almost three-quarters; 26 weeks, 90 percent. But in each one of these cases, even though there are increasing survival rates, you have a great deal of subjectivity of an abortionist being presented with a baby to determine whether this baby in utero is viable. It is purely subjective. All the physician has to say is: Well, I don't think it is viable. So this just doesn't apply. There is no ban at all.

Since most partial-birth abortions are in the 20-to-26 week range, there is ample opportunity, ample opportunity for the doctor to say in every instance: Well, I just didn't think it was viable.

There is no penalty. There is no criminal sanction. There is no peer review. There is nothing. So this is a ban without a ban because it leaves it completely to the subjectivity of the physician to determine viability.

But that is only half the problem. The other half of the problem is these words. It says:

> It shall be unlawful for a physician to intentionally abort a viable fetus unless the physician prior to performing the abortion, including partial-birth abortion, certifies in writing in the physician's medical judgment, based on the particular facts of the case before the physician, the continuation of the pregnancy would threaten the mother's life——

Hear the operative words——

> or risk grievous injury to her physical health.

Substantial risk? A little risk? One percent risk? Half of 1 percent risk? Is it .00001 percent risk? Risk is not defined and risk can mean any risk. It can mean the slightest risk.

As Dr. Warren Hern, who is the author of the standard textbook on abortion procedures back in May of 1997, said in response to a question on this amendment: ''I say every pregnancy carries a risk—'' not just of grievous physical injury—''of death.''

Every pregnancy carries a risk of death.

> I will certify that any pregnancy is a threat to a woman's life and could cause grievous injury to her physical health.

He was talking about life and death. We are talking about her physical health, grievous injury to her physical health. That is the second part.

The fact is, risk not being defined is the open door. The analogy was made by someone that if you have a law that says no dog may be shot except where there is a risk that the dog in question may bite, then any dog can be shot because there is always a risk a dog is going to bite.

Any abortion can be performed because there is always a risk. Since we don't quantify the risk, since we don't define the risk, risk is whatever a doctor wants it to be. I bet you will not find one obstetrician, and certainly not one abortionist, who will make the claim that there is no risk associated with the continuation of a pregnancy. It is by definition a risk to the mother.

The most healthy pregnancy involves some element of risk. So this amendment—I am not questioning the intent of the Senator from Illinois. I know he went at this and worked, together with the Senator from Maine and others, to try to come up with a good-faith attempt to put a bill together that would be effective. But this doesn't do it. This simply leaves open both the issue of viability and who determines it. There is no peer review, no second-guessing to the abortionist, and then risk as an open question meaning any amount of risk.

I believe you will not find any doctor who will say there is not a risk. Of course, there is a risk.

The point is not risk, the point is, Is this procedure medically necessary? I keep coming back to this issue over and over again. Please present me with a case, with a case, a factual circumstance where this procedure would

be medically necessary and where other abortion procedures could not do, not just as good a job, but a better job. Every health organization out there that I am aware of has said this is bad medicine, this is not practiced, this is not used to protect the health of the mother.

We keep trying to grab for a health-of-the-mother exception when the health of the mother is not at issue here. If we were concerned about the health of the mother, then we would not be doing the procedure. We would not be allowing a procedure that is unhealthy; that takes a mother who obviously is under some duress or she wouldn't be at an abortion clinic. She is under some either mental or physical or some sort of angst that she wants to terminate her pregnancy. This is not a decision that people come by easily.

What the doctor in the case of a partial-birth abortion does is give her a pill and send her home for 2 days. Come back to me in 2 days. And we have cases that we are aware of, the Senator from Ohio spoke about this yesterday, where children have been delivered in the interim because the cervix dilated too quickly, too much, and the baby was delivered. In one case that we are aware of the baby lived. But they send these mothers home for 2 days.

The doctor who designed this procedure said the reason he designed this procedure is because it only takes 15 minutes out of his day to do and the other abortions that are peer reviewed, that are taught in medical schools, that obstetricians and gynecologists do—not that physician who is not an obstetrician who came up with this procedure or most of the practitioners, if not all of them that I am aware of who do this procedure, to my knowledge, I am not aware that any are obstetricians. I could be wrong on that but the ones who have come before the Congress, the ones I have seen cited in articles and testimony who have done these, none of them have been obstetricians. They are abortionists who make money doing abortions. And they came up with a great way to make more money, to get patients in and out quicker.

That is great for them, but it certainly does not take into much account the health consequences to women. If you look at the AMA, and every physician group that has come forward, none of them are seeing this is superior medicine. None of them say this is to the benefit of women's health.

I hear so many of my colleagues talk about women's health, women's health, women's health. Where are they when we are trying to ban a procedure that is contraindicated for the health of women? Where there are other, safer, better procedures that are available for the health of women, and yet they stand foursquare against women's health, foursquare for the option that is the most dangerous. And it is never medically necessary. So you have to ask yourself a question. If you have a procedure that is the most dangerous procedure and that is the most unhealthy for women, why would you continue to support it if it is not medically necessary? Not one case has ever been voiced at any hearing or in any debate on the floor of the Senate or on the floor of the House. One has come forward and said: This is why. Here is the case. This is why this is the best procedure. No one—no doctor, no Senator, no Congressman, no layperson—has come forward and said, this is it, this is the reason. So we have no medical need.

But we do have overwhelming definitive evidence that this procedure is the most dangerous to the health of women. Yet there are those who will come to the floor and proclaim their allegiance to improving women's health who want this procedure made legal for the people who designed it so they can make more money doing abortions in 15 minutes as opposed to 45 minutes—and do it in a way that is just brutal.

This is another quote from Dr. Hern:

> I have very serious reservations about this procedure. You really can't defend it. I would dispute any statement that this is the safest procedure to use.

This is an abortionist who wrote the textbooks on abortions. He authored the textbooks on abortion procedures. He does late-term abortions regularly. He is the expert. He continues to do them. What professional in the field says you can defend it? Why would people come to the floor of the Senate to defend the procedure that is indefensible, that is never going to be necessary, and that is harmful to women? Why? Why would you do that? Because you want to create options. Why would you want to create an option that is harmful to women?

I understand people come in all the time saying we can't restrict the doctors. Of course you can restrict the doctors if what they are prescribing is harmful and if there are safer procedures to use. We darned well better proscribe it. We have to. We have an obligation to.

You have folks who are abortionists saying you can't defend it. Yet here we are defending it. Why? Why are some Members so dug in to protect a rogue procedure that brutalizes and executes a child 3 inches away from constitutional protection?

I had a debate several years ago on this issue. If a child was somehow delivered—3 inches from the crown of the baby's head, from the nape of the neck to the crown of its head—had actually gone through the cervix and the child was separated from the mother, they wouldn't argue that you then could kill the child. What is it that would allow this procedure?

You heard the Senator from Tennessee, Mr. FRIST, talk about all of the complications and all that could go wrong with the blind procedure in an area of the woman's body that is very susceptible to injury, and where these other abortions are performed under controlled conditions with sonograms and you can see everything that is going on. In this case, it is a blind procedure with a sharp instrument in an area that is very vulnerable to injury. Why? Why would people continue to defend a harmful procedure, the least safe procedure done only by abortionists, only in abortion clinics, not taught by schools and not done by obstetricians? Why? To protect women's health? No. For medical necessity? No. Why? That is a question I think needs to be answered.

What is so sacred here? What is so valued? What is it that is very deep inside this opposition, that is so important that we are willing to risk the health of women who are told by their doctors this is safe and who listen? The doctor-patient relationship is important. There is a sanctity to it. But you know what. Not every doctor lives up to that.

Many of the people who come here and argue for partial-birth abortion will be here in a few weeks arguing that doctors aren't worthy in many cases of our support and are against medical malpractice. These doctors who do bad things to patients should be hammered. What about these doctors who perform indefensible procedures that risk the health of women? Why aren't we going after them? Why are we protecting them? What is it? What is it that is so important that we are going to risk women's health when there is no medical necessity to do this? Where? It is contraindicated.

We know the answer to that question, don't we? We can't even come close. We can't even approach abortion as a right in this country because it is the supreme right. Anything that even approaches mentioning the word ''abortion'' irrespective of the consequences to women, God knows irrespective of the consequences to the children, we simply preserve this right above all rights.

OK. Maybe we have to argue for a procedure that is dangerous. Maybe we have to argue for a procedure that is going to hurt women. Maybe we have to argue for a procedure that is never medically necessary. Maybe we have to argue for a procedure that is not done by obstetricians even though we are talking about obstetrics here. We have to bite the bullet on this. Yes.

But do you know what. We are going to keep the barbarians away from the gates. We are going to keep these people away from this absolute right of abortion. Whether it costs a few women their lives, or it costs the health or reproductive future of women, you know, it is worth it. We can't erode this right.

That is what it is all about. That is what it is all about. It is not about women's health. There is not one physician in this country who has come and testified that this is about women's health because it is not. The AMA says it is not. The obstetrician organizations say it is not. No one argues

that this is the best procedure. The expert on third-term abortion said it. He is on this side of their issue, by the way. But at least he will make the claim that he is for women's health, and he will do so honestly, which is something that has not been done by many of the outside ''experts'' who have argued to keep this procedure legal.

I have chart after chart. I will bring them out later. I have six charts going through the history of partial-birth abortions and showing the absolute fabrication put forth by those against this ban.

Oh, the anesthesia would dull the pain. Then another person testified that the anesthesia and the cervical block would kill the baby and there wouldn't be a live delivery. The anesthesiologists around the country went into panic. Women were hearing about it and they would be afraid with their delivery if they took anesthesia—that there would be a cervical block and their child would die. They had to backtrack from that.

The list is long. The facts stand. The reason this bill has gotten over 60 percent of the Senate, when probably 40 to 45 percent of the Senate is pro-life, is because this is, as the doctor from Colorado said, an indefensible procedure.

So why? Why are we here? We are here because the Supreme Court defended the indefensible. They defended the indefensible. We have responded to the Supreme Court.

I hope the Justices read this RECORD because I am talking to you. I want you to read every time over the last few days where I asked somebody to come forward with a health exception, where there is a medical necessity for the health of the mother to use this procedure. Read it. Observe the silence. I understand the Justices' feelings on the issue of abortion. It is evident from your decisions. It is obvious from your position. But you can't ignore the facts. Don't ignore the facts, because they are clear. They are as clear as the sound of the people coming forward with their examples. It is crystal clear. There is no sound and there is no reason for a health exception. Take the obligation you have seriously because I can tell you, the Members of this body do. We take our constitutional obligations dead seriously. The weight of evidence is not just overwhelming, it is dispositive. Listen. Learn. Decide justly.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent that Senator EDWARDS be added as a cosponsor of my amendment.

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

Mr. DURBIN. Mr. President, I listened carefully to the arguments made by the Senator from Pennsylvania. I would say the vast majority of the arguments he made had nothing to do with my amendment. He has made arguments on behalf of the underlying bill, and that is his right. I defend his right to do it. But I come back to a discussion of my amendment.

The Senator from Pennsylvania has argued that because we use the term ''risk'' in this amendment that it is so hard to understand or define, it really does not present any kind of protection. Let me read it for the record. We say in this amendment we will prohibit all late-term abortions—that is, abortions after a fetus is viable—unless two medical doctors certify—and one has to be a nonattending physician, in other words, an expert brought in for consultation—that continuing the pregnancy would threaten the mother's life—that is fairly straightforward—or risk grievous injury to her physical health.

The Senator from Pennsylvania says: I just don't understand what you could mean by ''risk grievous injury to her physical health.'' The fact of a pregnancy is a risk.

That certainly is true. But to argue that each pregnancy is a risk of grievous physical injury is to overstate it and to ignore section 1535 where grievous injury is defined.

Keep in mind, the doctors who have to certify in writing that you are dealing with a viable fetus and there is a risk of grievous physical injury have their medical licenses on the line. Their right to practice medicine is on the line. If it is found they have misstated the facts concerning this pregnancy, they could lose their medical license. Do you think a doctor is likely to take that lightly? I don't. A doctor is likely to take that seriously.

Then read what we say about grievous physical injury. We define it as follows: It means a severely debilitating disease or impairment, specifically caused or exacerbated by the pregnancy or an inability to provide necessary treatment for a life-threatening condition.

There is a limitation which the Senator from Pennsylvania has not added into his argument. Listen to this limitation. The term grievous injury does not include any condition that is not medically diagnosable or—this is the important part—any condition for which termination of the pregnancy is not medically indicated.

You have to link up the continued pregnancy and the grievous physical injury in order to justify this late-term abortion. That is a fact. That is clearly written.

For the Senator to dismiss this and say, risk of grievous physical injury, that doesn't mean anything, any doctor would sign that, the doctor has his medical license on the line as to whether or not that fetus is viable, as to whether or not there really is a threat to the woman's life, as to whether or not there is a risk of grievous physical injury. His medical license is on the line, and it spells it out specifically in the amendment.

To think some doctor is going to just say: I will just sign that for my buddy, the abortionist, I don't believe so. Both doctors have too much at stake.

Let me go on to his underlying bill where he spent most of his time in argument. I understand it. The Senator from Pennsylvania feels very passionately about this issue. I know it. I have listened to him. I believe it, and I respect it. We see it differently, but I respect him for it.

I have grown weary, and I think the people who prepare the CONGRESSIONAL RECORD have grown weary of our submitting into the RECORD a direct rebuttal of the statement he repeats on the floor over and over and over again. Show me one doctor, not an abortionist, but one doctor who tells you this is medically necessary.

Well, I have already submitted them for the RECORD: The American College of Obstetricians and Gynecologists. They have said it. They have said this may not be the only procedure to save the life or preserve the health of a woman, but it may be the best, the most appropriate procedure in a particular circumstance. That is not good enough for the Senator from Pennsylvania.

First, he is mistaken if he does not believe obstetricians and gynecologists are medical physicians. They are. You have to be a medical doctor, board certified, in order to be part of this American College, and they have said it. They have made it clear. They are not so-called abortionists, which is a term developed here as part of the debate. These are people who do many other things with their lives, working with women for their health as well as for the delivery of their children. They have said the Senator from Pennsylvania is just wrong.

They are not alone. This has already been entered into the RECORD. I will not belabor the point. But Dr. Stewart from the University of California at San Francisco says the same thing. She says, after considering this procedure, this could turn out to be the best approach for some women facing very serious medical problems related to their pregnancy.

The Senator from Pennsylvania went on to say, not one person testified this procedure was medically necessary. I hasten to remind him, we put it in the RECORD early this morning, not one person testified because this bill was not brought before a committee. This bill came directly to the floor without any hearings, without any testimony from anybody.

I could stand here and say: Not one person testified on behalf of your amendment, not one doctor. You couldn't find one single doctor who testified on behalf of this bill, S. 3. That is technically correct because there was never a committee hearing.

So let's make it clear: Not one doctor testified for or against S. 3. This amendment came directly to us without any committee testimony.

Then the Senator from Pennsylvania spends a great deal of time arguing this procedure is harmful to women and those who are defending it—this is the procedure of his bill, nothing to do with my amendment—this procedure is harmful to women. I want to tell the Senator from Pennsylvania I have very limited expertise in anything. But before I came to the Senate, or to Congress, I was a practicing trial lawyer and spent many years defending doctors in medical malpractice cases, and suing them. I have been on both sides, representing plaintiffs and doctors who were defendants. So I know a little bit about medical malpractice.

I will tell you this. Can you imagine in this day and age any doctor is going to take part in a procedure that the Senator from Pennsylvania sees as so clearly harmful to women? How crazy could you be to subject yourself to the liability of a woman suing you because you chose a procedure that was harmful to her, as opposed to one that was safer for her. That just doesn't pass the smirk test. Doctors think twice. We hear about defensive medicine. They think about procedures and what is the safest procedure, the procedure least likely to expose them to liability in a court of law.

For the Senator from Pennsylvania to suggest these doctors ignore that and walk in and practice medicine that is harmful to women, without a concern, is to ignore the obvious. Medical malpractice cases are found in every State in the Union and substantial verdicts result from them. So I argue that common sense suggests if this were the most harmful procedure, the so-called partial-birth abortion, very few doctors would ever consider using the procedure and running the risk of exposing themselves to a medical malpractice case.

I would like to, if I can for a few minutes, go back to my amendment because most of what the Senator from Pennsylvania had to say didn't relate to my amendment at all. Here is where I think we come down. The Senator from Pennsylvania has had laser-like intensity focusing on one abortion procedure. He is troubled by it; he is pained by it. It is clear from his voice that it affects him very much, and I respect him for that. Thank goodness people fight for their convictions, even if I disagree with him on this. Please, I say to the Senator, step back and look at my amendment in a larger context. I am not just prohibiting the procedure you find objectionable. I am prohibiting that procedure and all other abortion procedures, postviability. So if, instead of using the dilation and extraction—partial-birth abortion—there is an effort to use some other procedure to terminate abortion after a fetus is viable, it is prohibited by my amendment, except in two specific cases: where the life of the mother is at stake and where there is a risk of grievous physical injury.

I suggest to the Senator if your goal in service on this issue is to limit the number of abortion procedures in America, reduce the likelihood of abortions being performed, you will achieve that goal more with my amendment than with your bill. Your bill is strictly focused on one extraordinary and rare procedure. Mine is focused on all procedures, postviability. You would have to say in fairness, just by the simple numbers of abortion procedures, my amendment is going to affect more abortion procedures and limit more abortion procedures than yours.

Why am I willing to do this? Because despite the fact I am pro-choice, I do believe, when it comes to postviability abortions, we really should draw a straight line.

My wife and I have been blessed with three wonderful kids. It has been a long time since we had a new baby in the house, and a long time since I watched my wife grow large in pregnancy. But I can remember the seventh, eighth, and ninth months. Most fathers and husbands can. At that point in time, there is no doubt about it, your wife is about to have a baby and it is very visible and, in many cases, she is very great with child, as they say. I really believe in those cases you should not terminate a pregnancy, except under the most extraordinary of situations. That is why we spell it out. That is why we require two doctors to certify it in writing. That is why we say to these doctors: Your medical license is on the line if you misrepresent the facts of this pregnancy. That is pretty serious, and that is why people across the abortion spectrum, pro-choice, pro-life, have come to this amendment and said this is a reasonable approach.

I am never going to convince my colleague and friend from Pennsylvania. He is passionately focused, laser-like focused on this procedure, and I will concede to him that, pre-viability, that procedure could be used under the Durbin amendment. I think those cases are rare. But I hope he will step back for a second and be honest about what this amendment could achieve. I think it is a positive thing. I think it is something many of us would feel makes real progress in dealing with this issue.

Make no mistake, I have spoken to people on the phone today, some of the strongest pro-choice organizations. They don't want the Durbin amendment to pass because they feel, as you have described, that if you did that, it is just the beginning of an exception to Roe v. Wade. I don't think it is an exception that is inconsistent with Roe v. Wade. I think it says we are going to consider the health of the mother, but only in the most exceptional circumstances, where grievous physical injury is at issue.

I might also add we did not include the phrase ''mental health.'' As Senator COLLINS, my cosponsor, said earlier, to say that a woman late in her pregnancy—the seventh, eighth, or ninth month—argues she is suddenly in depression and therefore a viable fetus that could survive should be terminated is something I cannot personally accept. I am sorry, I cannot accept that. I will concede the point that if a woman suffering from a serious mental illness is suicidal and her life may be at risk. That would be the most extreme case, but that would be the only linkage I can think of that would justify the termination of a pregnancy that late in the pregnancy. That is the only one that comes to my mind.

So we have made this exception for physical health, grievous physical injury, or the life of the mother. I will not submit these statements again for the RECORD, but I believe ample evidence has been given as part of this debate that the obstetricians and gynecologists say do not pass the underlying bill, that medical doctors, such as Dr. Stewart, have written letters that suggest the same.

I yield the floor.

Mr. SANTORUM. Will the Senator yield for a question?

Mr. DURBIN. Yes.

Mr. SANTORUM. I want to make sure the Senator understands the question. I have not been asking about medically necessity. The quotes you have given me have said that it ''ought to be the best.'' Another quote was ''may be the best.'' I have not asked for someone's opinion on what ought to be or what could be. What I have asked for is an example. I wanted a fact circumstance to be provided as to where this would be the best, this would be appropriate, this would be medically indicated.

Not in any of the letters I have seen entered into the RECORD, or in any testimony, has anybody come forward with a factual circumstance that would support the general statements that it ''may be.'' Well, it may be a lot of things, but the point is, there are no examples that support the ''may be.''

All I have asked for—and I have not received a response—is an example for us to look at, to have peer-reviewed, and to determine whether there is in fact a situation that has heretofore not been put in the RECORD, which is an example of a medical condition that would indicate a partial-birth abortion would be indicated to deal with as the best alternative.

Mr. DURBIN. If I may respond to the Senator, this is a statement from Viki Wilson of California in opposition to the bill. She tells of her pregnancy in 1994. She was expecting Abigail, her third child. Naturally, she was excited about this. It was 36 weeks into her pregnancy, when an ultrasound detected what all of the previous prenatal testing failed to detect—an encephalocele. Approximately two-thirds of her daughter's brain had formed outside her skull. She says in this statement—and I will make it part of the RECORD:

What I had thought were big, healthy, strong baby movements were in fact seizures.

My doctor sent me to several specialists, including a perinatologist, a pediatric radiologist, and a geneticist in a desperate attempt to find a way to save her. But everyone agreed, she would not survive outside of

my body. They also feared that as the pregnancy progressed, before I went into labor, she would probably die from the increased compression in her brain.

Our doctors explained our options, which included labor and delivery, C-section, or termination of the pregnancy. Because of the size of her anomaly, the doctors feared that my uterus might rupture in the birthing process, possibly rendering me sterile. The doctor also recommended against a C-section, because they could not justify the risks to my health when there was no hope of saving Abigail.

We agonized over our options. Both Bill——

Her husband——

and I are medical professionals.

She a registered nurse, he a physician, so they understood the medical risk.

After discussing our situation extensively and reflecting on our options, we made the difficult decision to undergo an Intact D and E.

Also known as partial-birth abortion. What I am saying to my friend and colleague from Pennsylvania is this is an example, a case, where she had three options. Partial-birth abortion was the third and chosen for medical reasons, reasons for which she said in the statement.

I ask unanimous consent that the statement be printed in the RECORD.

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

STATEMENT OF VIKI WILSON, CALIFORNIA, IN OPPOSITION TO S. 3

I urge you to oppose S. 3. I understand that this bill is very broad and would ban a wide range of abortion procedures. Mine is one example of the many families that could be harmed by legislation like this.

In the spring of 1994, I was pregnant and expecting Abigail, my third child, on Mother's Day. The nursery was ready and our family was ecstatic. My husband, Bill, an emergency room physician, had delivered our other children, and would do it again this time. Jon, our oldest child would cut the chord. Katie, our younger, would be the first to hold the baby. Abigail had already become an important part of our family. At 36 weeks of pregnancy, however, all of our dreams and happy expectations came crashing down around us. My doctor ordered an ultrasound that detected what all of my previous prenatal testing had failed to detect, an encephalocoele. Approximately two-thirds of my daughter's brain had formed outside her skull. What I had thought were big, healthy, strong baby movements were in fact seizures.

My doctors sent me to several specialists, including a perinatologist, a pediatric radiologist and a geneticist, in a desperate attempt to find a way to save her. But everyone agreed, she would not survive outside my body. They also feared that as the pregnancy progressed, before I went into labor, she would probably die from the increased compression in her brain.

Our doctors explained our options, which included labor and delivery, c-section, or termination of the pregnancy. Because of the size of her anomaly, the doctors feared that my uterus might rupture in the birthing process, possibly rendering me sterile. The doctors also recommended against a c-section, because they could not justify the risks to my health when there was no hope of saving Abigail.

We agonized over our options. Both Bill and I are medical professionals (I am a registered nurse and Bill is a physician), so we understood the medical risks inherent in each of our options. After discussing our situation extensively and reflecting on our options, we made the difficult decision to undergo an Intact D and E.

It was important to us to have Abigail come out whole, for two reasons. We could hold her. Jon and Katie could say goodbye to their sister. I know in my heart that we have healed in a healthy way because we were able to see Abigail, cuddle her, kiss her. We took photos of her. Swaddled, she looks perfect, like my father, and Jon when he was born. Those pictures are some of my most cherished possessions.

The second reason for the intact evacuation was medical: Having the baby whole allowed a better autopsy to be performed, to give us genetic information on the odds of this happening again.

Losing Abigail was the hardest thing that has ever happened to us in our lives, but I am grateful that Bill and I were able to make this difficult decision ourselves and that we were given all of our medical options. There will be families in the future faced with this tragedy. Please allow us to have access to the medical procedures we need. Do not complicate the tragedies we already face. Oppose S. 3.

Mr. SANTORUM. Mr. President, the fact is, Viki Wilson testified at a Senate Judiciary Committee hearing in November of 1995. Viki Wilson, as the Senator from Illinois said, was in her ninth month of pregnancy when she received an abortion. According to Mrs. WILSON's testimony, the death of her daughter Abigail was induced inside the womb:

My daughter died with dignity inside my womb, after which the baby's body was delivered head first.

At this Judiciary Committee hearing, Senator HATCH suggested to Mrs. WILSON that her abortion was not a partial-birth abortion as defined by the bill. Mrs. WILSON responded:

It is true, if you take it verbatim. You know, my daughter did die in the womb.

That is not an example, No. 1, of partial-birth abortion because she did not have one and, No. 2, that she is not a medical professional. She is a registered nurse, and as my wife is a nurse, my mom is a nurse, please do not get me wrong, nurses are wonderful health professionals, and I have a tremendous amount of respect for them. I love them personally. To suggest that in her testimony, which you just heard—and it was not a partial-birth abortion, but even if it was, to suggest that her testimony was somehow a decision by the medical community or a physician putting forward a case by which the physician said this was the best option, this was medically necessary, and that other options were less desirable, this just does not make the case, which I keep coming back to the point that the case has not been made.

Some of my colleagues say: Why do you keep asking this question? Someone is going to come forward with something. After 7 years, you figure out no one is going to come forward because there are no cases, and no medical professional worth their salt would come forward and say something they know is not true because they are going to be reviewed by umpteen obstetricians and gynecologists who will come forward with the medical peer-reviewed research that indicates this procedure is not medically indicated, that it is not necessary, and it is not in the best health interest of the mother.

It is brutal, and as the Senator from Tennessee, our leader, said today, the only advantage he can think of to a partial-birth abortion is the certainty of a dead baby. That is the advantage. It is that you know by thrusting those scissors into the base of the skull and feeling—because the doctor has the baby in his or her hand. I just find it to be remarkable, from the standpoint of a physician who can hold a live baby who would otherwise be born alive, a baby who could survive outside the womb, in many cases, and while holding that child, take the sharp, long Metzenbaum scissors and thrust it into the base of the baby's skull.

I know many people have felt living beings die in their presence, whether it is a pet or a variety of different living animals, and the feeling when life rushes out, you know it. You feel it. The baby is moving. All of a sudden, as Brenda Shafer, the nurse who testified, said, the baby's arms and legs spring out, tensing up because of the shock to the system and then falling limp. Life evaporated, leaving this little child. And then to take those scissors and open them up—open them up—to stretch out the base of the skull, as the Senator from Tennessee described, to rupture the cranial cavity, to create a hole big enough to insert a suction catheter.

Why? Why is this procedure needed? I keep coming back to the question. It has not been answered because there is no answer. That is why the health exception is not needed, because it is outside the scope of Roe v. Wade, and we have clarified the other problem the Supreme Court noted, which is the vagueness of definition. We have a much more detailed definition. It cannot be confused.

The Senator from California keeps coming to the floor and suggesting other medical procedures would be covered by this current definition. Again, I ask the Senator from California to come to the floor and tell me what procedure would be covered by this definition. So far, the answer to that has been silence.

On the two points the Court had trouble with the Nebraska statute, there has been no response. I suggest there is no response because we have solved these problems, and that is why this legislation is constitutional.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. Mr. President, this is the third time I have taken the opportunity to talk about partial-birth abortion, and each time I have addressed the Members of the Senate, I have tried to cite some of the medical experts in this field.

It has been pointed out that, with the exception of one Member of the Senate, we are not doctors. I certainly am not a doctor, but I have tried to cite the experts and have tried to help build a record for anyone who looks at the proceedings to help them understand what the basis for the Senate's ultimate decision will be. I want to continue that practice tonight.

It is certainly true, as has been pointed out on the Senate floor, that we did not hold hearings on this bill, but over the last few years, we have had a series of hearings in both the Senate and the House of Representatives on this very issue. We have heard many witnesses. We not only have had the opportunity to hear the witnesses in the Senate and the House in the Judiciary Committees, but we also, of course, have had the opportunity to read journals, read news articles, and other sources of information.

Very briefly, what I would like to do tonight is add to some of the citations I have already made and talk about the question that my colleagues have been talking about, and that is whether or not partial-birth abortion is ever medically indicated. I submit to my colleagues the evidence is very clear that partial-birth abortion is not medically indicated. It is never medically indicated. Therefore, a medical exception is simply not needed.

It is important to cite what several OB/GYN doctors have said about this horrific procedure. These medical doctors, these experts, will tell us this abortion procedure is brutal, it threatens the life of the mother, and it is just plain unnecessary and inhumane.

I will take a few minutes tonight to read to my colleagues some of the testimony from doctors who, for years, have been saying this procedure is, in fact, wrong. In a House of Representatives hearing on September 27, 1995, these doctors testified that partial-birth abortion is not sound science. I ask my colleagues to listen to what several of them had to say.

First, Dr. Donna Harrison, then the chair of the Department of Obstetrics and Gynecology at the Lakeland Medical Center in Michigan, stated:

> There is no data or any proposed reliable data to show that this has a lesser incidence of maternal morbility or mortality than the standard prostaglandin termination. Indeed, any surgeon can tell you that when you put a sharp instrument into a body cavity, there is a always the risk of perforating that organ. As an obstetrician, I can testify that this procedure has no medical indication over standard, recognized and tested procedures for terminating a pregnancy.
>
> It is a hideous travesty of medical care and should rightly be banned in this country.

Dr. Pamela Smith, former Director of Medical Education, Department of OB/GYN, at Mt. Siani Medical Center in Chicago and a member of the Association of Professors of Obstetrics, had this to say:

> Partial-birth abortion is not a standard for care for anything. In fact, partial-birth abortion is a perversion of a well-known technique . . . used by obstetricians to deliver that is considered to impose a significant risk to maternal health when it is used to deliver a baby alive, suddenly become the ''safe method of choice'' when the goal is to kill the baby? In short, there are absolutely no obstetrical situations encountered in this country, which require a partially delivered human fetus to be destroyed to preserve the life or health of the mother.
>
> When I described the procedure of partial-birth abortion to physicians who I know to be pro-choice, many of them were horrified to learn that such procedure was even legal.

Dr. Nancy Romer, then a Clinical Associate Professor at Wright State University and Chair of the Department of Obstetrics at Miami Valley Hospital in Ohio, said this:

> There is simply no data anywhere in the medical literature in regard to the safety of this procedure. There is no peer review or accountability of this procedure. There is no medical evidence that the partial-birth abortion procedure is safer or necessary to provide comprehensive health care for women.

To add to this, Dr. Lewis Marola, then Chair of the Department of Obstetrics at St. Clare's Hospital in Schenectady, NY, said the following:

> The conversion of a fetus presenting a vertex to a breech position, as in the partial-birth abortion, is capable of causing an abrubtion of the placenta and amniotic fluid embolism. This is a dangerous and life-threatening situation. Never, ever, in our 30 years of practice, have my colleagues or I seen a situation which warrants the implementation of partial-birth abortion. Personally, I cannot imagine why a practitioner would want to resort to such barbaric techniques when other, recognized methods are available.

Dr. Joseph DeCook, once a Fellow at the American College of Obstetricians and Gynecologists, said the following at a press briefing in 1996:

> Reaching into the uterus to pull the baby feet first through the cervix—the second step [of the procedure]—''is a very dangerous procedure,'' ''frightening'' because of the chance that it might ''tear the uterus.'' This is the ''reason it was abandoned 30 or more years ago.'' There is also the danger of ''perforating the uterus'' with the instrument used to grab the baby's leg. Such a tear or perforation could result in severe hemorrhage, necessitating immediate hysterectomy to save the life of the mother.

Dr. Cutis Cook, from the Michigan State College of Human Medicine, said this:

> To my knowledge, and in my experience, this particular procedure described as partial-birth abortion is never medically necessary to preserve the life or future fertility of the mother and may, in fact, threaten her health or well-being or future fertility. In my opinion—and, I think, in the opinion of the medical literature and other specialists in my field—the fact remains that there are choices and there are alternatives to the partial-birth abortion procedure that do not require the use of what has now been demonstrated as a potentially dangerous and completely unstudied and unnecessary procedure.

I can go on, but the testimony from medical doctors is very clear. They know in their heart and in their minds that this procedure is not appropriate. It is never necessary. I would like to conclude tonight with what Dr. Joseph DeCook once said. He said that the partial-birth abortion procedure ''sounds like science fiction. It ought to be science fiction.''

I think that says it all. The testimony from these medical doctors is very clear. I have cited other doctors the other two times I have been in the Chamber, and when I come back later, I will cite other doctors. But the evidence is abundantly clear that partial-birth abortion, as my colleague from Pennsylvania has pointed out, is never medically indicated. At no time have the proponents of this procedure been able to come to the floor and cite any specific example where anyone has been able to say that it was truly medically indicated.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I pay tribute to the Senator from Ohio who was in the Chamber until about this hour last night laying out very clearly, very succinctly, the legal, moral, ethical, and medical evidence as to why this procedure should be banned and why this Senate should feel comfortable, from all of those perspectives, in passing this legislation.

He has done an outstanding job, a thorough job. He has been an invaluable ally in the Senate in making the case, hopefully convincing case, to hopefully a clear majority of our colleagues, that we should proceed, maybe as early as tomorrow, in passing this legislation.

I thank the Senator from Ohio for his outstanding work and his obvious commitment to this cause.

I wanted to respond to the Senator but I got sidetracked. The Senator from Illinois mentioned something at the end of his talk, and I focused on that and I forgot to respond to a couple of other points he made with respect to his amendment.

I focus on the two problems, again, and respond to his defense of his amendment. He defended his amendment and spent the entire time talking about the grievous physical injury, grievous injury that could result, that would be the exception for his ban on late-term abortions.

I have concerns because of the issue of risk, and I don't want to repeat that. But what he did not talk about, as big or if not a bigger hole in this legislation, is the whole issue of viability. I believe the Senator—and I will check the record on this, and if I am wrong, I apologize. I believe the Senator from Illinois suggested that the physician certify that a child is not viable, and if there was a determination that the child was viable, he could lose his license. I don't see that in the legislation. I don't see a second doctor overseeing the issue of viability. It is clear from the reading of the language that the second doctor can review the risk of serious injury but is not responsible under the legislation for reviewing the issue of viability.

So we have, again, before we even get to the issue of injury or health risk, we have the issue of the abortionist determining whether the baby about to be aborted is viable. Since most partial-birth abortions and most abortions, generally, occur prior to viability, and most abortions, even late-term abortions, occur in the 20th, 26th, 27th week, very few occur 30-plus weeks where viability rates are very high. We are talking here about giving the abortionist, certainly in the case of partial-birth abortions, an unreviewable decision that even in the cases of 35 weeks there may be—I have not looked at the literature because it is, I agree, a rare circumstance—I suggest there are probably some instances where you can conclude the child is not viable for some reason, even at that stage.

What the Senator from Illinois has done is create a standard of viability that is not reviewable, and certainly with the case of partial-birth abortions, and I know his amendment purports to cover more than that, it covers even a very small subset of those abortions that we are talking about.

Mr. DURBIN. Will the Senator yield?

Mr. SANTORUM. I am happy to yield.

Mr. DURBIN. At the risk of reading what has been read many times:

> It shall be unlawful for a physician to intentionally abort a viable fetus unless the physician prior to performing the abortion—
> (1) certifies in writing . . .

The premise of this amendment is viability.

Now, I will concede the point, there are fetuses in the 35th week and later that are not viable, will never survive outside the womb. But the premise here is the fact that you must be dealing with a viable fetus in order for this prohibition to apply and for the exceptions to be applied, as well.

For the Senator to continue to ignore this clear language, I have to say I am prepared to defend what is written here. I am not prepared to defend what the Senator refuses to read.

Mr. SANTORUM. Reclaiming my time, is the Senator from Illinois stating that legislation requires a second opinion on the issue of viability?

Mr. DURBIN. It says:

> An independent physician who will not perform or be present at the abortion and who was not previously involved in the treatment of the mother certifies in writing that, in his or her medical judgment based on the particular facts of the case, the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health.

This is not your so-called abortionist. This is an independent physician.

Mr. SANTORUM. I did not hear the word ''viable'' in that second definition. There was no term—

Mr. DURBIN. May I ask the Senator a question? The Senator is understood to be a practicing attorney; is that true?

Mr. SANTORUM. That is correct.

Mr. DURBIN. I ask the Senator to pause and think about that for a moment. If a doctor called you and said: Attorney Santorum, there has to be a second opinion here on whether this mother's pregnancy should be terminated postviability, late term, what do you suggest?

I think the first thing you would ask is: What is the penalty if you are mistaken?

Oh, I could lose my license, face a penalty of $100,000 or $250,000.

I think Attorney Santorum and Attorney Durbin would say to this doctor: Wait a minute. Let me sit down and talk to you. Are you prepared to stand behind the fact that this is a viable fetus? Are you prepared to stand behind the fact that there is a threat to life here? Because if you are not, stay away from us.

Mr. SANTORUM. Reclaiming my time, you ask: Are you prepared to stand behind the fact this is a viable fetus? Yet your amendment does not say that. Your amendment does not say the second physician has to certify to viability.

What your amendment says is they have to certify that there is a risk—that word that I have trouble with, a ''risk,'' a risk, not a substantial risk, not a verifiable risk, but a risk of grievous injury.

So your amendment does not deal with the independent physician second-guessing the determination by the doctor that this is a viable fetus. So we do not even get to the issue of risk if the doctor says it is not viable. If the doctor says it is not viable, no one is looking over his shoulder because your ban does not apply. So nobody is coming in and saying: Well, I understand you can say you are heavy handed with this doctor. We have a doctor, Dr. Hern, who will certify under oath that every pregnancy is a risk, that he can look at any pregnancy and find a substantial risk, and the nexus you spoke about under the legislation. This is the person who read the entire text of your amendment and said he is willing to do so in every circumstance.

Setting that aside, we do not even get to that if the doctor determines no viability, correct? Is that correct?

Mr. DURBIN. I say that it is a condition to even—

Mr. SANTORUM. The condition is not a reviewable condition.

Mr. DURBIN. It is certainly reviewable.

I say to the Senator from Pennsylvania, having sat across the desk from many physicians whom I represented, and sued, believe me, trust me, they are not going to stick their neck out, put their medical license on the line, unless there is certainty in their mind that they comply with the statute.

The suggestion by the Senator—

Mr. SANTORUM. The Senator from Illinois just said the statute does not apply if the physician certifies it is not viable. So the statute does not apply if the license is not on the line. But your statute does not say that. You may want to say that, but it does not say that.

Mr. DURBIN. I say to the Senator, I hope you understand that you and I come to this from a different perspective. Your perspective is one abortion procedure. You are prepared to not accept, but to tolerate other destructions of the fetus in abortion, but not this one, which troubles you greatly.

I don't deal with that aspect. I deal with postviability, that is, late-term abortions, of all types. And there is the distinction.

If the Senator is saying to me: ''You do not cover fetuses that are not viable,'' guilty as charged. This amendment does not address the fetus that is not viable.

Mr. SANTORUM. I appreciate that. Let me reiterate for the record, I do not question—and I mean this with all sincerity—I do not question the sincerity of the Senator from Illinois. I know because many on his side have voted against his amendment who agree with him on the position of abortion. So I truly do recognize the Senator is attempting to find some middle ground.

With all due respect, I just don't believe you have gotten there, but I do not question you have attempted to do so.

The point I am trying to make is the whole operation of your statute does not apply unless the physician claims viability. If the physician doesn't claim viability, then your statute doesn't apply. I am a physician. I say—and under the Supreme Court a physician can abort a child under any circumstances for any reason up until the time of separation. So I have no legal liability out there. Outside of your amendment, I have no concern about my license, a lawyer, anything.

So all I have to say is this child is not viable. If I make the claim this child is not viable—I don't care if it is 39 weeks and 5 days. If I say it is not viable, your statute does not apply. If your statute does not apply, I am in the clear. So that is the concern I have, that you leave the determination of viability to the physician.

Mr. DURBIN. Can I ask—at least make a point here for the Senator from Pennsylvania? If he would be kind enough to read section 1532 of the penalties, under offenses: First offense, section (b), second offense, section (c). Note that it says:

> Upon a finding by the court the respondent in an action commenced under subsection (a) has knowingly violated a provision of this chapter, the court shall notify . . .

And it goes on to say medical license at stake, fine at stake.

Now, if you will turn back to read section (a) you will find 1531, section (a) includes viability of fetus.

So if a doctor has misrepresented—for example, if there is medical evidence the fetus was viable and the doctor went ahead and performed an abortion, arguing, ''Well, it wasn't viable,'' and in so doing has misrepresented the medical facts, he can have his license revoked and face the penalty. That is

what it says, section (a). It doesn't go down to subsection (1) and (2); it says subsection (a), which includes viability of the fetus.

What we are driving at is this, I would say to the Senator from Pennsylvania. Under this language I don't think I am going to get endorsed by any medical group that is going to stand up and say what a great amendment, Senator DURBIN, because it puts an extraordinary burden on doctors who want to be involved in these abortions. But I think that burden is merited when we are dealing with these particular circumstances.

Mr. SANTORUM. I would just suggest to the Senator from Illinois, having read this, having read the reference—not criminal but civil penalties could apply—it still leaves viability, No. 1, undefined; and, No. 2, solely at the discretion of the abortionist. You can say there is other evidence. But particularly when most of these abortions are performed, most late-term abortions are performed—the question of viability is a percentage. You can talk to most obstetricians and they will tell you the determination of viability is very difficult. Frankly, you leave it unreviewable from the standpoint of the act.

You say someone could bring a suit or someone could bring charges. The question is, Who would bring the charges? That is another story. But nevertheless, someone could. But to be able to prove a child is viable when you have up through early 30 weeks a percentage that are not, I think is a very steep task, and one that would not, I believe, dissuade. Certainly in the area where most late-term abortions are performed, the percentage is high enough that any abortionist could come forward and say this child, I just didn't believe it could live, and that as long as they did so with a reasonable judgment, you have no opportunity. You have no standard. You really do leave this very much wide open. I would just argue it does not accomplish what you want.

Again, there may be a handful of abortions that would fall under this in terms of a court or somebody saying because of the advanced—38, 39, 37 weeks we would have—there is a presumption of viability. But there is no presumption of viability in this statute. There is no presumption of viability, I believe, in any statute I am aware of. So if there is no presumption, then you have a very difficult task proving viability when you are not the physician at the time, there, doing the procedure.

Even if we get past the viability issue, which I believe we have not gotten past, you have this whole issue of risk of grievous injury to her physical health. I would again argue that the word ''risk'' leaves open a wide area, a wide berth for opportunity for physicians to get around this problem.

I just refer you to not just Warren Hern, but we have other physicians, other abortionists who have come forward and said they would come forward certifying that, under your statute, they read your language and said they would feel comfortable under that language. I suggest there are still problems here.

Again, I respect the Senator for his desire to deal with this issue, but I just don't believe his amendment hits the mark.

Mr. President, I am going to depart from conversation on the Durbin amendment and I will not talk anymore about it this evening. If the Senator wants to stay some more and talk about it, I am just going to talk generally on the bill.

I do not want to tell the Senator it is 8:30, if he wants to go home, he can go home, but I am going to make just some general comments on the bill. Then I intend to wrap up.

If the Senator would like to make another comment for a few minutes? OK. Then I will just proceed.

I will be brief because I know the Presiding Officer has been in the chair a long time and we have students here who want to get out before 9 o'clock so they can be in class tomorrow morning, so I want to make sure they are not deprived of their educational opportunities. I will do my best to finish before 9 o'clock.

When I came to the floor years ago to debate this issue, we talked a lot about the impact of abortion in this country; as Senator BROWNBACK said earlier, the cheapening of the value of human life that has occurred as a result of legalized abortion. That was amplified greatly by this particular procedure, this brutal procedure in which the child, a living child is all but born, 3 inches from legal protection under the Constitution, and then treated so brutally, so harshly.

I talked about the culture and how the culture is implicated in this, and how the medical profession is implicated in this. We hear so much talk about obstetricians wanting to keep these legal, but you would be hard-pressed in many communities to find obstetricians because of legal liability and all the problems associated with that.

In fact, the indication I talked about a few years ago was a classic case in point of obstetricians' insensitivity to life, compounded with their fear of legal liability. It is a pretty potent combination for any child with a disability in utero. It leads a lot of doctors to head out of town and not want to deliver children with any kind of fetal abnormality. Mothers who have children with fetal abnormality really do have trouble finding doctors who will treat because of the fear of litigation and because of this sense that, well, you know, let's just have an abortion. You don't want to be hassled with this child who may have multiple difficulties or problems. Certainly I don't want to have to deliver a child who has multiple problems because you can blame me for some of this, or I can be dragged into lawsuits.

So we have a real coarsening, from both the litigation end and, I would argue, from the abortion end of this issue dealing with the very children the other side uses to legitimize or attempt to legitimize the procedure of partial birth.

For these hard cases—these hard cases are not cases where the woman's life or health is in danger, but where the child's prognosis is poor because of multiple abnormalities—trisomy 13 was one example, aencephaly was, I think, another example, or hydrocephaly. There are all sorts of examples out there where children who have very severe birth defects are sort of shoved aside by our health care system, because of insensitivity to life compounded with the fear of legal liability, the one such case which I talked about in great detail was the case of Donna Joy Watts. Donna Joy came here to the Senate. In fact, her mother sat up in the galleries. Donna Joy was not allowed to sit in the galleries because she wasn't old enough. Under the rule, we were not permitted to bring her into the gallery.

She is a little girl who is a true miracle.

Very briefly, 7 months into her pregnancy, Lori Watts and her husband, Donny, learned through a sonogram that their child would not be normal. She went to see a genetic counselor. Unfortunately, there are far too many genetic counselors in this country. The genetic counselor quickly referred her for an abortion saying that their child had hydrocephalus, which is water on the brain; and that as a result of the water buildup, brain development was not normal because of pressure on the brain. As a result, their child would either die shortly after birth or would be living a ''horrible life.''

One of these genetic counselors suggested what would be a partial-birth abortion.

They didn't know that they were being referred for an abortion when they were referred to the doctor. But they were. They rejected that option. Through their faith and through their love of their child in the womb, they made the decision that if their child, Donna Joy, was hurting and was sick, they would act like parents who have a child that is hurting and sick. You do everything you can to help your child. It is a natural parental reaction. It is a very difficult reaction. It is very difficult to deal with these circumstances. But it is the instinct to first want to see what you can do to help your child, even if things look hopeless.

I have given the example many times. When parents find out their 7-year-old is stricken with leukemia which may be fatal, or diagnosed as fatal, I don't think the immediate reaction of most parents is, well, let us execute him to put him out of his misery. The immediate reaction is, What can we do to fight? What can we do to

help this child survive? How can we rally around him or her to fight this problem that has confronted our family? Thankfully, many parents respond like Donny and Lori Watts. They were advised to see a specialist in high-risk obstetrics. I will not go through all of the details, but I can tell you that they went to hospitals and practice after practice. Practices simply wouldn't see them. They wouldn't see Lori because of her high-risk pregnancy and because of high risk in the sense that their daughter had severe abnormalities.

Eventually, they were able to find a doctor at the University of Maryland who agreed to monitor the pregnancy. And through a C-section, Donna Joy was born on November 26, 1991. She had very serious health consequences.

This is a picture of her. You can see the size of her head. It was large as a result of the hydrocephalus.

The Watts family lives in Greencastle, Pennsylvania.

Seven months into her third pregnancy, Lori Watts learned that her child would not be ''normal.'' Through a sonogram, Lori and her husband Donny learned that their child had a condition known as hydrocephalus—an excessive amount of cerebrospinal fluid in the skull, also known as ''water on the brain.''

Lori's Ob-Gyn made an appointment for her to see a doctor billed as a ''genetics counselor'' at a clinic. When Lori Watts phoned the clinic to get directions and ask what they planned to do, the staff member told her that most hydrocephalic ''fetuses'' do not carry to term so they would terminate the pregnancy. When she asked how they could do an abortion so later in the pregnancy, she was told that the doctor could use a ''skull-collapsing'' technique—what we refer to as a partial-birth abortion. Appalled, Lori promptly canceled the appointment. When Donny Watts demanded to know why they had been referred to a facility that performs abortions, their Ob-Gyn explained that he thought he had referred them to a different doctor at that same clinic—a doctor who would have suggested ways to keep the child alive. The Wattses were stunned to realize that the clinic offered both life and death—depending on which staff doctor you happened to speak with.

Their Ob-Gyn then advised the Wattses to see a specialist in high-risk obstetrics. They never expected the cavalier treatment they received from the medical community. Doctors at Johns Hopkins University, Union Memorial Hospital, and the University of Maryland Hospital in Baltimore were quick to dismiss their baby's chances for survival and even suggested that if the child lived, she would be ''a burden, a heartache, a sorrow.'' According to Donny Watts, ''They wouldn't even give her a chance.'' Instead, they urged Lori to abort the baby to protect her own health and future fertility. Medical staff at Johns Hopkins would not even see Mrs. Watts. When she explained her situation over the telephone, she was urged to have an abortion. The Watts family received similar treatment from a perinatologist and a specialist in high-risk and severe abnormalities at Union Memorial Hospital. This perinatologist advised Mrs. Watts to have an abortion and claimed that without a neo-natal intensive care unit NICU, Union Memorial could not care for this sort of child. After making her own inquiries, however, Mrs. Watts learned that Union Memorial did in fact have a NICU. The Wattses next appealed to the University of Maryland high-risk obstetrics clinic, where the attending physician told Mrs. Watts she needed an abortion because the ''fetus'' had occipital meningoencephalocele—part of the brain was developing outside the skull.

Still determined to save their child, Lori and Donny Watts continued educating themselves about their baby's abnormalities and searching for a doctor who would perform the delivery. Finally, another doctor at the University of Maryland agreed to monitor the pregnancy. Through a Caesarean delivery, the Watts' third daughter, Donna Joy, was born on November 26, 1991.

Yes, Donna Joy was born with serious health problems. And like any loving parents, the Wattses expected the medical community to work tirelessly to help their new baby survive. They were greatly disappointed to discover that many members of the hospital staff treated Donna Joy with the same apathy, pessimism, and callousness after her birth. For instance, the Wattses were alarmed that doctors waited three days to implant a shunt to drain excess fluid from the baby's head. In prenatal consultations with a perinatologist, they had learned that the shunt should have been implanted as soon after the delivery as possible.

To add insult to injury, hospital staff made no attempt to feed Donna Joy in the traditional sense. Doctors at the University of Maryland believed that Donna Joy's deformities would prevent her from sucking, eating or swallowing. Because of a neural tube defect that made feeding her difficult, Donna Joy received only IV fluids for the first days of her life. Lori refused to give up. Initially, she literally fed breast milk to Donna Joy with a sterilized eye dropper, to provide sustenance. Then, at two weeks of age, the shunt failed, and Donna Joy was readmitted to the hospital for corrective surgery. When a tray of food was delivered to her hospital room by mistake, Lori had a brainstorm. She mashed the contents together and created her own food for the newborn with rice, bananas, and baby formula. She fed this mixture to the baby one drop at a time with a feeding syringe.

Unfortunatley, Donna Joy's fight for life became even more complicated. At two months of age, she underwent an operation to correct the occipital meningoencephalocele. At four months, a CT scan revealed that she also suffered from lobar-holoprosencephaly—a condition which results from incomplete cleavage of the brain. She was also suffering from epilepsy, sleep disorders, and continued digestive complications. In fact, the baby's neurologist conveyed to a colleague, ''We may have to consider placement of a gastronomy tube in order to maintain her nutrition and physical growth.'' The baby was still hydrocephalic and could not hold her head up. Furthermore, the baby was suffering from apenea—a condition in which spontaneous breathing stops.

Then, at eighteen months of age, Donna Joy had another brush with death. She had suffered from encephalitis—inflammation of the brain—throughout the summer. Donna Joy developed amnesia, tore at her face and eyes, and could not talk or walk. Her recovery was—miraculously, I would suggest—facilitated when Lori Watts popped a tape into her VCR at random. The tape happened to contain an episode of the television show Quantum Leap in which the show's star, Scott Bakula, sings a song. Upon hearing Bakula's rendition of ''Somewhere in the Night,'' Donna Joy showed the first signs of responsiveness in months.

At two years of age, Donna Joy had already undergone eight brain operations. Although most of these occurred at the University of Maryland Hospital, in one case doctors had to perform surgery at the child's bedside with local anesthesia. Finally, the family received good news about Donna Joy's prospects. Donna's neurologist, who re-examined the child after a seizure in September, 1996, noted that at four and one half years, Donna Joy could speak, walk, and handle objects fairly well. He also thanked a colleague '' . . . for the kind approval for follow-up and allowing me to re-assess this beautiful young child, who is remarkably doing very well in spite of such a significant malformation of the brain.''

Before Donna Joy moved to Pennsylvania, Maryland Governor Parris Glendenning honored her with a Certificate of Courage commemorating her fifth birthday. Mayor Steve Sager, of Hagerstown, Maryland, proclaimed her birthday Donna Joy Watts Day. Members of the Scott Bakula fan club have sent donations and Christmas presents for the Watts children. People from around the world who have learned about Donna Joy on the Internet have also been moved to write and send gifts. But perhaps most important, the Watts' determination has inspired a Denver couple to fight for their little boy under similar circumstances.

There is a lot of talk on the other side about partial birth abortions being necessary to preserve future fertility—indeed, one doctor cautioned Lori Watts that her fertility could be compromised if she chose not to have a partial birth abortion. Well, in June 1995 Lori and Donny Watts experienced the joy of welcoming another child—Shaylah—into the family. Like many

children, Shaylah has asthma, but is otherwise healthy. Furthermore, Lori Watts experienced no similar complications with this pregnancy.

The story of Donna Joy Watts continues to inspire the public. The child that nobody gave a chance to live is now 11 years old. She has outlived her original prognosis by a decade. She continues to battle holoprosencephaly, hydrocephalus, cerebral palsy, epilepsy, tunnel vision, and Arnold-Chiari Type II Malformation—which prevented development for her medulla oblongata.

Donna Joy visited my office just a few weeks ago with her mother, father, and two of her sisters. She is now being home schooled with her sisters. She is very active outside of school too. She has taken a gym class where her favorite activities are running track and playing soccer. While she may tire a little bit faster than the other kids, there is no question that she keeps up with them and follows the rules of the games. Her teacher has said how very proud she is of how Donna has excelled in class. She has also taken art classes, where she particularly likes painting and beadwork. She loves music, and her church wanted me to know how much they love having Donna in their choir. She is active in not only her church choir, but also actively participates in her Sunday school class. The picture we have here is from a few years ago when Donna Joy was flower girl in her aunt's wedding, one of 2 weddings Donna Joy was in that summer. And she continues to add to her collection of movie star memorabilia. Oh, and she recently made an appearance on the Donahue Show with her mom Lori.

So far, Donna Joy sounds like a pretty normal kid. But let me tell you a little bit more about her. Donna Joy is also very thoughtful about the needs of others. In her Sunday school class, she will stop and help the younger children who might be struggling with doing their crafts. She helps out around the house—without complaining! Donna Joy regularly helps a local shop pack up their extra cloths for shelters for abused women, shelters for the homeless, and for orphanages in Romania. Not only that, but with her sisters and mother, she regularly visits the elderly in nursing homes. She finds out which of them hasn't had a visitor in a while and then plays games and sings with them. This little girl once described as ''a burden, a heartache, a sorrow'' is in fact a beautiful, lively child who is now caring for the needs of others.

Donna Joy's pastor recently sent me a letter expressing his appreciation of Donna Joy's life. Pastor David Rawley noted that ''had Donna Joy's parents followed the advice of several physicians and aborted this child, our community and church would have been bereft of an absolute treasure.'' He referred to himself as ''a member of the community which benefits from her life.'' I think he raises an important point. We never know ahead of time the impact that one life—in this case, Donna Joy's—will have on a family, on a community, or for that matter, the world. Lori wrote me the other day to say, ''Donna Joy never put my life at risk. She's only made it better!

Let me say again that Donna Joy went through an enormous amount of medical procedures—shunts. She suffered from epilepsy, sleep disorders, digestive complications, a variety of different complications that came with the condition that she had in utero. She suffered from encephalitis, an inflammation of the brain. She was 18 months of age and had all sorts of problems—amnesia, tore at her face and eyes, couldn't walk or talk. She was not given much chance of recovery. And then a miracle happened. Donna Joy liked the television show, ''Quantum Leap'' and the show's star, Scott Bakula. She would perk up when he sang a song. She would light up. She was responsive. By putting the tape in and continuing to stimulate her, she was able to come through this and survive.

She underwent eight brain operations by the age of 2. She incurred a lot. She was a great inspiration to me in pursuing this cause because she was proof that these children who are unwanted, who are wanted up to a point and then unwanted, unfortunately—because of their abnormality, they become unwanted and a subject for an abortion.

This is a hard case, a crisis pregnancy, as someone described, that turned out for the best.

In previous discussions I talked about cases that didn't turn out so well. Subsequent to this debate and the publishing of my wife's book about our son, Gabriel Michael, whose case did not turn out as well as Donna Joy Watts, many people have talked to Karen and to me about their own personal stories, and their own crises that they had to go through and deal with. They talked about the difficulties that were presented and how happy they were looking back that they saw it through; supporting and loving their child up until natural death; and the healing experience that they endured as a result of the pain that was brought upon them.

Donna Joy is a good story. Donna Joy is someone who survived. All these obstacles were placed in front of her. But she lived despite what everyone said was an impossible situation. We have a recent picture of her.

This is Donna Joy in a recent picture. She served as a flower girl in a wedding. I understand she was in two weddings that summer. She has had health problems and continues to have some. She has difficulties. Having six little children at home, I know all about those difficulties and challenges that each individual child brings. But she is a fighter. She is an inspiration to all the moms and dads who are going to confront a difficult pregnancy—a pregnancy as some would suggest which will go awry. Maybe 1 percent, 10 percent, 5 percent, some small percentage of the people who had Donna Joy's condition will survive as well as she is. But she did because her parents believed in her. They didn't accept the culture that said: You don't need this birth. It is too much for you.

I am sure Lori and Donny would say this is too much at times, as any parent would. But here is a real-life situation with hopelessness. But occasionally there comes hope.

As bad as it can be, if you have trust in your instincts and you follow those instincts to love and support and nurture the child whom God has given you, as a gift—it may not be as you open the package what you expected it to be, but it is nonetheless a gift; and you have to search, many times, for meaning from the gift, as Karen and I have—but search and you will find the gift.

In Lori and Donny's case, the gift is obvious. She is a beautiful girl, who wrote me a letter. I would like to read that letter into the RECORD. She wrote it on March 6. She said:

Dear Senator SANTORUM,

I think abortion is very mean. I am very glad that my Mom and Dad did not let me die. I like to sing Karen Carpenter songs. I like to play with my best friend Mariam. I love my family and my church. My favorite actor is Scott Bakula. I love pizza! I love my puppy. Please tell the President and the other Senators that I want to be a T.V. star, and a pilot, and a U.S. Senator. Please tell them I want to live!

She is an example of the triumph of the human spirit that is far too often snuffed out by this brutal procedure. This brutal procedure not only snuffs out so much human potential, but its very presence in our society affects our spirit. It dulls our senses. It makes us less aware of the world around us because it is another thing we just have to block off, because we certainly cannot think, as we go through the day, of the dozen or so—maybe a few less, maybe a few more—of these procedures being performed on little babies, as the Kansas report says, with healthy mothers, healthy children.

If we thought every day about what partial-birth abortion is and the horror it brings to these little children, we would have trouble going home. So we just put it aside. We bury it someplace, as we bury so much else, and it hardens us. It takes a little breath of spirit out of us and makes us a less caring and loving culture, less sensitive to the needs and wants of our neighbors, and particularly the little children.

We have already seen it. Not only the 1.3 million abortions in this country, but we see it in people such as Peter Singer, who talks about children being killed after they are born, up to a year now, he says, because they really don't know who they are, and so it really doesn't matter. We kill them at that age. They have no sense of self. In some cases they may be in pain, so we need to alleviate pain.

See, that is absurd. Well, 40 years ago, this procedure that I described

was considered too absurd to be legal in America, and it is.

So much that coarsens society is done just a little bit at a time, just on the fringes, just on the edges. And partial-birth abortion is just on the fringe, just on the edge, but yet coarsening our society, robbing us of the spirit, telling the world that we are not the country that we proclaim to be. And it is not even medically necessary.

I would ask my colleagues, tomorrow, if we get to a final vote, to support this language as is, not to pass any amendments to this bill. I encourage a very strong and robust vote, to send a message to America that this does offend us, and that this does coarsen our society, and we need to stop it, at least here.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I will be brief, no more than 5 minutes.

I will just say, I listened to the Senator's remarks. I know the Senator has gone through some personal trials and tragedies in his family. I am aware of that. And I respect the Senator for not only his strength, but for that of his wife and all his family in enduring these trials. Many of our families have been through similar trials.

I will tell you—and I am sure you will not be surprised; and I bet you will identify with this—some of the most heartening things I do are my visits to children's hospitals and seeing these parents, many of whom have children with serious health problems, who show such courage and such determination. It is a miracle to watch them and to see a child finally survive and prosper, as this beautiful little girl whose portrait the Senator brought to the floor.

It is a testament to God and a testament to the strength of the people who just do not give up when their children are at stake. I think that is the right thing to do. God has blessed me and my wife with three great kids, and a grandson to boot.

I will tell you, though, it troubles me that we end this debate on a day when we had a chance to offer across America health insurance to pregnant mothers who have no health insurance, so that they could have the best chance to give birth to a healthy baby, that we had that chance earlier in Senator PATTY MURRAY's and Senator HARRY REID's amendment—a chance to offer them health insurance. That amendment was defeated. It was defeated on a 49 to 47 vote. Three Republicans joined us in voting for the amendment.

I do not understand this: To have such depth of feeling and emotion for children, to have the medical resources to turn out like this beautiful little girl, and then to vote against that amendment; to vote against an amendment which offered health insurance. How can you possibly rationalize that we would have such determination to provide these medical resources, and when Members were given a chance today, they voted no. They voted no.

I believe this admiration, this strength of families, particularly of the ones I visit in hospitals, has to be put in context. These families have hope because they have access to the great hospitals, the great minds, the great doctors, medicine, and technology. Think of the despondency of the family with a sick child and no health insurance, nowhere to turn, begging—begging—in an emergency room for just any attention whatsoever.

So I would say my belief is that a commitment to family, a commitment to children, goes beyond the abortion issue. It goes to the basic issues of health care and health insurance. We had a chance today with the Murray amendment to do something about it. Sadly, we failed.

I hope another day will come. I hope those who opposed it today saying, oh, it wasn't in the budget, and we are going to save that for the budget resolution debate, will say the same thing next week when the budget resolution comes to the floor. I hope they will join me and others and show that this commitment to kids, this commitment to parents, this commitment to hope goes beyond the debate on abortion.

I yield the floor.

MORNING BUSINESS

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business.

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

TRIBUTE TO RAUL ELIZONDO DAY

Mr. REID. Mr. President, our attention if focused right now on Iraq and on our troops—the men and women on the front lines who are protecting us.

But we have always had men and women on the front lines protecting us—right here at home. They are our police officers, and they fight a war against crime every day.

I'd like to talk about one of those officers today—Raul Elizondo, of the North Las Vegas Police Department.

Raul Elizondo went to the same high school I did—Basic High School in Henderson, NV. He was a member of the championship wresting team there.

He went to the University of Nevada, Las Vegas, and then joined the North Las Vegas Police Department.

We have some outstanding officers in North Las Vegas, but Raul Elizondo quickly distinguished himself as one of the best.

He was known for going above and beyond the call of duty, and for getting personally involved in his community. He even helped get Christmas and birthday presents for children on his patrol beat.

In 1994, Raul Elizondo was named ''Police Officer of the Year'' by his colleagues in the North Las Vegas Police Officer Association.

That same year, he got a special commendation from the Chief of Police at the Annual Policeman's Ball.

Two months later he was killed in the line of duty.

This Thursday, March 13, will be Raul Elizondo Day in North Las Vegas.

Officers from the North Las Vegas Police Department will go to the elementary school that's now named after Raul Elizondo. They will read to students there, and help with classes, and eat lunch with kids.

Then in the afternoon they will have an assembly and a parade.

I wish I could be there with them. But on Thursday, while I'm here on the Senate floor, I'll be thinking about everyone involved.

I will be thinking about the police officers, who will be carrying on Raul Elizondo's tradition of being a role model for the community—as well as a law officer.

I will be thinking about Raul Elizondo's family—his mother Ann, his sister and his two brothers.

I will be thinking about the officers of the North Las Vegas Police Department, who still live with the pain of losing a colleagues and a friend.

And I will be thinking of the police officers all over the country, and the sherrif's deputies, and the FBI agents, and my old department—the Capitol Police. I'll remember how they put themselves on the front lines every day to keep me and my family safe. I'll offer my thanks for their sacrifice and my prayers for their safety. I hope you will join me.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I will describe a terrible crime that occurred April 8, 2002 in Northern Virginia. Two men beat a tow truck driver on the Beltway near Washington, D.C. The tow truck driver, who is Iranian, stopped on the highway to assist two men who appeared to be in need of help. After the driver stopped, the two men punched and choked him while calling him racist names.

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 is 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.

COST OF WAR WITH IRAQ

Mr. DODD. Mr. President, earlier today the Committee on Foreign Relations held a hearing about U.S. plans

for humanitarian relief and reconstruction of Iraq, in the event we choose to use force to disarm that country. Senator LUGAR, the Chairman of the Committee did a superb job of assembling a panel of experts to talk about the various issues associated with that subject, including what such initiatives are likely to cost and how much assistance we can expect from other governments, international relief agencies and non-governmental organizations.

The Committee learned a great deal from our witnesses. We had a very good discussion of the range of costs we may be looking at to pay for not only U.S. military action, but humanitarian relief and the longer term reconstruction of Iraq—and the costs are likely to be substantial—even under relatively optimistic assumptions.

I was very disappointed that no administration representatives were present to take part in the Committee's deliberations. While the witnesses we heard from today were excellent and are certainly well qualified experts who could credibly speculate on the costs of these operations and other related matters, they aren't the people who are planning the U.S. operations in Iraq.

Let me say, that my comments are not meant as a criticism of Senator LUGAR, the Chairman of our Committee. He rightly identified the two key administration officials who are most knowledgeable on this matter—Andrew Natisos, USAID Administrator, and retired General Jay Garner, Director of the newly established Office of Reconstruction and Humanitarian Assistance at the Pentagon—two key individuals in any humanitarian relief and reconstruction effort in Iraq. The administration declined to make them available this morning.

That is deeply troubling to me.

I have to believe that the administration's reluctance to make its representatives available to the Committee was because they would have been asked some hard questions, including the range of cost estimates that they have been working with as they plan for military action, humanitarian relief and the longer turn reconstruction of Iraq.

I don't think the Committee would have found it very credible to hear from these witnesses that such a range of costs has yet to be developed, when we are just days away from war with Iraq. Nor would we have found it credible to hear that national security concerns prohibited them from sharing this information, particularly as USAID has just sought public bids from five major U.S. construction firms for $900 million in contracts for reconstruction projects in Iraq—including for restoration of water systems, roadways, ports, hospitals and schools.

Mr. President, are we saying that private American construction companies can be privy to details of U.S. reconstruction plans, but the Congress and the American people cannot? Who is paying the bills here anyway?

Perhaps the administration's unwillingness to provide these witnesses had something to do with the timing of the hearing. Could it be that the administration did not want to make public those cost numbers just as the Senate and House are about to begin debate on the FY 2004 Budget Resolution?

How can this body or the House have a credible debate on the FY 2004 budget without knowing what war and the aftermath of that war with Iraq is likely to cost?

How can this body have a credible debate about the FY 2004 budget without knowing what the total cost of our so called diplomatic efforts to persuade governments to allow the U.S. to station military troops within its territory, or cast favorable votes at the U.N. Security Council will reach?

The answer quite simply is, we cannot.

Mr. President, it would appear that we are on the eve of going to war. This is a very solemn moment for our Nation. The Congress and the American people need to have a full understanding of all that is involved in doing so, including what it will cost and the sacrifices that may be required in other areas. It is time for this administration to stop playing games and politics with this critically important issue.

I would say to the administration it is time to come clean and tell the American people what they are going to have to pay for our military actions in Iraq and for nationbuilding in the aftermath of that conflict.

THE NATIONAL AQUATIC INVASIVE SPECIES ACT OF 2003

Mr. DEWINE. Mr. President, last week, I joined several of my colleagues in introducing the National Invasive Species Council Act, which addresses how the Federal Government would coordinate itself in combating aquatic and terrestrial and aquatic invasive species. I was also pleased last week to join my colleagues in introducing the National Aquatic Invasive Species Act of 2003, NAISA.

The National Aquatic Invasive Species Act of 2003 would reauthorize the Non-indigenous Aquatic Nuisance Prevention and Control Act, which Congress first passed in 1990 to better deal with the invasion of zebra mussels in the Great Lakes. The Great Lakes are still plagued by invasive species. In fact, over 160 non-indigenous species have been established in the Great Lakes since the 1800s.

The economic damage that invasive species, like the zebra mussels, Eurasion Ruffe, purple loosestrife, sea lamprey, and so many more cause to the Great Lakes is quite high. The zebra mussel has raised the cost of doing business for raw water users in the Great Lakes region by $24 million per year, and the Fish and Wildlife Service estimates that the economic impact to industries nationwide from zebra mussels over the next 10 years will be $5 billion dollars. The Eurasian Ruffe, another invasive species that fortunately has been found in just a couple ports in the Great Lakes, is estimated to cost the Great Lakes fishery $119 million if it spreads throughout the system. Considering that the value of the Great Lakes fishery is approximately $4 billion per year, I believe that Congress needs to take the next important steps to minimize the risk of new invasions into the Great Lakes.

NAISA would improve the Great Lakes aquatic invasive species program by authorizing the State Department to pursue a reference to the International Joint Commission, IJC, to analyze the prevention efforts in the Great Lakes. Last fall, the IJC released its 11th biennial Great Lakes Water Quality Report, and in that report, the IJC recommended this reference. Because controlling invasive species in the Great Lakes is an international effort, it is necessary for the IJC to review, research, conduct hearings, and submit to the United States and Canada a report that describes the success of current policies of governments in the United States and Canada having jurisdiction over the Great Lakes.

Our bill also would improve and expand upon the dispersal barrier project in the Chicago Ship and Sanitary Canal. The dispersal barrier was originally authorized in the National Invasive Species Act of 1996, and the project became operational in 2002. The electric barrier is proving to be effective in preventing the movement of carp up and down the canal, but this barrier is imperfect. This canal supports maritime commerce, and finding a permanent solution to preventing the inter-basin movement of invasive species is important. Therefore, NAISA would authorize the construction of a second barrier in the canal and mandate other improvements to this project so that if an invasive species breeches one barrier, there would be a backup barrier. Additionally, NAISA expands the barrier authority so that the Corps and the Fish and Wildlife Service would study additional waterways that would be good candidates for a dispersal barrier.

To address the largest pathway of invasive species introduction—ballast water—NAISA would establish a nationwide mandatory ballast water management program that would apply to ships entering the Great Lakes system. Because these ships still contain small amounts of unpumpable water that may contain organisms, ballast water management practices would help address the problem of ''No Ballast On Board'' or ''NOBOB'' vessels, which are ships that enter the Great Lakes reporting no ballast on board. By encouraging the regular flushing of sediments from ballast tanks in Great Lakes ships, management practices can further reduce the likelihood of new invasions.

Ships operating exclusively in the upper four Great Lakes, Superior, Michigan, Huron, and Erie, do not introduce invasive species into the Great Lakes, so it would be unnecessary to expect the lake carriers to comply with the mandatory ballast water management program. However, all ships, including those in the Great Lakes, would be required to have an Invasive Species Management Plan on-board outlining ways to minimize transfers on a ''whole ship'' basis and to abide by best management practices. Also all ships constructed after 2006 must have ballast technology on-board.

Finally, NAISA would include new authority to set up procedures for screening importations of live aquatic organisms to ensure that potential invasive species are not intentionally introduced into the Great Lakes System. I was very surprised to learn that currently, there are no processes for screening aquatic organisms that are shipped to this country. Our bill would direct the Invasive Species Council to develop a set of screening guidelines for federal agencies to use to determine whether a planned importation of a live organism from outside the country into the United States should proceed, and if so, whether that importation should be conditioned.

This is a very good bill with bipartisan, bicameral support. Though it is national in scope, the bill improves upon the existing authorities relating to the Great Lakes, which is vital to my home State of Ohio. Aquatic nuisance species are a threat to biodiversity, an economic burden, and a danger to human health. So I urge my colleagues to support the quick passage of this legislation.

FBI'S RECENT FAILURES IN CHILD PORNOGRAPHY ENFORCEMENT

Mr. LEAHY. Mr. President, I rise to speak about an unfortunate string of events that may set back the Department of Justice in fighting child pornography. Unfortunately, it appears that recklessness by DOJ prosecutors and FBI investigators may result in child pornographers being set free all over the Nation. We cannot afford such mistakes in our efforts to protect our children.

The fight against child pornography is an important and laudable goal. Child pornography victimizes real children and scars them for life. That is why I joined Senator HATCH in introducing the PROTECT Act, S.151, which passed the Senate this month by a vote of 84–0 and now awaits action in the House. I urge the House to pass this bill swiftly as we wrote it and as it unanimously passed the Senate. That way we can quickly get prosecutors the tools they need to win these cases.

The scars of the children who are victimized by child pornography can be that much longer in healing when the power of the internet is misused to spread their images to a worldwide audience with the click of a mouse. The internet also provides child pornographers with greater anonymity, allowing them to exploit children from the perceived safety of their bedrooms and basements. It is crucial to pierce this veil of safety to deter child pornography. Those who victimize our children must be made to understand that they will be held accountable when they are caught.

With that accountability comes deterrence, and only through deterrence will our children actually be safer. By the same token, the failure to make a conviction stick when the FBI does catch a child pornographer emboldens all child pornographers in carrying out their criminal activity. Whenever child pornographers see one of their own ''beat the rap,'' their perception that they can victimize the innocent with impunity is reinforced.

Last March, the Attorney General and FBI Director announced with great fanfare the ''Operation Candyman'' initiative. This investigation was billed as one of the most extensive child pornography stings in history. According to the FBI's March 18, 2002 press release, it involved all 56 FBI Field offices, nearly every U.S. Attorney's Office across the country, and the DOJ's Criminal Division. A major part of the investigation was accomplished by the FBI's completion and dissemination of a centralized search warrant affidavit that was slightly adapted and used in numerous jurisdictions to search the residences of suspects in the case. Thus, most all the Operation Candyman searches—and the admissibility of the evidence obtained through them—depend on the validity and accuracy of this centralized FBI affidavit.

Many arrests resulted from these searches. As the Attorney General said at the time he announced the operation, he wished this case to serve as an example ''to others that we will find and prosecute those who target and endanger our children.''

Unfortunately, this case may set the wrong kind of example. The DOJ has now admitted that its key affidavit—the one that it sent all over the country to conduct searches and gather evidence—contained false information. Two judges so far, one in Missouri and one in New York, have thrown out the evidence obtained from searches in this case. Because of the DOJ's admitted false statements, more cases are in peril within Operation Candyman. More importantly, as the Attorney General acknowledged at the time he announced the operation, other child pornographers may well take their cue from the FBI's failures in this case.

We all want to stop child pornography, but we must do so within the bounds of the Constitution. Otherwise, dangerous predators end up back on the street and our children are still at risk. In this case, two separate judges have found that the FBI acted recklessly and DOJ admitted that it provided false information in its nationally circulated affidavit.

It is all well and good to have press conferences and give catchy names to investigative efforts, but public relations is not enough. Press releases must be accompanied by an effective law enforcement campaign. Otherwise, instead of trumpeting success, we highlight failure. If we concentrate on the fundamentals and bring successful cases, there will be enough credit for everyone. That course alone will make our children safer.

Mr. President, I ask unanimous consent that a copy of a New York Times article discussing this matter be printed in the RECORD.

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

[From the New York Times, Mar. 7, 2003]

JUDGE DISCARDS F.B.I. EVIDENCE IN INTERNET CASE OF CHILD SMUT

(By Benjamin Weiser)

A federal judge in Manhattan has thrown out the government's evidence in an Internet child pornography case involving a Bronx man, in a ruling that could imperil scores of related prosecutions around the country.

The judge, Denny Chin of Federal District Court, ruled that the F.B.I. agents who had prepared a crucial affidavit had ''acted with reckless disregard for the truth.'' The ruling, dated Wednesday, was released yesterday, the same day that a federal judge in St. Louis, Catherine D. Perry, ordered evidence suppressed in a related case. Judge Perry, too, cited false statements in the affidavit.

The F.B.I. affidavit claimed that anyone who had signed up to join the Internet group at the center of the investigation automatically received child pornography from other members through an e-mail list.

This claim was used to obtain search warrants for the homes and computers of people who had joined the group, known as Candyman. The bureau later conceded that people who had signed up for the group—which also included chat sites, surveys and file sharing—could opt out of the mailing list and did not automatically receive pornography.

As a result, Judge Chin ruled, investigators would not have been justified in searching the home and computer of the Bronx man, Harvey Perez, who had signed up for the Candyman group but did not send or receive e-mail messages containing images.

''In the context of this case, a finding of probable cause would not be reasonable,'' Judge Chin wrote. Most subscribers to the group—part of a larger site known as eGroups—elected to receive no e-mail, Judge Chin said. The eGroups site, which was acquired by Yahoo, and the Candyman group are no longer in operation.

Operation Candyman was announced with great fanfare a year ago by Attorney General John Ashcroft.

Thus far, more than 1,800 people have been investigated, and more than 100 arrested, an F.B.I. spokeswoman said. There have been around 60 convictions, many as a result of guilty pleas, she added. Some defendants have admitted to molesting children, officials have said.

A Justice Department spokeswoman, Casey Stavropoulos, said yesterday that the two court rulings were being reviewed. ''The department remains committed,'' she said, ''to vigorously investigating and prosecuting the purveyors and distributors of child pornography.''

Defense lawyers in the cases praised the rulings. Nicole Armenta, who represents Mr.

Perez, said: ''The fact that someone visited a Web site, and you don't know if they did anything wrong, can't be a reason to go into their home and seize their computer.''

Daniel A. Juengel, a lawyer for Gregory Strauser, the defendant in the St. Louis case, called the rulings ''a major victory for the Fourth Amendment,'' which protects against illegal searches and seizures. Mr. Juengel said he believed the decisions would significantly change how the Justice Department handled search warrants involving Internet crime, and how judges looked at affidavits in such cases.

The F.B.I. spokeswoman had no comment on the rulings, or on the agents' actions, and said that the agents would also have no comment. One agent, Geoffrey Binney, has left the F.B.I., and did not return a message left at his office seeking comment.

It could not be learned yesterday how many Candyman prosecutions have relied on the affidavit in question, but it appears that there could be many challenges.

Judge Chin noted that 700 copies of a draft version of the affidavit were sent to F.B.I. offices around the country for use in the investigation. In New York, federal prosecutors in Manhattan and Brooklyn announced last July that 10 people, including Mr. Perez, were being charged in the Candyman investigation.

Without the false statement in the affidavit, Judge Chin said, all that remained was the allegation that Mr. Perez had subscribed to a Web site where unlawful images of child pornography could be downloaded.

''If the government is correct in its position that membership in the Candyman group alone was sufficient to support a finding of probable cause, then probable cause existed to intrude into the homes'' of several thousand people, merely because their e-mail addresses were entered into the Web site, Jude Chin wrote.

''Here, the intrusion is potentially enormous,'' the judge added. ''Thousands of individuals would be subject to search, their homes invaded and their property seized, in one fell swoop, even though their only activity consisted of entering an e-mail address into a Web site from a computer located in the confines of their own homes.''

DISTURBING DEVELOPMENTS IN THE REPUBLIC OF GEORGIA

Mr. CAMPBELL. Mr. President, as cochairman of the Commission on Security and Cooperation in Europe, I am concerned by a myriad of problems that plague the nation of Georgia a decade after restoration of its independence and nearly eleven years after it joined the Organization for Security and Cooperation in Europe, OSCE. Among these pressing concerns that I would like to bring to the attention of my colleagues is the ongoing violence against non-Orthodox religious groups, as well as allegations of torture perpetrated by Georgian security officials.

Concerning religious freedom, the situation in Georgia is one of the worst in the entire 55-nation region constituting the OSCE. Georgia is the only OSCE country where mobs are allowed to attack, violently and repeatedly, minority religious groups with complete impunity. Most recently, on January 24th, worshipers and clergy were assaulted and beaten in a mob attack on the Central Baptist Church in Tbilisi, where an ecumenical service was to have taken place. While police did eventually intervene, no arrests were made, and the planned ecumenical service between Baptists, Armenian Apostolic Church, Catholics and Lutherans was canceled. While I am pleased President Shevardnadze did issue a decree calling for a full investigation, to date no action by police or the Prosecutor General has taken place.

During the past three years of escalating mob violence, the Jehovah's Witnesses have experienced the majority of attacks, along with Baptists, Pentecostals, and Catholics. Sadly, victims from throughout the country have filed approximately 800 criminal complaints, and not one of these has resulted in a criminal conviction. The mob attacks are usually led by either Vasili Mkalavishvili, a defrocked Georgian Orthodox priest, or Paata Bluashvili, the leader of the Orthodox ''Jvari'' Union. Often the police and media are tipped off in advance of an attack—probably so that the media can arrive early and the police can show up late. The brazen leaders of these attacks have even given television interviews while mob brutality continues in the background.

In response to this ongoing campaign of violence against members of minority faiths, the leadership of the Helsinki Commission and other members of the Senate and House have been in correspondence with President Shevardnadze on numerous occasions. Congressional dismay over this ongoing issue was also reflected in language included in the omnibus appropriations bill underscoring concern over the Georgian Government's apparent resistance to prosecuting and jailing the perpetrators of these mob attacks. Despite assurances, Georgian officials have neither quelled this violence nor taken effective measures against the perpetrators of these assaults. Ironically, it appears that minority religious communities may be freer in parts of Georgia outside of Tbilisi's control than those under the central authorities.

The conference report language should send a strong message to President Shevardnadze and other Georgian leaders. They must understand the Congress's deep and abiding interest in this matter and our desire to see those responsible for the violence put in jail.

I also must express my concern regarding the widespread, indeed routine, use of torture in the Republic of Georgia. While law enforcement remains virtually nonexistent when it comes to protecting religious minorities from violent attacks, the use of torture by police remains a commonplace tool for extracting confessions and obtaining convictions in other areas. A government commission has also acknowledged that the scale of corruption in law enforcement has seriously eroded public confidence in Georgia's system of justice and the rule of law.

At one point, a few years ago, there appeared to be real political will to address this problem. Sadly, increased protections for detainees, adopted to facilitate Georgia's accession to the Council of Europe, were quickly reversed by the parliament once Georgia's admission was complete. Moreover, I am particularly concerned by remarks made by Minister of Interior Koba Narchemashvili in November. In a move calculated to look tough on crime following a notorious murder, he called for seizing control of pre-trial detention facilities from the authority of the Ministry of Justice. This would move Georgia in exactly the wrong direction. Reform must continue on two levels; continuing to move Georgia's legal standards into compliance with international norms, and improving actual implementation by law enforcement officers.

I want to see a prosperous, democratic, and independent Georgia, but these facts are deeply disturbing and disappointing. The Government of Georgia's failure to effectively address these concerns through decisive action will only further erode confidence here in Washington as well as with the people of Georgia.

COVER THE UNINSURED WEEK

Mr. JOHNSON. Mr. President, in recognition of Cover the Uninsured Week, March 10th through the 16th, I want to address a very serious issue that our country is facing on the domestic front. It is a problem that can be found in every State and encompasses a staggering 41 million Americans, a number that is only due to increase if we do not take immediate efforts to remedy the problem. I am referring to the number of people in this country who lack health insurance. Let me also take this opportunity to acknowledge the effort that is being put forth this week by numerous individuals, organizations, and businesses alike who have been instrumental in arranging Cover the Uninsured Week. This event will highlight the degree to which the issue affects our society and will serve as a venue bringing communities, professionals, educators, faith groups, legislators, businesses, and those directly affected to find solutions.

There are 41 million Americans who lack health insurance, 75,000 of whom are South Dakotans. In 2001, 41.2 million people or 14.6 percent of the U.S. population were uninsured, which was an increase of 1.4 million from the previous year. This is most likely a result of the continued increase in the unemployment rate. These factors, coupled with State budgets that are strapped thin, are what many analysts predict is the making of a ''perfect storm'' in the wake of health care today. South Dakota is facing a $54 million shortfall this year alone.

Every year, South Dakota continues to lose access to health insurance companies. Currently, there are only three health insurance carriers offering individual coverage in this State. This is

compounded with the continued increase of yearly premiums, which have left many individuals and families having to choose either between coverage and financial insecurity or joining the ranks of the uninsured and watching the possible deterioration of their health. Nationally, 8 out of 10 or the uninsured are in working families that cannot afford health insurance and are not eligible for public programs. In South Dakota, 84 percent of the uninsured live in a family headed by a working adult. The Center for Studying Health System Change found that health care costs for privately insured Americans jumped 10 percent in 2001. In 2002, premiums for employer-sponsored health coverage increased 12.7 percent. As many as 40 percent of small businesses in South Dakota that have provided workers a health benefit say that they may have to eliminate it. In addition, children are seriously affected by this decrease in health insurance coverage. While South Dakota has done very well at enrolling eligible children in the State Children's Health Insurance Program SCHIP, according to a January 2003 report by the Children's Defense Fund the State ranks 16th in the Nation in percent of uninsured children. A recent report showed that 19,000 South Dakota children under age of 19 are uninsured. These statistics on both the South Dakota level, as well as national level, only reconfirm the seriousness of the problem.

It goes without saying that the uninsured often face greater challenges and run a higher risk of developing chronic illness because seeking treatment or even preventative care is fiscally out of the question. A third of uninsured South Dakotans report needing to see a doctor but not going because of cost concerns. National studies have shown that the uninsured are four times more likely to experience an avoidable hospital or emergency room visit or stay. For those who experience these types of visits, medical costs can be too substantial to pay. Outstanding medical bills are a leading cause of bankruptcy and have been cited as a reason for half of all personal bankruptcy filings. It is troubling to know that a large number of Americans are placed in a position to gamble with their health and be faced with possible financial ruin if they seek care for minor or major ailments.

With these staggering statistics, we need to take initiatives, as well as employ current resources, that will prevent this problem from becoming even worse. I support the establishment of full deductibility of health insurance premiums for the self-employed. I feel strongly that we need to make additional funding available to community health centers and other public health programs, which are the main source of care for the uninsured. As well, I look forward to further movement on such legislative initiatives as the Family Opportunity Act, which would give States the option of allowing families of disabled children to purchase Medicaid coverage for them, and would provide for treatment of inpatient psychiatric hospital services for individuals under age 21 by allowing for payment of part or all of the cost of home or community-based services. While all of these initiatives are important steps forward, more needs to be done.

It is also important as we move forward with these initiatives, that we make sure to take precautions on other levels, so as not to exacerbate this problem any further. It is for this reason that I am concerned with the administration's Medicaid reform proposal. With States facing the most serious fiscal shortfalls to date, it is imperative to see that such programs as Medicaid be adequately funded. In previous years we have seen how Federal assistance has helped to expand this program, and in many ways been able to pick up where Medicare has left off. The Medicaid program has proved instrumental in providing health care coverage for many who would otherwise fall into the growing ranks of the uninsured.

Currently, there are 91,531 Medicaid-eligible recipients in South Dakota and the States' Medicaid expenditures are in excess of $450 million. This includes both State and Federal dollars. It is projected that the South Dakota Medicaid Program will spend over $70 million on prescription drugs alone in fiscal year 2003. The President's proposal would for the most part cease future Federal assistance, which has been instrumental in funding this program, and leave States having to pay back any Federal assistance they receive in a decade from now. This is not a solution, but a reshuffling of responsibility and liability from Federal and State to just States. This proposed reform could leave thousands of additional South Dakotans uninsured.

As you can see, the high volume of the uninsured is a serious situation in South Dakota, as well as the Nation at large. This problem needs to be remedied before any further erosion of our health care system commences. I look forward to the progress that will arise this week from the numerous presentations and discussions that will take place. However, it is my hope these discussions do not stop here. The ultimate goal of covering the uninsured can be reached as long as we work in a bipartisan fashion on both the Federal and State levels to make health care more affordable and accessible to all Americans.

FIBRODYSPLASIA OSSIFICANS PROGRESSIVA

Mr. CORZINE. Mr. President, I rise to call attention to a little-known, little-understood, devastating ''orphan'' disease fibrodysplasia ossificans progressiva, or FOP—which strikes children between age 2 and 10.

Normally, when a young child sprains a wrist or an ankle, or bruises a knee, there's a natural healing process. But children with FOP—develop catastrophic bone spurs at the site of the injury that continue to grow, encasing major organs and exerting painful, life-threatening pressure. According to Dr. Frederic Kaplan, an orthopedic surgeon at the University of Pennsylvania, the worldwide center for FOP research, the average lifespan for people with this dreadful disease is about 45 years. But most sufferers are wheel-chair bound by age 20, breathing with the greatest difficulty, unable to feed or dress themselves.

Here's the sad problem: there are perhaps 300 FOP cases in the world—at least 12 in my state of New Jersey, 16 in New York, and 13 in Pennsylvania. This is the orphan of all orphan diseases. So we need to put a human face on this. For me, that face belongs to 10-year old Whitney Weldon, of Westfield, New Jersey. When first diagnosed two years ago, Whitney did all the things most all children do—run, play ball, skip down the street. Now she cannot lift her arms over her head. But she is able to ride a special bicycle and enjoy the art she loves, and time with her best friend. We want to give her the chance for more time, and to do that we need money for research. Right now Whitney's only treatment consists of painkillers and anti-inflammatory steroids. Nothing stops the bone growth.

Dr. Kaplan and his research partner at the University of Pennsylvania, Dr. Eileen Shore, have received a little more than $1 million over 4 years from the National Institutes of Health for research into the gene that causes FOP and to determine the pathways by which this abnormal gene causes extra bone production. This funding is a tribute to their progress so far, but there is still such a long way to go. Dr. Kaplan's annual budget is $1 million. About 20 percent of that comes from NIH funding—the other 80 percent comes from families and friends. And I'll tell you something interesting—Dr. Kaplan says that even though FOP affects only one person in 2 million, the answers that can be found in continued research can shed light on osteoporosis and extra-bone formation that occurs after head or spinal cord trauma. So there is the very real potential of beneficial effects for many millions of people.

There are some promising avenues. Adult stem cell research and examination of bone marrow from FOP sufferers have yielded possible directions to pursue. Wider stem cell research would be exponentially more helpful.

Whitney's parents enable her to live as normal a life as possible for as long as possible. And she shares fun and confidences with Mackenzie Roach, her friend since kindergarten. She also shares one of life's extraordinary connecting bonds with Mackenzie. Stephen Roach, Mackenzie's father, was killed on September 11 when terrorists bombed the World Trade Center. Stephen was very involved in raising funds

and awareness for FOP. In his memory, Mackenzie's family has created the Stephen L. Roach Fund for FOP Research, which to date has raised more than $800,000.

Last March, President Bush declared 2002–2011 as National Bone and Joint Decade. That is a very hopeful development, and hope goes a long way. When we join that hope with a sustained focus on finding a cure for FOP, we will go even further.

NINTH CIRCUIT COURT SPLIT—S. 562

Mr. BURNS. Mr. President, I rise today to join my colleagues in sponsoring S. 562, which will reorganize the Ninth Circuit Court of Appeals. I have been a long-time advocate of splitting this controversial court and my passion was further enflamed when a three-judge panel of the Ninth Circuit ruled that the words ''under God'' in the Pledge of Allegiance are unconstitutional. I found this ruling appalling.

In fact, I am also a cosponsor of S. Res. 71, which expressed support of the Pledge of Allegiance. This resolution unanimously passed the Senate on March 4. This resolution came as a result of the Ninth Circuit voting not to have the full court reconsider the earlier decision, which I believe was a mistake.

The current Ninth Circuit encompasses nine States, two territories, and 14 million square miles. The current population is estimated at 45 million people; however, the Census Bureau has estimated the population to grow to 63 million by the year 2010. In comparison, the circuit with the second highest population is the Sixth Circuit, which contains 29 million people. The Ninth Circuit also seats the highest number of active judges with 28, whereas the Fifth Circuit has the second highest with 17. The average number of judges in each circuit, excluding the Ninth Circuit, is 12.6.

The population served by the Ninth Circuit Court of Appeals needs a change. The liberal, frequently reversed decisions handed down by the Ninth Circuit do not fairly represent the views of my State and many of those in the surrounding region. About half of the judges on the Ninth Circuit are California based and, with all due respect, do not reflect the principles and values of those of us from Montana.

The amount of time between filing and disposition on the Ninth Circuit is exorbitant. In 2001, the national average was 10.9 months, while the Ninth Circuit's average time was 15.8 months, nearly a 5-month difference. From 1996 to 2001, the national average has increased by 0.5 months while the Ninth Circuit's average has increased by 1.5 months.

The size, unbalanced judgeships, high reversal record, and intracircuit conflicts of the Ninth Circuit, along with the past success of dividing the Fifth Circuit, endorse the notion of division. It was the intent of Congress to create regional courts based upon identity of population and the current Ninth Circuit Court simply does not reflect Montana's unique social, cultural, geographic or economic characteristics.

This trend cannot continue. It is time to split the Ninth Circuit and I urge my colleagues to join me in supporting this reasonable, commonsense bill.

ZIMBABWE

Mr. FEINGOLD. I rise to draw the Senate's attention to events in Zimbabwe, where a continuing political and economic crisis is devastating the country and threatening the future of the southern African region. A combination of corruption at the highest levels of government, political desperation leading to ill-conceived economic and agricultural policies implemented in chaotic fashion, and severe political repression have brought the country to its knees. Already devastated by the HIV/AIDS pandemic, Zimbabwe is now gripped by a food crisis—one in large part caused by the government's policies. Nearly 40 percent of Zimbabweans are malnourished. This in a country that used to be a net exporter of food to the region.

Members of Zimbabwe's ruling party and their cronies have led their own country to ruin—even starvation—in order to manipulate the population and retain power. We are talking about a government that tortures independent journalists, beats respected civil society leaders who have testified before Congress, murders opposition supporters, and recently even arrested and detained a U.S. diplomat.

Last week, President Bush signed an executive order freezing the assets of 77 Zimbabwean individuals responsible for this repression and abuse, and prohibiting Americans from having business dealings with them. This is a step many of us in Congress had been anticipating for some time. Just last month I asked Secretary of State Powell about the status of the asset freeze, and more recently I spoke with the President's National Security Advisor, Dr. Condoleezza Rice, about this matter. I am glad the delay is over, and I commend the President for taking this step.

I was recently in Botswana and South Africa, and it is clear the consequences of the crisis are spilling over into other parts of the southern African region. Zimbabweans desperate to escape are spilling across borders. Foreign investors are nervous about engagement in the region. And the muted reaction of other African leaders is calling into question their commitment to the basic principles so critical to the development of the region.

I also commend the President and the administration for making it clear that the U.S. condemnation of the Zimbabwean government has nothing to do with race, and everything to do with basic principles like the rule of law, democratic governance, and freedom of expression. As the ranking member of the Subcommittee on African Affairs, I look forward to continuing to work with the administration, with colleagues on both sides of the aisle, with African leaders, and with the many brave and capable Zimbabweans who are working to stop Zimbabwe's decline into disorder and to realize the potential of the Zimbabwean people.

ADDITIONAL STATEMENTS

INTERNATIONAL WOMEN'S DAY

• Mr. FEINGOLD. Mr. President, I rise to take note of International Women's Day, which people around the world commemorated last Saturday. For nearly a century, women's groups worldwide have paused on March 8 to celebrate the achievements and contributions of women in all fields of human endeavor throughout our history. It is a special occasion to remember the progress women have made and to reflect upon the injustices and hardships they still face.

When I arrive here a decade ago, there were only six women in the Senate, and four of them had just come in with me in the Class of '92. Today there are 14. Of the 18 women who have ever been elected to a full term in the Senate, 13 are here now. There are now 62 women in the House of Representatives—the most ever. And NANCY PELOSI recently became the first woman ever chosen to lead a majority party in the Congress. Around the world, at latest count, almost 500 million people live in countries with female elected heads of government.

These are encouraging signs that we are making progress toward achieving full equality for women in the political realm. But even after the great advances of the past decade, women, who are more than half the electorate, account for only 14 percent of each House of the U.S. Congress. This is just one example of how, in so many areas, we still have a long way to go.

Women have made tremendous strides in the last century. In the United States today, more women than ever are attending college and earning post-graduate degrees. More women are entering the workforce and starting their own companies. But although equal pay for equal work has been the law of the land since 1963, on average, women still earn substantially less than men. Wage discrimination persists, costing families thousands of dollars each year. I am proud to support legislative efforts to correct this discrepancy.

While many women are going to work, many have to sacrifice time spent with their children in order to afford child care, education, and health care for their kids. Too often, women and children fall through the cracks of

our system. Violence against women is still all too prevalent in our country. Domestic violence is the leading cause of injury among women of child-bearing age. One out of every six American women has been a victim of a rape or an attempted rape. Many rapes go unreported. Only recently have States begun to recognize crimes such as stalking or marital rape.

Outside the United States, the situation for women is often far starker. Last year, the world came to understand the brutal treatment of Afghan women under the reign of the Taliban. Unfortunately, the Taliban regime was just an extreme example of the kinds of repression and denial of basic freedoms that women face in much of the developing world. Women in many places are denied such basic rights as owning property. They are more likely to live in poverty, suffer from malnutrition, and lack access to education. Despite the expansion of women's health care research and practices in the last two decades, women still have unequal access to these services.

Such policies are not only unjust, they are unwise. Numerous studies have shown that one of the best investments a developing society can make is educating its girls. In societies where women are literate, infant mortality is lower and children are healthier and better fed. ''Women are critical players in ensuring household food security and nutrition,'' according to the International Fund for Agricultural Development. ''Increasing the economic resilience of the poor is largely about enabling women to realize their socioeconomic potential more fully and improve the quality of their lives. To do so, women need access to assets, services, knowledge and technologies, and must be active in decision-making processes.'' This is important to keep in mind as we grapple this year with food crises in Africa and elsewhere.

As we contemplate going to war with Iraq, we should bear in mind that women often suffer more than men from armed conflict. Women and girls are among those most affected by the violence, economic instability, and displacement associated with warfare, and they frequently are threatened by rape and sexual exploitation, whether at home, in flight, or in refugee camps. Rape and sexual assault have often been used as weapons of war. The U.N. Security Council passed a resolution on Women, Peace and Security in 2000. Yet the deliberate killing, rape, mutilation, forced displacement, abduction, trafficking, and torture of women and girls continue unabated in contemporary armed conflicts, according to UNIFEM.

Although it is usually men who go off to war, women often bear much of the burden. It is therefore crucial that women be active and respected participants in peace-building and reconstruction.

In peacetime as well, women are often victims of domestic violence and illegal trafficking for slavery and prostitution. In some countries, women fall victim to ''honor killings,'' a deplorable practice whereby women are murdered by male relatives for actions that are perceived to bring dishonor to the family.

The Senate will likely soon be considering landmark legislation to deal with the global problem of HIV/AIDS, which I hope to be able to support. Here again, women must be at the center of our deliberations. Statistics compiled by UNAIDS show that both the spread and impact of HIV and AIDS disproportionately affect women and adolescent girls who are socially, culturally, biologically, and economically more vulnerable. In 1997, 41 percent of HIV-infected adults worldwide were women. In the latest report, they accounted for half. In North Africa and the Middle East, 54 percent of HIV-positive adults are women; in the Caribbean, 52 percent are. U.N. experts believe that women's empowerment is one of the only AIDS vaccines available today in most of the world, and that gender equality should be a guiding principle in the fight against HIV/AIDS.

I have had the opportunity to travel to numerous countries in Africa and see firsthand the devastating toll that HIV/AIDS and other infectious diseases are taking on the people of that continent. Young women are especially at risk. The United Nations reports that in Africa girls aged 15 to 19 are infected with HIV at a rate of 15 to 23 percent, whereas infection rates among boys of the same age group are 3 to 4 percent.

Mr. President, the protection of women's rights is vital to the success of promoting fundamental human rights. The Senate can work towards protecting women's rights and improve the status of women domestically and internationally by acting upon the United Nations Convention on the Elimination of Discrimination against Women, or CEDAW. CEDAW is the most comprehensive treaty on women's human rights, addressing almost all forms or discrimination in areas such as education, employment, marriage and family, health care, politics, and law. It has been over two decades since the United States signed this treaty, and it still awaits consideration before the Senate. Once again, I urge the Committee on Foreign Relations to take up this treaty and finally allow the Senate the opportunity to offer its advice and consent.

In conclusion, as we honor women everywhere and celebrate their accomplishments and contributions to history, we must recognize that there is still more to be done in the struggle for gender equity. Discrimination and violence against women still exist here at home and abroad. The United States and the rest of the international community must reaffirm their commitment to promote gender equality and human rights around the world.●

SHRM LEGISLATIVE CONFERENCE

● Mr. ENZI. Mr. President, I welcome the members of the Society for Human Resource Management, SHRM, to Washington, D.C. for their 20th Annual Employment Law and Legislative Conference. Today, more than 200 SHRM members will visit Capitol Hill to share their views and experiences with issues such as the Fair Labor Standards Act, health care reform, and pension reform.

SHRM is the world's largest association devoted to human resource management. Representing more than 170,000 individual members, the society serves the needs of human resource professionals by providing a comprehensive set of resources. As an influential voice, SHRM also seeks to advance the human resources profession by ensuring that human resources is an essential and effective partner in developing and executing organizational strategy.

As a legislator, as a human resources professional, and as a member of SHRM, I want to congratulate SHRM for recognizing the important role individuals can play in affecting the legislative process. Human resources professionals are crucial to the successful operation of our nation's businesses and organizations. Most importantly they understand the positive impact of meeting with their Senators and Representatives to discuss recent workplace trends, their policy implications, and suggested remedies.

Citizen participation is a crucial component of the legislative process, allowing legislators and their staff the opportunity to hear constituents explain personal experiences as they live and work within our nation's laws. Finally, legislators gain critical knowledge through these conversations, resulting in legislation that's clearly applicable to the workplace and effective for employees and employers.

I sincerely thank the members of SHRM for their commitment to provide value to employees and employers across the United States while contributing an essential component to the political process—practical real world experience.●

TRIBUTE TO JEANNIE BRIGHT

● Mr. BUNNING. Mr. President, I rise today to honor and pay tribute to Fort Knox civilian employee Jeannie Bright. As a technical publications editor with Fort Knox's Directorate of Training, Doctrine, and Combat Development, Ms. Bright was recently named the Training and Doctrine Command's Editor of the Year. She will be honored at the Secretary of the Army Awards ceremony in the Pentagon on March 14.

Ms. Bright began her civilian career with the Army in 1974. Over the past 22 years, she has poured over millions of words in search of errors and in pursuit of accuracy in Army publications for

soldiers. She recently said, ''Sometimes it can be monotonous stuff, but if we're talking about nuclear, biological, and chemical gear and we go to war, then this is pretty important stuff.''

While the Army recognizes the dedicated efforts of Ms. Bright, her award should also serve to acknowledge the vital role that all civilian employees play in our Nation's defense. As we continue to keep our soldiers deployed all around the world in our thoughts and prayers, I rise to also thank the thousands of civilian employees like Ms. Bright who also serve our Nation.

I congratulate Ms. Bright on her tremendous service to the soldiers of Fort Knox, the entire Army and our great Nation. Thank you, Jeannie.●

CELEBRATION OF THE 25TH ANNIVERSARY OF MICHIGAN AFSCME COUNCIL 25, AFL–CIO

● Mr. LEVIN. Mr. President, today I commemorate the Michigan American Federation of State, County, and Municipal Employees, AFSCME, Council 25, AFL–CIO for 25 years of dedication to State and local government employees. On March 14, 2003, members and supporters of Michigan AFSCME Council 25 will gather to celebrate the commitment this organization has shown and the support it has provided to working families in my home State of Michigan.

For over six decades, AFSCME and its members have worked to combat adversity in the workplace. What began as an effort to save civil service jobs expanded to become an adaptive and dynamic collective bargaining organization. AFSCME has thrived throughout its history by creatively meeting the difficult challenges that it and its members have faced. Today, the organization is a national leader among organized labor movements.

For the past quarter century, Michigan AFSCME Council 25 has represented and advocated for public employees throughout Michigan. The organization's membership includes employees of State, county, and municipal governments, school districts, public hospitals, and nonprofit agencies. Since the formation of Michigan AFSCME Council 25 by special convention in March of 1978, it has been a strong force dedicated to improving working conditions and advocating for its members.

Today, Michigan AFSCME Council 25 represents over 60,000 public employees and is organized into more than 300 local unions. Workers of virtually all public service occupations find a specialized voice within AFSCME. Because of the unwavering dedication that Michigan AFSCME Council 25 has shown to its community, working families and public employees have seen their working conditions improve and their voices heard.

I know that my Senate colleagues will join me in offering our congratulations to Michigan AFSCME Council 25 and its members as they celebrate their 25 years of unwavering support for Michigan's working families.●

MONTE MADNESS

● Mr. BAUCUS. Mr. President, I rise today to express a little home State pride. It was described as ''Monte Madness.''

For months, Montanans logged on to the Internet to cast their votes. Billboards hailed his name. Communities rallied around him. Montana's political leaders backed him. And our State beamed with pride on January 1 when the University of Montana's Monte the Grizzly was crowned Capital One National Mascot of the Year.

For the first time, mascots across the country competed in an online election for the right to represent their school in national competition. Monte faced stiff competition from mascots like Penn State's Nittany Lion and the University of Florida's Albert the Gator. In the end, Monte won the distinguished title, earning the UM mascot program $10,000 and a lot of national exposure.

Monte is known for his athletic prowess, his slick dance moves, and his knack for firing up Griz fans. It's easy to understand why Missoula Mayor Mike Kadas declared February 1 as Monte Day.

The highflying mascot is an unsung hero of the University of Montana and a valuable member of the Missoula community. There is no doubt Monte is the hardest working mascot in collegiate athletics. He deserves the national recognition. He is the most spirited, most athletic, hardest hitting, best crowd surfing mascot ever to grace a college campus.

I endorsed Monte during his election because he is a mascot for the right reasons—to win ball games and boost Montana athletics.

But Monte is not only a Montana treasure on the field, he is committed to giving back to our communities. Monte often attends parades, community events, and gives his time to help others. He donated $1,000 he received from the national exposure to Big Brothers and Big Sisters of Missoula.

Monte makes us all very proud to be Montanans. May he wear his crown for all to see and ride his Griz-colored Harley for many years to come.●

CARROLL COLLEGE

● Mr. BAUCUS. Mr. President, I rise today to honor the Carroll College Saints football team and to congratulate them on their NAIA National Championship.

As you can see, Montana has much to be proud of.

Carroll College is a 4-year college located in Helena, MT, and was ranked as the fourth best western regional comprehensive college by U.S. News and World Report.

In a game that became part of Montana sports legend, the Carroll Saints crushed their opponent, the two-time defending national champion Georgetown Tigers 28–7. The Saints pounded the Tigers in Tennessee and the echoes reached living rooms throughout Montana. We love football in Montana and the Saints gave us a team to be proud to cheer for and follow.

Although the game was magical, magic played no part in the Saints' success. Teamwork, amazing leadership from Coach Mike Van Diest, and hard work, in the weight room, on the field, and in the classroom, led this group of honorable young men through a solid season and an incredible string of playoff games.

Montana's college football teams recruit heavily from the state and many Montanan seniors led this legendary team. Darold Debolt from Great Falls, Casey Fitzsimmons from Chestor, Nick Garreffa from Billings, Chris Jones from Helena, Luke Lagomasino from Lincoln, Shane Larson from Miles City, Tyler Maxwell from Helena, Cory Perzinski from Billings, Nick Porrini from Helena, and Heath Wall from Belt, all played their part in creating the unity and teamwork that this team displayed throughout the season.

The National Champion Saints' provided inspiration to all who followed them.●

HONORING THE LIFE OF JACK WALDROUP, SR.

● Mr. BAYH. Mr. President, I rise today to honor the life of a fellow Hoosier and a dear friend, Jack G. Waldroup, Sr., who passed away on March 9, 2003.

Those of us who knew Jack were touched by his kind heart and generous spirit. His life was the embodiment of values Americans have cherished since the founding of our democracy: civic involvement, active political participation, and public service.

Jack loved Indiana. Throughout his days, he always remained close to his beloved home of Knox County. Jack graduated from Oaktown High School in 1946 and then spent time working on his family farm. He also served his community as a Chief Deputy in the Knox County Sheriff's Department. Soon after, Jack assumed his longtime position as a contract administrative assistant at United Engineers and Architects.

Jack's service to his party never faltered, and he became known in Indiana as ''Mr. Democrat.'' Jack served ably as Knox County Democrat Chairman from 1970 to 1984, helping to cultivate and guide countless careers in public service. He could always be counted on for sound advice, and you could be sure he would give it to you straight—without any sugar coating. Jack's keen understanding of the political process coupled with his loyalty and honest advice led him to become a fixture in statewide Indiana politics, and a must-

see for anyone seriously seeking to serve in public office.

Over the years, many leaders came to rely on Jack's wisdom and guidance. His good judgment and invaluable counsel was always appreciated and will be greatly missed.

When we reflect upon the lives of men such as Jack Waldroup, Sr., we are reminded that we live in a country where the true power to shape the destiny of government is vested in the people. We will all miss Jack deeply, but his memory will serve as a beacon and his life as an example of the virtues of civic involvement. He was my friend, and I shall miss him.●

HONORING HAYS HIGH SCHOOL

● Mr. BROWNBACK. Mr. President, I rise today to congratulate some hard-working students who are paying attention to a neglected area of all of our education—our own history and founding.

Fortunately, there are programs such as ''We the People: The Citizen and the Constitution program,'' which is the most extensive educational program in the country, and was developed specifically to educate young people about the Constitution and the Bill of Rights. This program, which is administered by the Center for Civic Education and funded by the U.S. Department of Education by act of Congress, finally addresses this woeful lack of knowledge in a systematic and thorough way.

In fact, on April 26, 2003, more than 1,200 students from across the United States will visit Washington, D.C., to compete in the national finals of the ''We the People'' program. What an experience!

I am especially proud to announce that the class from Hays High School from the town of Hays will represent my home State of Kansas in this national event. These young scholars have worked diligently to reach the national finals by participating at local and statewide competitions. As a result of their experience, they have gained much—including a deep knowledge and understanding of the fundamental principles and values of our constitutional democracy.

The three-day ''We the People'' national competition is difficult, yet true to life as it is modeled after hearings in the United States Congress. These hearings consist of oral presentations by high school students before a panel of adult judges on constitutional topics. The students are given an opportunity to demonstrate their knowledge while they evaluate, take, and defend positions on relevant historical and contemporary issues. Their testimony is followed by a period of questioning by the judges who probe the students' depth of understanding and ability to apply their constitutional knowledge.

The ''We the People'' program—which provides curricular materials at upper elementary, middle, and high school levels—not only enhances students' understanding of the institutions of American constitutional democracy, but it also helps them identify the contemporary relevance of the Constitution and Bill of Rights. At the same time, critical thinking exercises, problem-solving activities, and cooperative learning techniques help develop participatory skills necessary for students to become active, responsible citizens.

Independent studies done by groups as diverse as the Educational Testing Service, Richard Brody at Stanford University, and researchers at the Council for Basic Education discovered that participants outperform comparison students, develop a greater commitment to democratic principles and values and are more enthusiastic about their work. Clearly this is a deserving program!

The class from Hays High School is currently preparing for their participation in the national competition in Washington, D.C. It is inspiring to see these young people advocate the fundamental ideals and principles of our government, ideas that identify us as a people and bind us together as a nation. It is important for future generations to understand these values and principles which we hold as standards in our endeavor to preserve and realize the promise of our constitutional democracy. I wish these young ''constitutional experts'' the best of luck at the ''We the People'' national finals.●

THE UNIVERSITY OF WISCONSIN-MADISON MEN'S BASKETBALL TEAM

● Mr. FEINGOLD. Mr. President, today, with great admiration and as a proud alumnus, I congratulate the University of Wisconsin in Madison men's basketball team for their victory over the University of Illinois this week. This victory allowed the Badgers to claim the Big Ten conference title outright for the first time since 1947. As a lifelong Badger, I am proud of their accomplishment and I look forward to their play in the postseason.

In this, the 105th season of men's basketball at UW-Madison, the players and the coaching staff won their first consecutive conference crown since the 1923 and 1924 seasons. For the second year in a row, Badger basketball has made the people in Madison and around Wisconsin and the country proud to be Badgers. With this win, Coach Bo Ryan becomes only the third coach in Big Ten history to win titles in his first two seasons as coach. With this championship, UW-Madison continues its long tradition of dominance in Big Ten athletics.

As a graduate of UW-Madison, I take great pride in commending our men's basketball team, and I wish Coach Ryan and his Badger team all the best in postseason play. Wisconsin is behind you, and we wish you all the luck. Go Badgers.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT PROVIDING A PLAN FOR SECURING NUCLEAR WEAPONS, MATERIAL, AND EXPERTISE OF THE STATES OF THE FORMER SOVIET UNION AND REPORTS ON THE IMPLEMENTATION OF THAT PLAN DURING FISCAL YEAR 2002—PM 22

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States together with an accompanying report; which was referred to the Committee on Armed Services:

To the Congress of the United States:

As required by section 1205 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107) and section 1205 of the National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314), I am providing a report prepared by my Administration which presents a plan for securing nuclear weapons, material, and expertise of the states of the Former Soviet Union and reports on implementation of that plan during Fiscal Year 2002.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 11, 2003.*

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–1496. A communication from the Acting Deputy Principal Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing (FRL 7463–2)'' received on March 6, 2003; to the Committee on Environment and Public Works.

EC–1497. A communication from the Acting Deputy Principal Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture (FRL 7462–1)'' received on March 6, 2003; to the Committee on Environment and Public Works.

EC–1498. A communication from the Acting Deputy Principal Associate Administrator,

Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles (FRL 7461–9)'' received on March 6, 2003; to the Committee on Environment and Public Works.

EC–1499. A communication from the Acting Deputy Principal Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing (FRL 7461–8)'' received on March 6, 2003; to the Committee on Environment and Public Works.

EC–1500. A communication from the Acting Deputy Principal Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing (FRL 7461–3)'' received on March 6, 2003; to the Committee on Environment and Public Works.

EC–1501. A communication from the Acting Deputy Principal Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing (FRL 7462–6)'' received on March 6, 2003; to the Committee on Environment and Public Works.

EC–1502. A communication from the Acting Deputy Principal Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Effluent Limitations Guidelines; Pretreatment Standards, and New Source Performance Standards for the Pharmaceutical Manufacturing Point Source Category (FRL 7462–8)'' received on March 6, 2003; to the Committee on Environment and Public Works.

EC–1503. A communication from the Acting Deputy Principal Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Modification of Nations Pollutant Discharge Elimination System (NPDES) Permit Deadline for Storm Water Discharges for Oil and Gas Construction Activity That Disturbs One to Five Acres of Land (FRL 7464–2)'' received on March 6, 2003; to the Committee on Environment and Public Works.

EC–1504. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing; and National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing (FRL 7459–9)'' received on March 5, 2003; to the Committee on Environment and Public Works.

EC–1505. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks (FRL 7462–3)'' received on March 5, 2003; to the Committee on Environment and Public Works.

EC–1506. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Standards for Hazardous Air Pollutants: Engine Test Cells/Stands (FRL 7461–4)'' received on March 5, 2003; to the Committee on Environment and Public Works.

EC–1507. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production (FRL 7461–7)'' received on March 5, 2003; to the Committee on Environment and Public Works.

EC–1509. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Plans For Designated Facilities and Pollutants; Rhode Island; Negative Declaration (FRL 7458–3)'' received on March 5, 2003; to the Committee on Environment and Public Works.

EC–1510. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a document entitled ''Guidance for the Year 2003 Clean Water Act Recognition Awards'' received on March 4, 2003; to the Committee on Environment and Public Works.

EC–1511. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a document entitled ''MOU between EPA and the Nuclear Regulatory Commission: Consultation and Finality on Decommissioning and Decontamination of Contaminated Sites'' received on March 4, 2003; to the Committee on Environment and Public Works.

EC–1512. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Prevention of Significant Deterioration (FRL 7456–9)'' received on March 3, 2003; to the Committee on Environment and Public Works.

EC–1513. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Antelope Valley Air Pollution Control District, Imperial County Air Pollution Control District, and Monterey Bay Unified Air Pollution Control (FRL 7446–1)'' received on March 6, 2003; to the Committee on Environment and Public Works.

EC–1514. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations (7461–1)'' received on March 5, 2003; to the Committee on Environment and Public Works.

EC–1515. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production (7460–1)'' received on March 6, 2003; to the Committee on Environment and Public Works.

EC–1516. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing (FRL 7460–2)'' received on March 5, 2003; to the Committee on Environment and Public Works.

EC–1517. A communication from the Director, Office of Congressional Affairs, Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Source Material Reporting Under International Agreements (RIN 3150–AH10)'' received on March 7, 2003; to the Committee on Environment and Public Works.

EC–1518. A communication from the Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Final Rule to List the Columbia Basin Pygmy Rabbit as Endangered (1080–AI17)'' received on March 7, 2003; to the Committee on Environment and Public Works.

EC–1519. A communication from the Deputy Associate Attorney General and White House Liaison, Department of Justice, transmitting, pursuant to law, the report of a vacancy and the designation of an acting officer for the position of Assistant Attorney General, received on March 3, 2003; to the Committee on the Judiciary.

EC–1520. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report relative to international agreements other than treaties entered into by the United States under the Case-Zablocki Act with Japan and Paraguay; to the Committee on Foreign Relations.

EC–1521. A communication from the Legal Counsel, Community Development Financial Institutions Fund, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notices of Funds Availability Inviting Applications for the Community Development Financial Institutions Programs, the Native American CDFI Development Program and the Bank Enterprise Award Program'' received on March 7, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–1522. A communication from the Legal Counsel, Community Development Financial Institutions Fund, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revised interim rule, Community Development Financial Institutions Program Revised interim rule, Bank Enterprise Award Program ((RIN1505–AA92)(1505–AA91))'' received on March 7, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–1523. A communication from the Assistant General Counsel, Regulations, Office of the Assistant Secretary for Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''FHA Approval of Condominium Development Located in the Commonwealth of Puerto Rico for Mortgage Insurance Under the Section 234(c) Program (RIN2502–AH80)'' received on March 7, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–1524. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, the report relative to exports made to Mexico, received on March 7, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–1525. A communication from the Chair, Office of General Counsel, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled ''Administrative Fines'' received on March 7, 2003; to the Committee on Rules and Administration.

EC–1526. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747 Series Airplanes; docket no. 2002–N316 [2–5/3–3] (RIN2120–AA64)(2003–0130)'' received on March 7, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1527. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model CL 600 2C10 Series Airplanes; Docket No. 2003–N–20 [2–5/3–3] (2120–AA64) (2003–0129)'' received on March 7, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1528. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A330–223, 321, 322, and 323 Series Airplanes Equipped with Pratt & Whitney Model PW 4164, 4168, or 4168A Engines; Docket No. 2002–NM–102 (2120–AA64)(2003–0128)'' received on March 7, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1529. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pratt & Whitney Canada PW500 Series Turbofan Engines; Docket No. 2002–NE–45 (2120–AA64)(2003–0127)'' received on March 7, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1530. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Empresa Brasileria de Aeronautica SA Model EB 135 and 145 Series Airplanes Docket No. 2002–NM–326 (2120–AA64)(2003–0126)'' received on March 7, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1531. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (54); Amdt. No. 3045 (2120–AA65)(20030014)'' received on March 7, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1532. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (29); Amdt. No. 3044 (2120–AA65)(2003–0013)'' received on March 7, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1533. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (59); Amdt. No. 3043 (2120–AA65)(2003–0012)'' received on March 7, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1534. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (27); Amdt. No. 3046 (2120–AA65)(2003–0011)'' received on March 7, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1535. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Special Air Traffic Rules; Flight Restrictions in the Vicinity of Niagara Falls; Docket No. FAA 2002–13235 (2120–AH57)'' received on March 7, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1536. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Enhanced Security Procedures for Operations at Certain Airports in the Washington, D.C. Metropolitan Area Special Flight Rules Area; Docket No. FAA–2002–11580 (2120–AH62)'' received on March 7, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1537. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of the Dimensions of the Grand Canyon National Park Special Flight Rules Area and Flight Free Zones; Docket No. FAA–2001–8690 (2120–AG74)(2003–0001)'' received on March 7, 2003; to the Committee on Commerce , Science, and Transportation.

EC–1538. A communication from the Acting Director, Office Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Season opening announcement for the sablefish with fixed gear managed under IFO program (0679)'' received on March 7, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1539. A communication from the Attorney/Advisor, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, the report of the designation of an acting officer for the position Assistant Secretary for Governmental Affairs, received on March 7, 2003; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 113. A bill to exclude United States persons from the definition of ''foreign power'' under the Foreign Intelligence Surveillance Act of 1978 relating to international terrorism.

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. GREGG (for himself, Mr. FRIST, Mr. ALEXANDER, Mr. WARNER, Mr. ENZI, Mr. SESSIONS, Mr. ROBERTS, and Mr. GRAHAM of South Carolina):

S. 15. A bill to amend the Public Health Service Act to provide for the payment of compensation for certain individuals with injuries resulting from the administration of smallpox countermeasures, to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States, and to improve immunization rates by increasing the distribution of vaccines and improving and clarifying the vaccine injury compensation program; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CORZINE:

S. 586. A bill to provide additional funding for the second round of empowerment zones and enterprise communities; to the Committee on Finance.

By Mr. WYDEN:

S. 587. A bill to promote the use of hydrogen fuel cell vehicles, and for other purposes; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Mr. CORZINE, Mr. INOUYE, Ms. LANDRIEU, Mr. LEVIN, Mr. REED, and Mr. SARBANES):

S. 588. A bill to amend the Social Security Act to guarantee comprehensive health care coverage for all children born after 2004; to the Committee on Finance.

By Mr. AKAKA (for himself, Mr. DURBIN, Mr. ALLEN, and Mr. VOINOVICH):

S. 589. A bill to strengthen and improve the management of national security, encourage Government service in areas of critical national security, and to assist government agencies in addressing deficiencies in personnel possessing specialized skills important to national security and incorporating the goals and strategies for recruitment and retention for such skilled personnel into the strategic and performance management systems of Federal agencies; to the Committee on Governmental Affairs.

By Mr. SCHUMER (for himself and Mr. SANTORUM):

S. 590. A bill to amend title XVIII of the Social Security Act to provide for equitable reimbursement rates under the medicare program to Medicare+Choice organizations; to the Committee on Finance.

By Mr. MILLER:

S. 591. A bill to provide for a period of quiet reflection at the opening of certain schools on every school day; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HOLLINGS:

S. 592. A bill to establish an Office of Manufacturing in the Department of Commerce, and for other purposes; to the Committee on Finance.

By Mr. DURBIN (for himself, Ms. MIKULSKI, Mr. LEAHY, Mr . SARBANES, Mr. BINGAMAN, Mr. LAUTENBERG, and Ms. LANDRIEU):

S. 593. A bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment has occurred; to the Committee on Governmental Affairs.

By Mr. JOHNSON (for himself, Mr. DASCHLE, Mr. CAMPBELL, Mr. COCHRAN, and Mrs. MURRAY):

S. 594. A bill to provide for the issuance of bonds to provide funding for the construction of schools of the Bureau of Indian Affairs, and for other purposes; to the Committee on Indian Affairs.

By Mr. HATCH (for himself, Mr. BREAUX, Mr. ALLARD, Ms. COLLINS, Mr. SUNUNU, and Ms. SNOWE):

S. 595. A bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes; to the Committee on Finance.

By Mr. ENSIGN (for himself, Mrs. BOXER, Mr. SMITH, Mr. ALLEN, Mr. ENZI, and Mr. BAYH):

S. 596. A bill to amend the Internal Revenue Code of 1986 to encourage the investment of foreign earnings within the United States for productive business investments and job creation; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. DOMENICI, and Mr. BINGAMAN):

S. 597. A bill to amend the Internal Revenue Code of 1986 to provide energy tax incentives; to the Committee on Finance.

By Ms. COLLINS (for herself, Mr. MILLER, Mrs. DOLE, Mr. MCCAIN, Mr. KERRY, Mr. CHAMBLISS, and Mr. SPECTER):

S. 598. A bill to amend title XVIII of the Social Security Act to provide for a clarification of the definition of homebound for purposes of determining eligibility for home health services under the medicare program; to the Committee on Finance.

By Mrs. LINCOLN (for herself, Ms. COLLINS, and Mr. BINGAMAN):

S. 599. A bill to amend title XVIII of the Social Security Act to provide coverage under the medicare program for diabetes laboratory diagnostic tests and other services to screen for diabetes; to the Committee on Finance.

By Mr. CRAIG (for himself and Mrs. FEINSTEIN):

S. 600. A bill to authorize the Secretary of Energy to cooperate in the international magnetic fusion burning plasma experiment, or alternatively to develop a plan for a domestic burning plasma experiment, for the purpose of accelerating the scientific understanding and development of fusion as a long term energy source; to the Committee on Energy and Natural Resources.

By Mr. BROWNBACK (for himself, Mr. BIDEN, Mr. DEWINE, and Mr. SCHUMER):

S.J. Res. 8. A joint resolution expressing the sense of Congress with respect to raising awareness and encouraging prevention of sexual assault in the United States and supporting the goals and ideals of National Sexual Assault Awareness and Prevention Month; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. HUTCHISON (for herself, Ms. MIKULSKI, Ms. CANTWELL, Mrs. CLINTON, Mrs. FEINSTEIN, Mrs. LINCOLN, Mrs. MURRAY, Ms. SNOWE, Ms. MURKOWSKI, Mr. BAYH, Mr. WARNER, Mr. ALLEN, Mr. KOHL, Mr. INHOFE, and Mr. LUGAR):

S. Res. 79. A resolution designating the week of March 9 through March 15, 2003, as ''National Girl Scout Week''; to the Committee on the Judiciary.

By Mr. LOTT:

S. Res. 80. A resolution to authorize the printing of a collection of the rules of the committees of the Senate; considered and agreed to.

By Mr. LIEBERMAN (for himself and Ms. SNOWE):

S. Con. Res. 18. A concurrent resolution expressing the sense of Congress that the United States should strive to prevent teen pregnancy by encouraging teenagers to view adolescence as a time for education and maturing and by educating teenagers about the negative consequences of early sexual activity; and for other purposes; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 3

At the request of Mr. SANTORUM, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 3, a bill to prohibit the procedure commonly known as partial-birth abortion.

S. 13

At the request of Mr. KYL, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 13, a bill to provide financial security to family farm and small business owners while by ending the unfair practice of taxing someone at death.

S. 150

At the request of Mr. ALLEN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 150, a bill to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act.

S. 152

At the request of Mr. BIDEN, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 152, a bill to assess the extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence.

S. 201

At the request of Mr. SCHUMER, the names of the Senator from California (Mrs. BOXER), the Senator from New York (Mrs. CLINTON), the Senator from New Jersey (Mr. CORZINE), the Senator from California (Mrs. FEINSTEIN) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 201, a bill to amend title 31, United States Code, to provide Federal aid and economic stimulus through a one-time revenue grant to the States and their local governments.

S. 206

At the request of Mr. ROBERTS, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 206, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of incentive stock options and employee stock purchase plans.

S. 227

At the request of Mrs. FEINSTEIN, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 227, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to certified or licensed teachers, to provide for grants that promote teacher certification and licensing, and for other purposes.

S. 256

At the request of Mrs. BOXER, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 256, a bill to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, and for other purposes.

S. 274

At the request of Mr. GRASSLEY, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 274, a bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

S. 315

At the request of Mr. LEAHY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 315, a bill to support first responders to protect homeland security and prevent and respond to acts of terrorism.

S. 377

At the request of Ms. LANDRIEU, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 377, a bill to require the Secretary of the Treasury to mint coins in commemoration of the contributions of Dr. Martin Luther King, Jr., to the United States.

S. 380

At the request of Ms. COLLINS, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 380, a bill to amend chapter 83 of title 5, United States Code, to reform the funding of benefits under the Civil Service Retirement System for employees of the United States Postal Service, and for other purposes.

S. 413

At the request of Mr. NICKLES, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 413, a bill to provide for the fair and efficient judicial consideration of personal injury and wrongful death claims arising out of asbestos exposure, to ensure that individuals who suffer harm, now or in the future, from illnesses caused by exposure to asbestos receive compensation for their injuries, and for other purposes.

S. 459

At the request of Mr. LEAHY, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 459, a bill to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits.

S. 464

At the request of Mr. REID, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 464, a bill to amend the Internal Revenue Code of 1986 to modify and expand the credit for electricity produced from renewable resources and waste products, and for other purposes.

S. 465

At the request of Mrs. MURRAY, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 465, a bill to amend title XVIII of the Social Security Act to expand medicare coverage of certain self-injected biologicals.

S. 505

At the request of Mr. HATCH, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S.

505, a bill to amend the Internal Revenue Code of 1986 to encourage and accelerate the nationwide production, retail sale, and consumer use of new motor vehicles that are powered by fuel cell technology, hybrid technology, battery electric technology, alternative fuels, or other advanced motor vehicle technologies, and for other purposes.

S. 516

At the request of Mr. BUNNING, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 516, a bill to amend title 49, United States Code, to allow the arming of pilots of cargo aircraft, and for other purposes.

S. 521

At the request of Mr. CAMPBELL, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 521, a bill to amend the Act of August 9, 1955, to extend the terms of leases of certain restricted Indian land, and for other purposes.

S. 522

At the request of Mr. CAMPBELL, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 522, a bill to amend the Energy Policy Act of 1992 to assist Indian tribes in developing energy resources, and for other purposes.

S. 523

At the request of Mr. CAMPBELL, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 523, a bill to make technical corrections to law relating to Native Americans, and for other purposes.

S. 525

At the request of Mr. LEVIN, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 525, a bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act.

S. 526

At the request of Mr. HATCH, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 526, a bill to amend title XVIII of the Social Security Act to improve access to Medicare+Choice plans for special needs medicare beneficiaries by allowing plans to target enrollment to special needs beneficiaries.

S. 532

At the request of Mrs. HUTCHISON, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 532, a bill to enhance the capacity of organizations working in the United States—Mexico border region to develop affordable housing and infrastructure and to foster economic opportunity in the colonias.

S. 555

At the request of Mr. CAMPBELL, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 555, a bill to establish the Native American Health and Wellness Foundation, and for other purposes.

S. 569

At the request of Mr. ENSIGN, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 569, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 582

At the request of Mr. BUNNING, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 582, a bill to authorize the Department of Energy to develop and implement an accelerated research and development program for advanced clean coal technologies for use in coal-based electricity generating facilities and to amend the Internal Revenue Code of 1986 to provide financial incentives to encourage the retrofitting, repowering, or replacement of coal-based electricity generating facilities to protect the environment and improve efficiency and encourage the early commercial application of advanced clean coal technologies, so as to allow coal to help meet the growing need of the United States for the generation of reliable and affordable electricity.

S.J. RES. 6

At the request of Mr. LIEBERMAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S.J. Res. 6, a joint resolution expressing the sense of Congress with respect to planning the reconstruction of Iraq.

S. RES. 22

At the request of Mr. DORGAN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 22, A resolution expressing the sense of the Senate regarding the implementation of the No Child Left Behind Act of 2001.

S. RES. 46

At the request of Mr. BINGAMAN, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. Res. 46, a resolution designating March 31, 2003, as ''National Civilian Conservation Corps Day''.

S. RES. 70

At the request of Mr. CRAIG, the names of the Senator from Colorado (Mr. CAMPBELL), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Illinois (Mr. FITZGERALD), the Senator from Oklahoma (Mr. INHOFE), the Senator from Maryland (Ms. MIKULSKI), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Washington (Mrs. MURRAY), the Senator from Oklahoma (Mr. NICKLES), the Senator from Oregon (Mr. SMITH), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. Res. 70, a resolution designating the week beginning March 16, 2003 as ''National Safe Place Week''.

S. RES. 70

At the request of Ms. LANDRIEU, her name was added as a cosponsor of S. Res. 70, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORZINE:

S. 586. A bill to provide additional funding for the second round of empowerment zones and enterprise communities; to the Committee on Finance.

Mr. CORZINE. Mr. President, I rise today to introduce the Round II EZ/EC Flexibility Act of 2003. This important legislation would secure vital funding for Round II Empowerment Zones and Enterprise Communities to ensure that communities throughout the country will be able to continue the important work of economic revitalization.

This legislation promotes the continued economic development throughout the EZ/EC program, particularly to the 15 Round II urban and 5 rural empowerment zones that were designated in 1999. Each of those communities has implemented a host of strategic initiatives aimed at economic growth and job creation in their respective communities.

The EZ/EC Act ensures that Round II communities EZs and ECs are provided with funding they were promised upon designation. It also authorizes the use of EZ/EC grants as a match for related Federal programs, providing the EZ/EC program with maximum flexibility to implement initiatives at the local level.

The Enterprise Zone/Enterprise Community program was created to provide Federal assistance over ten years in designated urban and rural communities that would fuel economic revitalization and job growth. The program does so primarily by providing Federal grants to communities and tax and regulatory relief to help communities attract and retain businesses.

Unfortunately, an inequity now exists between the way Round I and Round II EZs and ECs have been funded. Those communities that won EZ designations in the initial round, in 1994, received full funding from the Congress, which made all grant awards available for use within the first two years of designation. However, EZs and ECs designated in Round II did not receive this same funding authority.

Federal benefits promised to the Round IIs included funding grants of $100 million for each urban zone, $40 million for each rural zone and about $3 million for each Enterprise Community over a ten-year period beginning in 1999. In reliance on those ''promised'' funds, Round II zones prepared strategic plans for economic revitalization based on the availability of that funding. However, unlike Round I designees, who received a full funding up front, Round II zones have received a mere fraction of the funding promise.

The lack of a certain, predictable funding stream will ultimately undermine the ability of Round II EZs/ECs to effectively implement their economic growth strategies in their designated communities. And that's a shame, because the EZ/EC initiative has produced real results.

In fact, I'm proud to say that one of the best Round II EZs is located in Cumberland County, NJ. The Cumberland County Empowerment Zone, a collaborative effort of the communities of Bridgeton, Millville, Vineland and Port Norris, has been a model EZ, and committed all the funds made available to it by HUD.

Since the creation of the EZ, Cumberland County has witnessed more than 100 housing units rehabbed, renovated or newly built. A $4 million loan pool has been created to fund community and small business reinvestment. The EZ also has led to the funding for over 60 economic development initiatives, utilizing more than $11 million in funding to leverage $120 million in private, public and tax exempt bond financing.

These are real results. In fact, over 1,100 new jobs will be created in the County over the next year and a half alone if the Federal Government were to maintain its commitment to the EZ/EC program.

Cumberland County is just one example of how the EZ/EC initiative has brought hope and promise to communities throughout America. We need to do more to support and build on these initiatives. Now is the time for Congress to fulfill the promise made to Round II EZs and ECs.

I urge my colleagues to cosponsor this bill that will allow communities throughout the country to continue their work of economic revitalization. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 586

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 ''Round II EZ/EC Flexibility Act of 2003''.

SEC. 2. CORRECTION OF INEQUITIES IN THE SECOND ROUND OF EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) GRANT AUTHORITY.—There are authorized to be appropriated—

(1) to the Secretary of Housing and Urban Development, such sums as may be necessary to make grant awards totaling $100,000,000 to each of 15 urban empowerment zones designated pursuant to section 1391(g) of the Internal Revenue Code of 1986, taking into account any amount made available pursuant to any prior appropriation made for such zones; and

(2) to the Secretary of Agriculture, such sums as may be necessary to make—

(A) grant awards totaling $40,000,000 to each of 5 rural empowerment zones designated pursuant to section 1391(g) of the Internal Revenue Code of 1986, taking into account any amount made available pursuant to any prior appropriation made for such zones; and

(B) grant awards totaling $3,000,000 to each of 20 rural enterprise communities designated pursuant to section 766 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, taking into account any amount made available pursuant to any prior appropriation made for such communities.

(b) AUTHORITY TO USE FUNDS TO IMPLEMENT STRATEGIC PLAN.—Funds appropriated under Federal law for an empowerment zone or an enterprise community referred to in subsection (a) may be used to implement the strategic plan for the zone or community, including—

(1) economic development;

(2) infrastructure development;

(3) workforce development; and

(4) community development activities.

(c) NO LOSS OF FEDERAL FUNDS BY REASON OF RECLASSIFICATION AS RENEWAL COMMUNITY.—An area that, by reason of section 1400E(e) of the Internal Revenue Code of 1986, ceases to be designated as an empowerment zone or enterprise community under section 1391(g) of such Code shall not lose any Federal funds by reason of the cessation.

(d) AUTHORITY TO USE FUNDS TO PAY NON-FEDERAL SHARE OF MATCHING GRANTS.—Funds appropriated under any Federal law for an empowerment zone or an enterprise community referred to in subsection (a) may be used to pay the non-Federal share required in connection with another Federal grant-in-aid program undertaken as part of activities assisted under this section.

By Mr. WYDEN:

S. 587. A bill to promote the use of hydrogen fuel cell vehicles, and for other purposes; to the Committee on Finance.

Mr. WYDEN. Mr. President, today, I am introducing the Hydrogen Transportation Wins Over Growing Reliance on Oil, H2 GROW, Act to accelerate getting cars and trucks powered by hydrogen on our roads as a way to reduce our Nation's dependence on foreign oil. In the House, Congressman CHRIS COX will also be introducing the H2 GROW Act, so we will have the first bipartisan, bicameral bill to provide incentives for commercialing hydrogen-powered cars and the fueling stations needed for hydrogen cars to have widespread acceptance.

Our legislation has the support of a diverse coalition of interest groups, ranging from the Natural Resources Defense Council to the automobile industry. It is not a coalition that naturally flocks together. In fact, on many environmental issues, these groups are skirmishing, not coalescing.

Just as these groups have come together, Congressman COX and I have felt, on a bipartisan basis, that he and I could find common ground on the critical issue of hydrogen fuel cells. Unlike some other proposals to promote hydrogen fuel cell vehicles, the H2 GROW Act goes beyond researching hydrogen to kickstart the market for hydrogen fuel cell vehicles and fueling equipment. Legislation he and I will introduce today, the H2 GROW Act, uses marketplace incentives so that a significant number of fuel cell vehicles can hit American streets in the next decade. In effect, our legislation goes beyond the popular wisdom that you can't do much to actually get these vehicles on the street anytime soon.

Our legislation stipulates that when someone opens a fueling station, sells fueling equipment, sells hydrogen fuel for use in vehicles, or buys a hydrogen fuel cell vehicle, the tax man won't cometh for the next 10 years. By creating incentives this way, our legislation, can catalyze commercialization of fuel cell vehicles. Tax holidays and tax incentives will stimulate a private market for everything from creating the infrastructure needed for fuel cell vehicles, to direct incentives for American consumers.

By using this approach, our legislation only pays for performance. It does not subsidize research that may or may not advance the goal of getting hydrogen-powered cars on the road. The tax credits and other incentives only reward actions that actually put cars on the road or fueling equipment in use.

Best of all, the price tag is minimal. The government isn't expecting any significant revenue from fuel cell vehicles anyway in the next 10 years—and that's the life of our bill. So there's no enormous cost to the government.

Congress has a clear choice between taking 20 years to get a significant number of hydrogen vehicles on the road and making real, measurable progress in the next 10 years. In my view, reducing this country's dependence on foreign oil is a national security priority. At a time when more than half our energy is imported, enacting policies that promote energy independence is a true act of patriotism. Our legislation would promote that energy independence.

Here are two examples of how our legislation provides critically needed incentives for the fuel cell market:

Congressman COX and I want to make it worth the consumer's while to buy a fuel cell vehicle in the first place. So a tax credit will help make up the difference between the cost of a gasoline-powered vehicle and a fuel cell car. For example, if in 2009, a consumer buys a fuel cell car for $25,000, the consumer can write $3,750 off his or her taxes to make the fuel cell car more affordable.

To help gasoline stations begin to shift to serving consumers with hydrogen fuel cell vehicles, our bill provides a 20-percent tax credit for every unit of hydrogen fuel sold equivalent to a gallon of gasoline.

The bill also helps taxpayers get the most of the fuel cell vehicle in terms of convenience and ease of use. With hydrogen fuel cells, filling up your car could be something you do at your home or your office as well as a retail filling station. So our bill gives taxpayers who install hydrogen fueling equipment in their homes a tax credit for up to 50 percent of the cost of the refueling equipment.

In my view, these are practical steps away from our reliance on foreign oil and toward better, cleaner transportation for all Americans. I also believe this plan is the best, most effective use of taxpayer dollars on this issue.

Companies like GM and Toyota—two car companies that are endorsing the H2 GROW Act—are already developing the technology to improve the performance and reduce the cost of fuel cell vehicles with more reliable, affordable

materials. These companies are already putting the money and time into that effort. What Congress needs to do is help the American people and American businesses take advantage of these new products as they're perfected, and help them hit the streets as quickly as possible.

I firmly believe the H2 GROW Act is a strong step toward helping consumers to shore up this Nation's economic and environmental stability for future generations. I know Congressman COX feels the same way, and I encourage my colleagues to support our bipartisan legislation to accelerate commercialization of hydrogen fuel cell cars and help reduce our Nation's dependence on foreign oil.

By Mr. ROCKEFELLER (for himself, Mr. CORZINE, Mr. INOUYE, Ms. LANDRIEU, Mr. LEVIN, Mr. REED, and Mr. SARBANES):

S. 588. A bill to amend the Social Security Act to guarantee comprehensive health care coverage for all children born after 2004; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I am pleased and proud to introduce the MediKids Health Insurance Act of 2003. Congressman STARK is introducing a companion bill in the House.

This legislation is, without a doubt, ambitious. It is a deliberate effort to try to ignite a national commitment to the goal of insuring all of our children. For some, that is an idealistic proposition that does not seem achievable. With this bill, I want to call on the public and my colleagues to consider once again the clear and convincing case for investing the necessary resources in the health of our children—and therefore, in the well-being of their families and our entire country. The President and Congress continue to talk about their commitment to America's health. This bill challenges them to take action on their rhetoric.

Our children are not only our future, they are also our present. What we do for them today will greatly affect what happens tomorrow. Yet even though we recognize these facts, we still have not found a way to guarantee health coverage for children. Without health insurance, many of these children go without health care all together.

Children are the least expensive segment of our population to insure. They are also the least able to have control over whether or not they have health insurance. Yet we now have over 9 million uninsured children in this country. And with the downturn in the economy and the rising costs of health care, this number will continue rising.

Our success in expanding Medicaid and passing the State Children's Health Insurance Program was a meaningful, significant start at closing the tragic gap represented by millions of uninsured children. However, Congress cannot point to these programs and declare that our work is done. We still have much more to do. The percent of children in low-income families without health insurance has not changed in recent years. Even with perfect enrollment in S–CHIP and Medicaid, there would still be a great number of children without health insurance.

This is partially due to our increasingly mobile society, where parents frequently change jobs and families often move from State to State. When this occurs there is often a lapse in health coverage. Also, families working their way out of welfare fluctuate between eligibility and ineligibility for means-tested assistance programs. Another reason for the number of uninsured children is that the cost of health insurance continues to increase, leaving many working parents unable to afford coverage for themselves or their families. All of this adds up to the fact that many of our children do not have the consistent and regular access to health care which they need to grow up healthy.

That is why I am re-introducing the MediKids Health Insurance Act. This bill would automatically enroll every child at birth into a new, comprehensive Federal safety net health insurance program beginning in 2004. The benefits would be tailored to the needs of children and would be similar to those currently available to children under Medicaid. A small monthly premium would be collected from parents at tax filing, with discounts to low-income families phasing out at 300 percent of poverty. The children would remain enrolled in MediKids throughout childhood. When they are covered by another health insurance program, their parents would be exempt from the premium. The key to our program is that whenever other sources of health insurance fail, MediKids would stand ready to cover the health needs of our next generation. By the year 2020, every child in America would be able to grow up with consistent, continuous health insurance coverage.

Like Medicare, MediKids would be independently financed, would cover benefits tailored to the needs of its target population, and would have the goal of achieving nearly 100 percent health insurance coverage for the children of this country—just as Medicare has done for our Nation's seniors and disabled population. It's time we make this investment in the future of America by guaranteeing all children the health coverage they need to make a healthy start in life.

The MediKids Health Insurance Act would offer guaranteed, automatic health coverage for every child with the simplest of enrollment procedures and no challenging outreach, paperwork, or re-determination hoops to jump through. It would be able to follow children across state lines, or tide them over in a new location until their parents can enroll them in a new insurance program. Between jobs or during family crises such as divorce or the death of a parent, it would offer extra security and ensure continuous health coverage to the Nation's children. During that critical period when a family is just climbing out of poverty and out of the eligibility range for means-tested assistance programs, it would provide an extra boost with health insurance for the children until the parents can move into jobs that provide reliable health insurance coverage. And every child would automatically be enrolled upon birth, along with the issuance of the birth certificate or immigration card.

As we all know, an ounce of prevention is worth a pound of cure. Providing health care coverage to children affects much more than their health—it affects their ability to learn, their ability to thrive, and their ability to become a productive member of society. I look forward to working with my colleagues and supporting organizations for the passage of the MediKids Health Insurance Act of 2003 to guarantee every child in America the health coverage they need to grow up healthy.

I stand before you today to deliver a message. That it is time to rekindle the discussion about how we are going to provide health insurance for all Americans. The bill I am introducing today—the MediKids Health Insurance Act of 2003—is a step toward eliminating the irrational and tragic lack of health insurance for so many children and adults in our country.

Partial solutions to America's ''uninsured crisis'' lie before Congress, and I recognize the sense of realism and care that are the basis for proposing incremental steps towards universal coverage. As someone involved in the tough battles in years past to achieve universal coverage, I will continue to do all I can to make whatever progress can be made each and every year.

But I also believe it is important to not lose sight of the ideal—and our capacity to reach that ideal—of the United States of America joining every other industrialized nation by ensuring that its citizens have basic health insurance. Until we succeed, millions of children and adults will suffer human and financial costs that are preventable.

Therefore, I offer this legislation to both enlist my colleagues in an effort to insist that all of our Nation's children are insured as quickly as possible and to lay out the steps that would achieve that goal. Some may say that we cannot afford this level of commitment to America's children in a time of war and economic downturn. I strongly disagree. We can fully fund MediKids with the more than $388 billion the President's budget proposes to spend on the dividend tax cut. I believe that choice is clear between providing 100 percent of our children with health care coverage and giving tax breaks to the wealthiest 2 percent of people in our country. I hope this bill will help to build the will and momentum so desperately needed by our children for action that will change their lives and

strengthen our Nation. I ask my colleagues from both sides of the aisle to join as co-sponsors.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 588

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; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''MediKids Health Insurance Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents; findings.
Sec. 2. Benefits for all children born after 2004.
''TITLE XXII—MEDIKIDS PROGRAM
''Sec. 2201. Eligibility.
''Sec. 2202. Benefits.
''Sec. 2203. Premiums.
''Sec. 2204. MediKids Trust Fund.
''Sec. 2205. Oversight and accountability.
''Sec. 2206. Addition of care coordination services.
''Sec. 2207. Administration and miscellaneous.
Sec. 3. MediKids premium.
Sec. 4. Refundable credit for cost-sharing expenses under MediKids program.
Sec. 5. Report on long-term revenues.

(c) FINDINGS.—Congress finds the following:

(1) More than 9 million American children are uninsured.

(2) Children who are uninsured receive less medical care and less preventive care and have a poorer level of health, which result in lifetime costs to themselves and to the entire American economy.

(3) Although SCHIP and Medicaid are successfully extending a health coverage safety net to a growing portion of the vulnerable low-income population of uninsured children, they alone cannot achieve 100 percent health insurance coverage for our nation's children due to inevitable gaps during outreach and enrollment, fluctuations in eligibility, variations in access to private insurance at all income levels, and variations in States' ability to provide required matching funds.

(4) As all segments of society continue to become more transient, with many changes in employment over the working lifetime of parents, the need for a reliable safety net of health insurance which follows children across State lines, already a major problem for the children of migrant and seasonal farmworkers, will become a major concern for all families in the United States.

(5) The medicare program has successfully evolved over the years to provide a stable, universal source of health insurance for the nation's disabled and those over age 65, and provides a tested model for designing a program to reach out to America's children

(6) The problem of insuring 100 percent of all American children could be gradually solved by automatically enrolling all children born after December 31, 2004, in a program modeled after Medicare (and to be known as ''MediKids''), and allowing those children to be transferred into other equivalent or better insurance programs, including either private insurance, SCHIP, or Medicaid, if they are eligible to do so, but maintaining the child's default enrollment in MediKids for any times when the child's access to other sources of insurance is lost.

(7) A family's freedom of choice to use other insurers to cover children would not be interfered with in any way, and children eligible for SCHIP and Medicaid would continue to be enrolled in those programs, but the underlying safety net of MediKids would always be available to cover any gaps in insurance due to changes in medical condition, employment, income, or marital status, or other changes affecting a child's access to alternate forms of insurance.

(8) The MediKids program can be administered without impacting the finances or status of the existing Medicare program.

(9) The MediKids benefit package can be tailored to the special needs of children and updated over time.

(10) The financing of the program can be administered without difficulty by a yearly payment of affordable premiums through a family's tax filing (or adjustment of a family's earned income tax credit).

(11) The cost of the program will gradually rise as the number of children using MediKids as the insurer of last resort increases, and a future Congress always can accelerate or slow down the enrollment process as desired, while the societal costs for emergency room usage, lost productivity and work days, and poor health status for the next generation of Americans will decline.

(12) Over time 100 percent of American children will always have basic health insurance, and we can therefore expect a healthier, more equitable, and more productive society.

SEC. 2. BENEFITS FOR ALL CHILDREN BORN AFTER 2004.

(a) IN GENERAL.—The Social Security Act is amended by adding at the end the following new title:

''TITLE XXII—MEDIKIDS PROGRAM

''SEC. 2201. ELIGIBILITY.

''(a) ELIGIBILITY OF INDIVIDUALS BORN AFTER DECEMBER 31, 2004; ALL CHILDREN UNDER 23 YEARS OF AGE IN SIXTH YEAR.—An individual who meets the following requirements with respect to a month is eligible to enroll under this title with respect to such month:

''(1) AGE.—

''(A) FIRST YEAR.—During the first year in which this title is effective, the individual has not attained 6 years of age.

''(B) SECOND YEAR.—During the second year in which this title is effective, the individual has not attained 11 years of age.

''(C) THIRD YEAR.—During the third year in which this title is effective, the individual has not attained 16 years of age.

''(D) FOURTH YEAR.—During the fourth year in which this title is effective, the individual has not attained 21 years of age.

''(E) FIFTH AND SUBSEQUENT YEARS.—During the fifth year in which this title is effective and each subsequent year, the individual has not attained 23 years of age.

''(2) CITIZENSHIP.—The individual is a citizen or national of the United States or is permanently residing in the United States under color of law.

''(b) ENROLLMENT PROCESS.—An individual may enroll in the program established under this title only in such manner and form as may be prescribed by regulations, and only during an enrollment period prescribed by the Secretary consistent with the provisions of this section. Such regulations shall provide a process under which—

''(1) individuals who are born in the United States after December 31, 2004, are deemed to be enrolled at the time of birth and a parent or guardian of such an individual is permitted to pre-enroll in the month prior to the expected month of birth;

''(2) individuals who are born outside the United States after such date and who become eligible to enroll by virtue of immigration into (or an adjustment of immigration status in) the United States are deemed enrolled at the time of entry or adjustment of status;

''(3) eligible individuals may otherwise be enrolled at such other times and manner as the Secretary shall specify, including the use of outstationed eligibility sites as described in section 1902(a)(55)(A) and the use of presumptive eligibility provisions like those described in section 1920A; and

''(4) at the time of automatic enrollment of a child, the Secretary provides for issuance to a parent or custodian of the individual a card evidencing coverage under this title and for a description of such coverage.

The provisions of section 1837(h) apply with respect to enrollment under this title in the same manner as they apply to enrollment under part B of title XVIII.

''(c) DATE COVERAGE BEGINS.—

''(1) IN GENERAL.—The period during which an individual is entitled to benefits under this title shall begin as follows, but in no case earlier than January 1, 2005:

''(A) In the case of an individual who is enrolled under paragraph (1) or (2) of subsection (b), the date of birth or date of obtaining appropriate citizenship or immigration status, as the case may be.

''(B) In the case of an another individual who enrolls (including pre-enrolls) before the month in which the individual satisfies eligibility for enrollment under subsection (a), the first day of such month of eligibility.

''(C) In the case of an another individual who enrolls during or after the month in which the individual first satisfies eligibility for enrollment under such subsection, the first day of the following month.

''(2) AUTHORITY TO PROVIDE FOR PARTIAL MONTHS OF COVERAGE.—Under regulations, the Secretary may, in the Secretary's discretion, provide for coverage periods that include portions of a month in order to avoid lapses of coverage.

''(3) LIMITATION ON PAYMENTS.—No payments may be made under this title with respect to the expenses of an individual enrolled under this title unless such expenses were incurred by such individual during a period which, with respect to the individual, is a coverage period under this section.

''(d) EXPIRATION OF ELIGIBILITY.—An individual's coverage period under this part shall continue until the individual's enrollment has been terminated because the individual no longer meets the requirements of subsection (a) (whether because of age or change in immigration status).

''(e) ENTITLEMENT TO MEDIKIDS BENEFITS FOR ENROLLED INDIVIDUALS.—An individual enrolled under this section is entitled to the benefits described in section 2202.

''(f) LOW-INCOME INFORMATION.—At the time of enrollment of a child under this title, the Secretary shall make an inquiry as to whether or not the family income of the family that includes the child is less than 150 percent of the poverty line for a family of the size involved. If the family income is below such level, the Secretary shall encode in the identification card issued in connection with eligibility under this title a code indicating such fact. The Secretary also shall provide for a toll-free telephone line at which providers can verify whether or not such a child is in a family the income of which is below such level.

''(g) CONSTRUCTION.—Nothing in this title shall be construed as requiring (or preventing) an individual who is enrolled under this section from seeking medical assistance under a State medicaid plan under title XIX or child health assistance under a State child health plan under title XXI.

"SEC. 2202. BENEFITS.

''(a) SECRETARIAL SPECIFICATION OF BENEFIT PACKAGE.—

''(1) IN GENERAL.—The Secretary shall specify the benefits to be made available under this title consistent with the provisions of this section and in a manner designed to meet the health needs of enrollees.

''(2) UPDATING.—The Secretary shall update the specification of benefits over time to ensure the inclusion of age-appropriate benefits to reflect the enrollee population.

''(3) ANNUAL UPDATING.—The Secretary shall establish procedures for the annual review and updating of such benefits to account for changes in medical practice, new information from medical research, and other relevant developments in health science.

''(4) INPUT.—The Secretary shall seek the input of the pediatric community in specifying and updating such benefits.

''(5) LIMITATION ON UPDATING.—In no case shall updating of benefits under this subsection result in a failure to provide benefits required under subsection (b).

''(b) INCLUSION OF CERTAIN BENEFITS.—

''(1) MEDICARE CORE BENEFITS.—Such benefits shall include (to the extent consistent with other provisions of this section) at least the same benefits (including coverage, access, availability, duration, and beneficiary rights) that are available under parts A and B of title XVIII.

''(2) ALL REQUIRED MEDICAID BENEFITS.—Such benefits shall also include all items and services for which medical assistance is required to be provided under section 1902(a)(10)(A) to individuals described in such section, including early and periodic screening, diagnostic services, and treatment services.

''(3) INCLUSION OF PRESCRIPTION DRUGS.—Such benefits also shall include (as specified by the Secretary) prescription drugs and biologicals.

''(4) COST-SHARING.—

''(A) IN GENERAL.—Subject to subparagraph (B), such benefits also shall include the cost-sharing (in the form of deductibles, coinsurance, and copayments) applicable under title XVIII with respect to comparable items and services, except that no cost-sharing shall be imposed with respect to early and periodic screening and diagnostic services included under paragraph (2).

''(B) NO COST-SHARING FOR LOWEST INCOME CHILDREN.—Such benefits shall not include any cost-sharing for children in families the income of which (as determined for purposes of section 1905(p)) does not exceed 150 percent of the official income poverty line (referred to in such section) applicable to a family of the size involved.

''(C) REFUNDABLE CREDIT FOR COST-SHARING FOR OTHER LOW-INCOME CHILDREN.—For a refundable credit for cost-sharing in the case of children in certain families, see section 35 of the Internal Revenue Code of 1986.

''(c) PAYMENT SCHEDULE.—The Secretary, with the assistance of the Medicare Payment Advisory Commission, shall develop and implement a payment schedule for benefits covered under this title. To the extent feasible, such payment schedule shall be consistent with comparable payment schedules and reimbursement methodologies applied under parts A and B of title XVIII.

''(d) INPUT.—The Secretary shall specify such benefits and payment schedules only after obtaining input from appropriate child health providers and experts.

''(e) ENROLLMENT IN HEALTH PLANS.—The Secretary shall provide for the offering of benefits under this title through enrollment in a health benefit plan that meets the same (or similar) requirements as the requirements that apply to Medicare+Choice plans under part C of title XVIII. In the case of individuals enrolled under this title in such a plan, the Medicare+Choice capitation rate described in section 1853(c) shall be adjusted in an appropriate manner to reflect differences between the population served under this title and the population under title XVIII.

"SEC. 2203. PREMIUMS.

''(a) AMOUNT OF MONTHLY PREMIUMS.—

''(1) IN GENERAL.—The Secretary shall, during September of each year (beginning with 2004), establish a monthly MediKids premium for the following year. Subject to paragraph (2), the monthly MediKids premium for a year is equal to 1/12 of the annual premium rate computed under subsection (b).

''(2) ELIMINATION OF MONTHLY PREMIUM FOR DEMONSTRATION OF EQUIVALENT COVERAGE (INCLUDING COVERAGE UNDER LOW-INCOME PROGRAMS).—The amount of the monthly premium imposed under this section for an individual for a month shall be zero in the case of an individual who demonstrates to the satisfaction of the Secretary that the individual has basic health insurance coverage for that month. For purposes of the previous sentence enrollment in a medicaid plan under title XIX, a State child health insurance plan under title XXI, or under the medicare program under title XVIII is deemed to constitute basic health insurance coverage described in such sentence.

''(b) ANNUAL PREMIUM.—

''(1) NATIONAL, PER CAPITA AVERAGE.—The Secretary shall estimate the average, annual per capita amount that would be payable under this title with respect to individuals residing in the United States who meet the requirement of section 2201(a)(1) as if all such individuals were eligible for (and enrolled) under this title during the entire year (and assuming that section 1862(b)(2)(A)(i) did not apply).

''(2) ANNUAL PREMIUM.—Subject to subsection (d), the annual premium under this subsection for months in a year is equal to 25 percent of the average, annual per capita amount estimated under paragraph (1) for the year.

''(c) PAYMENT OF MONTHLY PREMIUM.—

''(1) PERIOD OF PAYMENT.—In the case of an individual who participates in the program established by this title, subject to subsection (d), the monthly premium shall be payable for the period commencing with the first month of the individual's coverage period and ending with the month in which the individual's coverage under this title terminates.

''(2) COLLECTION THROUGH TAX RETURN.—For provisions providing for the payment of monthly premiums under this subsection, see section 59B of the Internal Revenue Code of 1986.

''(3) PROTECTIONS AGAINST FRAUD AND ABUSE.—The Secretary shall develop, in coordination with States and other health insurance issuers, administrative systems to ensure that claims which are submitted to more than one payor are coordinated and duplicate payments are not made.

''(d) REDUCTION IN PREMIUM FOR CERTAIN LOW-INCOME FAMILIES.—For provisions reducing the premium under this section for certain low-income families, see section 59B(c) of the Internal Revenue Code of 1986.

"SEC. 2204. MEDIKIDS TRUST FUND.

''(a) ESTABLISHMENT OF TRUST FUND.—

''(1) IN GENERAL.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'MediKids Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) and such amounts as may be deposited in, or appropriated to, such fund as provided in this title.

''(2) PREMIUMS.—Premiums collected under section 2203 shall be transferred to the Trust Fund.

''(b) INCORPORATION OF PROVISIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), subsections (b) through (i) of section 1841 shall apply with respect to the Trust Fund and this title in the same manner as they apply with respect to the Federal Supplementary Medical Insurance Trust Fund and part B, respectively.

''(2) MISCELLANEOUS REFERENCES.—In applying provisions of section 1841 under paragraph (1)—

''(A) any reference in such section to 'this part' is construed to refer to title XXII;

''(B) any reference in section 1841(h) to section 1840(d) and in section 1841(i) to sections 1840(b)(1) and 1842(g) are deemed references to comparable authority exercised under this title;

''(C) payments may be made under section 1841(g) to the Trust Funds under sections 1817 and 1841 as reimbursement to such funds for payments they made for benefits provided under this title; and

''(D) the Board of Trustees of the MediKids Trust Fund shall be the same as the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund.

"SEC. 2205. OVERSIGHT AND ACCOUNTABILITY.

''(a) THROUGH ANNUAL REPORTS OF TRUSTEES.—The Board of Trustees of the MediKids Trust Fund under section 2204(b)(1) shall report on an annual basis to Congress concerning the status of the Trust Fund and the need for adjustments in the program under this title to maintain financial solvency of the program under this title.

''(b) PERIODIC GAO REPORTS.—The Comptroller General of the United States shall periodically submit to Congress reports on the adequacy of the financing of coverage provided under this title. The Comptroller General shall include in such report such recommendations for adjustments in such financing and coverage as the Comptroller General deems appropriate in order to maintain financial solvency of the program under this title.

"SEC. 2206. INCLUSION OF CARE COORDINATION SERVICES.

''(a) IN GENERAL.—

''(1) PROGRAM AUTHORITY.—The Secretary, beginning in 2005, may implement a care coordination services program in accordance with the provisions of this section under which, in appropriate circumstances, eligible individuals may elect to have health care services covered under this title managed and coordinated by a designated care coordinator.

''(2) ADMINISTRATION BY CONTRACT.—The Secretary may administer the program under this section through a contract with an appropriate program administrator.

''(3) COVERAGE.—Care coordination services furnished in accordance with this section shall be treated under this title as if they were included in the definition of medical and other health services under section 1861(s) and benefits shall be available under this title with respect to such services without the application of any deductible or coinsurance.

''(b) ELIGIBILITY CRITERIA; IDENTIFICATION AND NOTIFICATION OF ELIGIBLE INDIVIDUALS.—

''(1) INDIVIDUAL ELIGIBILITY CRITERIA.—The Secretary shall specify criteria to be used in making a determination as to whether an individual may appropriately be enrolled in the care coordination services program under this section, which shall include at least a finding by the Secretary that for cohorts of individuals with characteristics

identified by the Secretary, professional management and coordination of care can reasonably be expected to improve processes or outcomes of health care and to reduce aggregate costs to the programs under this title.

''(2) PROCEDURES TO FACILITATE ENROLLMENT.—The Secretary shall develop and implement procedures designed to facilitate enrollment of eligible individuals in the program under this section.

''(c) ENROLLMENT OF INDIVIDUALS.—

''(1) SECRETARY'S DETERMINATION OF ELIGIBILITY.—The Secretary shall determine the eligibility for services under this section of individuals who are enrolled in the program under this section and who make application for such services in such form and manner as the Secretary may prescribe.

''(2) ENROLLMENT PERIOD.—

''(A) EFFECTIVE DATE AND DURATION.—Enrollment of an individual in the program under this section shall be effective as of the first day of the month following the month in which the Secretary approves the individual's application under paragraph (1), shall remain in effect for one month (or such longer period as the Secretary may specify), and shall be automatically renewed for additional periods, unless terminated in accordance with such procedures as the Secretary shall establish by regulation. Such procedures shall permit an individual to disenroll for cause at any time and without cause at re-enrollment intervals.

''(B) LIMITATION ON REENROLLMENT.—The Secretary may establish limits on an individual's eligibility to reenroll in the program under this section if the individual has disenrolled from the program more than once during a specified time period.

''(d) PROGRAM.—The care coordination services program under this section shall include the following elements:

''(1) BASIC CARE COORDINATION SERVICES.—

''(A) IN GENERAL.—Subject to the cost-effectiveness criteria specified in subsection (b)(1), except as otherwise provided in this section, enrolled individuals shall receive services described in section 1905(t)(1) and may receive additional items and services as described in subparagraph (B).

''(B) ADDITIONAL BENEFITS.—The Secretary may specify additional benefits for which payment would not otherwise be made under this title that may be available to individuals enrolled in the program under this section (subject to an assessment by the care coordinator of an individual's circumstance and need for such benefits) in order to encourage enrollment in, or to improve the effectiveness of, such program.

''(2) CARE COORDINATION REQUIREMENT.—Notwithstanding any other provision of this title, the Secretary may provide that an individual enrolled in the program under this section may be entitled to payment under this title for any specified health care items or services only if the items or services have been furnished by the care coordinator, or coordinated through the care coordination services program. Under such provision, the Secretary shall prescribe exceptions for emergency medical services as described in section 1852(d)(3), and other exceptions determined by the Secretary for the delivery of timely and needed care.

''(e) CARE COORDINATORS.—

''(1) CONDITIONS OF PARTICIPATION.—In order to be qualified to furnish care coordination services under this section, an individual or entity shall—

''(A) be a health care professional or entity (which may include physicians, physician group practices, or other health care professionals or entities the Secretary may find appropriate) meeting such conditions as the Secretary may specify;

''(B) have entered into a care coordination agreement; and

''(C) meet such criteria as the Secretary may establish (which may include experience in the provision of care coordination or primary care physician's services).

''(2) AGREEMENT TERM; PAYMENT.—

''(A) DURATION AND RENEWAL.—A care coordination agreement under this subsection shall be for one year and may be renewed if the Secretary is satisfied that the care coordinator continues to meet the conditions of participation specified in paragraph (1).

''(B) PAYMENT FOR SERVICES.—The Secretary may negotiate or otherwise establish payment terms and rates for services described in subsection (d)(1).

''(C) LIABILITY.—Case coordinators shall be subject to liability for actual health damages which may be suffered by recipients as a result of the care coordinator's decisions, failure or delay in making decisions, or other actions as a care coordinator.

''(D) TERMS.—In addition to such other terms as the Secretary may require, an agreement under this section shall include the terms specified in subparagraphs (A) through (C) of section 1905(t)(3).

''SEC. 2207. ADMINISTRATION AND MISCELLANEOUS.

''(a) IN GENERAL.—Except as otherwise provided in this title—

''(1) the Secretary shall enter into appropriate contracts with providers of services, other health care providers, carriers, and fiscal intermediaries, taking into account the types of contracts used under title XVIII with respect to such entities, to administer the program under this title;

''(2) individuals enrolled under this title shall be treated for purposes of title XVIII as though the individual were entitled to benefits under part A and enrolled under part B of such title;

''(3) benefits described in section 2202 that are payable under this title to such individuals shall be paid in a manner specified by the Secretary (taking into account, and based to the greatest extent practicable upon, the manner in which they are provided under title XVIII);

''(4) provider participation agreements under title XVIII shall apply to enrollees and benefits under this title in the same manner as they apply to enrollees and benefits under title XVIII; and

''(5) individuals entitled to benefits under this title may elect to receive such benefits under health plans in a manner, specified by the Secretary, similar to the manner provided under part C of title XVIII.

''(b) COORDINATION WITH MEDICAID AND SCHIP.—Notwithstanding any other provision of law, individuals entitled to benefits for items and services under this title who also qualify for benefits under title XIX or XXI or any other Federally funded program may continue to qualify and obtain benefits under such other title or program, and in such case such an individual shall elect either—

''(1) such other title or program to be primary payor to benefits under this title, in which case no benefits shall be payable under this title and the monthly premium under section 2203 shall be zero; or

''(2) benefits under this title shall be primary payor to benefits provided under such program or title, in which case the Secretary shall enter into agreements with States as may be appropriate to provide that, in the case of such individuals, the benefits under titles XIX and XXI or such other program (including reduction of cost-sharing) are provided on a 'wrap-around' basis to the benefits under this title.''.

(b) CONFORMING AMENDMENTS TO SOCIAL SECURITY ACT PROVISIONS.—

(1) Section 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1)) is amended by striking ''or the Federal Supplementary Medical Insurance Trust Fund'' and inserting ''the Federal Supplementary Medical Insurance Trust Fund, and the MediKids Trust Fund''.

(2) Section 201(g)(1)(A) of such Act (42 U.S.C. 401(g)(1)(A)) is amended by striking '' and the Federal Supplementary Medical Insurance Trust Fund established by title XVIII'' and inserting '', the Federal Supplementary Medical Insurance Trust Fund, and the MediKids Trust Fund established by title XVIII''.

(3) Section 1853(c) of such Act (42 U.S.C. 1395w–23(c)) is amended—

(A) in paragraph (1), by striking ''or (7)'' and inserting '', (7), or (8)'', and

(B) by adding at the end the following:

''(8) ADJUSTMENT FOR MEDIKIDS.—In applying this subsection with respect to individuals entitled to benefits under title XXII, the Secretary shall provide for an appropriate adjustment in the Medicare+Choice capitation rate as may be appropriate to reflect differences between the population served under such title and the population under parts A and B.''.

(c) MAINTENANCE OF MEDICAID ELIGIBILITY AND BENEFITS FOR CHILDREN.—

(1) IN GENERAL.—In order for a State to continue to be eligible for payments under section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a))—

(A) the State may not reduce standards of eligibility, or benefits, provided under its State medicaid plan under title XIX of the Social Security Act or under its State child health plan under title XXI of such Act for individuals under 23 years of age below such standards of eligibility, and benefits, in effect on the date of the enactment of this Act; and

(B) the State shall demonstrate to the satisfaction of the Secretary of Health and Human Services that any savings in State expenditures under title XIX or XXI of the Social Security Act that results from children from enrolling under title XXII of such Act shall be used in a manner that improves services to beneficiaries under title XIX of such Act, such as through increases in provider payment rates, expansion of eligibility, improved nurse and nurse aide staffing and improved inspections of nursing facilities, and coverage of additional services.

(2) MEDIKIDS AS PRIMARY PAYOR.—In applying title XIX of the Social Security Act, the MediKids program under title XXII of such Act shall be treated as a primary payor in cases in which the election described in section 2207(b)(2) of such Act, as added by subsection (a), has been made.

(d) EXPANSION OF MEDPAC MEMBERSHIP TO 19.—

(1) IN GENERAL.—Section 1805(c) of the Social Security Act (42 U.S.C. 1395b–6(c)) is amended—

(A) in paragraph (1), by striking ''17'' and inserting ''19''; and

(B) in paragraph (2)(B), by inserting ''experts in children's health,'' after ''other health professionals,''.

(2) INITIAL TERMS OF ADDITIONAL MEMBERS.—

(A) IN GENERAL.—For purposes of staggering the initial terms of members of the Medicare Payment Advisory Commission under section 1805(c)(3) of the Social Security Act (42 U.S.C. 1395b–6(c)(3)), the initial terms of the 2 additional members of the Commission provided for by the amendment under subsection (a)(1) are as follows:

(i) One member shall be appointed for 1 year.

(ii) One member shall be appointed for 2 years.

(B) COMMENCEMENT OF TERMS.—Such terms shall begin on January 1, 2004.

SEC. 3. MEDIKIDS PREMIUM.

(a) GENERAL RULE.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end the following new part:

"PART VIII—MEDIKIDS PREMIUM

''Sec. 59B. MediKids premium.

"SEC. 59B. MEDIKIDS PREMIUM.

''(a) IMPOSITION OF TAX.—In the case of an individual to whom this section applies, there is hereby imposed (in addition to any other tax imposed by this subtitle) a MediKids premium for the taxable year.

''(b) INDIVIDUALS SUBJECT TO PREMIUM.—

''(1) IN GENERAL.—This section shall apply to an individual if the taxpayer has a MediKid at any time during the taxable year.

''(2) MEDIKID.—For purposes of this section, the term 'MediKid' means, with respect to a taxpayer, any individual with respect to whom the taxpayer is required to pay a premium under section 2203(c) of the Social Security Act for any month of the taxable year.

''(c) AMOUNT OF PREMIUM.—For purposes of this section, the MediKids premium for a taxable year is the sum of the monthly premiums under section 2203 of the Social Security Act for months in the taxable year.

''(d) EXCEPTIONS BASED ON ADJUSTED GROSS INCOME.—

''(1) EXEMPTION FOR VERY LOW-INCOME TAXPAYERS.—

''(A) IN GENERAL.—No premium shall be imposed by this section on any taxpayer having an adjusted gross income not in excess of the exemption amount.

''(B) EXEMPTION AMOUNT.—For purposes of this paragraph, the exemption amount is—

''(i) $17,910 in the case of a taxpayer having 1 MediKid,

''(ii) $22,530 in the case of a taxpayer having 2 MediKids,

''(iii) $27,150 in the case of a taxpayer having 3 MediKids, and

''(iv) $31,770 in the case of a taxpayer having 4 or more MediKids.

''(C) PHASEOUT OF EXEMPTION.—In the case of a taxpayer having an adjusted gross income which exceeds the exemption amount but does not exceed twice the exemption amount, the premium shall be the amount which bears the same ratio to the premium which would (but for this subparagraph) apply to the taxpayer as such excess bears to the exemption amount.

''(D) INFLATION ADJUSTMENT OF EXEMPTION AMOUNTS.—In the case of any taxable year beginning in a calendar year after 2002, each dollar amount contained in subparagraph (C) shall be increased by an amount equal to the product of—

''(i) such dollar amount, and

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.

''(2) PREMIUM LIMITED TO 5 PERCENT OF ADJUSTED GROSS INCOME.—In no event shall any taxpayer be required to pay a premium under this section in excess of an amount equal to 5 percent of the taxpayer's adjusted gross income.

''(e) COORDINATION WITH OTHER PROVISIONS.—

''(1) NOT TREATED AS MEDICAL EXPENSE.—For purposes of this chapter, any premium paid under this section shall not be treated as expense for medical care.

''(2) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The premium paid under this section shall not be treated as a tax imposed by this chapter for purposes of determining—

''(A) the amount of any credit allowable under this chapter, or

''(B) the amount of the minimum tax imposed by section 55.

''(3) TREATMENT UNDER SUBTITLE F.—For purposes of subtitle F, the premium paid under this section shall be treated as if it were a tax imposed by section 1.''.

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 6012 of such Code is amended by inserting after paragraph (9) the following new paragraph:

''(10) Every individual liable for a premium under section 59B.''.

(2) The table of parts for subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

''Part VIII. MediKids premium.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning after December 2004, in taxable years ending after such date.

SEC. 4. REFUNDABLE CREDIT FOR COST-SHARING EXPENSES UNDER MEDIKIDS PROGRAM.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

"SEC. 36. COST-SHARING EXPENSES UNDER MEDIKIDS PROGRAM.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual who has a MediKid (as defined in section 59B) at any time during the taxable year, there shall be allowed as a credit against the tax imposed by this subtitle an amount equal to 50 percent of the amount paid by the taxpayer during the taxable year as cost-sharing under section 2202(b)(4) of the Social Security Act.

''(b) LIMITATION BASED ON ADJUSTED GROSS INCOME.—The amount of the credit which would (but for this subsection) be allowed under this section for the taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to such amount of credit as the excess of the taxpayer's adjusted gross income for such taxable year over the exemption amount (as defined in section 59B(d)) bears to such exemption amount.''.

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period ''or from section 36 of such Code''.

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

''Sec. 36. Cost-sharing expenses under MediKids program.

''Sec. 37. Overpayments of tax.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 5. REPORT ON LONG-TERM REVENUES.

Within one year after the date of the enactment of this Act, the Secretary of the Treasury shall propose a gradual schedule of progressive tax changes to fund the program under title XXII of the Social Security Act, as the number of enrollees grows in the outyears.

By Mr. AKAKA (for himself, Mr. DURBIN, Mr. ALLEN, and Mr. VOINOVICH):

S. 589. A bill to strengthen and improve the management of national security, encourage Government service in areas of critical national security, and to assist government agencies in addressing deficiencies in personal possessing specialized skills important to national security and incorporating the goals and strategies for recruitment and retention for such skilled personnel into the strategic and performance management systems of Federal agencies; to the Committee on Governmental Affairs.

Mr. AKAKA. Mr. President. Today I rise on behalf of myself and Senators DURBIN, ALLEN and VOINOVICH to reintroduce the Homeland Security Federal Workforce Act. This is similar to legislation Senator DURBIN, Senator THOMPSON, and I introduced in the 107th Congress. Like S. 1800, this bill is designed to strengthen the Federal Government's recruitment and retention efforts in the areas of science, mathematics, and foreign language where there is a growing absence of qualified personnel.

In the weeks following the terrorist attacks of September 11, FBI Director Mueller made a plea on national television for speakers of Arabic and Farsi to help the FBI and national security agencies translate documents that were in our possession but which were left untranslated due to a shortage of employees with proficiency in those languages. The General Accounting Office has reported that agencies have shortages in translators and interpreters and an overall shortfall in the language proficiency levels needed to carry out their missions.

The Federal Government also lacks personnel with scientific and engineering skills. On February 25, 2003, William Wulf, president of the National Academy of Engineering, noted that the supply of talented engineers in government is not keeping pace with growing demand. A recent poll found that a mere 24 percent of job seekers believe that the best engineering job opportunities are in the Federal Government compared to 52 percent for the private sector. In another example, a 1999 report of the National Research Council found significant science and technology weaknesses throughout the Department of State. These shortfalls have real consequences that hamper our ability to monitor exports of military-sensitive technology and preventing proliferation of biological warfare expertise from the former Soviet Union.

Now more than ever, we must make sure we have the right people with the right skills in the right place. On January 9, 2003, the Washington Post reported that six major agencies moving into the Department of Homeland Security could lose roughly a quarter to one-half of their employees to retirement over the next five years. The data shows that about twice as many employees at these six agencies will be eligible to retire by the end of 2008 than

are currently eligible. According to the data, the following percentages of employees will be eligible to retire: 59 percent at the Federal Emergency Management Agency; 54 percent of the Coast Guard; 46 percent of the U.S. Customs Service; 44 percent of the Animal and Plant Health Inspection Service; 32 percent of the Immigration and Naturalization Service; and 22 percent of the Secret Service.

An alarming 26,363 employees out of 67,166 in the six agencies would be eligible to retire in 2008. Unfortunately, the numbers for other Federal agencies are not any better.

We need programs to recruit personnel with the skills necessary to protect our country. The Homeland Security Federal Workforce Act will do just that. Today, agencies are forced to decide between funding programs and investing in their workforce. This is a no-win situation and has prevented many agencies from fully utilizing the Federal student loan repayment program which is intended to be a powerful recruitment and retention tool. The Homeland Security Federal Workforce Act expands the existing student loan repayment program by authorizing funds for key national security agencies. The Act establishes a separate fund to be administered by the Office of Personnel Management, OPM, to repay student loans for employees in national security positions who pledge to serve in the government for a minimum of three years.

In addition, our legislation would establish a National Security Service Board to oversee and implement the new National Security Fellowship Program and the National Security Service Corps. The National Security Fellowship Program is designed to fund graduate education for selected students learning skills critical to national security who agree to enter federal service on the completion of their degree.

Current employees would not be neglected. Twenty percent of fellowship slots would be reserved for Federal employees to enhance their education and training. In addition, more training opportunities would be provided to current federal employees through the National Security Service Corps. This program is designed to provide opportunities for mid-level federal employees in agencies with national security responsibilities to serve in rotational assignments to build experience and widen perspectives within the national security community.

Last March I chaired a hearing in the Subcommittee on International Security, Proliferation, and Federal Services of the Governmental Affairs Committee on this bill. Witnesses commented on the additional benefits this legislation could have on the ability of government recruitment and retention efforts. My former colleague, Representative Lee Hamilton, now the Director of the Woodrow Wilson International Center for Scholars, noted that, ''Enactment of these proposals would encourage more people to enter national security positions by easing the financial sacrifices often associated with graduate study and with government service.''

The creation of the Department of Homeland Security once again raised concerns over the recruitment and retention of skilled employees in national security positions. To address these needs, Senator VOINOVICH and I successfully added an amendment to the Homeland Security Act to help alleviate problems associated with the workforce crisis facing the Federal Government. However, we must focus our efforts on recruiting and retaining employees with the technical and language skills the federal government needs the most. This legislation helps fill the holes in our recruitment and retention efforts.

As the United States Commission on National Security/21st Century, also known as the Hart-Rudman Commission, concluded in 2001, '' . . . the maintenance of American power in the world depends upon the quality of U.S. government personnel, civil and military, at all levels . . . The U.S. faces a broader range of national security challenges today, requiring policy analysts and intelligence personnel with expertise in more countries, regions, and issues.'' The Homeland Security Federal Workforce Act will meet this challenge.

I look forward to working with my colleagues to ensure that the Federal Government has the tools to put the right people with the right skills in the right place to protect our great Nation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 589

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 ''Homeland Security Federal Workforce Act''.

SEC. 2. FINDINGS, PURPOSE, AND EFFECT OF LAW.

(a) FINDINGS.—Congress makes the following findings:

(1) The security of the United States requires the fullest development of the intellectual resources and technical skills of its young men and women.

(2) The security of the United States depends upon the mastery of modern techniques developed from complex scientific principles. It depends as well upon the discovery and development of new principles, new techniques, and new knowledge.

(3) The United States finds itself on the brink of an unprecedented human capital crisis in Government. Due to increasing competition from the private sector in recruiting high-caliber individuals, Government departments and agencies, particularly those involved in national security affairs, are finding it hard to attract and retain talent.

(4) The United States must strengthen Federal civilian and military personnel systems in order to improve recruitment, retention, and effectiveness at all levels.

(5) The ability of the United States to exercise international leadership is, and will increasingly continue to be, based on the political and economic strength of the United States, as well as on United States military strength around the world.

(6) The Federal Government has an interest in ensuring that the employees of its departments and agencies with national security responsibilities are prepared to meet the challenges of this changing international environment.

(7) In January 2001, the General Accounting Office reported that, at the Department of Defense ''attrition among first-time enlistees has reached an all-time high. The services face shortages among junior officers, and problems in retaining intelligence analysts, computer programmers, and pilots.'' The General Accounting Office also warned of the Immigration and Naturalization Service's ''lack of staff to perform intelligence functions and unclear guidance for retrieving and analyzing information.''

(8) The United States Commission on National Security also cautioned that ''the U.S. need for the highest quality human capital in science, mathematics, and engineering is not being met.'' The Commission wrote, ''we must ensure the highest caliber human capital in public service. U.S. national security depends on the quality of the people, both civilian and military, serving within the ranks of government.''

(9) The events on and after September 11th have highlighted the weaknesses in the Federal and State government's human capital and its personnel management practices, especially as it relates to our national security.

(b) PURPOSES.—It is the purpose of this Act to—

(1) provide attractive incentives to recruit capable individuals for Government and military service; and

(2) provide the necessary resources, accountability, and flexibility to meet the national security educational needs of the United States, especially as such needs change over time.

(c) EFFECT OF LAW.—Nothing in this Act, or an amendment made by this Act, shall be construed to affect the collective bargaining unit status or rights of any Federal employee.

TITLE I—PILOT PROGRAM FOR STUDENT LOAN REPAYMENT FOR FEDERAL EMPLOYEES IN AREAS OF CRITICAL IMPORTANCE

SEC. 101. STUDENT LOAN REPAYMENTS.

Subchapter VII of chapter 53 of title 5, United States Code, is amended by inserting after section 5379, the following:

''§ 5379A. Pilot program for student loan repayment for Federal employees in areas of critical importance

''(a) DEFINITIONS.—In this section:

''(1) AGENCY.—The term 'agency' means an agency of the Department of Defense, the Department of Homeland Security, the Department of State, the Department of Energy, the Department of the Treasury, the Department of Justice, the National Security Agency, and the Central Intelligence Agency.

''(2) NATIONAL SECURITY POSITION.—The term 'national security position' means an employment position determined by the Director of the Office of Personnel Management, in consultation with an agency, for the purposes of the Pilot Program for Student Loan Forgiveness in Areas of Critical Importance established under this section, to involve important homeland security applications.

''(3) STUDENT LOAN.—The term 'student loan' means—

''(A) a loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);

''(B) a loan made under part D or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq., 1087aa et seq.); and

''(C) a health education assistance loan made or insured under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) or under part E of title VIII of such Act (42 U.S.C. 297a et seq.).

''(b) ESTABLISHMENT AND OPERATION.—

''(1) IN GENERAL.—The Director of the Office of Personnel Management shall, in order to recruit or retain highly qualified professional personnel, establish a pilot program under which the head of an agency may agree to repay (by direct payments on behalf of the employee) any student loan previously taken out by such employee if the employee is employed by the agency in a national security position.

''(2) TERMS AND CONDITIONS OF PAYMENT.—Payments under this section shall be made subject to such terms, limitations, or conditions as may be mutually agreed to by the agency and employee concerned.

''(3) PAYMENTS.—The amount paid by the agency on behalf of an employee under this section may not exceed $10,000 towards the remaining balance of the student loan for each year that the employee remains in service in the position, except that the employee must remain in such position for at least 3 years. The maximum amount that may be paid on behalf of an employee under this paragraph shall be $80,000.

''(4) LIMITATION.—Nothing in this section shall be considered to authorize an agency to pay any amount to reimburse an employee for any repayments made by such employee prior to the agency's entering into an agreement under this section with such employee.

''(5) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

''(A) to affect student loan repayment programs existing on the date of enactment of this section;

''(B) to revoke or rescind any existing law, collective bargaining agreement, or recognition of a labor organization;

''(C) to authorize the Office of Personnel Management to determine national security positions for any other purpose other than to make such determinations as are required by this section in order to carry out the purposes of this section; or

''(D) as a basis for determining the exemption of any position from inclusion in a bargaining unit pursuant to chapter 71 of title 5, United States Code, or from the right of any incumbent of a national security position determined by the Office of Personnel Management pursuant to this section, from entitlement to all rights and benefits under such chapter.

''(6) FUND.—As part of the program established under paragraph (1), the Director shall establish a fund within the Office of Personnel Management to be used by agencies to provide the repayments authorized under the program.

''(c) GENERAL PROVISIONS.—

''(1) COORDINATION.—The Director of the Office of Personnel Management shall coordinate the program established under this section with the heads of agencies to recruit employees to serve in national security positions.

''(2) REPORTS.—

''(A) ALLOCATION AND IMPLEMENTATION.—Not later than 6 months after the date of enactment of this section, the Director of the Office of Personnel Management shall report to the appropriate committees of Congress on the manner in which the Director will allocate funds and implement the program under this section.

''(B) STATUS AND SUCCESS.—Not later than 4 years after the date of enactment of this section, the Director of the Office of Personnel Management shall report to the appropriate Committees on Congress on the status of the program and its success in recruiting and retaining employees for national security positions, including an assessment as to whether the program should be expanded to other agencies or to non-national security positions to improve overall Federal workforce recruitment and retention.

''(d) INELIGIBLE EMPLOYEES.—An employee shall not be eligible for benefits under this section if such employee—

''(1) occupies a position that is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

''(2) does not occupy a national security position.

''(e) TERMS OF AGREEMENT.—

''(1) IN GENERAL.—An employee selected to receive benefits under this section shall agree in writing, before receiving any such benefit, that the employee will—

''(A) remain in the service of the agency in a national security position for a period to be specified in the agreement, but not less than 3 years, unless involuntarily separated; and

''(B) if separated involuntarily on account of misconduct, or voluntarily, before the end of the period specified in the agreement, repay to the Government the amount of any benefits received by such employee from that agency under this section.

''(2) SERVICE WITH OTHER AGENCY.—The repayment provided for under paragraph (1)(B) may not be required of an employee who leaves the service of such employee's agency voluntarily to enter into the service of any other agency unless the head of the agency that authorized the benefits notifies the employee before the effective date of such employee's entrance into the service of the other agency that repayment will be required under this subsection.

''(3) RECOVERY OF AMOUNTS.—If an employee who is involuntarily separated on account of misconduct or who (excluding any employee relieved of liability under paragraph (2)) is voluntarily separated before completing the required period of service fails to repay the amount provided for under paragraph (1)(B), a sum equal to the amount outstanding is recoverable by the Government from the employee (or such employee's estate, if applicable) by—

''(A) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; and

''(B) such other method as is provided for by law for the recovery of amounts owing to the Government.

''(4) WAIVER.—The head of the agency concerned may waive, in whole or in part, a right of recovery under this subsection if it is shown that recovery would be against equity and good conscience or against the public interest.

''(5) CREDITING OF ACCOUNT.—Any amount repaid by, or recovered from, an individual (or an estate) under this subsection shall be credited to the fund under subsection (b)(6). Any amount so credited shall be merged with other sums in such fund and shall be available for the same purposes and period, and subject to the same limitations (if any), as the sums with which merged.

''(f) TERMINATION OF REPAYMENT.—An employee receiving benefits under this section from an agency shall be ineligible for continued benefits under this section from such agency if the employee—

''(1) separates from such agency; or

''(2) does not maintain an acceptable level of performance, as determined under standards and procedures which the agency head shall by regulation prescribe.

''(g) EQUAL EMPLOYMENT.—In selecting employees to receive benefits under this section, an agency shall, consistent with the merit system principles set forth in paragraphs (1) and (2) of section 2301(b) of this title, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

''(h) ADDITIONAL BENEFIT.—Any benefit under this section shall be in addition to basic pay and any other form of compensation otherwise payable to the employee involved.

''(i) APPROPRIATIONS AUTHORIZED.—For the purpose of enabling the Federal Government to recruit and retain employees critical to our national security pursuant to this section, there are authorized to be appropriated such sums as may be necessary to carry out this section for each fiscal year.

''(j) LENGTH OF PROGRAM.—The program under this section shall remain in effect for the 8-year period beginning on the date of enactment of this section. The program shall continue to pay employees recruited under this program who are in compliance with this section their benefits through their commitment period regardless of the preceding sentence.

''(k) REGULATIONS.—Not later than 2 months after the date of enactment of this section, the Director of the Office of Personnel Management shall propose regulations to carry out this section. Not later than 6 months after the date on which the comment period for the regulations proposed under the preceding sentence ends, the Secretary shall promulgate final regulations to carry out this section.''.

TITLE II—FELLOWSHIPS FOR GRADUATE STUDENTS TO ENTER FEDERAL SERVICE

SEC. 201. FELLOWSHIPS FOR GRADUATE STUDENTS TO ENTER FEDERAL SERVICE.

Subchapter VII of chapter 53 of title 5, United States Code, as amended by section 101, is further amended by inserting after section 5379A, the following:

''§ 5379B. Fellowships for graduate students to enter federal service

''(a) DEFINITIONS.—In this section:

''(1) AGENCY.—The term 'agency' means an agency of the Department of Defense, the Department of Homeland Security, the Department of State, the Department of Energy, the Department of the Treasury, the Department of Justice, the National Security Agency, and the Central Intelligence Agency, and other Federal Government agencies as determined by the National Security Service Board under subsection (f).

''(2) DIRECTOR.—The term 'Director' means the Director of the Office of Personnel Management.

''(3) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given to such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

''(4) NATIONAL SECURITY POSITION.—The term 'national security position' means an employment position determined by the Director of the Office of Personnel Management, in consultation with an agency, for the purposes of a program established for Fellowships for Graduate Students to Enter Federal Services as established under this section, to involve important homeland security applications.

''(5) SCIENCE.—The term 'science' means any of the natural and physical sciences including chemistry, biology, physics, and

computer science. Such term does not include any of the social sciences.''.

''(b) IN GENERAL.—The Director shall establish and implement a program for the awarding of fellowships (to be known as 'National Security Fellowships') to graduate students who, in exchange for receipt of the fellowship, agree to employment with the Federal Government in a national security position.

''(c) ELIGIBILITY.—To be eligible to participate in the program established under subsection (b), a student shall—

''(1) have been accepted into a graduate school program at an accredited institution of higher education within the United States and be pursuing or intend to pursue graduate education in the United States in the disciplines of foreign languages, science, mathematics, engineering, nonproliferation education, or other international fields that are critical areas of national security (as determined by the Director);

''(2) be a United States citizen, United States national, permanent legal resident, or citizen of the Freely Associated States; and

''(3) agree to employment with an agency or office of the Federal Government in a national security position.

''(d) SERVICE AGREEMENT.—In awarding a fellowship under the program under this section, the Director shall require the recipient to enter into an agreement under which, in exchange for such assistance, the recipient—

''(1) will maintain satisfactory academic progress (as determined in accordance with regulations issued by the Director) and provide regularly scheduled updates to the Director on the progress of their education and how their employment continues to relate to a national security objective of the Federal Government;

''(2) will, upon completion of such education, be employed by the agency for which the fellowship was awarded for a period of at least 3 years as specified by the Director; and

''(3) agrees that if the recipient is unable to meet either of the requirements described in paragraph (1) or (2), the recipient will reimburse the United States for the amount of the assistance provided to the recipient under the fellowship, together with interest at a rate determined in accordance with regulations issued by the Director, but not higher than the rate generally applied in connection with other Federal education loans.

''(e) FEDERAL EMPLOYMENT ELIGIBILITY.—If a recipient of a fellowship under this section demonstrates to the satisfaction of the Director that, after completing their education, the recipient is unable to obtain a national security position in the Federal Government because such recipient is not eligible for a security clearance or other applicable clearance necessary for such position, the Director may permit the recipient to fulfill the service obligation under the agreement under subsection (d) by working in another office or agency in the Federal Government for which their skills are appropriate, by teaching math, science, or foreign languages, or by performing research, at an institution of higher education, for a period of not less than 3 years, in the area of study for which the fellowship was awarded.

''(f) FELLOWSHIP SELECTION.—

''(1) IN GENERAL.—The Director shall consult and cooperate with the National Security Service Board established under paragraph (2) in the selection and placement of national security fellows under this section.

''(2) NATIONAL SECURITY SERVICE BOARD.—

''(A) ESTABLISHMENT OF BOARD.—There is established the National Security Service Board.

''(B) MEMBERSHIP.—The Board shall be composed of—

''(i) the Director of the Office of Personnel Management, who shall serve as the chairperson of the Board;

''(ii) the Secretary of Defense;

''(iii) the Secretary of Homeland Security;

''(iv) the Secretary of State;

''(v) the Secretary of the Treasury;

''(vi) the Attorney General;

''(vii) the Director of the Central Intelligence Agency;

''(viii) the Director of the Federal Bureau of Investigations;

''(ix) the Director of the National Security Agency;

''(x) the Secretary of Energy;

''(xi) the Director of the Office of Science and Technology Policy; and

''(xii) 2 employees, to be appointed by each of the officials described in clauses (ii) through (ix), of each Department for which such officials have responsibility for administering, of whom—

''(I) 1 shall perform senior level policy functions; and

''(II) 1 shall perform human resources functions.

''(C) FUNCTIONS.—The Board shall carry out the following functions:

''(i) Develop criteria for awarding fellowships under this section.

''(ii) Provide for the wide dissemination of information regarding the activities assisted under this section.

''(iii) Establish qualifications for students desiring fellowships under this section, including a requirement that the student have a demonstrated commitment to the study of the discipline for which the fellowship is to be awarded.

''(iv) Provide the Director semi-annually with a list of fellowship recipients, including an identification of their skills, who are available to work in a national security position.

''(v) Not later than 30 days after a fellowship recipient completes the study or education for which assistance was provided under this section, work in conjunction with the Director to make reasonable efforts to hire and place the fellow in an appropriate national security position.

''(vi) Review the administration of the program established under this section.

''(vii) Develop and provide to Congress a strategic plan that identifies the skills needed by the Federal national security workforce and how the provisions of this Act, and related laws, regulations, and policies will be used to address such needs.

''(viii) Carry out additional functions under section 301 of the Homeland Security Federal Workforce Act.

''(g) SPECIAL CONSIDERATION FOR CURRENT FEDERAL EMPLOYEES.—

''(1) SET ASIDE OF FELLOWSHIPS.—Twenty percent of the fellowships awarded under this section shall be set aside for Federal employees who are working in national security positions on the date of enactment of this section to enhance the education and training of such employees in areas important to national security.

''(2) FULL- OR PART-TIME EDUCATION.—Federal employees who are awarded fellowships under paragraph (1) shall be permitted to obtain advanced education under the fellowship on a full-time or part-time basis.

''(3) PART-TIME EDUCATION.—A Federal employee who pursues education or training under a fellowship under paragraph (1) on a part-time basis shall be eligible for a stipend in an amount which, when added to the employee's part-time compensation, does not exceed the amount described in subsection (i)(2).

''(h) FELLOWSHIP SERVICE.—Any individual under this section who is employed by the Federal Government in a national security position shall be able to count the time that the individual spent in the fellowship program towards the time requirement for a reduction in student loans as described in section 5379A.

''(i) AMOUNT OF AWARD.—A National Security Fellow who complies with the requirements of this section may receive funding under the fellowship for up to 3 years at an amount determined appropriate by the Director, but not to exceed the sum of—

''(1) the amount of tuition paid by the fellow; and

''(2) a stipend in an amount equal to the maximum stipend available to recipients of fellowships under section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1869) for the year involved.

''(j) APPROPRIATIONS AUTHORIZED.—For the purpose of enabling the Director to recruit and retain highly qualified employees in national security positions, there are authorized to be appropriated $100,000,000 for fiscal year 2004, and such sums as may be necessary for each subsequent fiscal year.

''(k) RULE OF CONSTRUCTION.—Noting in this section shall be construed—

''(1) to authorize the Office of Personnel Management to determine national security positions for any other purpose other than to make such determinations as are required by this section in order to carry out the purposes of this section; and

''(2) as a basis for determining the exemption of any position from inclusion in a bargaining unit pursuant to chapter 71 of title 5, United States Code, or from the right of any incumbent of a national security position determined by the Office of Personnel Management pursuant to this section, from entitlement to all rights and benefits under such chapter.''.

TITLE III—NATIONAL SECURITY SERVICE CORPS

SEC. 301. NATIONAL SECURITY SERVICE CORPS.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) a proficient national security workforce requires certain skills and knowledge, and effective professional relationships; and

(B) a national security workforce will benefit from the establishment of a National Security Service Corps.

(2) PURPOSES.—The purposes of this section are to—

(A) provide mid-level employees in national security positions within agencies the opportunity to broaden their knowledge through exposure to other agencies;

(B) expand the knowledge base of national security agencies by providing for rotational assignments of their employees at other agencies;

(C) build professional relationships and contacts among the employees and agencies of the national security community; and

(D) invigorate the national security community with exciting and professionally rewarding opportunities.

(b) DEFINITIONS.—In this section:

(1) AGENCY.—The term ''agency'' means an agency of the Department of Defense, the Department of Homeland Security, the Department of State, the Department of Energy, the Department of the Treasury, the Department of Justice, and the National Security Agency.

(2) BOARD.—The term ''Board'' means the National Security Service Board established under section 5379B(f)(2) of title 5, United States Code.

(3) CORPS.—The term ''Corps'' means the National Security Service Corps.

(4) CORPS POSITION.—The term ''corps position'' means a position that—

(A) is a position—

(i) at or above GS–12 of the General Schedule; or

(ii) in the Senior Executive Service;

(B) the duties of which do not relate to intelligence support for policy; and

(C) is designated by the head of an agency as a Corps position.

(c) GOALS AND ADMINISTRATION.—The Board shall—

(1) formulate the goals of the Corps;

(2) resolve any issues regarding the feasibility of implementing this section;

(3) evaluate relevant civil service rules and regulations to determine the desirability of seeking legislative changes to facilitate application of the General Schedule and Senior Executive Service personnel systems to the Corps;

(4) create specific provisions for agencies regarding rotational programs;

(5) formulate interagency compacts and cooperative agreements between and among agencies relating to—

(A) the establishment and function of the Corps;

(B) incentives for individuals to participate in the Corps;

(C) professional education and training;

(D)(i) the process for competition for a Corps position;

(ii) which individuals may compete for Corps positions; and

(iii) any employment preferences an individual participating in the Corps may have when returning to the employing agency of that individual; and

(E) any other issues relevant to the establishment and continued operation of the Corps; and

(6) not later than 180 days after the date of enactment of this section, submit a report to the Office of Personnel Management on all findings and relevant information on the establishment of the Corps.

(d) CORPS.—

(1) PROPOSED REGULATIONS.—Not later than 180 days after the date on which the report is submitted under subsection (c)(6), the Office of Personnel Management shall publish in the Federal Register, proposed regulations describing the purpose, and providing for the establishment and operation of the Corps.

(2) COMMENT PERIOD.—The Office of Personnel Management shall provide for—

(A) a period of 60 days for comments from all stakeholders on the proposed regulations; and

(B) a period of 180 days following the comment period for making modifications to the regulations.

(3) FINAL REGULATIONS.—After the 180-day period described under paragraph (2)(B), the Office of Personnel Management shall promulgate final regulations that—

(A) establish the Corps;

(B) provide guidance to agencies to designate Corps positions;

(C) provide for individuals to perform periods of service of not more than 2 years at a Corps position within agencies on a rotational basis;

(D) establish eligibility for individuals to participate in the Corps;

(E) enhance career opportunities for individuals participating in the Corps;

(F) provide for the Corps to develop a group of policy experts with broad-based experience throughout the executive branch; and

(G) provide for greater interaction among agencies with traditional national security functions.

(4) ACTIONS BY AGENCIES.—Not later than 180 days after the promulgation of final regulations under paragraph (3), each agency shall—

(A) designate Corps positions;

(B) establish procedures for implementing this section; and

(C) begin active participation in the operation of the Corps.

(e) ALLOWANCES, PRIVILEGES, ETC.—An employee serving on a rotational basis with another agency pursuant to this section is deemed to be detailed and, for the purpose of preserving allowances, privileges, rights, seniority, and other benefits with respect to the employee, is deemed to be an employee of the original employing agency and is entitled to the pay, allowances, and benefits from funds available to that agency.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Personnel Management such sums as may be necessary to carry out this section.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. CONTENT OF STRATEGIC PLANS.

Section 306(a)(3) of title 5, United States Code, is amended by inserting before the semicolon the following: '', a discussion of the extent to which specific skills in the agency's human capital are needed to achieve the mission, goals and objectives of the agency, especially to the extent the agency's mission, goals and objectives are critical to ensuring the national security''.

SEC. 402. PERFORMANCE PLANS.

Section 1115(a) of title 31, United States Code, is amended—

(1) by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively; and

(2) by inserting after paragraph (3) the following:

''(4) pursuant to paragraph (3), give special attention to the extent to which specific skills are needed to accomplish the performance goals and indicators that are critical to ensuring the national security;''.

SEC. 403. GOVERNMENTWIDE PROGRAM PERFORMANCE REPORTS.

Section 1116 of title 31, United States Code, is amended—

(1) in subsection (b)(1), by inserting before the period the following: '', and shall specify which performance goals and indicators are critical to ensuring the national security''; and

(2) in subsection (d)(3)—

(A) in subparagraph (B), by striking ''and'' at the end;

(B) in subparagraph (C), by adding ''and'' after the semicolon; and

(C) by adding at the end the following:

''(D) whether human capital deficiencies in any way contributed to the failure of the agency to achieve the goal;''.

By Mr. HOLLINGS:

S. 592. A bill to establish an Office of Manufacturing in the Department of Commerce, and for other purposes; to the Committee on Finance.

Mr. HOLLINGS. Mr. President, the Department of Labor, recently released the latest unemployment results and at first blush, the 5.8 percent figure, while certainly too high, does not seem overly alarming. It is only with a look behind the numbers that some disturbing trends become apparent.

February marked the 31st consecutive month, since July 2000, that manufacturing employment has declined. This is the longest consecutive monthly decline in the post World War II era. Already, more than 2 million manufacturing jobs are gone. A generation ago, in 1974, manufacturing workers were 26 percent of the workforce, today they account for only 12.5 percent of the workforce.

For all of 2002, industrial production fell 0.6 percent following a 3.5 percent decline in 2001. That represented the first back-to-back annual declines in industrial output since 1974–1975.

Unfortunately, no end is in sight. By some measures, the manufacturing job loss is twice as bad as the last recession in the early Nineties. The 2002 Producer Price Index revealed the worst deflation in producer prices since 1949, suggesting that there is little incentive to restart the shuttered factories.

Prices for manufactured goods were down 1.5 percent in December from a year earlier. Next to a 1.6 percent year-to-year drop in November, it was the largest decline of such prices on record going back to 1958. And all this has occurred against the backdrop of 2 years of substantial fiscal stimulus and the most aggressive monetary policy in anyone's memory.

But this wasn't suppose to happen. Globalization was going to create a gentle prosperity that would create jobs, lift our standard of living and improve our communities. During the Clinton era, we entered into a series of international trade agreements, most notably NAFTA, WTO and China's entrance into the WTO, designed to increase trade and stimulate manufacturing job creation.

The second Bush administration continues this policy, trotting around the globe negotiating, free-trade agreements within every region of the world. Recently, the administration concluded agreements with Singapore and Chile.

After nearly a decade of the NAFTA/WTO free-trade experiment and after a year of ''recovery'', it seems appropriate to review whether this free trade era is working? The answer is clearly no.

Our factories have been swamped by a flood of imports. Each month seems to bring a record trade deficit and more stories of plants closing and moving offshore.

Our communities, particularly the rural ones, are quite literally emptying out. During the nineties, imports soared by more than 107 percent. Our trade surplus with Mexico dissolved soon after NAFTA went into effect. From 1991 to 2001, our trade deficit went from $77 billion to $427 billion, costing us hundreds of thousands of jobs.

Essentially, our trading partners are exporting their unemployment to us. Recently, Ed Yardeni, chief investment strategist of Prudential Securities, noted that while the United States currently has 16.3 million manufacturing jobs, some 20 million rural Chinese move to seek better-paying manufacturing and construction jobs in the cities, each year.

There seems to be no end in sight to pain being experienced by our manufacturing sector. Even a declining dollar is not improving our trade situation, as our factories race to re-establish overseas. It seems like recognizing

where our problem is coming from would be a good first step toward solving it.

So today I introduce legislation designed to help get American manufacturing off the canvas. It is broad and wide ranging.

The legislation would eliminate the tax benefits associated with off-shore production, whether its by a United States or foreign-based company. It would eliminate the incentives for companies to move their headquarters outside of the United States. It would prevent the Export Import Bank or the Overseas Private Investment Corporation from funding any project that did not contain at least 80 percent U.S. content. It would eliminate the International Trade Commission. It would provide for an additional 500 Customs agents to enforce the tariff and quota rules associated with the textile trade. It would prohibit the sale in interstate commerce of any manufactured product made by anyone under twelve. It would reform WTO dispute settlement by establishing a panel of Federal judges to review the determinations that these dispute panels are reaching. It would express the Senate's strong support for the Byrd amendment which returns anti-dumping monies to injured parties. Finally, the legislation would extend the Buy America provisions for the Defense Department contained in the Berry amendment to the newly formed Department of Homeland Security.

It's just a start, but we have to begin the process of rejuvenating the American manufacturer.

By Mr. DURBIN (for himself, Ms. MIKULSKI, Mr. LEAHY, Mr. SARBANES, Mr. BINGAMAN, Mr. LAUTENBERG, and Ms. LANDRIEU):

S. 593. A bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment has occurred; to the Committee on Governmental Affairs.

Mr. DURBIN. Mr. President, today, with war looming with Iraq and hundreds of thousands of our troops poised for battle overseas, I would like to discuss the financial burden faced by many of the men and women who serve in the military Reserves or National Guard and who are forced to take unpaid leave from their jobs when called to active duty. Currently, there are nearly 170,000 Guard and Reservists mobilized and serving on active duty in our armed forces. While these individuals receive pay for the time they are on active duty, the salary gap between military duty and civilian work can be considerable. It is unfair to ask the men and women who have volunteered to serve their country, often in dangerous situations, to also face a financial strain on their families.

A number of employers have wisely acted to remedy this hardship by establishing financial compensation plans for their employees in the Reserves and National Guard. Many companies and State and local governments, including Ford, IBM, the State of California, Los Angeles County, and Austin, TX, recognize this burden and voluntarily pay the difference between the active duty military salary and civilian salary for these reservists. In my State of Illinois, Boeing Aerospace, State Farm Insurance, Sears, Roebuck & Company, the State of Illinois, the City of Chicago, and many other Illinois companies, local governments, and institutions cover the pay differential for Reserve and National Guard members called to active duty.

We should take similar action in Washington and set an example for employers throughout the country. Today, I am introducing with my colleague from Maryland, Senator BARBARA MIKULSKI, the Reservist Pay Security Act of 2003, legislation that will help alleviate the financial problems faced by many Federal employees who serve in the Reserves and must take time off from their jobs when our Nation calls. This bill would allow these citizen-soldiers to maintain their normal salary when called to active service by requiring Federal agencies to make up the difference between their military pay and what they would have earned on their Federal job.

As the symbol of American values and ideals, the Federal Government should give these special employees of our government more than just words of support. We should not encourage Americans to protect their country and then punish those who enlist in the armed forces by taking away a large portion of their salaries. We must provide our reservist employees with financial support so they can leave their civilian lives to serve our country without the added burden of worrying about the financial well-being of their families. They are doing so much for us; we should do no less for them.

I urge my colleagues to join me in cosponsoring this important legislation.

Ms. MIKULSKI. Mr. President, yesterday I spoke on the floor about supporting our armed forces. Support for our troops is particularly important today as our soldiers, sailors, airmen and marines are deployed for possible war with Iraq. We must express our support not only with words, but with deeds. We owe that to our armed forces.

Our brave men and women of the National Guard and Reserves are experiencing hardships as a result of recent mobilizations. I believe we should do everything we can to reduce unnecessary financial burdens on members of the military, especially when they are putting themselves in harm's way to protect our great Nation.

We must stand up for our military; we must also stand up for their families. Our troops will face grave danger. They should not have to face fear for their families, and particularly they should not have to worry about their families' finances.

Though America is on the brink of war, American military families must never be on the brink of bankruptcy. That is why we, in the Senate, must take immediate steps to support military families.

Today, I am proud to cosponsor the Reservists Pay Security Act with my colleague Senator DICK DURBIN. Senator DURBIN introduced a similar bill in the House, and I introduced it in the Senate during Desert Storm in 1991. It was the right thing to do then, and it is the right thing to do now. I'm proud to work together again on this worthy cause.

The Reservists Pay Security Act of 2003 would ensure that Federal employees who take leave to serve in our military reserves receive the same pay as if no interruption in their employment occurred. Why start with Federal employees? Well, many large companies and local governments continue to pay the full salary of their employees when they are activated. I applaud those excellent corporate citizens and those local governments. Some of the largest employers in my own State are also meeting that responsibility. The Federal Government should be a model employer and set the example for large businesses. This should be a first step.

I believe we should move quickly to pass this bill because many members of the Guard and Reserves do work for the Federal Government in highly specialized areas. But the Federal Government needs to do more than that. We need to take a look at those who work for small business and those who are self-employed. A call for duty will be responded to, but a call for duty time and time again in a single-year period places the responsibility on the family. American families should never subsidize our war effort. We should be looking out for those families.

We owe reservists our support and a debt of gratitude. This bill is a step toward achieving that. I urge my colleagues to join us and enact this important legislation for the men and women of our National Guard and Reserves.

By Mr. JOHNSON (for himself, Mr. DASCHLE, Mr. CAMPBELL, Mr. COCHRAN, and Mrs. MURRAY):

S. 594. A bill to provide for the issuance of bonds to provide funding for the construction of schools of the Bureau of Indian Affairs, and for other purposes; to the Committee on the Indian Affairs.

Mr. JOHNSON. Mr. President, I, along with Senators DASCHLE, CAMPBELL, COCHRAN, and MURRAY introduce the Indian School Construction Act. This legislation establishes an innovative funding mechanism to enhance the

ability of Indian tribes to construct, repair, and maintain quality educational facilities.

For education construction in fiscal year 2004, President Bush proposes a total of $292.6 million, the same level as was requested in FY 2003. Of this total, $131.4 million is for new school construction to replace seven trial schools on the BIA Priority List, one of those is in my home state of South Dakota. While I am pleased that seven schools will be replaced this year, there are literally dozens of schools that are in desperate need of replacement and repair. Simply, the process for replacing schools does not meet the need.

American Indians have been, and continue to be disproportionately affected by both poverty and low educational achievement. The fact that children are expected to learn despite inadequate educational facilities undoubtedly contributes to this disparity.

This bill provides a mechanism whereby an escrow account will be set up with a one time appropriation. Money would be placed in the escrow account and the tribal governments could use that account to issue bonds for purposes of constructing elementary and secondary schools. This allows tribal governments an opportunity to construct schools, even if the schools are low on the BIA priority list and are not slated for immediate construction under the direct appropriation process. Ultimately, this would mean that our children can learn in a better environment more quickly.

I urge my colleagues to closely examine the Indian School Construction Act and join me in working to make this innovative funding mechanism a reality.

By Mr. HATCH (for himself, Mr. BREAUX, Mr. ALLARD, Ms. COLLINS, Mr. SUNUNU, and Ms. SNOWE):

S. 595. A bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes; to the Committee on Finance.

Mr. HATCH. Mr. President, on behalf of myself and Senator BREAUX, I rise today to introduce the Housing Bond and Credit Modernization and Fairness Act of 2003. We are joined in this legislation by Senators ALLARD, COLLINS, SUNUNU, and SNOWE.

This bill will bring about important modifications to two important and popular Federal affordable housing programs—Housing Bonds, or single family Mortgage Revenue Bonds, MRBs, as they are commonly known, and the Low Income Housing Tax Credit. My long-time partnership on these issues with Senator BREAUX is one indication of the broad bipartisan support enjoyed by these programs. Another is the fact that our identical bill in the 107th Congress attracted 79 members of this body as cosponsors.

These programs are popular because they are state-administered, federal tax incentives designed to encourage private investment in first-time homebuyer mortgages for low and moderate-income families and privately developed and owned apartments for low-income renters. Moreover, they have a proven track record of being effective in providing housing to families who need it.

As with most things, however, these programs could use some improvements. Specifically, the current law governing these two housing programs includes some obsolete provisions that act as barriers and limit their effectiveness. The legislation we are introducing today would modernize these programs and remove these barriers.

The Housing Bond and Credit Modernization and Fairness Act does three things.

First, it repeals the so-called ''Ten-Year Rule,'' a provision added to the MRB program in 1988 that prevents States from using homeowner payments on such mortgages to make new mortgages to additional qualified purchasers. For each day the Ten-Year Rule is in effect, States lose millions of dollars in financing for first-time homebuyer mortgages, amounting to more than $14 billion in mortgage authority between 2001 and 2005. This barrier keeps tens of thousands of additional qualified lower income homebuyers from getting an affordable MRB-financed mortgage, including many in my home State of Utah. Our bill eliminates the Ten-Year Rule to allow States to use mortgage payments to finance additional lower income mortgages.

Second, it replaces the present unworkable price limit for homes these mortgages can finance with a simple limit that works. Let me explain. Current law limits the price of homes purchased with MRB-financed mortgages to 90 percent of the average area home price. States have the option of determining their own purchase price limits or relying on Treasury-published safe harbor limits.

Most States have relied on the Treasury limits because it is costly and burdensome to collect accurate and comprehensive sales price data. The problem is that the Treasury Department has not been providing recent data. This has especially been a problem for states, such as Utah, with many rural areas. In fact, Treasury last issued safe harbor limits in 1994, based on 1993 data. Home prices have risen significantly in the past ten years. This means that the MRB program simply cannot work in many parts of many states because qualified buyers cannot find homes priced below the outdated limits. To have an outdated and unworkable requirement that holds back the families that this program is designed to help is poor public policy that cries out for remedy.

The answer, which is included in our bill, is to replace the present limit, set in Washington, by a simple formula limiting the purchase price to three and a half times the qualifying income under the program.

Finally, the bill makes Housing Credit apartment production viable in rural areas by allowing States to use statewide median incomes as the basis for the income limits in that program. This change would apply the same methodology for determining qualifying income levels used in the MRB Program. HUD data shows that current income limits inhibit Housing Credit development in more than 1,300 nonmetropolitan counties across the country.

I am pleased to tell my colleagues that the changes proposed by the Housing Bond and Credit Modernization and Fairness Act have been endorsed by the bipartisan National Governors Association, the National Council of State Housing Agencies, and nearly every major national housing organization. These groups know how important the Housing Bond and Housing Credit programs are in giving States the ability to meet the housing needs of low and moderate-income families.

The Housing Credit and the MRB programs work and they are important to each State. This bill gives the Congress a golden opportunity to create new housing opportunities for tens of thousands of low and moderate-income families every year, simply by improving these existing and proven programs. I encourage my colleagues to join this bipartisan effort.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 595

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 ''Housing Bond and Credit Modernization and Fairness Act of 2003''.

SEC. 2. REPEAL OF REQUIRED USE OF CERTAIN PRINCIPAL REPAYMENTS ON MORTGAGE SUBSIDY BOND FINANCINGS TO REDEEM BONDS.

(a) IN GENERAL.—Subparagraph (A) of section 143(a)(2) of the Internal Revenue Code of 1986 (defining qualified mortgage issue) is amended by adding ''and'' at the end of clause (ii), by striking '', and'' at the end of clause (iii) and inserting a period, and by striking clause (iv) and the last sentence.

(b) CONFORMING AMENDMENT.—Clause (ii) of section 143(a)(2)(D) of such Code is amended by striking ''(and clause (iv) of subparagraph (A))''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to repayments received after the date of the enactment of this Act.

SEC. 3. MODIFICATION OF PURCHASE PRICE LIMITATION UNDER MORTGAGE SUBSIDY BOND RULES BASED ON MEDIAN FAMILY INCOME.

(a) IN GENERAL.—Paragraph (1) of section 143(e) of the Internal Revenue Code of 1986

(relating to purchase price requirement) is amended to read as follows:

''(1) IN GENERAL.—An issue meets the requirements of this subsection only if the acquisition cost of each residence the owner-financing of which is provided under the issue does not exceed the greater of—

''(A) 90 percent of the average area purchase price applicable to the residence, or

''(B) 3.5 times the applicable median family income (as defined in subsection (f)).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to financing provided, and mortgage credit certificates issued, after the date of the enactment of this Act.

SEC. 4. DETERMINATION OF AREA MEDIAN GROSS INCOME FOR LOW-INCOME HOUSING CREDIT PROJECTS.

(a) IN GENERAL.—Paragraph (4) of section 42(g) of the Internal Revenue Code of 1986 (relating to certain rules made applicable) is amended by striking the period at the end and inserting ''and the term 'area median gross income' means the amount equal to the greater of—

''(A) the area median gross income determined under section 142(d)(2)(B), or

''(B) the statewide median gross income for the State in which the project is located.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to—

(1) housing credit dollar amounts allocated after the date of the enactment of this Act, and

(2) buildings placed in service after such date to the extent paragraph (1) of section 42(h) of the Internal Revenue Code of 1986 does not apply to any building by reason of paragraph (4) thereof.

By Mr. ENSIGN (for himself, Mrs. BOXER, Mr. SMITH, Mr. ALLEN, Mr. ENZI, and Mr. BAYH):

S. 596. A bill to amend the Internal Revenue Code of 1986 to encourage the investment of foreign earnings within the United States for productive business investments and job creation; to the Committee on Finance.

Mr. ENSIGN. Mr. President. I rise today with my colleagues Senator BOXER, Senator SMITH, Senator ALLEN, Senator ENZI and Senator BAYH to introduce The Invest in the U.S.A. Act of 2003 to stimulate job growth and investment in the American economy.

Under current tax law, American companies doing business overseas are discouraged from bringing their earnings back home because those earnings are subject to up to a 35-percent rate of taxation. Specifically, our government imposes taxes on American companies when its foreign subsidiary earnings are brought back to the United States, to the extent of any shortfall in the tax paid abroad and the 35-percent U.S. tax rate. Therefore, many businesses do the math and conclude that it would be more beneficial to invest 100 percent of those earnings abroad than it would be to bring the funds home to be reinvested in the American economy.

Our proposal is a sensible, fiscally responsible way to provide immediate investment in the American economy. Specifically, the Invest in the U.S.A. Act bill will allow domestic corporations doing business abroad to bring their foreign earnings home by imposing a 5.25-percent toll tax on dividends in excess of normal distributions for only one year. Companies must reinvest these funds in the United States in an approved investment plan to take advantage of the lowered rate. Finally, domestic shareholders would permanently surrender the right to claim foreign tax credits for 85 percent of foreign income taxes associated with dividends subject to the 5.25-percent tax, as well as exclude 85 percent of income subject to the 5.25-percent tax from the calculation of the foreign tax credit limitation ensuring that no American company will be taxed less than 5.25 percent.

Lowering the tax burden on foreign subsidiary income for a limited time will open the floodgates for privately held foreign funds to be brought back into the American economy to provide immediate economic stimulus. According to the Joint Committee on Taxation, the Invest in the U.S.A. Act will not only increase receipts to the U.S. Treasury in the first year by $4.1 billion but also inject an additional $135 billion of privately held funds into the U.S. economy that will be an immediate stimulus to our economy at a cost of only $3.9 billion over 10 years—less than 3 percent of the overall gain this legislation will have to the American economy.

These funds can be used to create more jobs for American workers, solidify corporate pension and retirement funds, invest in manufacturing equipment and research and development, and reduce domestic debt loads thereby increasing employee and shareholder dividends. American jobs depend on American companies, and this proposal will accomplish that objective. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 596

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 ''Invest in the U.S.A. Act of 2003''.

SEC. 2. TOLL TAX ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.

(a) IN GENERAL.—Subpart F of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 965. TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.

''(a) TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.—If a corporation elects the application of this section for any taxable year, a tax shall be imposed for such taxable year in an amount equal to 5.25 percent of—

''(1) the taxpayer's excess qualified foreign distribution amount for such taxable year, plus

''(2) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount.

Such tax shall be imposed in lieu of the tax imposed under section 11 or 55 on the amounts described in paragraphs (1) and (2) for such taxable year.

''(b) EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'excess qualified foreign distribution amount' means the excess (if any) of—

''(A) dividends received by the taxpayer during the taxable year which are—

''(i) from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid, and

''(ii) described in a domestic reinvestment plan approved by the taxpayer's president, chief executive officer, or comparable official before the payment of such dividends and subsequently approved by the taxpayer's board of directors, management committee, executive committee, or similar body, which plan shall provide for the reinvestment of such dividends in the United States, such as for the funding of worker hiring and training; infrastructure; research and development; capital investments; or the financial stabilization of the corporation for the purposes of job retention or creation, over

''(B) the base dividend amount.

''(2) BASE DIVIDEND AMOUNT.—The term 'base dividend amount' means an amount designated under subsection (c)(7), but not less than the average amount of dividends received during the fixed base period from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid.

''(3) FIXED BASE PERIOD.—

''(A) IN GENERAL.—The term 'fixed base period' means each of 3 taxable years which are among the 5 most recent taxable years of the taxpayer ending on or before December 31, 2002, determined by disregarding—

''(i) the 1 taxable year for which the taxpayer had the highest amount of dividends from 1 or more corporations which are controlled foreign corporations relative to the other 4 taxable years, and

''(ii) the 1 taxable year for which the taxpayer had the lowest amount of dividends from such corporations relative to the other 4 taxable years.

''(B) SHORTER PERIOD.—If the taxpayer has fewer than 5 taxable years ending on or before December 31, 2002, then in lieu of applying subparagraph (A), the fixed base period shall mean such shorter period representing all of the taxable years of the taxpayer ending on or before December 31, 2002.

''(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) DIVIDENDS.—The term 'dividend' means a dividend as defined in section 316, except that the term shall also include amounts described in section 951(a)(1)(B), and shall exclude amounts described in sections 78 and 959.

''(2) CONTROLLED FOREIGN CORPORATIONS AND UNITED STATES SHAREHOLDERS.—The term 'controlled foreign corporation' shall have the same meaning as under section 957(a) and the term 'United States shareholder' shall have the same meaning as under section 951(b).

''(3) FOREIGN TAX CREDITS.—The amount of any income, war, profits, or excess profit taxes paid (or deemed paid under sections 902 and 960) or accrued by the taxpayer with respect to the excess qualified foreign distribution amount for which a credit would be allowable under section 901 in the absence of this section, shall be reduced by 85 percent.

''(4) FOREIGN TAX CREDIT LIMITATION.—For all purposes of section 904, there shall be disregarded 85 percent of—

''(A) the excess qualified foreign distribution amount,

''(B) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount, and

''(C) the amounts (including assets, gross income, and other relevant bases of apportionment) which are attributable to the excess qualified foreign distribution amount which would, determined without regard to this section, be used to apportion the expenses, losses, and deductions of the taxpayer under section 861 and 864 in determining its taxable income from sources without the United States.

For purposes of applying subparagraph (C), the principles of section 864(e)(3)(A) shall apply.

''(5) TREATMENT OF ACQUISITIONS AND DISPOSITIONS.—Rules similar to the rules of section 41(f)(3) shall apply in the case of acquisitions or dispositions of controlled foreign corporations occurring on or after the first day of the earliest taxable year taken into account in determining the fixed base period.

''(6) TREATMENT OF CONSOLIDATED GROUPS.—Members of an affiliated group of corporations filing a consolidated return under section 1501 shall be treated as a single taxpayer in applying the rules of this section.

''(7) DESIGNATION OF DIVIDENDS.—Subject to subsection (b)(2), the taxpayer shall designate the particular dividends received during the taxable year from 1 or more corporations which are controlled foreign corporations in which it is a United States shareholder which are dividends excluded from the excess qualified foreign distribution amount. The total amount of such designated dividends shall equal the base dividend amount.

''(8) TREATMENT OF EXPENSES, LOSSES, AND DEDUCTIONS.—Any expenses, losses, or deductions of the taxpayer allowable under subchapter B—

''(A) shall not be applied to reduce the amounts described in subsection (a)(1), and

''(B) shall be applied to reduce other income of the taxpayer (determined without regard to the amounts described in subsection (a)(1)).

''(d) ELECTION.—

''(1) IN GENERAL.—An election under this section shall be made on the timely filed income tax return for the taxpayer's first taxable year (determined by taking extensions into account) ending 120 days or more after the date of the enactment of this section, and, once made, may be revoked only with the consent of the Secretary.

''(2) ALL CONTROLLED FOREIGN CORPORATIONS.—The election shall apply to all corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder during the taxable year.

''(3) CONSOLIDATED GROUPS.—If a taxpayer is a member of an affiliated group of corporations filing a consolidated return under section 1501 for the taxable year, an election under this section shall be made by the common parent of the affiliated group which includes the taxpayer, and shall apply to all members of the affiliated group.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary and appropriate to carry out the purposes of this section, including regulations under section 55 and regulations addressing corporations which, during the fixed base period or thereafter, join or leave an affiliated group of corporations filing a consolidated return.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 965. Toll tax imposed on excess qualified foreign distribution amount.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply only to the first taxable year of the electing taxpayer ending 120 days or more after the date of the enactment of this Act.

Mrs. BOXER. Today, Senator ENSIGN and I are introducing the Invest in the U.S.A. Act of 2003 along with Senators SMITH, ALLEN, ENZI, and BAYH. This economic stimulus legislation would create a one-year incentive for corporations to bring the profits they have made overseas back to the United States and invest them in creating jobs.

The act lowers the effective corporate tax rate on the foreign earnings of American companies from 35 percent to 5.25 percent for one year. By lowering that rate for one year, we will encourage companies to bring an estimated $135 billion from abroad back home to invest in the United States. Getting this capital into the domestic economy is particularly necessary in light of the difficulties firms are having raising money in this tough economy. By making this capital available for domestic investment, we will minimize the spending cuts that companies have been announcing for the coming year.

The Invest in the U.S.A. Act would constitute a true economic stimulus by encouraging investment and job creation right away in such activities as worker hiring and training, research and development, and new plants.

Our proposal is also fiscally responsible, unlike other proposals that fail to give the economy the shot in the arm it needs. It will result in job creation rather than deficit creation by enabling a tremendous amount of investment in our economy in the short term with only a small cost in the long term. For Government, the funds brought back to the United States will generate $4.1 billion in revenues in the first year and is expected to cost $3.9 billion over 10 years.

I want to thank Senator ENSIGN for his active, engaged leadership on this legislation. I particularly appreciate Senator ENSIGN's focus on ensuring that these funds will be targeted at creating jobs and stimulating our economy right away.

Mr. President, we will work hard to ensure that the provisions in this act are included in any economic growth package that the Senate considers because our workers need the opportunities it would create and our economy needs the capital it would generate.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. DOMENICI, and Mr. BINGAMAN):

S. 597. A bill to amend the Internal Revenue Code of 1986 to provide energy tax incentives; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I am pleased that today we offer a bipartisan energy tax incentives package for the 108th Congress. I have been joined in this introduction by not only Ranking Member of the Finance Committee, Senator BAUCUS, but also the Chairman and the Ranking Member of the Energy and Natural Resources Committee, Senators DOMENICI and BINGAMAN as original sponsors of the Energy Tax Incentives Act of 2003, which we are introducing today.

This bill is substantially similar to the Energy Tax Incentives Bill which won overwhelming support on the floor of the Senate last April. It continues to represent a balanced package of alternative energy, traditional energy production and energy efficiency incentives. As we move forward towards a Mark-up of an energy tax bill by the Finance Committee, this bill represents a starting point. We hope over the next few weeks to be able to incorporate some of the new and improved versions of some of the provisions that we developed over the many months of conference during the last Congress.

I remain committed to diverse sources of energy and electricity, to include the production of electricity for wind and agricultural waste nutrients. In addition this bill reflects my continued interest in biodiesel and provisions to support small ethanol producers. I look forward to working with the Sponsors to craft a responsive bipartisan energy tax package.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 597

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 ''Energy Tax Incentives Act of 2003''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division 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.

TITLE I—EXTENSION AND MODIFICATION OF RENEWABLE ELECTRICITY PRODUCTION TAX CREDIT

Sec. 101. Three-year extension of credit for producing electricity from wind and poultry waste.

Sec. 102. Credit for electricity produced from biomass.

Sec. 103. Credit for electricity produced from swine and bovine waste nutrients, geothermal energy, and solar energy.

Sec. 104. Treatment of persons not able to use entire credit.

Sec. 105. Credit for electricity produced from small irrigation power.

Sec. 106. Credit for electricity produced from municipal biosolids and recycled sludge.

TITLE II—ALTERNATIVE MOTOR VEHICLES AND FUELS INCENTIVES

Sec. 201. Alternative motor vehicle credit.

Sec. 202. Modification of credit for qualified electric vehicles.

Sec. 203. Credit for installation of alternative fueling stations.

Sec. 204. Credit for retail sale of alternative fuels as motor vehicle fuel.
Sec. 205. Small ethanol producer credit.
Sec. 206. All alcohol fuels taxes transferred to Highway Trust Fund.
Sec. 207. Increased flexibility in alcohol fuels tax credit.
Sec. 208. Incentives for biodiesel.
Sec. 209. Credit for taxpayers owning commercial power takeoff vehicles.

TITLE III—CONSERVATION AND ENERGY EFFICIENCY PROVISIONS

Sec. 301. Credit for construction of new energy efficient home.
Sec. 302. Credit for energy efficient appliances.
Sec. 303. Credit for residential energy efficient property.
Sec. 304. Credit for business installation of qualified fuel cells and stationary microturbine power plants.
Sec. 305. Energy efficient commercial buildings deduction.
Sec. 306. Allowance of deduction for qualified new or retrofitted energy management devices.
Sec. 307. Three-year applicable recovery period for depreciation of qualified energy management devices.
Sec. 308. Energy credit for combined heat and power system property.
Sec. 309. Credit for energy efficiency improvements to existing homes.
Sec. 310. Allowance of deduction for qualified new or retrofitted water submetering devices.
Sec. 311. Three-year applicable recovery period for depreciation of qualified water submetering devices.

TITLE IV—CLEAN COAL INCENTIVES

Subtitle A—Credit for Emission Reductions and Efficiency Improvements in Existing Coal-Based Electricity Generation Facilities

Sec. 401. Credit for production from a qualifying clean coal technology unit.

Subtitle B—Incentives for Early Commercial Applications of Advanced Clean Coal Technologies

Sec. 411. Credit for investment in qualifying advanced clean coal technology.
Sec. 412. Credit for production from a qualifying advanced clean coal technology unit.

Subtitle C—Treatment of Persons Not Able To Use Entire Credit

Sec. 421. Treatment of persons not able to use entire credit.

TITLE V—OIL AND GAS PROVISIONS

Sec. 501. Oil and gas from marginal wells.
Sec. 502. Natural gas gathering lines treated as 7-year property.
Sec. 503. Expensing of capital costs incurred in complying with Environmental Protection Agency sulfur regulations.
Sec. 504. Environmental tax credit.
Sec. 505. Determination of small refiner exception to oil depletion deduction.
Sec. 506. Marginal production income limit extension.
Sec. 507. Amortization of geological and geophysical expenditures.
Sec. 508. Amortization of delay rental payments.
Sec. 509. Study of coal bed methane.
Sec. 510. Extension and modification of credit for producing fuel from a nonconventional source.
Sec. 511. Natural gas distribution lines treated as 15-year property.

TITLE VI—ELECTRIC UTILITY RESTRUCTURING PROVISIONS

Sec. 601. Ongoing study and reports regarding tax issues resulting from future restructuring decisions.
Sec. 602. Modifications to special rules for nuclear decommissioning costs.
Sec. 603. Treatment of certain income of cooperatives.
Sec. 604. Sales or dispositions to implement Federal Energy Regulatory Commission or State electric restructuring policy.
Sec. 605. Treatment of certain development income of cooperatives.

TITLE VII—ADDITIONAL PROVISIONS

Sec. 701. Extension of accelerated depreciation and wage credit benefits on Indian reservations.
Sec. 702. Study of effectiveness of certain provisions by GAO.
Sec. 703. Credit for production of Alaska natural gas.
Sec. 704. Sale of gasoline and diesel fuel at duty-free sales enterprises.
Sec. 705. Clarification of excise tax exemptions for agricultural aerial applicators.
Sec. 706. Modification of rural airport definition.
Sec. 707. Exemption from ticket taxes for transportation provided by seaplanes.

TITLE I—EXTENSION AND MODIFICATION OF RENEWABLE ELECTRICITY PRODUCTION TAX CREDIT

SEC. 101. THREE-YEAR EXTENSION OF CREDIT FOR PRODUCING ELECTRICITY FROM WIND AND POULTRY WASTE.

(a) IN GENERAL.—Subparagraphs (A) and (C) of section 45(c)(3) (relating to qualified facility), as amended by section 603(a) of the Job Creation and Worker Assistance Act of 2002, are each amended by striking ''January 1, 2004'' and inserting ''January 1, 2007''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 102. CREDIT FOR ELECTRICITY PRODUCED FROM BIOMASS.

(a) EXTENSION AND MODIFICATION OF PLACED-IN-SERVICE RULES.—Paragraph (3) of section 45(c) is amended—

(1) by striking subparagraph (B) and inserting the following new subparagraph:

''(B) CLOSED-LOOP BIOMASS FACILITY.—

''(i) IN GENERAL.—In the case of a facility using closed-loop biomass to produce electricity, the term 'qualified facility' means any facility—

''(I) owned by the taxpayer which is originally placed in service after December 31, 1992, and before January 1, 2007, or

''(II) owned by the taxpayer which is originally placed in service before January 1, 1993, and modified to use closed-loop biomass to co-fire with coal or other biomass before January 1, 2007, as approved under the Biomass Power for Rural Development Programs or under a pilot project of the Commodity Credit Corporation as described in 65 Fed. Reg. 63052.

''(ii) SPECIAL RULES.—In the case of a qualified facility described in clause (i)(II)—

''(I) the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this subclause, and

''(II) if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) is the lessee or the operator of such facility.'', and

(2) by adding at the end the following new subparagraph:

''(D) BIOMASS FACILITY.—

''(i) IN GENERAL.—In the case of a facility using biomass (other than closed-loop biomass) to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service before January 1, 2005.

''(ii) SPECIAL RULE FOR POSTEFFECTIVE DATE FACILITIES.—In the case of any facility described in clause (i) which is placed in service after the date of the enactment of this clause, the 3-year period beginning on the date the facility is originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

''(iii) SPECIAL RULES FOR PREEFFECTIVE DATE FACILITIES.—In the case of any facility described in clause (i) which is placed in service before the date of the enactment of this clause—

''(I) subsection (a)(1) shall be applied by substituting '1.0 cents' for '1.5 cents', and

''(II) the 3-year period beginning after the date of the enactment of this subparagraph, shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

''(iv) CREDIT ELIGIBILITY.—In the case of any facility described in clause (i), if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) is the lessee or the operator of such facility.''.

(b) DEFINITION OF BIOMASS.—

(1) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources) is amended—

(A) by striking ''and'' at the end of subparagraph (B),

(B) by striking the period at the end of subparagraph (C) and inserting '', and'', and

(C) by adding at the end the following new subparagraph:

''(D) biomass (other than closed-loop biomass).''.

(2) BIOMASS DEFINED.—Section 45(c) (relating to definitions) is amended by adding at the end the following new paragraph:

''(5) BIOMASS.—The term 'biomass' means any solid, nonhazardous, cellulosic waste material which is segregated from other waste materials and which is derived from—

''(A) any of the following forest-related resources: mill residues, precommercial thinnings, slash, and brush, but not including old-growth timber (other than old-growth timber which has been permitted or contracted for removal by any appropriate Federal authority through the National Environmental Policy Act or by any appropriate State authority),

''(B) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste (garbage), gas derived from the biodegradation of solid waste, or paper that is commonly recycled, or

''(C) agriculture sources, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues.''.

(c) COORDINATION WITH SECTION 29.—Section 45(c) (relating to definitions) is amended by adding at the end the following new paragraph:

''(6) COORDINATION WITH SECTION 29.—The term 'qualified facility' shall not include any facility the production from which is taken into account in determining any credit under section 29 for the taxable year or any prior taxable year.''.

(d) CLERICAL AMENDMENTS.—

(1) The heading for subsection (c) of section 45 is amended by inserting ''AND SPECIAL RULES'' after ''DEFINITIONS''.

(2) The heading for subsection (d) of section 45 is amended by inserting ''ADDITIONAL'' before ''DEFINITIONS''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

(2) CERTAIN BIOMASS FACILITIES.—With respect to any facility described in section 45(c)(3)(D)(i) of the Internal Revenue Code of 1986, as added by this section, which is placed in service before the date of the enactment of this Act, the amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 103. CREDIT FOR ELECTRICITY PRODUCED FROM SWINE AND BOVINE WASTE NUTRIENTS, GEOTHERMAL ENERGY, AND SOLAR ENERGY.

(a) EXPANSION OF QUALIFIED ENERGY RESOURCES.—

(1) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting a comma, and by adding at the end the following new subparagraphs:

''(E) swine and bovine waste nutrients,

''(F) geothermal energy, and

''(G) solar energy.''.

(2) DEFINITIONS.—Section 45(c) (relating to definitions and special rules), as amended by this Act, is amended by redesignating paragraph (6) as paragraph (8) and by inserting after paragraph (5) the following new paragraphs:

''(6) SWINE AND BOVINE WASTE NUTRIENTS.—The term 'swine and bovine waste nutrients' means swine and bovine manure and litter, including bedding material for the disposition of manure.

''(7) GEOTHERMAL ENERGY.—The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2)).''.

(b) EXTENSION AND MODIFICATION OF PLACED-IN-SERVICE RULES.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraphs:

''(E) SWINE AND BOVINE WASTE NUTRIENTS FACILITY.—In the case of a facility using swine and bovine waste nutrients to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this subparagraph and before January 1, 2007.

''(F) GEOTHERMAL OR SOLAR ENERGY FACILITY.—

''(i) IN GENERAL.—In the case of a facility using geothermal or solar energy to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this clause and before January 1, 2007.

''(ii) SPECIAL RULE.—In the case of any facility described in clause (i), the 5-year period beginning on the date the facility was originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 104. TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.

(a) IN GENERAL.—Section 45(d) (relating to additional definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(8) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—

''(A) ALLOWANCE OF CREDIT.—

''(i) IN GENERAL.—Except as otherwise provided in this subsection—

''(I) any credit allowable under subsection (a) with respect to a qualified facility owned by a person described in clause (ii) may be transferred or used as provided in this paragraph, and

''(II) the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

''(ii) PERSONS DESCRIBED.—A person is described in this clause if the person is—

''(I) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

''(II) an organization described in section 1381(a)(2)(C),

''(III) a public utility (as defined in section 136(c)(2)(B)), which is exempt from income tax under this subtitle,

''(IV) any State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

''(V) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

''(B) TRANSFER OF CREDIT.—

''(i) IN GENERAL.—A person described in subparagraph (A)(ii) may transfer any credit to which subparagraph (A)(i) applies through an assignment to any other person not described in subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

''(ii) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is claimed once and not reassigned by such other person.

''(iii) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in subclause (III), (IV), or (V) of subparagraph (A)(ii) from the transfer of any credit under clause (i) shall be treated as arising from the exercise of an essential government function.

''(C) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in subclause (I), (II), or (V) of subparagraph (A)(ii), any credit to which subparagraph (A)(i) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003.

''(D) CREDIT NOT INCOME.—Any transfer under subparagraph (B) or use under subparagraph (C) of any credit to which subparagraph (A)(i) applies shall not be treated as income for purposes of section 501(c)(12).

''(E) TREATMENT OF UNRELATED PERSONS.—For purposes of subsection (a)(2)(B), sales among and between persons described in subparagraph (A)(ii) shall be treated as sales between unrelated parties.''.

(b) CREDITS NOT REDUCED BY TAX-EXEMPT BONDS OR CERTAIN OTHER SUBSIDIES.—Section 45(b)(3) (relating to credit reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits) is amended—

(1) by striking clause (ii),

(2) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii),

(3) by inserting ''(other than any loan, debt, or other obligation incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003)'' after ''project'' in clause (ii) (as so redesignated),

(4) by adding at the end the following new sentence: ''This paragraph shall not apply with respect to any facility described in subsection (c)(3)(B)(i)(II).'', and

(5) by striking ''TAX-EXEMPT BONDS,'' in the heading and inserting ''CERTAIN''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 105. CREDIT FOR ELECTRICITY PRODUCED FROM SMALL IRRIGATION POWER.

(a) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking ''and'' at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting '', and'', and by adding at the end the following new subparagraph:

''(H) small irrigation power.''.

(b) QUALIFIED FACILITY.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraph:

''(G) SMALL IRRIGATION POWER FACILITY.—In the case of a facility using small irrigation power to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after date of the enactment of this subparagraph and before January 1, 2007.''.

(c) DEFINITION.—Section 45(c), as amended by this Act, is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

''(8) SMALL IRRIGATION POWER.—The term 'small irrigation power' means power—

''(A) generated without any dam or impoundment of water through an irrigation system canal or ditch, and

''(B) the installed capacity of which is less than 5 megawatts.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 106. CREDIT FOR ELECTRICITY PRODUCED FROM MUNICIPAL BIOSOLIDS AND RECYCLED SLUDGE.

(a) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking ''and'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H), and by adding at the end the following new subparagraphs:

''(I) municipal biosolids, and

''(J) recycled sludge.''.

(b) QUALIFIED FACILITIES.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraphs:

''(H) MUNICIPAL BIOSOLIDS FACILITY.—In the case of a facility using municipal biosolids to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this subparagraph and before January 1, 2007.

''(I) RECYCLED SLUDGE FACILITY.—

''(i) IN GENERAL.—In the case of a facility using recycled sludge to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service before January 1, 2007.

''(ii) SPECIAL RULE.—In the case of a qualified facility described in clause (i), the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this subparagraph.''.

(c) DEFINITIONS.—Section 45(c), as amended by this Act, is amended by redesignating

paragraph (9) as paragraph (11) and by inserting after paragraph (8) the following new paragraphs:

''(9) MUNICIPAL BIOSOLIDS.—The term 'municipal biosolids' means the residue or solids removed by a municipal wastewater treatment facility.

''(10) RECYCLED SLUDGE.—

''(A) IN GENERAL.—The term 'recycled sludge' means the recycled residue byproduct created in the treatment of commercial, industrial, municipal, or navigational wastewater.

''(B) RECYCLED.—The term 'recycled' means the processing of residue into a marketable product, but does not include incineration for the purpose of volume reduction.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

TITLE II—ALTERNATIVE MOTOR VEHICLES AND FUELS INCENTIVES

SEC. 201. ALTERNATIVE MOTOR VEHICLE CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

''SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) the new qualified fuel cell motor vehicle credit determined under subsection (b),

''(2) the new qualified hybrid motor vehicle credit determined under subsection (c), and

''(3) the new qualified alternative fuel motor vehicle credit determined under subsection (d).

''(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel cell motor vehicle placed in service by the taxpayer during the taxable year is—

''(A) $4,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

''(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

''(C) $20,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

''(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

''(2) INCREASE FOR FUEL EFFICIENCY.—

''(A) IN GENERAL.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

''(i) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

''(ii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

''(iii) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

''(iv) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy,

''(v) $3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2002 model year city fuel economy,

''(vi) $3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2002 model year city fuel economy, and

''(vii) $4,000, if such vehicle achieves at least 300 percent of the 2002 model year city fuel economy.

''(B) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2002 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

''(i) In the case of a passenger automobile:

''If vehicle inertia weight class is:	The 0000 model year city fuel economy is:
1,500 or 1,750 lbs	45.2 mpg
2,000 lbs	39.6 mpg
2,250 lbs	35.2 mpg
2,500 lbs	31.7 mpg
2,750 lbs	28.8 mpg
3,000 lbs	26.4 mpg
3,500 lbs	22.6 mpg
4,000 lbs	19.8 mpg
4,500 lbs	17.6 mpg
5,000 lbs	15.9 mpg
5,500 lbs	14.4 mpg
6,000 lbs	13.2 mpg
6,500 lbs	12.2 mpg
7,000 to 8,500 lbs	11.3 mpg.

''(ii) In the case of a light truck:

''If vehicle inertia weight class is:	The 0000 model year city fuel economy is:
1,500 or 1,750 lbs	39.4 mpg
2,000 lbs	35.2 mpg
2,250 lbs	31.8 mpg
2,500 lbs	29.0 mpg
2,750 lbs	26.8 mpg
3,000 lbs	24.9 mpg
3,500 lbs	21.8 mpg
4,000 lbs	19.4 mpg
4,500 lbs	17.6 mpg
5,000 lbs	16.1 mpg
5,500 lbs	14.8 mpg
6,000 lbs	13.7 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.1 mpg.

''(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term 'vehicle inertia weight class' has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(3) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified fuel cell motor vehicle' means a motor vehicle—

''(A) which is propelled by power derived from one or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

''(B) which, in the case of a passenger automobile or light truck—

''(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

''(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

''(C) the original use of which commences with the taxpayer,

''(D) which is acquired for use or lease by the taxpayer and not for resale, and

''(E) which is made by a manufacturer.

''(c) NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this subsection with respect to a new qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

''(2) CREDIT AMOUNT.—

''(A) IN GENERAL.—The credit amount determined under this paragraph shall be determined in accordance with the following tables:

''(i) In the case of a new qualified hybrid motor vehicle which is a passenger automobile or light truck and which provides the following percentage of the maximum available power:

''If percentage of the maximum available power is:	The credit amount is:
At least 4 percent but less than 10 percent.	$250
At least 10 percent but less than 20 percent.	$500
At least 20 percent but less than 30 percent.	$750
At least 30 percent	$1,000.

''(ii) In the case of a new qualified hybrid motor vehicle which is a heavy duty hybrid motor vehicle and which provides the following percentage of the maximum available power:

''(I) If such vehicle has a gross vehicle weight rating of not more than 14,000 pounds:

''If percentage of the maximum available power is:	The credit amount is:
At least 20 percent but less than 30 percent.	$1,000
At least 30 percent but less than 40 percent.	$1,750
At least 40 percent but less than 50 percent.	$2,000
At least 50 percent but less than 60 percent.	$2,250
At least 60 percent	$2,500.

''(II) If such vehicle has a gross vehicle weight rating of more than 14,000 but not more than 26,000 pounds:

''If percentage of the maximum available power is:	The credit amount is:
At least 20 percent but less than 30 percent.	$4,000
At least 30 percent but less than 40 percent.	$4,500
At least 40 percent but less than 50 percent.	$5,000

"If percentage of the maximum available power is:	The credit amount is:
At least 50 percent but less than 60 percent.	$5,500
At least 60 percent	$6,000.

"(III) If such vehicle has a gross vehicle weight rating of more than 26,000 pounds:

"If percentage of the maximum available power is:	The credit amount is:
At least 20 percent but less than 30 percent.	$6,000
At least 30 percent but less than 40 percent.	$7,000
At least 40 percent but less than 50 percent.	$8,000
At least 50 percent but less than 60 percent.	$9,000
At least 60 percent	$10,000.

"(B) INCREASE FOR FUEL EFFICIENCY.—

"(i) AMOUNT.—The amount determined under subparagraph (A)(i) with respect to a new qualified hybrid motor vehicle which is a passenger automobile or light truck shall be increased by—

"(I) $500, if such vehicle achieves at least 125 percent but less than 150 percent of the 2002 model year city fuel economy,

"(II) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

"(III) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

"(IV) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

"(V) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy, and

"(VI) $3,000, if such vehicle achieves at least 250 percent of the 2002 model year city fuel economy.

"(ii) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of clause (i), the 2002 model year city fuel economy with respect to a vehicle shall be determined using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

"(C) INCREASE FOR ACCELERATED EMISSIONS PERFORMANCE.—The amount determined under subparagraph (A)(ii) with respect to an applicable heavy duty hybrid motor vehicle shall be increased by the increased credit amount determined in accordance with the following tables:

"(i) In the case of a vehicle which has a gross vehicle weight rating of not more than 14,000 pounds:

"If the model year is:	The increased credit amount is:
2003	$3,000
2004	$2,500
2005	$2,000
2006	$1,500.

"(ii) In the case of a vehicle which has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds:

"If the model year is:	The increased credit amount is:
2003	$7,750
2004	$6,500
2005	$5,250
2006	$4,000.

"(iii) In the case of a vehicle which has a gross vehicle weight rating of more than 26,000 pounds:

"If the model year is:	The increased credit amount is:
2003	$12,000
2004	$10,000
2005	$8,000
2006	$6,000.

"(D) DEFINITIONS.—

"(i) APPLICABLE HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (C), the term 'applicable heavy duty hybrid motor vehicle' means a heavy duty hybrid motor vehicle which is powered by an internal combustion or heat engine which is certified as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2007 and later model year diesel heavy duty engines, or for 2008 and later model year ottocycle heavy duty engines, as applicable.

"(ii) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of this paragraph, the term 'heavy duty hybrid motor vehicle' means a new qualified hybrid motor vehicle which has a gross vehicle weight rating of more than 10,000 pounds and draws propulsion energy from both of the following onboard sources of stored energy:

"(I) An internal combustion or heat engine using consumable fuel which, for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds a level of not greater than 3.0 grams per brake horsepower–hour of oxides of nitrogen and 0.01 per brake horsepower–hour of particulate matter.

"(II) A rechargeable energy storage system.

"(iii) MAXIMUM AVAILABLE POWER.—

"(I) PASSENGER AUTOMOBILE OR LIGHT TRUCK.—For purposes of subparagraph (A)(i), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

"(II) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (A)(ii), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by the vehicle's total traction power. The term 'total traction power' means the sum of the peak power from the rechargeable energy storage system and the heat engine peak power of the vehicle, except that if such storage system is the sole means by which the vehicle can be driven, the total traction power is the peak power of such storage system.

"(3) NEW QUALIFIED HYBRID MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified hybrid motor vehicle' means a motor vehicle—

"(A) which draws propulsion energy from onboard sources of stored energy which are both—

"(i) an internal combustion or heat engine using combustible fuel, and

"(ii) a rechargeable energy storage system,

"(B) which, in the case of a passenger automobile or light truck—

"(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

"(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

"(C) the original use of which commences with the taxpayer,

"(D) which is acquired for use or lease by the taxpayer and not for resale, and

"(E) which is made by a manufacturer.

"(d) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.—

"(1) ALLOWANCE OF CREDIT.—Except as provided in paragraph (5), the new qualified alternative fuel motor vehicle credit determined under this subsection is an amount equal to the applicable percentage of the incremental cost of any new qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to any new qualified alternative fuel motor vehicle is—

"(A) 40 percent, plus

"(B) 30 percent, if such vehicle—

"(i) has received a certificate of conformity under the Clean Air Act and meets or exceeds the most stringent standard available for certification under the Clean Air Act for that make and model year vehicle (other than a zero emission standard), or

"(ii) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the most stringent standard available for certification under the State laws of California (enacted in accordance with a waiver granted under section 209(b) of the Clean Air Act) for that make and model year vehicle (other than a zero emission standard).

"(3) INCREMENTAL COST.—For purposes of this subsection, the incremental cost of any new qualified alternative fuel motor vehicle is equal to the amount of the excess of the manufacturer's suggested retail price for such vehicle over such price for a gasoline or diesel fuel motor vehicle of the same model, to the extent such amount does not exceed—

"(A) $5,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

"(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

"(C) $25,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

"(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

"(4)NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'new qualified alternative fuel motor vehicle' means any motor vehicle—

"(i) which is only capable of operating on an alternative fuel,

"(ii) the original use of which commences with the taxpayer,

"(iii) which is acquired by the taxpayer for use or lease, but not for resale, and

"(iv) which is made by a manufacturer.

"(B) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol.

"(5) CREDIT FOR MIXED-FUEL VEHICLES.—

"(A) IN GENERAL.—In the case of a mixed-fuel vehicle placed in service by the taxpayer during the taxable year, the credit determined under this subsection is an amount equal to—

"(i) in the case of a 75/25 mixed-fuel vehicle, 70 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle, and

"(ii) in the case of a 90/10 mixed-fuel vehicle, 90 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle.

"(B) MIXED-FUEL VEHICLE.—For purposes of this subsection, the term 'mixed-fuel vehicle'

means any motor vehicle described in subparagraph (C) or (D) of paragraph (3), which—

''(i) is certified by the manufacturer as being able to perform efficiently in normal operation on a combination of an alternative fuel and a petroleum-based fuel,

''(ii) either—

''(I) has received a certificate of conformity under the Clean Air Act, or

''(II) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the low emission vehicle standard under section 88.105-94 of title 40, Code of Federal Regulations, for that make and model year vehicle,

''(iii) the original use of which commences with the taxpayer,

''(iv) which is acquired by the taxpayer for use or lease, but not for resale, and

''(v) which is made by a manufacturer.

''(C) 75/25 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '75/25 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 75 percent alternative fuel and not more than 25 percent petroleum-based fuel.

''(D) 90/10 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '90/10 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 90 percent alternative fuel and not more than 10 percent petroleum-based fuel.

''(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(2) the tentative minimum tax for the taxable year.

''(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) CONSUMABLE FUEL.—The term 'consumable fuel' means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

''(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

''(3) CITY FUEL ECONOMY.—The city fuel economy with respect to any vehicle shall be measured in a manner which is substantially similar to the manner city fuel economy is measured in accordance with procedures under part 600 of subchapter Q of chapter I of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.

''(4) OTHER TERMS.—The terms 'automobile', 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(5) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (e)).

''(6) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter—

''(A) for any incremental cost taken into account in computing the amount of the credit determined under subsection (d) shall be reduced by the amount of such credit attributable to such cost, and

''(B) with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

''(7) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a motor vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

''(8) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

''(9) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

''(10) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

''(11) CARRYBACK AND CARRYFORWARD ALLOWED.—

''(A) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after the date of the enactment of this paragraph, which precede the unused credit year and a credit carryforward for each of the 20 taxable years which succeed the unused credit year.

''(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

''(12) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

''(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

''(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

''(g) REGULATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

''(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

''(h) TERMINATION.—This section shall not apply to any property purchased after—

''(1) in the case of a new qualified fuel cell motor vehicle (as described in subsection (b)), December 31, 2011, and

''(2) in the case of any other property, December 31, 2006.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following new paragraph:

''(29) to the extent provided in section 30B(f)(5).''.

(2) Section 55(c)(2) is amended by inserting ''30B(e),'' after ''30(b)(3)''.

(3) Section 6501(m) is amended by inserting ''30B(f)(10),'' after ''30(d)(4),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

''Sec. 30B. Alternative motor vehicle credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 202. MODIFICATION OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Section 30(a) (relating to allowance of credit) is amended by striking ''10 percent of''.

(2) LIMITATION OF CREDIT ACCORDING TO TYPE OF VEHICLE.—Section 30(b) (relating to limitations) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following new paragraph:

''(1) LIMITATION ACCORDING TO TYPE OF VEHICLE.—The amount of the credit allowed under subsection (a) for any vehicle shall not exceed the greatest of the following amounts applicable to such vehicle:

''(A) In the case of a vehicle which conforms to the Motor Vehicle Safety Standard 500 prescribed by the Secretary of Transportation, as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003, the lesser of—

''(i) 10 percent of the manufacturer's suggested retail price of the vehicle, or

''(ii) $1,500.

''(B) In the case of a vehicle not described in subparagraph (A) with a gross vehicle weight rating not exceeding 8,500 pounds—

''(i) $3,500, or

''(ii) $6,000, if such vehicle is—

''(I) capable of a driving range of at least 100 miles on a single charge of the vehicle's rechargeable batteries as measured pursuant to the urban dynamometer schedules under appendix I to part 86 of title 40, Code of Federal Regulations, or

''(II) capable of a payload capacity of at least 1,000 pounds.

''(C) In the case of a vehicle with a gross vehicle weight rating exceeding 8,500 but not exceeding 14,000 pounds, $10,000.

''(D) In the case of a vehicle with a gross vehicle weight rating exceeding 14,000 but not exceeding 26,000 pounds, $20,000.

''(E) In the case of a vehicle with a gross vehicle weight rating exceeding 26,000 pounds, $40,000.'', and

(B) by redesignating paragraph (3) as paragraph (2).

(3) CONFORMING AMENDMENTS.—

(A) Section 53(d)(1)(B)(iii) is amended by striking ''section 30(b)(3)(B)'' and inserting ''section 30(b)(2)(B)''.

(3) Section 55(c)(2), as amended by this Act, is amended by striking ''30(b)(3)'' and inserting ''30(b)(2)''.

(b) QUALIFIED BATTERY ELECTRIC VEHICLE.—

(1) IN GENERAL.—Section 30(c)(1)(A) (defining qualified electric vehicle) is amended to read as follows:

''(A) which is—

''(i) operated solely by use of a battery or battery pack, or

''(ii) powered primarily through the use of an electric battery or battery pack using a flywheel or capacitor which stores energy produced by an electric motor through regenerative braking to assist in vehicle operation,''.

(2) LEASED VEHICLES.—Section 30(c)(1)(C) is amended by inserting ''or lease'' after ''use''.

(3) CONFORMING AMENDMENTS.—

(A) Subsections (a), (b)(2), and (c) of section 30 are each amended by inserting ''battery'' after ''qualified'' each place it appears.

(B) The heading of subsection (c) of section 30 is amended by inserting ''BATTERY'' after ''QUALIFIED''.

(C) The heading of section 30 is amended by inserting ''BATTERY'' after ''QUALIFIED''.

(D) The item relating to section 30 in the table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting ''battery'' after ''qualified''.

(E) Section 179A(c)(3) is amended by inserting ''battery'' before ''electric''.

(F) The heading of paragraph (3) of section 179A(c) is amended by inserting ''BATTERY'' before ''ELECTRIC''.

(c) ADDITIONAL SPECIAL RULES.—Section 30(d) (relating to special rules) is amended by adding at the end the following new paragraphs:

''(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

''(6) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

''(7) CARRYBACK AND CARRYFORWARD ALLOWED.—

''(A) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (b)(2) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after the date of the enactment of this paragraph, which precede the unused credit year and a credit carryforward for each of the 20 taxable years which succeed the unused credit year.

''(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 203. CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 30C. CLEAN-FUEL VEHICLE REFUELING PROPERTY CREDIT.

''(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount paid or incurred by the taxpayer during the taxable year for the installation of qualified clean-fuel vehicle refueling property.

''(b) LIMITATION.—The credit allowed under subsection (a)—

''(1) with respect to any retail clean-fuel vehicle refueling property, shall not exceed $30,000, and

''(2) with respect to any residential clean-fuel vehicle refueling property, shall not exceed $1,000.

''(c) YEAR CREDIT ALLOWED.—The credit allowed under subsection (a) shall be allowed in the taxable year in which the qualified clean-fuel vehicle refueling property is placed in service by the taxpayer.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified clean-fuel vehicle refueling property' has the same meaning given such term by section 179A(d).

''(2) RESIDENTIAL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'residential clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

''(3) RETAIL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'retail clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property (other than property described in paragraph (2)) used in a trade or business of the taxpayer.

''(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, 30, and 30B, over

''(2) the tentative minimum tax for the taxable year.

''(f) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(g) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

''(h) REFUELING PROPERTY INSTALLED FOR TAX-EXEMPT ENTITIES.—In the case of qualified clean-fuel vehicle refueling property installed on property owned or used by an entity exempt from tax under this chapter, the person which installs such refueling property for the entity shall be treated as the taxpayer with respect to the refueling property for purposes of this section (and such refueling property shall be treated as retail clean-fuel vehicle refueling property) and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any installation contract the specific amount of the credit allowable under this section.

''(i) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (referred to as the 'unused credit year' in this subsection), such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

''(j) SPECIAL RULES.—Rules similar to the rules of paragraphs (4) and (5) of section 179A(e) shall apply.

''(k) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

''(l) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(b) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Subsection (f) of section 179A is amended to read as follows:

''(f) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(2) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B), as amended by section 606(a) of the Job Creation and Worker Assistance Act of 2002, is amended—

(A) by striking ''calendar year 2004'' in clause (i) and inserting ''calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen) '',

(B) by striking ''2005'' in clause (ii) and inserting ''2006 (calendar year 2010 in the case of property relating to hydrogen)'', and

(C) by striking ''2006'' in clause (iii) and inserting ''2007 (calendar year 2011 in the case of property relating to hydrogen)''.

(c) INCENTIVE FOR PRODUCTION OF HYDROGEN AT QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—Section 179A(d) (defining qualified clean-fuel vehicle refueling property) is amended by adding at the end the following new flush sentence:

''In the case of clean-burning fuel which is hydrogen produced from another clean-burning fuel, paragraph (3)(A) shall be applied by substituting 'production, storage, or dispensing' for 'storage or dispensing' both places it appears.''.

(d) CONFORMING AMENDMENTS.—(1) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting '', and'', and by adding at the end the following new paragraph:

''(30) to the extent provided in section 30C(f).''.

(2) Section 55(c)(2), as amended by this Act, is amended by inserting ''30C(e),'' after ''30B(e)''.

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

''Sec. 30C. Clean-fuel vehicle refueling property credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 204. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

''SEC. 40A. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

''(a) GENERAL RULE.—For purposes of section 38, the alternative fuel retail sales credit for any taxable year is the applicable amount for each gasoline gallon equivalent of alternative fuel sold at retail by the taxpayer during such year as a fuel to propel any qualified motor vehicle.

''(b) DEFINITIONS.—For purposes of this section—

''(1) APPLICABLE AMOUNT.—The term 'applicable amount' means the amount determined in accordance with the following table:

"In the case of any taxable year ending in—	The applicable amount is—
2003	30 cents
2004	40 cents
2005 and 2006	50 cents.

''(2) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol or ethanol.

''(3) GASOLINE GALLON EQUIVALENT.—The term 'gasoline gallon equivalent' means, with respect to any alternative fuel, the amount (determined by the Secretary) of such fuel having a Btu content of 114,000.

''(4) QUALIFIED MOTOR VEHICLE.—The term 'qualified motor vehicle' means any motor vehicle (as defined in section 30(c)(2)) which meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled.

''(5) SOLD AT RETAIL.—

''(A) IN GENERAL.—The term 'sold at retail' means the sale, for a purpose other than resale, after manufacture, production, or importation.

''(B) USE TREATED AS SALE.—If any person uses alternative fuel (including any use after importation) as a fuel to propel any qualified alternative fuel motor vehicle (as defined in section 30B(d)(4)) before such fuel is sold at retail, then such use shall be treated in the same manner as if such fuel were sold at retail as a fuel to propel such a vehicle by such person.

''(c) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such fuel.

''(d) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) TERMINATION.—This section shall not apply to any fuel sold at retail after December 31, 2006.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the alternative fuel retail sales credit determined under section 40A(a).''.

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF SECTION 40A CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the alternative fuel retail sales credit determined under section 40A(a) may be carried back to a taxable year ending on or before the date of the enactment of such section.''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 40 the following new item:

''Sec. 40A. Credit for retail sale of alternative fuels as motor vehicle fuel.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold at retail after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 205. SMALL ETHANOL PRODUCER CREDIT.

(a) ALLOCATION OF ALCOHOL FUELS CREDIT TO PATRONS OF A COOPERATIVE.—Section 40(g) (relating to alcohol used as fuel) is amended by adding at the end the following new paragraph:

''(6) ALLOCATION OF SMALL ETHANOL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—

''(A) ELECTION TO ALLOCATE.—

''(i) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

''(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

''(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to patrons under subparagraph (A)—

''(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year,

''(ii) shall be included in the amount determined under subsection (a) for the taxable year of each patron for which the patronage dividends for the taxable year described in subparagraph (A) are included in gross income, and

''(iii) shall be included in gross income of such patrons for the taxable year in the manner and to the extent provided in section 87.

''(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a)(3) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

''(i) such reduction, over

''(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.''.

(b) IMPROVEMENTS TO SMALL ETHANOL PRODUCER CREDIT.—

(1) DEFINITION OF SMALL ETHANOL PRODUCER.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by striking ''30,000,000'' each place it appears and inserting ''60,000,000''.

(2) SMALL ETHANOL PRODUCER CREDIT NOT A PASSIVE ACTIVITY CREDIT.—Clause (i) of section 469(d)(2)(A) is amended by striking ''subpart D'' and inserting ''subpart D, other than section 40(a)(3),''.

(3) ALLOWING CREDIT AGAINST ENTIRE REGULAR TAX AND MINIMUM TAX.—

(A) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by section 301(b) of the Job Creation and Worker Assistance Act of 2002, is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) SPECIAL RULES FOR SMALL ETHANOL PRODUCER CREDIT.—

''(A) IN GENERAL.—In the case of the small ethanol producer credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the small ethanol producer credit).

''(B) SMALL ETHANOL PRODUCER CREDIT.—For purposes of this subsection, the term 'small ethanol producer credit' means the credit allowable under subsection (a) by reason of section 40(a)(3).''.

(B) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by section 301(b)(2) of the Job Creation and Worker Assistance Act of 2002, and subclause (II) of section 38(c)(3)(A)(ii), as added by section 301(b)(1) of such Act, are each amended by inserting ''or the small ethanol producer credit'' after ''employee credit''.

(4) SMALL ETHANOL PRODUCER CREDIT NOT ADDED BACK TO INCOME UNDER SECTION 87.—Section 87 (relating to income inclusion of alcohol fuel credit) is amended to read as follows:

"SEC. 87. ALCOHOL FUEL CREDIT.

''Gross income includes an amount equal to the sum of—

''(1) the amount of the alcohol mixture credit determined with respect to the taxpayer for the taxable year under section 40(a)(1), and

''(2) the alcohol credit determined with respect to the taxpayer for the taxable year under section 40(a)(2).''.

(c) CONFORMING AMENDMENT.—Section 1388 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end the following new subsection:

''(k) CROSS REFERENCE.—For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(g)(6).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 206. ALL ALCOHOL FUELS TAXES TRANSFERRED TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(4) (relating to certain taxes not transferred to Highway Trust Fund) is amended—

(1) by adding ''or'' at the end of subparagraph (C),

(2) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(3) by striking subparagraphs (E) and (F).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes imposed after September 30, 2003.

SEC. 207. INCREASED FLEXIBILITY IN ALCOHOL FUELS TAX CREDIT.

(a) ALCOHOL FUELS CREDIT MAY BE TRANSFERRED.—Section 40 (relating to alcohol used as fuel) is amended by adding at the end the following new subsection:

''(i) CREDIT MAY BE TRANSFERRED.—

''(1) IN GENERAL.—A taxpayer may transfer any credit allowable under paragraph (1) or (2) of subsection (a) with respect to alcohol used in the production of ethyl tertiary butyl ether through an assignment to a qualified assignee. Such transfer may be revoked only with the consent of the Secretary.

''(2) QUALIFIED ASSIGNEE.—For purposes of this subsection, the term 'qualified assignee' means any person who—

''(A) is liable for taxes imposed under section 4081,

''(B) is required to register under section 4101, and

''(C) obtains a certificate from the taxpayer described in paragraph (1) which identifies the amount of alcohol used in such production.

''(3) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to insure that any credit described in paragraph (1) is claimed once and not reassigned by a qualified assignee.''.

(b) ALCOHOL FUELS CREDIT MAY BE TAKEN AGAINST MOTOR FUELS TAX LIABILITY.—

(1) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32 (relating to special provisions applicable to petroleum products) is amended by adding at the end the following new section:

''SEC. 4104. CREDIT AGAINST MOTOR FUELS TAXES.

''(a) ELECTION TO USE CREDIT AGAINST MOTOR FUELS TAXES.—There is hereby allowed as a credit against the taxes imposed by section 4081, any credit allowed under paragraph (1) or (2) of section 40(a) with respect to alcohol used in the production of ethyl tertiary butyl ether to the extent—

''(1) such credit is not claimed by the taxpayer or the qualified assignee under section 40(i) as a credit under section 40, and

''(2) the taxpayer or qualified assignee elects to claim such credit under this section.

''(b) ELECTION IRREVOCABLE.—Any election under subsection (a) shall be irrevocable.

''(c) REQUIRED STATEMENT.—Any return claiming a credit pursuant to an election under this section shall be accompanied by a statement that the credit was not, and will not, be claimed on an income tax return.

''(d) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to avoid the claiming of double benefits and to prescribe the taxable periods with respect to which the credit may be claimed.''.

(2) CONFORMING AMENDMENT.—Section 40(c) is amended by striking ''or section 4091(c)'' and inserting ''section 4091(c), or section 4104''.

(3) CLERICAL AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

''Sec. 4104. Credit against motor fuels taxes.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on and after the date of the enactment of this Act.

SEC. 208. INCENTIVES FOR BIODIESEL.

(a) CREDIT FOR BIODIESEL USED AS A FUEL.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by inserting after section 40A the following new section:

''SEC. 40B. BIODIESEL USED AS FUEL.

''(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the biodiesel mixture credit.

''(b) DEFINITION OF BIODIESEL MIXTURE CREDIT.—For purposes of this section—

''(1) BIODIESEL MIXTURE CREDIT.—

''(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is the sum of the products of the biodiesel mixture rate for each qualified biodiesel mixture and the number of gallons of such mixture of the taxpayer for the taxable year.

''(B) BIODIESEL MIXTURE RATE.—For purposes of subparagraph (A), the biodiesel mixture rate for each qualified biodiesel mixture shall be—

''(i) in the case of a mixture with only biodiesel V, 1 cent for each whole percentage point (not exceeding 20 percentage points) of biodiesel V in such mixture, and

''(ii) in the case of a mixture with biodiesel NV, or a combination of biodiesel V and biodiesel NV, 0.5 cent for each whole percentage point (not exceeding 20 percentage points) of such biodiesel in such mixture.

''(2) QUALIFIED BIODIESEL MIXTURE.—

''(A) IN GENERAL.—The term 'qualified biodiesel mixture' means a mixture of diesel and biodiesel V or biodiesel NV which—

''(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

''(ii) is used as a fuel by the taxpayer producing such mixture.

''(B) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—

''(i) IN GENERAL.—Biodiesel V or biodiesel NV used in the production of a qualified biodiesel mixture shall be taken into account—

''(I) only if the sale or use described in subparagraph (A) is in a trade or business of the taxpayer, and

''(II) for the taxable year in which such sale or use occurs.

''(ii) CERTIFICATION FOR BIODIESEL V.—Biodiesel V used in the production of a qualified biodiesel mixture shall be taken into account only if the taxpayer described in subparagraph (A) obtains a certification from the producer of the biodiesel V which identifies the product produced.

''(C) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

''(c) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel V shall, under regulations prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such biodiesel V solely by reason of the application of section 4041(n) or section 4081(f).

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BIODIESEL V DEFINED.—The term 'biodiesel V' means the monoalkyl esters of long chain fatty acids derived solely from virgin vegetable oils for use in compressional-ignition (diesel) engines. Such term shall include esters derived from vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds.

''(2) BIODIESEL NV DEFINED.—The term 'biodiesel nv' means the monoalkyl esters of long chain fatty acids derived from nonvirgin vegetable oils or animal fats for use in compressional-ignition (diesel) engines.

''(3) REGISTRATION REQUIREMENTS.—The terms 'biodiesel V' and 'biodiesel NV' shall only include a biodiesel which meets—

''(i) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

''(ii) the requirements of the American Society of Testing and Materials D6751.

''(2) BIODIESEL MIXTURE NOT USED AS A FUEL, ETC.—

''(A) IMPOSITION OF TAX.—If—

''(i) any credit was determined under this section with respect to biodiesel V or biodiesel NV used in the production of any qualified biodiesel mixture, and

''(ii) any person—

''(I) separates such biodiesel from the mixture, or

''(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the biodiesel mixture rate applicable under subsection (b)(1)(B) and the number of gallons of the mixture.

''(B) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) as if such tax were imposed by section 4081 and not by this chapter.

''(3) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) ELECTION TO HAVE BIODIESEL FUELS CREDIT NOT APPLY.—

''(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

''(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

''(3) MANNER OF MAKING ELECTION.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.''.

''(f) TERMINATION.—This section shall not apply to any fuel sold after December 31, 2005.''.

(2) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting '', plus'', and by adding at the end the following new paragraph:

''(17) the biodiesel fuels credit determined under section 40B(a).''.

(3) CONFORMING AMENDMENTS.—

(A) Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

''(12) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE JANUARY 1, 2003.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40B may be carried back to a taxable year beginning before January 1, 2003.''.

(B) Section 196(c) is amended by striking ''and'' at the end of paragraph (9), by striking the period at the end of paragraph (10), and by adding at the end the following new paragraph:

''(11) the biodiesel fuels credit determined under section 40B(a).''.

(C) Section 6501(m), as amended by this Act, is amended by inserting ''40B(e),'' after ''40(f),''.

(D) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding after the item relating to section 40A the following new item:

''Sec. 40B. Biodiesel used as fuel.''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002.

(b) REDUCTION OF MOTOR FUEL EXCISE TAXES ON BIODIESEL V MIXTURES.—

(1) IN GENERAL.—Section 4081 (relating to manufacturers tax on petroleum products) is amended by adding at the end the following new subsection:

''(f) BIODIESEL V MIXTURES.—Under regulations prescribed by the Secretary—

''(1) IN GENERAL.—In the case of the removal or entry of a qualified biodiesel mixture with biodiesel V, the rate of tax under subsection (a) shall be the otherwise applicable rate reduced by the biodiesel mixture rate (if any) applicable to the mixture.

''(2) TAX PRIOR TO MIXING.—

''(A) IN GENERAL.—In the case of the removal or entry of diesel fuel for use in producing at the time of such removal or entry

a qualified biodiesel mixture with biodiesel V, the rate of tax under subsection (a) shall be the rate determined under subparagraph (B).

''(B) DETERMINATION OF RATE.—For purposes of subparagraph (A), the rate determined under this subparagraph is the rate determined under paragraph (1), divided by a percentage equal to 100 percent minus the percentage of biodiesel V which will be in the mixture.

''(3) DEFINITIONS.—For purposes of this subsection, any term used in this subsection which is also used in section 40B shall have the meaning given such term by section 40B.

''(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (6) and (7) of subsection (c) shall apply for purposes of this subsection.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041 is amended by adding at the end the following new subsection:

''(n) BIODIESEL V MIXTURES.—Under regulations prescribed by the Secretary, in the case of the sale or use of a qualified biodiesel mixture (as defined in section 40B(b)(2)) with biodiesel V, the rates under paragraphs (1) and (2) of subsection (a) shall be the otherwise applicable rates, reduced by any applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)).''.

(B) Section 6427 is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) BIODIESEL V MIXTURES.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at a rate not determined under section 4081(f) is used by any person in producing a qualified biodiesel mixture (as defined in section 40B(b)(2)) with biodiesel V which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the per gallon applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)) with respect to such fuel.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any fuel sold after the date of the enactment of this Act, and before January 1, 2006.

(c) HIGHWAY TRUST FUND HELD HARMLESS.—There are hereby transferred (from time to time) from the funds of the Commodity Credit Corporation amounts determined by the Secretary of the Treasury to be equivalent to the reductions that would occur (but for this subsection) in the receipts of the Highway Trust Fund by reason of the amendments made by this section.

SEC. 209. CREDIT FOR TAXPAYERS OWNING COMMERCIAL POWER TAKEOFF VEHICLES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by section 703, is amended by adding at the end the following new section:

''SEC. 45N. COMMERCIAL POWER TAKEOFF VEHICLES CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the amount of the commercial power takeoff vehicles credit determined under this section for the taxable year is $250 for each qualified commercial power takeoff vehicle owned by the taxpayer as of the close of the calendar year in which or with which the taxable year of the taxpayer ends.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED COMMERCIAL POWER TAKEOFF VEHICLE.—The term 'qualified commercial power takeoff vehicle' means any highway vehicle described in paragraph (2) which is propelled by any fuel subject to tax under section 4041 or 4081 if such vehicle is used in a trade or business or for the production of income (and is licensed and insured for such use).

''(2) HIGHWAY VEHICLE DESCRIBED.—A highway vehicle is described in this paragraph if such vehicle is—

''(A) designed to engage in the daily collection of refuse or recyclables from homes or businesses and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a load compactor, or

''(B) designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

''(c) EXCEPTION FOR VEHICLES USED BY GOVERNMENTS, ETC.—No credit shall be allowed under this section for any vehicle owned by any person at the close of a calendar year if such vehicle is used at any time during such year by—

''(1) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

''(2) an organization exempt from tax under section 501(a).

''(d) DENIAL OF DOUBLE BENEFIT.—The amount of any deduction under this subtitle for any tax imposed by subchapter B of chapter 31 or part III of subchapter A of chapter 32 for any taxable year shall be reduced (but not below zero) by the amount of the credit determined under this subsection for such taxable year.

''(e) TERMINATION.—This section shall not apply with respect to any calendar year after 2004.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by section 703, is amended by striking ''plus'' at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting '', plus'', and by adding at the end the following new paragraph:

''(25) the commercial power takeoff vehicles credit under section 45N(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 703, is amended by adding at the end the following new item:

''Sec. 45N. Commercial power takeoff vehicles credit.''.

(d) REGULATIONS.—Not later than January 1, 2005, the Secretary of the Treasury, in consultation with the Secretary of Energy, shall by regulation provide for the method of determining the exemption from any excise tax imposed under section 4041 or 4081 of the Internal Revenue Code of 1986 on fuel used through a mechanism to power equipment attached to a highway vehicle as described in section 45N(b)(2) of such Code, as added by subsection (a).

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

TITLE III—CONSERVATION AND ENERGY EFFICIENCY PROVISIONS

SEC. 301. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOME.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 45G. NEW ENERGY EFFICIENT HOME CREDIT.

''(a) IN GENERAL.—For purposes of section 38, in the case of an eligible contractor, the credit determined under this section for the taxable year is an amount equal to the aggregate adjusted bases of all energy efficient property installed in a qualifying new home during construction of such home.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—

''(A) IN GENERAL.—The credit allowed by this section with respect to a qualifying new home shall not exceed—

''(i) in the case of a 30-percent home, $1,250, and

''(ii) in the case of a 50-percent home, $2,000.

''(B) 30- OR 50-PERCENT HOME.—For purposes of subparagraph (A)—

''(i) 30-PERCENT HOME.—The term '30-percent home' means a qualifying new home which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner, which is at least 30 percent less than the annual level of heating and cooling energy consumption of a reference qualifying new home constructed in accordance with the standards of chapter 4 of the 2000 International Energy Conservation Code, or a qualifying new home which is a manufactured home which meets the applicable standards of the Energy Star program managed jointly by the Environmental Protection Agency and the Department of Energy.

''(ii) 50-PERCENT HOME.—The term '50-percent home' means a qualifying new home which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner, which is at least 50 percent less than such annual level of heating and cooling energy consumption.

''(C) PRIOR CREDIT AMOUNTS ON SAME HOME TAKEN INTO ACCOUNT.—If a credit was allowed under subsection (a) with respect to a qualifying new home in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that home shall not exceed the amount under clause (i) or (ii) of subparagraph (A) (as the case may be), reduced by the sum of the credits allowed under subsection (a) with respect to the home for all prior taxable years.

''(2) COORDINATION WITH REHABILITATION AND ENERGY CREDITS.—For purposes of this section—

''(A) the basis of any property referred to in subsection (a) shall be reduced by that portion of the basis of any property which is attributable to the rehabilitation credit (as determined under section 47(a)) or to the energy percentage of energy property (as determined under section 48(a)), and

''(B) expenditures taken into account under either section 47 or 48(a) shall not be taken into account under this section.

''(c) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means the person who constructed the qualifying new home, or in the case of a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280), the manufactured home producer of such home.

''(2) ENERGY EFFICIENT PROPERTY.—The term 'energy efficient property' means any energy efficient building envelope component, and any energy efficient heating or cooling equipment which can, individually or in combination with other components, meet the requirements of this section.

''(3) QUALIFYING NEW HOME.—The term 'qualifying new home' means a dwelling—

''(A) located in the United States,

''(B) the construction of which is substantially completed after the date of the enactment of this section, and

''(C) the first use of which after construction is as a principal residence (within the meaning of section 121).

''(4) CONSTRUCTION.—The term 'construction' includes reconstruction and rehabilitation.

''(5) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

''(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a qualifying new home when installed in or on such home, and

''(B) exterior windows (including skylights) and doors.

''(6) MANUFACTURED HOME INCLUDED.—The term 'qualifying new home' includes a manufactured home conforming to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

''(d) CERTIFICATION.—

''(1) METHOD OF CERTIFICATION.—

''(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be determined either by a component-based method or a performance-based method.

''(B) COMPONENT-BASED METHOD.—A component-based method is a method which uses the applicable technical energy efficiency specifications or ratings (including product labeling requirements) for the energy efficient building envelope component or energy efficient heating or cooling equipment. The Secretary shall, in consultation with the Administrator of the Environmental Protection Agency, develop prescriptive component-based packages that are equivalent in energy performance to properties that qualify under subparagraph (C).

''(C) PERFORMANCE-BASED METHOD.—

''(i) IN GENERAL.—A performance-based method is a method which calculates projected energy usage and cost reductions in the qualifying new home in relation to a reference qualifying new home—

''(I) heated by the same energy source and heating system type, and

''(II) constructed in accordance with the standards of chapter 4 of the 2000 International Energy Conservation Code.

''(ii) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.

''(2) PROVIDER.—A certification described in subsection (b)(1)(B) shall be provided by—

''(A) in the case of a component-based method, a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or a home energy rating organization, or

''(B) in the case of a performance-based method, an individual recognized by an organization designated by the Secretary for such purposes.

''(3) FORM.—

''(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be made in writing in a manner that specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their respective rated energy efficiency performance, and in the case of a performance-based method, accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such qualifying new home.

''(B) FORM PROVIDED TO BUYER.—A form documenting the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their rated energy efficiency performance shall be provided to the buyer of the qualifying new home. The form shall include labeled R-value for insulation products, NFRC-labeled U-factor and Solar Heat Gain Coefficient for windows, skylights, and doors, labeled AFUE ratings for furnaces and boilers, labeled HSPF ratings for electric heat pumps, and labeled SEER ratings for air conditioners.

''(C) RATINGS LABEL AFFIXED IN DWELLING.—A permanent label documenting the ratings in subparagraph (B) shall be affixed to the front of the electrical distribution panel of the qualifying new home, or shall be otherwise permanently displayed in a readily inspectable location in such home.

''(4) REGULATIONS.—

''(A) IN GENERAL.—In prescribing regulations under this subsection for performance-based certification methods, the Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

''(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a qualifying new home to be eligible for the credit under this section regardless of whether such home uses a gas or oil furnace or boiler or an electric heat pump, and

''(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the homebuyer.

''(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

''(e) TERMINATION.—Subsection (a) shall apply to qualifying new homes purchased during the period beginning on the date of the enactment of this section and ending on December 31, 2007.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to current year business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting '', plus'', and by adding at the end the following new paragraph:

''(18) the new energy efficient home credit determined under section 45G(a).''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding at the end the following new subsection:

''(d) NEW ENERGY EFFICIENT HOME EXPENSES.—No deduction shall be allowed for that portion of expenses for a qualifying new home otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45G(a).''.

(d) LIMITATION ON CARRYBACK.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:

''(13) NO CARRYBACK OF NEW ENERGY EFFICIENT HOME CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G may be carried back to any taxable year ending on or before the date of the enactment of such section.''.

(e) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Subsection (c) of section 196, as amended by this Act, is amended by striking ''and'' at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting '', and'', and by adding after paragraph (11) the following new paragraph:

''(12) the new energy efficient home credit determined under section 45G(a).''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45G. New energy efficient home credit.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 302. CREDIT FOR ENERGY EFFICIENT APPLIANCES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 45H. ENERGY EFFICIENT APPLIANCE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the energy efficient appliance credit determined under this section for the taxable year is an amount equal to the applicable amount determined under subsection (b) with respect to the eligible production of qualified energy efficient appliances produced by the taxpayer during the calendar year ending with or within the taxable year.

''(b) APPLICABLE AMOUNT; ELIGIBLE PRODUCTION.—For purposes of subsection (a)—

''(1) APPLICABLE AMOUNT.—The applicable amount is—

''(A) $50, in the case of—

''(i) a clothes washer which is manufactured with at least a 1.26 MEF, or

''(ii) a refrigerator which consumes at least 10 percent less kWh per year than the energy conservation standards for refrigerators promulgated by the Department of Energy effective July 1, 2001, and

''(B) $100, in the case of—

''(i) a clothes washer which is manufactured with at least a 1.42 MEF (at least 1.5 MEF for washers produced after 2004), or

''(ii) a refrigerator which consumes at least 15 percent less kWh per year than such energy conservation standards.

''(2) ELIGIBLE PRODUCTION.—

''(A) IN GENERAL.—The eligible production of each category of qualified energy efficient appliances is the excess of—

''(i) the number of appliances in such category which are produced by the taxpayer during such calendar year, over

''(ii) the average number of appliances in such category which were produced by the taxpayer during calendar years 2000, 2001, and 2002.

''(B) CATEGORIES.—For purposes of subparagraph (A), the categories are—

''(i) clothes washers described in paragraph (1)(A)(i),

''(ii) clothes washers described in paragraph (1)(B)(i),

''(iii) refrigerators described in paragraph (1)(A)(ii), and

''(iv) refrigerators described in paragraph (1)(B)(ii).

''(c) LIMITATION ON MAXIMUM CREDIT.—

''(1) IN GENERAL.—The maximum amount of credit allowed under subsection (a) with respect to a taxpayer for all taxable years shall be—

''(A) $30,000,000 with respect to the credit determined under subsection (b)(1)(A), and

''(B) $30,000,000 with respect to the credit determined under subsection (b)(1)(B).

''(2) LIMITATION BASED ON GROSS RECEIPTS.—The credit allowed under subsection (a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

''(3) GROSS RECEIPTS.—For purposes of this subsection, the rules of paragraphs (2) and (3) of section 448(c) shall apply.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

''(A) a clothes washer described in subparagraph (A)(i) or (B)(i) of subsection (b)(1), or

''(B) a refrigerator described in subparagraph (A)(ii) or (B)(ii) of subsection (b)(1).

''(2) CLOTHES WASHER.—The term 'clothes washer' means a residential clothes washer, including a residential style coin operated washer.

''(3) REFRIGERATOR.—The term 'refrigerator' means an automatic defrost refrigerator-freezer which has an internal volume of at least 16.5 cubic feet.

''(4) MEF.—The term 'MEF' means Modified Energy Factor (as determined by the Secretary of Energy).

''(e) SPECIAL RULES.—

''(1) IN GENERAL.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply for purposes of this section.

''(2) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as 1 person for purposes of subsection (a).

''(f) VERIFICATION.—The taxpayer shall submit such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary to claim the credit amount under subsection (a).

''(g) TERMINATION.—This section shall not apply—

''(1) with respect to refrigerators described in subsection (b)(1)(A)(ii) produced after December 31, 2004, and

''(2) with respect to all other qualified energy efficient appliances produced after December 31, 2006.''.

(b) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(14) NO CARRYBACK OF ENERGY EFFICIENT APPLIANCE CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy efficient appliance credit determined under section 45H may be carried to a taxable year ending on or before the date of the enactment of such section.''.

(c) CONFORMING AMENDMENT.—Section 38(b) (relating to general business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting '', plus'', and by adding at the end the following new paragraph:

''(19) the energy efficient appliance credit determined under section 45H(a).''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45H. Energy efficient appliance credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 303. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

''SEC. 25C. RESIDENTIAL ENERGY EFFICIENT PROPERTY.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) 15 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year,

''(2) 15 percent of the qualified solar water heating property expenditures made by the taxpayer during such year,

''(3) 30 percent of the qualified fuel cell property expenditures made by the taxpayer during such year,

''(4) 30 percent of the qualified wind energy property expenditures made by the taxpayer during such year, and

''(5) the sum of the qualified Tier 2 energy efficient building property expenditures made by the taxpayer during such year.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) shall not exceed—

''(A) $2,000 for property described in subsection (d)(1),

''(B) $2,000 for property described in subsection (d)(2),

''(C) $1,000 for each kilowatt of capacity of property described in subsection (d)(4),

''(D) $2,000 for property described in subsection (d)(5), and

''(E) for property described in subsection (d)(6)—

''(i) $75 for each electric heat pump water heater,

''(ii) $250 for each electric heat pump,

''(iii) $250 for each advanced natural gas furnace,

''(iv) $250 for each central air conditioner,

''(v) $75 for each natural gas water heater, and

''(vi) $250 for each geothermal heat pump.

''(2) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for an item of property unless—

''(A) in the case of solar water heating property, such property is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed,

''(B) in the case of a photovoltaic property, a fuel cell property, or a wind energy property, such property meets appropriate fire and electric code requirements, and

''(C) in the case of property described in subsection (d)(6), such property meets the performance and quality standards, and the certification requirements (if any), which—

''(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

''(ii) in the case of the energy efficiency ratio (EER)—

''(I) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

''(II) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

''(iii) are in effect at the time of the acquisition of the property.

''(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term 'qualified solar water heating property expenditure' means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

''(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term 'qualified photovoltaic property expenditure' means an expenditure for property that uses solar energy to generate electricity for use in such a dwelling unit.

''(3) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

''(4) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term 'qualified fuel cell property expenditure' means an expenditure for qualified fuel cell property (as defined in section 48(a)(4)) installed on or in connection with such a dwelling unit.

''(5) QUALIFIED WIND ENERGY PROPERTY EXPENDITURE.—The term 'qualified wind energy property expenditure' means an expenditure for property which uses wind energy to generate electricity for use in such a dwelling unit.

''(6) QUALIFIED TIER 2 ENERGY EFFICIENT BUILDING PROPERTY EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified Tier 2 energy efficient building property expenditure' means an expenditure for any Tier 2 energy efficient building property.

''(B) TIER 2 ENERGY EFFICIENT BUILDING PROPERTY.—The term 'Tier 2 energy efficient building property' means—

''(i) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

''(ii) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 12.5,

''(iii) an advanced natural gas furnace which achieves at least 95 percent annual fuel utilization efficiency (AFUE),

''(iv) a central air conditioner which has a seasonal energy efficiency ratio (SEER) of at least 15 and an energy efficiency ratio (EER) of at least 12.5,

''(v) a natural gas water heater which has an energy factor of at least 0.80 in the standard Department of Energy test procedure, and

''(vi) a geothermal heat pump which has an energy efficiency ratio (EER) of at least 21.

''(7) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in paragraph (1), (2), (4), (5), or (6) and for piping or wiring to interconnect such property to the dwelling

unit shall be taken into account for purposes of this section.

''(8) SWIMMING POOLS, ETC., USED AS STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

''(e) SPECIAL RULES.—For purposes of this section—

''(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following shall apply:

''(A) The amount of the credit allowable, under subsection (a) by reason of expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

''(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

''(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

''(3) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having made the individual's proportionate share of any expenditures of such association.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

''(4) ALLOCATION IN CERTAIN CASES.—Except in the case of qualified wind energy property expenditures, if less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

''(5) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

''(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

''(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

''(6) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken in to account expenditures which are made from subsidized energy financing (as defined in section 48(a)(5)(C)).

''(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(g) TERMINATION.—The credit allowed under this section shall not apply to expenditures after December 31, 2007.''.

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25C(b), as added by subsection (a), is amended by adding at the end the following new paragraph:

''(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section and section 25D) and section 27 for the taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 25C(c), as added by subsection (a), is amended by striking ''section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D)'' and inserting ''subsection (b)(3)''.

(B) Section 23(b)(4)(B) is amended by inserting ''and section 25C'' after ''this section''.

(C) Section 24(b)(3)(B) is amended by striking ''23 and 25B'' and inserting ''23, 25B, and 25C''.

(D) Section 25(e)(1)(C) is amended by inserting ''25C,'' after ''25B,''.

(E) Section 25B(g)(2) is amended by striking ''section 23'' and inserting ''sections 23 and 25C''.

(F) Section 26(a)(1) is amended by striking ''and 25B'' and inserting ''25B, and 25C''.

(G) Section 904(h) is amended by striking ''and 25B'' and inserting ''25B, and 25C''.

(H) Section 1400C(d) is amended by striking ''and 25B'' and inserting ''25B, and 25C''.

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 23(c), as in effect for taxable years beginning before January 1, 2004, is amended by striking ''section 1400C'' and inserting ''sections 25C and 1400C''.

(2) Section 25(e)(1)(C), as in effect for taxable years beginning before January 1, 2004, is amended by inserting '', 25Cs,'' after ''sections 23''.

(3) Subsection (a) of section 1016, as amended by this Act, is amended by striking ''and'' at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting '', and'', and by adding at the end the following new paragraph:

''(31) to the extent provided in section 25C(f), in the case of amounts with respect to which a credit has been allowed under section 25C.''.

(4) Section 1400C(d), as in effect for taxable years beginning before January 1, 2004, is amended by inserting ''and section 25C'' after ''this section''.

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

''Sec. 25C. Residential energy efficient property.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to expenditures after the date of the enactment of this Act, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2003.

SEC. 304. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3) (defining energy property) is amended by striking ''or'' at the end of clause (i), by adding ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) qualified fuel cell property or qualified microturbine property,''.

(b) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—Subsection (a) of section 48 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—For purposes of this subsection—

''(A) QUALIFIED FUEL CELL PROPERTY.—

''(i) IN GENERAL.—The term 'qualified fuel cell property' means a fuel cell power plant that—

''(I) generates at least 0.5 kilowatt of electricity using an electrochemical process, and

''(II) has an electricity-only generation efficiency greater than 30 percent.

''(ii) LIMITATION.—In the case of qualified fuel cell property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

''(I) 30 percent of the basis of such property, or

''(II) $500 for each 0.5 kilowatt of capacity of such property.

''(iii) FUEL CELL POWER PLANT.—The term 'fuel cell power plant' means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components that converts a fuel into electricity using electrochemical means.

''(iv) TERMINATION.—Such term shall not include any property placed in service after December 31, 2007.

''(B) QUALIFIED MICROTURBINE PROPERTY.—

''(i) IN GENERAL.—The term ''qualified microturbine property' means a stationary microturbine power plant which has an electricity-only generation efficiency not less than 26 percent at International Standard Organization conditions.

''(ii) LIMITATION.—In the case of qualified microturbine property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

''(I) 10 percent of the basis of such property, or

''(II) $200 for each kilowatt of capacity of such property.

''(iii) STATIONARY MICROTURBINE POWER PLANT.—The term 'stationary microturbine power plant means a system comprising of a rotary engine which is actuated by the aerodynamic reaction or impulse or both on radial or axial curved full-circumferential-admission airfoils on a central axial rotating spindle. Such system—

''(I) commonly includes an air compressor, combustor, gas pathways which lead compressed air to the combustor and which lead hot combusted gases from the combustor to 1 or more rotating turbine spools, which in turn drive the compressor and power output shaft,

''(II) includes a fuel compressor, recuperator/regenerator, generator or alternator, integrated combined cycle equipment, cooling-heating-and-power equipment, sound attenuation apparatus, and power conditioning equipment, and

''(III) includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

''(iv) TERMINATION.—Such term shall not include any property placed in service after December 31, 2006.''.

(c) LIMITATION.—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

''(A) IN GENERAL.—The energy percentage is—

''(i) in the case of qualified fuel cell property, 30 percent, and

''(ii) in the case of any other energy property, 10 percent.''.

(d) CONFORMING AMENDMENTS.—

(A) Section 29(b)(3)(A)(i)(III) is amended by striking ''section 48(a)(4)(C)'' and inserting ''section 48(a)(5)(C)''.

(B) Section 48(a)(1) is amended by inserting ''except as provided in subparagraph (A)(ii) or (B)(ii) of paragraph (4),'' before ''the energy''.

(e) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 305. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 179A the following new section:

''SEC. 179B. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

''(a) IN GENERAL.—There shall be allowed as a deduction for the taxable year an amount equal to the energy efficient commercial building property expenditures made by a taxpayer for the taxable year.

''(b) MAXIMUM AMOUNT OF DEDUCTION.—The amount of energy efficient commercial building property expenditures taken into account under subsection (a) shall not exceed an amount equal to the product of—

''(1) $2.25, and

''(2) the square footage of the building with respect to which the expenditures are made.

''(c) YEAR DEDUCTION ALLOWED.—The deduction under subsection (a) shall be allowed in the taxable year in which the construction of the building is completed.

''(d) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY EXPENDITURES.—For purposes of this section—

''(1) IN GENERAL.—The term 'energy efficient commercial building property expenditures' means an amount paid or incurred for energy efficient commercial building property installed on or in connection with new construction or reconstruction of property—

''(A) for which depreciation is allowable under section 167,

''(B) which is located in the United States, and

''(C) the construction or erection of which is completed by the taxpayer.

Such property includes all residential rental property, including low-rise multifamily structures and single family housing property which is not within the scope of Standard 90.1–1999 (described in paragraph (2)). Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

''(2) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'energy efficient commercial building property' means any property which reduces total annual energy and power costs with respect to the lighting, heating, cooling, ventilation, and hot water supply systems of the building by 50 percent or more in comparison to a reference building which meets the requirements of Standard 90.1–1999 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America using methods of calculation under subparagraph (B) and certified by qualified professionals as provided under paragraph (5).

''(B) METHODS OF CALCULATION.—The Secretary, in consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power consumption and cost, taking into consideration the provisions of the 2001 California Nonresidential Alternative Calculation Method Approval Manual. These regulations shall meet the following requirements:

''(i) In calculating tradeoffs and energy performance, the regulations shall prescribe the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage.

''(ii) The calculational methodology shall require that compliance be demonstrated for a whole building. If some systems of the building, such as lighting, are designed later than other systems of the building, the method shall provide that either—

''(I) the expenses taken into account under paragraph (1) shall not occur until the date designs for all energy-using systems of the building are completed,

''(II) the energy performance of all systems and components not yet designed shall be assumed to comply minimally with the requirements of such Standard 90.1–1999, or

''(III) the expenses taken into account under paragraph (1) shall be a fraction of such expenses based on the performance of less than all energy-using systems in accordance with clause (iii).

''(iii) The expenditures in connection with the design of subsystems in the building, such as the envelope, the heating, ventilation, air conditioning and water heating system, and the lighting system shall be allocated to the appropriate building subsystem based on system-specific energy cost savings targets in regulations promulgated by the Secretary of Energy which are equivalent, using the calculation methodology, to the whole building requirement of 50 percent savings.

''(iv) The calculational methods under this subparagraph need not comply fully with section 11 of such Standard 90.1–1999.

''(v) The calculational methods shall be fuel neutral, such that the same energy efficiency features shall qualify a building for the deduction under this subsection regardless of whether the heating source is a gas or oil furnace or an electric heat pump.

''(vi) The calculational methods shall provide appropriate calculated energy savings for design methods and technologies not otherwise credited in either such Standard 90.1–1999 or in the 2001 California Nonresidential Alternative Calculation Method Approval Manual, including the following:

''(I) Natural ventilation.

''(II) Evaporative cooling.

''(III) Automatic lighting controls such as occupancy sensors, photocells, and timeclocks.

''(IV) Daylighting.

''(V) Designs utilizing semi-conditioned spaces that maintain adequate comfort conditions without air conditioning or without heating.

''(VI) Improved fan system efficiency, including reductions in static pressure.

''(VII) Advanced unloading mechanisms for mechanical cooling, such as multiple or variable speed compressors.

''(VIII) The calculational methods may take into account the extent of commissioning in the building, and allow the taxpayer to take into account measured performance that exceeds typical performance.

''(C) COMPUTER SOFTWARE.—

''(i) IN GENERAL.—Any calculation under this paragraph shall be prepared by qualified computer software.

''(ii) QUALIFIED COMPUTER SOFTWARE.—For purposes of this subparagraph, the term 'qualified computer software' means software—

''(I) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power consumption and costs as required by the Secretary,

''(II) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this subsection, and

''(III) which provides a notice form which summarizes the energy efficiency features of the building and its projected annual energy costs.

''(3) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient commercial building property installed on or in public property, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the public entity which is the owner of such property. Such person shall be treated as the taxpayer for purposes of this subsection.

''(4) NOTICE TO OWNER.—The qualified individual shall provide an explanation to the owner of the building regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (2)(C)(ii)(III).

''(5) CERTIFICATION.—

''(A) IN GENERAL.—Except as provided in this paragraph, the Secretary shall prescribe procedures for the inspection and testing for compliance of buildings that are comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

''(B) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes. The Secretary may qualify a Home Ratings Systems Organization, a local building code agency, a State or local energy office, a utility, or any other organization which meets the requirements prescribed under this section.

''(C) PROFICIENCY OF QUALIFIED INDIVIDUALS.—The Secretary shall consult with nonprofit organizations and State agencies with expertise in energy efficiency calculations and inspections to develop proficiency tests and training programs to qualify individuals to determine compliance.

''(e) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient commercial building property, the

basis of such property shall be reduced by the amount of the deduction so allowed.

''(f) REGULATIONS.—The Secretary shall promulgate such regulations as necessary to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section.

''(g) TERMINATION.—This section shall not apply with respect to any energy efficient commercial building property expenditures in connection with property—

''(1) the plans for which are not certified under subsection (d)(5) on or before December 31, 2007, and

''(2) the construction of which is not completed on or before December 31, 2009.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', and'', and by adding at the end the following new paragraph:

''(32) to the extent provided in section 179B(e).''.

(2) Section 1245(a) is amended by inserting ''179B,'' after ''179A,'' both places it appears in paragraphs (2)(C) and (3)(C).

(3) Section 1250(b)(3) is amended by inserting before the period at the end of the first sentence ''or by section 179B''.

(4) Section 263(a)(1) is amended by striking ''or'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', or'', and by inserting after subparagraph (H) the following new subparagraph:

''(I) expenditures for which a deduction is allowed under section 179B.''.

(5) Section 312(k)(3)(B) is amended by striking ''or 179A'' each place it appears in the heading and text and inserting '', 179A, or 179B''.

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after section 179A the following new item:

''Sec. 179B. Energy efficient commercial buildings deduction.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 306. ALLOWANCE OF DEDUCTION FOR QUALIFIED NEW OR RETROFITTED ENERGY MANAGEMENT DEVICES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179B the following new section:

''SEC. 179C. DEDUCTION FOR QUALIFIED NEW OR RETROFITTED ENERGY MANAGEMENT DEVICES.

''(a) ALLOWANCE OF DEDUCTION.—In the case of a taxpayer who is a supplier of electric energy or natural gas or a provider of electric energy or natural gas services, there shall be allowed as a deduction an amount equal to the cost of each qualified energy management device placed in service during the taxable year.

''(b) MAXIMUM DEDUCTION.—The deduction allowed by this section with respect to each qualified energy management device shall not exceed $30.

''(c) QUALIFIED ENERGY MANAGEMENT DEVICE.—The term 'qualified energy management device' means any tangible property to which section 168 applies if such property is a meter or metering device—

''(1) which is acquired and used by the taxpayer to enable consumers to manage their purchase or use of electricity or natural gas in response to energy price and usage signals, and

''(2) which permits reading of energy price and usage signals on at least a daily basis.

''(d) PROPERTY USED OUTSIDE THE UNITED STATES NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to property which is used predominantly outside the United States or with respect to the portion of the cost of any property taken into account under section 179.

''(e) BASIS REDUCTION.—

''(1) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the amount of the deduction with respect to such property which is allowed by subsection (a).

''(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property that is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking ''or'' at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting '', or'', and by inserting after subparagraph (I) the following new subparagraph:

''(J) expenditures for which a deduction is allowed under section 179C.''.

(2) Section 312(k)(3)(B), as amended by this Act, is amended by striking ''or 179B'' each place it appears in the heading and text and inserting '', 179B, or 179C''.

(3) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting '', and'', and by adding at the end the following new paragraph:

''(33) to the extent provided in section 179C(e)(1).''.

(4) Section 1245(a), as amended by this Act, is amended by inserting ''179C,'' after ''179B,'' both places it appears in paragraphs (2)(C) and (3)(C).

(5) The table of contents for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 179B the following new item:

''Sec. 179C. Deduction for qualified new or retrofitted energy management devices.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified energy management devices placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 307. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED ENERGY MANAGEMENT DEVICES.

(a) IN GENERAL.—Subparagraph (A) of section 168(e)(3) (relating to classification of property) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) any qualified energy management device.''.

(b) DEFINITION OF QUALIFIED ENERGY MANAGEMENT DEVICE.—Section 168(i) (relating to definitions and special rules) is amended by inserting at the end the following new paragraph:

''(15) QUALIFIED ENERGY MANAGEMENT DEVICE.—The term 'qualified energy management device' means any qualified energy management device as defined in section 179C(c) which is placed in service by a taxpayer who is a supplier of electric energy or natural gas or a provider of electric energy or natural gas services.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 308. ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3) (defining energy property), as amended by this Act, is amended by striking ''or'' at the end of clause (ii), by adding ''or'' at the end of clause (iii), and by inserting after clause (iii) the following new clause:

''(iv) combined heat and power system property,''.

(b) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Subsection (a) of section 48, as amended by this Act, is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

''(5) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of this subsection—

''(A) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and power system property' means property comprising a system—

''(i) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

''(ii) which has an electrical capacity of more than 50 kilowatts or a mechanical energy capacity of more than 67 horsepower or an equivalent combination of electrical and mechanical energy capacities,

''(iii) which produces—

''(I) at least 20 percent of its total useful energy in the form of thermal energy, and

''(II) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

''(iv) the energy efficiency percentage of which exceeds 60 percent (70 percent in the case of a system with an electrical capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower, or an equivalent combination of electrical and mechanical energy capacities), and

''(v) which is placed in service after the date of the enactment of this paragraph, and before January 1, 2007.

''(B) SPECIAL RULES.—

''(i) ENERGY EFFICIENCY PERCENTAGE.—For purposes of subparagraph (A)(iv), the energy efficiency percentage of a system is the fraction—

''(I) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

''(II) the denominator of which is the lower heating value of the primary fuel source for the system.

''(ii) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under subparagraph (A)(iii) shall be determined on a Btu basis.

''(iii) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

''(iv) PUBLIC UTILITY PROPERTY.—

''(I) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If the combined heat and power system property is public utility property (as defined in section 168(i)(10)), the taxpayer may only claim the credit under the subsection if, with respect to such property, the taxpayer uses a normalization method of accounting.

''(II) CERTAIN EXCEPTION NOT TO APPLY.—The matter following paragraph (3)(D) shall not apply to combined heat and power system property.

''(v) NONAPPLICATION OF CERTAIN RULES.—For purposes of determining if the term 'combined heat and power system property' includes technologies which generate electricity or mechanical power using back-pressure steam turbines in place of existing pressure-reducing valves or which make use of waste heat from industrial processes such as by using organic rankin, stirling, or kalina heat engine systems, subparagraph (A) shall be applied without regard to clauses (iii) and (iv) thereof.

''(C) EXTENSION OF DEPRECIATION RECOVERY PERIOD.—If a taxpayer is allowed credit under this section for combined heat and power system property and such property would (but for this subparagraph) have a class life of 15 years or less under section 168, such property shall be treated as having a 22-year class life for purposes of section 168.''.

(c) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:

''(15) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy credit with respect to property described in section 48(a)(5) may be carried back to a taxable year ending on or before the date of the enactment of such section.''.

(d) CONFORMING AMENDMENTS.—

(A) Section 25C(e)(6), as added by this Act, is amended by striking ''section 48(a)(5)(C)'' and inserting ''section 48(a)(6)(C)''.

(B) Section 29(b)(3)(A)(i)(III), as amended by this Act, is amended by striking ''section 48(a)(5)(C)'' and inserting ''section 48(a)(6)(C)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 309. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by this Act, is amended by inserting after section 25C the following new section:

''SEC. 25D. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—The credit allowed by this section with respect to a dwelling shall not exceed $300.

''(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER ON SAME DWELLING TAKEN INTO ACCOUNT.—If a credit was allowed to the taxpayer under subsection (a) with respect to a dwelling in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that dwelling shall not exceed the amount of $300 reduced by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling for all prior taxable years.

''(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section) for any taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(d) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—For purposes of this section, the term 'qualified energy efficiency improvements' means any energy efficient building envelope component which is certified to meet or exceed the prescriptive criteria for such component in the 2000 International Energy Conservation Code, any energy efficient building envelope component which is described in subsection (f)(4)(B) and is certified by the Energy Star program managed jointly by the Environmental Protection Agency and the Department of Energy, or any combination of energy efficiency measures which are certified as achieving at least a 30 percent reduction in heating and cooling energy usage for the dwelling (as measured in terms of energy cost to the taxpayer), if—

''(1) such component or combination of measures is installed in or on a dwelling—

''(A) located in the United States, and

''(B) owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121),

''(2) the original use of such component or combination of measures commences with the taxpayer, and

''(3) such component or combination of measures reasonably can be expected to remain in use for at least 5 years.

''(e) CERTIFICATION.—

''(1) METHODS OF CERTIFICATION.—

''(A) COMPONENT-BASED METHOD.—The certification described in subsection (d) for any component described in such subsection shall be determined on the basis of applicable energy efficiency ratings (including product labeling requirements) for affected building envelope components.

''(B) PERFORMANCE-BASED METHOD.—

''(i) IN GENERAL.—The certification described in subsection (d) for any combination of measures described in such subsection shall be—

''(I) determined by comparing the projected heating and cooling energy usage for the dwelling to such usage for such dwelling in its original condition, and

''(II) accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such dwelling.

''(ii) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.

''(2) PROVIDER.—A certification described in subsection (d) shall be provided by—

''(A) in the case of the method described in paragraph (1)(A), by a third party, such as a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or a home energy rating organization, or

''(B) in the case of the method described in paragraph (1)(B), an individual recognized by an organization designated by the Secretary for such purposes.

''(3) FORM.—A certification described in subsection (d) shall be made in writing on forms which specify in readily inspectable fashion the energy efficient components and other measures and their respective efficiency ratings, and which include a permanent label affixed to the electrical distribution panel of the dwelling.

''(4) REGULATIONS.—

''(A) IN GENERAL.—In prescribing regulations under this subsection for certification methods described in paragraph (1)(B), the Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

''(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a dwelling to be eligible for the credit under this section regardless of whether such dwelling uses a gas or oil furnace or boiler or an electric heat pump, and

''(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the owner of the dwelling.

''(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

''(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following shall apply:

''(A) The amount of the credit allowable under subsection (a) by reason of expenditures for the qualified energy efficiency improvements made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

''(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

''(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of the cost of qualified energy efficiency improvements made by such corporation.

''(3) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having paid the individual's proportionate share of the cost of qualified energy efficiency improvements made by such association.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof)

with respect to a condominium project substantially all of the units of which are used as residences.

''(4) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

''(A) insulation material or system which is specifically and primarily designed to reduce the heat loss or gain or a dwelling when installed in or on such dwelling,

''(B) exterior windows (including skylights), and

''(C) exterior doors.

''(5) MANUFACTURED HOMES INCLUDED.—For purposes of this section, the term 'dwelling' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

''(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(h) APPLICATION OF SECTION.—Subsection (a) shall apply to qualified energy efficiency improvements installed during the period beginning on the date of the enactment of this section and ending on December 31, 2006.''.

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25D(b), as added by subsection (a), is amended by adding at the end the following new paragraph:

''(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 25D(c), as added by subsection (a), is amended by striking ''section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section)'' and inserting ''subsection (b)(3)''.

(B) Section 23(b)(4)(B), as amended by this Act, is amended by striking ''section 25C'' and inserting ''sections 25C and 25D''.

(C) Section 24(b)(3)(B), as amended by this Act, is amended by striking ''and 25C'' and inserting ''25C, and 25D''.

(D) Section 25(e)(1)(C), as amended by this Act, is amended by inserting ''25D,'' after ''25C,''.

(E) Section 25B(g)(2), as amended by this Act, is amended by striking ''23 and 25C'' and inserting ''23, 25C, and 25D''.

(F) Section 26(a)(1), as amended by this Act, is amended by striking ''and 25C'' and inserting ''25C, and 25D''.

(G) Section 904(h), as amended by this Act, is amended by striking ''and 25C'' and inserting ''25C, and 25D''.

(H) Section 1400C(d), as amended by this Act, is amended by striking ''and 25C'' and inserting ''25C, and 25D''.

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 23(c), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting '', 25D,'' after ''sections 25C''.

(2) Section 25(e)(1)(C), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting ''25D,'' after ''25C,''.

(3) Subsection (a) of section 1016, as amended by this Act, is amended by striking ''and'' at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting ''; and'', and by adding at the end the following new paragraph:

''(34) to the extent provided in section 25D(f), in the case of amounts with respect to which a credit has been allowed under section 25D.''.

(4) Section 1400C(d), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by striking ''section 25C'' and inserting ''sections 25C and 25D''.

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 25C the following new item:

''Sec. 25D. Energy efficiency improvements to existing homes.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to expenditures after the date of the enactment of this Act, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2003.

SEC. 310. ALLOWANCE OF DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by section 503, is amended by inserting after section 179D the following new section:

''SEC. 179E. DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.

''(a) ALLOWANCE OF DEDUCTION.—In the case of a taxpayer who is an eligible resupplier, there shall be allowed as a deduction an amount equal to the cost of each qualified water submetering device placed in service during the taxable year.

''(b) MAXIMUM DEDUCTION.—The deduction allowed by this section with respect to each qualified water submetering device shall not exceed $30.

''(c) ELIGIBLE RESUPPLIER.—For purposes of this section, the term 'eligible resupplier' means any taxpayer who purchases and installs qualified water submetering devices in every unit in any multi-unit property.

''(d) QUALIFIED WATER SUBMETERING DEVICE.—The term 'qualified water submetering device' means any tangible property to which section 168 applies if such property is a submetering device (including ancillary equipment)—

''(1) which is purchased and installed by the taxpayer to enable consumers to manage their purchase or use of water in response to water price and usage signals, and

''(2) which permits reading of water price and usage signals on at least a daily basis.

''(e) PROPERTY USED OUTSIDE THE UNITED STATES NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to property which is used predominantly outside the United States or with respect to the portion of the cost of any property taken into account under section 179.

''(f) BASIS REDUCTION.—

''(1) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the amount of the deduction with respect to such property which is allowed by subsection (a).

''(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property that is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

''(g) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2007.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by section 503, is amended by striking ''or'' at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting '', or'', and by inserting after subparagraph (K) the following new subparagraph:

''(L) expenditures for which a deduction is allowed under section 179E.''.

(2) Section 312(k)(3)(B), as amended by section 503, is amended by striking ''or 179D'' each place it appears in the heading and text and inserting '', 179D, or 179E''.

(3) Section 1016(a), as amended by section 503, is amended by striking ''and'' at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting '', and'', and by adding at the end the following new paragraph:

''(36) to the extent provided in section 179E(f)(1).''.

(4) Section 1245(a), as amended by section 503, is amended by inserting ''179E,'' after ''179D,'' both places it appears in paragraphs (2)(C) and (3)(C).

(5) The table of contents for subpart B of part IV of subchapter A of chapter 1, as amended by section 503, is amended by inserting after the item relating to section 179D the following new item:

''Sec. 179E. Deduction for qualified new or retrofitted water submetering devices.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified water submetering devices placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 311. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED WATER SUBMETERING DEVICES.

(a) IN GENERAL.—Subparagraph (A) of section 168(e)(3) (relating to classification of property), as amended by this Act, is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) any qualified water submetering device.''.

(b) DEFINITION OF QUALIFIED WATER SUBMETERING DEVICE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by inserting at the end the following new paragraph:

''(16) QUALIFIED WATER SUBMETERING DEVICE.—The term 'qualified water submetering device' means any qualified water submetering device (as defined in section 179E(d)) which is placed in service before January 1, 2008, by a taxpayer who is an eligible resupplier (as defined in section 179E(c)).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

TITLE IV—CLEAN COAL INCENTIVES

Subtitle A—Credit for Emission Reductions and Efficiency Improvements in Existing Coal-Based Electricity Generation Facilities

SEC. 401. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

(a) CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 45I. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

''(a) GENERAL RULE.—For purposes of section 38, the qualifying clean coal technology

production credit of any taxpayer for any taxable year is equal to the product of—

''(1) the applicable amount of clean coal technology production credit, multiplied by

''(2) the applicable percentage of the kilowatt hours of electricity produced by the taxpayer during such taxable year at a qualifying clean coal technology unit, but only if such production occurs during the 10-year period beginning on the date the unit was returned to service after becoming a qualifying clean coal technology unit.

''(b) APPLICABLE AMOUNT.—

''(1) IN GENERAL.—For purposes of this section, the applicable amount of clean coal technology production credit is equal to $0.0034.

''(2) INFLATION ADJUSTMENT.—For calendar years after 2004, the applicable amount of clean coal technology production credit shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

''(c) APPLICABLE PERCENTAGE.—For purposes of this section, with respect to any qualifying clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (e) bears to the total megawatt capacity of such unit.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—The term 'qualifying clean coal technology unit' means a clean coal technology unit of the taxpayer which—

''(A) on the date of the enactment of this section was a coal-based electricity generating steam generator-turbine unit which was not a clean coal technology unit,

''(B) has a nameplate capacity rating of not more than 300,000 kilowatts,

''(C) becomes a clean coal technology unit as the result of the retrofitting, repowering, or replacement of the unit with clean coal technology during the 10-year period beginning on the date of the enactment of this section,

''(D) is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy, and

''(E) receives an allocation of a portion of the national megawatt capacity limitation under subsection (e).

''(2) CLEAN COAL TECHNOLOGY UNIT.—The term 'clean coal technology unit' means a unit which—

''(A) uses clean coal technology, including advanced pulverized coal or atmospheric fluidized bed combustion, pressurized fluidized bed combustion, integrated gasification combined cycle, or any other technology for the production of electricity,

''(B) uses coal to produce 75 percent or more of its thermal output as electricity,

''(C) has a design net heat rate of at least 500 less than that of such unit as described in paragraph (1)(A),

''(D) has a maximum design net heat rate of not more than 9,500, and

''(E) meets the pollution control requirements of paragraph (3).

''(3) POLLUTION CONTROL REQUIREMENTS.—

''(A) IN GENERAL.—A unit meets the requirements of this paragraph if—

''(i) its emissions of sulfur dioxide, nitrogen oxide, or particulates meet the lower of the emission levels for each such emission specified in—

''(I) subparagraph (B), or

''(II) the new source performance standards of the Clean Air Act (42 U.S.C. 7411) which are in effect for the category of source at the time of the retrofitting, repowering, or replacement of the unit, and

''(ii) its emissions do not exceed any relevant emission level specified by regulation pursuant to the hazardous air pollutant requirements of the Clean Air Act (42 U.S.C. 7412) in effect at the time of the retrofitting, repowering, or replacement.

''(B) SPECIFIC LEVELS.—The levels specified in this subparagraph are—

''(i) in the case of sulfur dioxide emissions, 50 percent of the sulfur dioxide emission levels specified in the new source performance standards of the Clean Air Act (42 U.S.C. 7411) in effect on the date of the enactment of this section for the category of source,

''(ii) in the case of nitrogen oxide emissions—

''(I) 0.1 pound per million Btu of heat input if the unit is not a cyclone-fired boiler, and

''(II) if the unit is a cyclone-fired boiler, 15 percent of the uncontrolled nitrogen oxide emissions from such boilers, and

''(iii) in the case of particulate emissions, 0.02 pound per million Btu of heat input.

''(4) DESIGN NET HEAT RATE.—The design net heat rate with respect to any unit, measured in Btu per kilowatt hour (HHV)—

''(A) shall be based on the design annual heat input to and the design annual net electrical output from such unit (determined without regard to such unit's co-generation of steam),

''(B) shall be adjusted for the heat content of the design coal to be used by the unit if it is less than 12,000 Btu per pound according to the following formula:

Design net heat rate = Unit net heat rate X [1- {((12,000-design coal heat content, Btu per pound)/1,000) X 0.013}], and

''(C) shall be corrected for the site reference conditions of—

''(i) elevation above sea level of 500 feet,

''(ii) air pressure of 14.4 pounds per square inch absolute (psia),

''(iii) temperature, dry bulb of 63°F,

''(iv) temperature, wet bulb of 54°F, and

''(v) relative humidity of 55 percent.

''(5) HHV.—The term 'HHV' means higher heating value.

''(6) APPLICATION OF CERTAIN RULES.—The rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.

''(7) INFLATION ADJUSTMENT FACTOR.—

''(A) IN GENERAL.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2003.

''(B) GDP IMPLICIT PRICE DEFLATOR.—The term 'GDP implicit price deflator' means the most recent revision of the implicit price deflator for the gross domestic product as computed by the Department of Commerce before March 15 of the calendar year.

''(8) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this section, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying clean coal technology unit during such period.

''(e) NATIONAL LIMITATION ON THE AGGREGATE CAPACITY OF QUALIFYING CLEAN COAL TECHNOLOGY UNITS.—

''(1) IN GENERAL.—For purposes of subsection (d)(1)(E), the national megawatt capacity limitation for qualifying clean coal technology units is 4,000 megawatts.

''(2) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation for qualifying clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

''(3) REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

''(A) to carry out the purposes of this subsection,

''(B) to limit the capacity of any qualifying clean coal technology unit to which this section applies so that the combined megawatt capacity allocated to all such units under this subsection when all such units are placed in service during the 10-year period described in subsection (d)(1)(C), does not exceed 4,000 megawatts,

''(C) to provide a certification process under which the Secretary, in consultation with the Secretary of Energy, shall approve and allocate the national megawatt capacity limitation—

''(i) to encourage that units with the highest thermal efficiencies, when adjusted for the heat content of the design coal and site reference conditions described in subsection (d)(4)(C), and environmental performance be placed in service as soon as possible, and

''(ii) to allocate capacity to taxpayers that have a definite and credible plan for placing into commercial operation a qualifying clean coal technology unit, including—

''(I) a site,

''(II) contractual commitments for procurement and construction or, in the case of regulated utilities, the agreement of the State utility commission,

''(III) filings for all necessary preconstruction approvals,

''(IV) a demonstrated record of having successfully completed comparable projects on a timely basis, and

''(V) such other factors that the Secretary determines are appropriate,

''(D) to allocate the national megawatt capacity limitation to a portion of the capacity of a qualifying clean coal technology unit if the Secretary determines that such an allocation would maximize the amount of efficient production encouraged with the available tax credits,

''(E) to set progress requirements and conditional approvals so that capacity allocations for clean coal technology units that become unlikely to meet the necessary conditions for qualifying can be reallocated by the Secretary to other clean coal technology units, and

''(F) to provide taxpayers with opportunities to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting '', plus'', and by adding at the end the following new paragraph:

''(20) the qualifying clean coal technology production credit determined under section 45I(a).''.

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(16) NO CARRYBACK OF SECTION 45I CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying clean coal technology production credit determined under section 45I may be carried back

to a taxable year ending on or before the date of the enactment of such section.''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45I. Credit for production from a qualifying clean coal technology unit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle B—Incentives for Early Commercial Applications of Advanced Clean Coal Technologies

SEC. 411. CREDIT FOR INVESTMENT IN QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

(a) ALLOWANCE OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.—Section 46 (relating to amount of credit) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following new paragraph:

''(4) the qualifying advanced clean coal technology unit credit.''.

(b) AMOUNT OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

''SEC. 48A. QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the qualifying advanced clean coal technology unit credit for any taxable year is an amount equal to 10 percent of the applicable percentage of the qualified investment in a qualifying advanced clean coal technology unit for such taxable year.

''(b) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the term 'qualifying advanced clean coal technology unit' means an advanced clean coal technology unit of the taxpayer—

''(A)(i)(I) in the case of a unit first placed in service after the date of the enactment of this section, the original use of which commences with the taxpayer, or

''(II) in the case of the retrofitting or repowering of a unit first placed in service before such date of enactment, the retrofitting or repowering of which is completed by the taxpayer after such date, or

''(ii) which is acquired through purchase (as defined by section 179(d)(2)),

''(B) which is depreciable under section 167,

''(C) which has a useful life of not less than 4 years,

''(D) which is located in the United States,

''(E) which is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy,

''(F) which is not a qualifying clean coal technology unit, and

''(G) which receives an allocation of a portion of the national megawatt capacity limitation under subsection (f).

''(2) SPECIAL RULE FOR SALE-LEASEBACKS.—For purposes of subparagraph (A) of paragraph (1), in the case of a unit which—

''(A) is originally placed in service by a person, and

''(B) is sold and leased back by such person, or is leased to such person, within 3 months after the date such unit was originally placed in service, for a period of not less than 12 years,

such unit shall be treated as originally placed in service not earlier than the date on which such unit is used under the leaseback (or lease) referred to in subparagraph (B). The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary.

''(3) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this subsection, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying advanced clean coal technology unit during such period.

''(c) APPLICABLE PERCENTAGE.—For purposes of this section, with respect to any qualifying advanced clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (f) bears to the total megawatt capacity of such unit.

''(d) ADVANCED CLEAN COAL TECHNOLOGY UNIT.—For purposes of this section—

''(1) IN GENERAL.—The term 'advanced clean coal technology unit' means a new, retrofit, or repowering unit of the taxpayer which—

''(A) is—

''(i) an eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit,

''(ii) an eligible pressurized fluidized bed combustion technology unit,

''(iii) an eligible integrated gasification combined cycle technology unit, or

''(iv) an eligible other technology unit, and

''(B) meets the carbon emission rate requirements of paragraph (6).

''(2) ELIGIBLE ADVANCED PULVERIZED COAL OR ATMOSPHERIC FLUIDIZED BED COMBUSTION TECHNOLOGY UNIT.—The term 'eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit' means a clean coal technology unit using advanced pulverized coal or atmospheric fluidized bed combustion technology which—

''(A) is placed in service after the date of the enactment of this section and before January 1, 2013, and

''(B) has a design net heat rate of not more than 8,350 (8,750 in the case of units placed in service before 2009).

''(3) ELIGIBLE PRESSURIZED FLUIDIZED BED COMBUSTION TECHNOLOGY UNIT.—The term 'eligible pressurized fluidized bed combustion technology unit' means a clean coal technology unit using pressurized fluidized bed combustion technology which—

''(A) is placed in service after the date of the enactment of this section and before January 1, 2017, and

''(B) has a design net heat rate of not more than 7,720 (8,750 in the case of units placed in service before 2009, and 8,350 in the case of units placed in service after 2008 and before 2013).

''(4) ELIGIBLE INTEGRATED GASIFICATION COMBINED CYCLE TECHNOLOGY UNIT.—The term 'eligible integrated gasification combined cycle technology unit' means a clean coal technology unit using integrated gasification combined cycle technology, with or without fuel or chemical co-production, which—

''(A) is placed in service after the date of the enactment of this section and before January 1, 2017,

''(B) has a design net heat rate of not more than 7,720 (8,750 in the case of units placed in service before 2009, and 8,350 in the case of units placed in service after 2008 and before 2013), and

''(C) has a net thermal efficiency (HHV) using coal with fuel or chemical co-production of not less than 43.9 percent (39 percent in the case of units placed in service before 2009, and 40.9 percent in the case of units placed in service after 2008 and before 2013).

''(5) ELIGIBLE OTHER TECHNOLOGY UNIT.—The term 'eligible other technology unit' means a clean coal technology unit using any other technology for the production of electricity which is placed in service after the date of the enactment of this section and before January 1, 2017.

''(6) CARBON EMISSION RATE REQUIREMENTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a unit meets the requirements of this paragraph if—

''(i) in the case of a unit using design coal with a heat content of not more than 9,000 Btu per pound, the carbon emission rate is less than 0.60 pound of carbon per kilowatt hour, and

''(ii) in the case of a unit using design coal with a heat content of more than 9,000 Btu per pound, the carbon emission rate is less than 0.54 pound of carbon per kilowatt hour.

''(B) ELIGIBLE OTHER TECHNOLOGY UNIT.—In the case of an eligible other technology unit, subparagraph (A) shall be applied by substituting '0.51' and '0.459' for '0.60' and '0.54', respectively.

''(e) GENERAL DEFINITIONS.—Any term used in this section which is also used in section 45I shall have the meaning given such term in section 45I.

''(f) NATIONAL LIMITATION ON THE AGGREGATE CAPACITY OF ADVANCED CLEAN COAL TECHNOLOGY UNITS.—

''(1) IN GENERAL.—For purposes of subsection (b)(1)(G), the national megawatt capacity limitation is—

''(A) for qualifying advanced clean coal technology units using advanced pulverized coal or atmospheric fluidized bed combustion technology, not more than 1,000 megawatts (not more than 500 megawatts in the case of units placed in service before 2009),

''(B) for such units using pressurized fluidized bed combustion technology, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009),

''(C) for such units using integrated gasification combined cycle technology, with or without fuel or chemical co-production, not more than 2,000 megawatts (not more than 1,000 megawatts in the case of units placed in service before 2009 and not more than 1,500 megawatts in the case of units placed in service after 2008 and before 2013), and

''(D) for such units using other technology for the production of electricity, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009).

''(2) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation for qualifying advanced clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

''(3) REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

''(A) to carry out the purposes of this subsection and section 45J,

''(B) to limit the capacity of any qualifying advanced clean coal technology unit to which this section applies so that the combined megawatt capacity of all such units to which this section applies does not exceed 4,000 megawatts,

''(C) to provide a certification process described in section 45I(e)(3)(C),

''(D) to carry out the purposes described in subparagraphs (D), (E), and (F) of section 45I(e)(3), and

''(E) to reallocate capacity which is not allocated to any technology described in subparagraphs (A) through (D) of paragraph (1) because an insufficient number of qualifying units request an allocation for such technology, to another technology described in such subparagraphs in order to maximize the amount of energy efficient production encouraged with the available tax credits.

''(4) SELECTION CRITERIA.—For purposes of paragraph (3)(C), the selection criteria for allocating the national megawatt capacity limitation to qualifying advanced clean coal technology units—

''(A) shall be established by the Secretary of Energy as part of a competitive solicitation,

''(B) shall include primary criteria of minimum design net heat rate, maximum design thermal efficiency, environmental performance, and lowest cost to the Government, and

''(C) shall include supplemental criteria as determined appropriate by the Secretary of Energy.

''(g) QUALIFIED INVESTMENT.—For purposes of subsection (a), the term 'qualified investment' means, with respect to any taxable year, the basis of a qualifying advanced clean coal technology unit placed in service by the taxpayer during such taxable year (in the case of a unit described in subsection (b)(1)(A)(i)(II), only that portion of the basis of such unit which is properly attributable to the retrofitting or repowering of such unit).

''(h) QUALIFIED PROGRESS EXPENDITURES.—

''(1) INCREASE IN QUALIFIED INVESTMENT.—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (g) without regard to this subsection) shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

''(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—For purposes of this subsection, the term 'progress expenditure property' means any property being constructed by or for the taxpayer and which it is reasonable to believe will qualify as a qualifying advanced clean coal technology unit which is being constructed by or for the taxpayer when it is placed in service.

''(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

''(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term 'qualified progress expenditures' means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

''(B) NONSELF-CONSTRUCTED PROPERTY.—In the case of nonself-constructed property, the term 'qualified progress expenditures' means the amount paid during the taxable year to another person for the construction of such property.

''(4) OTHER DEFINITIONS.—For purposes of this subsection—

''(A) SELF-CONSTRUCTED PROPERTY.—The term 'self-constructed property' means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

''(B) NONSELF-CONSTRUCTED PROPERTY.—The term 'nonself-constructed property' means property which is not self-constructed property.

''(C) CONSTRUCTION, ETC.—The term 'construction' includes reconstruction and erection, and the term 'constructed' includes reconstructed and erected.

''(D) ONLY CONSTRUCTION OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

''(5) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.

''(i) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any property with respect to which the rehabilitation credit under section 47 or the energy credit under section 48 is allowed unless the taxpayer elects to waive the application of such credit to such property.''.

(c) RECAPTURE.—Section 50(a) (relating to other special rules) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULES RELATING TO QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48A, the following shall apply:

''(A) GENERAL RULE.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under section 38 for all prior taxable years with respect to a qualifying advanced clean coal technology unit (as defined by section 48A(b)(1)) multiplied by a fraction whose numerator is the number of years remaining to fully depreciate under this title the qualifying advanced clean coal technology unit disposed of, and whose denominator is the total number of years over which such unit would otherwise have been subject to depreciation. For purposes of the preceding sentence, the year of disposition of the qualifying advanced clean coal technology unit shall be treated as a year of remaining depreciation.

''(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a qualifying advanced clean coal technology unit under section 48A, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted for the amount described in such paragraph (2).

''(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a qualifying advanced clean coal technology unit.''.

(d) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(17) NO CARRYBACK OF SECTION 48A CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology unit credit determined under section 48A may be carried back to a taxable year ending on or before the date of the enactment of such section.''.

(e) TECHNICAL AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) the portion of the basis of any qualifying advanced clean coal technology unit attributable to any qualified investment (as defined by section 48A(g)).''.

(2) Section 50(a)(4) is amended by striking ''and (2)'' and inserting ''(2), and (6)''.

(3) Section 50(c) is amended by adding at the end the following new paragraph:

''(6) NONAPPLICATION.—Paragraphs (1) and (2) shall not apply to any qualifying advanced clean coal technology unit credit under section 48A.''.

(4) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48 the following new item:

''Sec. 48A. Qualifying advanced clean coal technology unit credit.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 412. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 45J. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

''(a) GENERAL RULE.—For purposes of section 38, the qualifying advanced clean coal technology production credit of any taxpayer for any taxable year is equal to—

''(1) the applicable amount of advanced clean coal technology production credit, multiplied by

''(2) the applicable percentage (as determined under section 48A(c)) of the sum of—

''(A) the kilowatt hours of electricity, plus

''(B) each 3,413 Btu of fuels or chemicals,

produced by the taxpayer during such taxable year at a qualifying advanced clean coal technology unit during the 10-year period beginning on the date the unit was originally placed in service (or returned to service after becoming a qualifying advanced clean coal technology unit).

''(b) APPLICABLE AMOUNT.—For purposes of this section, the applicable amount of advanced clean coal technology production credit with respect to production from a qualifying advanced clean coal technology unit shall be determined as follows:

''(1) Where the qualifying advanced clean coal technology unit is producing electricity only:

''(A) In the case of a unit originally placed in service before 2009, if—

''The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,400	$.0060	$.0038
More than 8,400 but not more than 8,550.	$.0025	$.0010
More than 8,550 but less than 8,750.	$.0010	$.0010.

''(B) In the case of a unit originally placed in service after 2008 and before 2013, if—

''The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,770	$.0105	$.0090
More than 7,770 but not more than 8,125.	$.0085	$.0068

''The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
More than 8,125 but less than 8,350.	$.0075	$.0055.

''(C) In the case of a unit originally placed in service after 2012 and before 2017, if—

''The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,380	$.0140	$.0115
More than 7,380 but not more than 7,720.	$.0120	$.0090.

''(2) Where the qualifying advanced clean coal technology unit is producing fuel or chemicals:

''(A) In the case of a unit originally placed in service before 2009, if—

''The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 40.6 percent.	$.0060	$.0038
Less than 40.6 but not less than 40 percent.	$.0025	$.0010
Less than 40 but not less than 39 percent.	$.0010	$.0010.

''(B) In the case of a unit originally placed in service after 2008 and before 2013, if—

''The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 43.6 percent.	$.0105	$.0090
Less than 43.6 but not less than 42 percent.	$.0085	$.0068
Less than 42 but not less than 40.9 percent.	$.0075	$.0055.

''(C) In the case of a unit originally placed in service after 2012 and before 2017, if—

''The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 44.2 percent.	$.0140	$.0115
Less than 44.2 but not less than 43.9 percent.	$.0120	$.0090.

''(c) INFLATION ADJUSTMENT.—For calendar years after 2004, each amount in paragraphs (1) and (2) of subsection (b) shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) IN GENERAL.—Any term used in this section which is also used in section 45I or 48A shall have the meaning given such term in such section.

''(2) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting '', plus'', and by adding at the end the following new paragraph:

''(21) the qualifying advanced clean coal technology production credit determined under section 45J(a).''.

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(18) NO CARRYBACK OF SECTION 45J CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology production credit determined under section 45J may be carried back to a taxable year ending on or before the date of the enactment of such section.''.

(d) DENIAL OF DOUBLE BENEFIT.—Section 29(d) (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

''(9) DENIAL OF DOUBLE BENEFIT.—This section shall not apply with respect to any qualified fuel the production of which may be taken into account for purposes of determining the credit under section 45J.''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45J. Credit for production from a qualifying advanced clean coal technology unit.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle C—Treatment of Persons Not Able To Use Entire Credit

SEC. 421. TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.

(a) IN GENERAL.—Section 45I, as added by this Act, is amended by adding at the end the following new subsection:

''(f) TREATMENT OF PERSON NOT ABLE TO USE ENTIRE CREDIT.—

''(1) ALLOWANCE OF CREDITS.—

''(A) IN GENERAL.—Any credit allowable under this section, section 45J, or section 48A with respect to a facility owned by a person described in subparagraph (B) may be transferred or used as provided in this subsection, and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

''(B) PERSONS DESCRIBED.—A person is described in this subparagraph if the person is—

''(i) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

''(ii) an organization described in section 1381(a)(2)(C),

''(iii) a public utility (as defined in section 136(c)(2)(B)),

''(iv) any State or political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing,

''(v) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof, or

''(vi) the Tennessee Valley Authority.

''(2) TRANSFER OF CREDIT.—

''(A) IN GENERAL.—A person described in clause (i), (ii), (iii), (iv), or (v) of paragraph (1)(B) may transfer any credit to which paragraph (1)(A) applies through an assignment to any other person not described in paragraph (1)(B). Such transfer may be revoked only with the consent of the Secretary.

''(B) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to insure that any credit described in subparagraph (A) is claimed once and not reassigned by such other person.

''(C) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in clause (iii), (iv), or (v) of paragraph (1)(B) from the transfer of any credit under subparagraph (A) shall be treated as arising from the exercise of an essential government function.

''(3) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in clause (i), (ii), or (v) of paragraph (1)(B), any credit to which paragraph (1)(A) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of this section.

''(4) USE BY TVA.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a person described in paragraph (1)(B)(vi), any credit to which paragraph (1)(A) applies may be applied as a credit against the payments required to be made in any fiscal year under section 15d(e) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4(e)) as an annual return on the appropriations investment and an annual repayment sum.

''(B) TREATMENT OF CREDITS.—The aggregate amount of credits described in paragraph (1)(A) with respect to such person shall be treated in the same manner and to the same extent as if such credits were a payment in cash and shall be applied first against the annual return on the appropriations investment.

''(C) CREDIT CARRYOVER.—With respect to any fiscal year, if the aggregate amount of credits described paragraph (1)(A) with respect to such person exceeds the aggregate amount of payment obligations described in subparagraph (A), the excess amount shall remain available for application as credits against the amounts of such payment obligations in succeeding fiscal years in the same manner as described in this paragraph.

''(5) CREDIT NOT INCOME.—Any transfer under paragraph (2) or use under paragraph (3) of any credit to which paragraph (1)(A) applies shall not be treated as income for purposes of section 501(c)(12).

''(6) TREATMENT OF UNRELATED PERSONS.—For purposes of this subsection, sales among and between persons described in clauses (i), (ii), (iii), (iv), and (v) of paragraph (1)(A) shall be treated as sales between unrelated parties.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

TITLE V—OIL AND GAS PROVISIONS

SEC. 501. OIL AND GAS FROM MARGINAL WELLS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 45K. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.

''(a) GENERAL RULE.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of—

''(1) the credit amount, and

''(2) the qualified credit oil production and the qualified natural gas production which is attributable to the taxpayer.

''(b) CREDIT AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The credit amount is—

''(A) $3 per barrel of qualified crude oil production, and

''(B) 50 cents per 1,000 cubic feet of qualified natural gas production.

''(2) REDUCTION AS OIL AND GAS PRICES INCREASE.—

''(A) IN GENERAL.—The $3 and 50 cents amounts under paragraph (1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

''(i) the excess (if any) of the applicable reference price over $15 ($1.67 for qualified natural gas production), bears to

''(ii) $3 ($0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.

''(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2003, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting '2002' for '1990').

''(C) REFERENCE PRICE.—For purposes of this paragraph, the term 'reference price' means, with respect to any calendar year—

''(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

''(ii) in the case of qualified natural gas production, the Secretary's estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

''(c) QUALIFIED CRUDE OIL AND NATURAL GAS PRODUCTION.—For purposes of this section—

''(1) IN GENERAL.—The terms 'qualified crude oil production' and 'qualified natural gas production' mean domestic crude oil or natural gas which is produced from a qualified marginal well.

''(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—

''(A) IN GENERAL.—Crude oil or natural gas produced during any taxable year from any well shall not be treated as qualified crude oil production or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel equivalents.

''(B) PROPORTIONATE REDUCTIONS.—

''(i) SHORT TAXABLE YEARS.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in such taxable year bears to 365.

''(ii) WELLS NOT IN PRODUCTION ENTIRE YEAR.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

''(3) DEFINITIONS.—

''(A) QUALIFIED MARGINAL WELL.—The term 'qualified marginal well' means a domestic well—

''(i) the production from which during the taxable year is treated as marginal production under section 613A(c)(6), or

''(ii) which, during the taxable year—

''(I) has average daily production of not more than 25 barrel equivalents, and

''(II) produces water at a rate not less than 95 percent of total well effluent.

''(B) CRUDE OIL, ETC.—The terms 'crude oil', 'natural gas', 'domestic', and 'barrel' have the meanings given such terms by section 613A(e).

''(C) BARREL EQUIVALENT.—The term 'barrel equivalent' means, with respect to natural gas, a conversation ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.

''(d) OTHER RULES.—

''(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a qualified marginal well in which there is more than one owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which taxpayer's revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.

''(2) OPERATING INTEREST REQUIRED.—Any credit under this section may be claimed only on production which is attributable to the holder of an operating interest.

''(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a qualified marginal well which is eligible for the credit allowed under section 29 for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under section 29 with respect to the well.

''(4) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of subsection (c)(3)(A), a marginal well which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualified marginal well during such period.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting '', plus'', and by adding at the end the following new paragraph:

''(22) the marginal oil and gas well production credit determined under section 45K(a).''.

(c) NO CARRYBACK OF MARGINAL OIL AND GAS WELL PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:

''(19) NO CARRYBACK OF MARGINAL OIL AND GAS WELL PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the marginal oil and gas well production credit determined under section 45K may be carried back to a taxable year ending on or before the date of the enactment of such section.''.

(d) COORDINATION WITH SECTION 29.—Section 29(a) is amended by striking ''There'' and inserting ''At the election of the taxpayer, there''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45K. Credit for producing oil and gas from marginal wells.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after the date of the enactment of this Act.

SEC. 502. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 168(e)(3) (relating to classification of certain property) is amended by striking ''and'' at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

''(ii) any natural gas gathering line, and''.

(b) NATURAL GAS GATHERING LINE.—Subsection (i) of section 168, as amended by this Act, is amended by adding at the end the following new paragraph:

''(16) NATURAL GAS GATHERING LINE.—The term 'natural gas gathering line' means—

''(A) the pipe, equipment, and appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission, or

''(B) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the point at which such gas first reaches—

''(i) a gas processing plant,

''(ii) an interconnection with a transmission pipeline certificated by the Federal Energy Regulatory Commission as an interstate transmission pipeline,

''(iii) an interconnection with an intrastate transmission pipeline, or

''(iv) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer.''.

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (C)(i) the following new item:

''(C)(ii) ..... 10''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 503. EXPENSING OF CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179C the following new section:

''SEC. 179D. DEDUCTION FOR CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

''(a) TREATMENT AS EXPENSE.—

''(1) IN GENERAL.—A small business refiner may elect to treat any qualified capital costs as an expense which is not chargeable to capital account. Any qualified cost which is so treated shall be allowed as a deduction for the taxable year in which the cost is paid or incurred.

''(2) LIMITATION.—

''(A) IN GENERAL.—The aggregate costs which may be taken into account under this subsection for any taxable year may not exceed the applicable percentage of the qualified capital costs paid or incurred for the taxable year.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—Except as provided in clause (ii), the applicable percentage is 75 percent.

''(ii) REDUCED PERCENTAGE.—In the case of a small business refiner with average daily refinery runs for the period described in subsection (b)(2) in excess of 155,000 barrels, the percentage described in clause (i) shall be reduced (not below zero) by the product of such percentage (before the application of this clause) and the ratio of such excess to 50,000 barrels.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED CAPITAL COSTS.—The term 'qualified capital costs' means any costs which—

''(A) are otherwise chargeable to capital account, and

''(B) are paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirement of the Environmental Protection Agency, as in effect on

the date of the enactment of this section, with respect to a facility placed in service by the taxpayer before such date.

''(2) SMALL BUSINESS REFINER.—The term 'small business refiner' means, with respect to any taxable year, a refiner of crude oil, which, within the refinery operations of the business, employs not more than 1,500 employees on any day during such taxable year and whose average daily refinery run for the 1-year period ending on the date of the enactment of this section did not exceed 205,000 barrels.

''(c) COORDINATION WITH OTHER PROVISIONS.—Section 280B shall not apply to amounts which are treated as expenses under this section.

''(d) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(e) CONTROLLED GROUPS.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking ''or'' at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting '', or'', and by inserting after subparagraph (J) the following new subparagraph:

''(K) expenditures for which a deduction is allowed under section 179D.''.

(2) Section 263A(c)(3) is amended by inserting ''179C,'' after ''section''.

(3) Section 312(k)(3)(B), as amended by this Act, is amended by striking ''or 179C'' each place it appears in the heading and text and inserting '', 179C, or 179D''.

(4) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting '', and'', and by adding at the end the following new paragraph:

''(35) to the extent provided in section 179D(d).''.

(5) Section 1245(a), as amended by this Act, is amended by inserting ''179D,'' after ''179C,'' both places it appears in paragraphs (2)(C) and (3)(C).

(6) The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by inserting after section 179C the following new item:

''Sec. 179D. Deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to expenses paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 504. ENVIRONMENTAL TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 45L. ENVIRONMENTAL TAX CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the amount of the environmental tax credit determined under this section with respect to any small business refiner for any taxable year is an amount equal to 5 cents for every gallon of 15 parts per million or less sulfur diesel produced at a facility by such small business refiner during such taxable year.

''(b) MAXIMUM CREDIT.—

''(1) IN GENERAL.—For any small business refiner, the aggregate amount determined under subsection (a) for any taxable year with respect to any facility shall not exceed the applicable percentage of the qualified capital costs paid or incurred by such small business refiner with respect to such facility during the applicable period, reduced by the credit allowed under subsection (a) for any preceding year.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable percentage is 25 percent.

''(B) REDUCED PERCENTAGE.—The percentage described in subparagraph (A) shall be reduced in the same manner as under section 179D(a)(2)(B)(ii).

''(c) DEFINITIONS.—For purposes of this section—

''(1) IN GENERAL.—The terms 'small business refiner' and 'qualified capital costs' have the same meaning as given in section 179D.

''(2) APPLICABLE PERIOD.—The term 'applicable period' means, with respect to any facility, the period beginning on the day after the date which is 1 year after the date of the enactment of this section and ending with the date which is 1 year after the date on which the taxpayer must comply with the applicable EPA regulations with respect to such facility.

''(3) APPLICABLE EPA REGULATIONS.—The term 'applicable EPA regulations' means the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency, as in effect on the date of the enactment of this section.

''(d) CERTIFICATION.—

''(1) REQUIRED.—Not later than the date which is 30 months after the first day of the first taxable year in which the environmental tax credit is allowed with respect to qualified capital costs paid or incurred with respect to a facility, the small business refiner shall obtain a certification from the Secretary, in consultation with the Administrator of the Environmental Protection Agency, that the taxpayer's qualified capital costs with respect to such facility will result in compliance with the applicable EPA regulations.

''(2) CONTENTS OF APPLICATION.—An application for certification shall include relevant information regarding unit capacities and operating characteristics sufficient for the Secretary, in consultation with the Administrator of the Environmental Protection Agency, to determine that such qualified capital costs are necessary for compliance with the applicable EPA regulations.

''(3) REVIEW PERIOD.—Any application shall be reviewed and notice of certification, if applicable, shall be made within 60 days of receipt of such application. In the event the Secretary does not notify the taxpayer of the results of such certification within such period, the taxpayer may presume the certification to be issued until so notified.

''(4) STATUTE OF LIMITATIONS.—With respect to the credit allowed under this section—

''(A) the statutory period for the assessment of any deficiency attributable to such credit shall not expire before the end of the 3-year period ending on the date that the review period described in paragraph (3) ends, and

''(B) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(e) CONTROLLED GROUPS.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

''(f) COOPERATIVE ORGANIZATIONS.—

''(1) APPORTIONMENT OF CREDIT.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a) of this section, for the taxable year may, at the election of the organization, be apportioned among patrons eligible to share in patronage dividends on the basis of the quantity or value of business done with or for such patrons for the taxable year. Such an election shall be irrevocable for such taxable year.

''(2) TREATMENT OF ORGANIZATIONS AND PATRONS.—

''(A) ORGANIZATIONS.—The amount of the credit not apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the taxable year of the organization.

''(B) PATRONS.—The amount of the credit apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (21), by striking the period at the end of paragraph (22) and inserting '', plus'', and by adding at the end the following new paragraph:

''(23) in the case of a small business refiner, the environmental tax credit determined under section 45L(a).''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable), as amended by this Act, is amended by adding after subsection (d) the following new subsection:

''(e) ENVIRONMENTAL TAX CREDIT.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for the taxable year under section 45L(a).''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45L. Environmental tax credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 505. DETERMINATION OF SMALL REFINER EXCEPTION TO OIL DEPLETION DEDUCTION.

(a) IN GENERAL.—Paragraph (4) of section 613A(d) (relating to certain refiners excluded) is amended to read as follows:

''(4) CERTAIN REFINERS EXCLUDED.—If the taxpayer or 1 or more related persons engages in the refining of crude oil, subsection (c) shall not apply to the taxpayer for a taxable year if the average daily refinery runs of the taxpayer and such persons for the taxable year exceed 60,000 barrels. For purposes of this paragraph, the average daily refinery runs for any taxable year shall be determined by dividing the aggregate refinery runs for the taxable year by the number of days in the taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 506. MARGINAL PRODUCTION INCOME LIMIT EXTENSION.

Section 613A(c)(6)(H) (relating to temporary suspension of taxable income limit with respect to marginal production) is amended by striking ''2004'' and inserting ''2007''.

SEC. 507. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new section:

''SEC. 199. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR DOMESTIC OIL AND GAS WELLS.

''A taxpayer shall be entitled to an amortization deduction with respect to any geological and geophysical expenses incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) based on a period of 24 months beginning with the month in which such expenses were incurred.''.

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 199. Amortization of geological and geophysical expenditures for domestic oil and gas wells.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after the date of the enactment of this Act.

SEC. 508. AMORTIZATION OF DELAY RENTAL PAYMENTS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new section:

''SEC. 199A. AMORTIZATION OF DELAY RENTAL PAYMENTS FOR DOMESTIC OIL AND GAS WELLS.

''(a) IN GENERAL.—A taxpayer shall be entitled to an amortization deduction with respect to any delay rental payments incurred in connection with the development of oil or gas within the United States (as defined in section 638) based on a period of 24 months beginning with the month in which such payments were incurred.''.

''(b) DELAY RENTAL PAYMENTS.—For purposes of this section, the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well under an oil or gas lease.''.

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 199A. Amortization of delay rental payments for domestic oil and gas wells.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

SEC. 509. STUDY OF COAL BED METHANE.

(a) IN GENERAL.—The Secretary of the Treasury shall study the effect of section 29 of the Internal Revenue Code of 1986 on the production of coal bed methane.

(b) CONTENTS OF STUDY.—The study under subsection (a) shall estimate the total amount of credits under section 29 of the Internal Revenue Code of 1986 claimed annually and in the aggregate which are related to the production of coal bed methane since the date of the enactment of such section 29. Such study shall report the annual value of such credits allowable for coal bed methane compared to the average annual wellhead price of natural gas (per thousand cubic feet of natural gas). Such study shall also estimate the incremental increase in production of coal bed methane that has resulted from the enactment of such section 29, and the cost to the Federal Government, in terms of the net tax benefits claimed, per thousand cubic feet of incremental coal bed methane produced annually and in the aggregate since such enactment.

SEC. 510. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) IN GENERAL.—Section 29 is amended by adding at the end the following new subsection:

''(h) EXTENSION FOR OTHER FACILITIES.—

''(1) OIL AND GAS.—In the case of a well or facility for producing qualified fuels described in subparagraph (A) or (B) of subsection (c)(1) which was drilled or placed in service after the date of the enactment of this subsection and before January 1, 2005, notwithstanding subsection (f), this section shall apply with respect to such fuels produced at such well or facility not later than the close of the 3-year period beginning on the date that such well is drilled or such facility is placed in service.

''(2) FACILITIES PRODUCING REFINED COAL.—

''(A) IN GENERAL.—In the case of a facility described in subparagraph (C) for producing refined coal which was placed in service after the date of the enactment of this subsection and before January 1, 2007, this section shall apply with respect to fuel produced at such facility not later than the close of the 5-year period beginning on the date such facility is placed in service.

''(B) REFINED COAL.—For purposes of this paragraph, the term 'refined coal' means a fuel which is a liquid, gaseous, or solid synthetic fuel produced from coal (including lignite) or high carbon fly ash, including such fuel used as a feedstock.

''(C) COVERED FACILITIES.—

''(i) IN GENERAL.—A facility is described in this subparagraph if such facility produces refined coal using a technology that results in—

''(I) a qualified emission reduction, and

''(II) a qualified enhanced value.

''(ii) QUALIFIED EMISSION REDUCTION.—For purposes of this subparagraph, the term 'qualified emission reduction' means a reduction of at least 20 percent of the emissions of nitrogen oxide and either sulfur dioxide or mercury released when burning the refined coal (excluding any dilution caused by materials combined or added during the production process), as compared to the emissions released when burning the feedstock coal or comparable coal predominantly available in the marketplace as of January 1, 2003.

''(iii) QUALIFIED ENHANCED VALUE.—For purposes of this subparagraph, the term 'qualified enhanced value' means an increase of at least 50 percent in the market value of the refined coal (excluding any increase caused by materials combined or added during the production process), as compared to the value of the feedstock coal.

''(iii) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITIES EXCLUDED.—A facility described in this subparagraph shall not include a qualifying advanced clean coal technology facility (as defined in section 48A(b)).

''(3) WELLS PRODUCING VISCOUS OIL.—

''(A) IN GENERAL.—In the case of a well for producing viscous oil which was placed in service after the date of the enactment of this subsection and before January 1, 2005, this section shall apply with respect to fuel produced at such well not later than the close of the 3-year period beginning on the date such well is placed in service.

''(B) VISCOUS OIL.—The term ''viscous oil' means heavy oil, as defined in section 613A(c)(6), except that—

''(i) '22 degrees' shall be substituted for '20 degrees' in applying subparagraph (F) thereof, and

''(ii) in all cases, the oil gravity shall be measured from the initial well-head samples, drill cuttings, or down hole samples.

''(C) WAIVER OF UNRELATED PERSON REQUIREMENT.—In the case of viscous oil, the requirement under subsection (a)(1)(B)(i) of a sale to an unrelated person shall not apply to any sale to the extent that the viscous oil is not consumed in the immediate vicinity of the wellhead.

''(4) COALMINE METHANE GAS.—

''(A) IN GENERAL.—This section shall apply to coalmine methane gas—

''(i) captured or extracted by the taxpayer after the date of the enactment of this subsection and before January 1, 2005, and

''(ii) utilized as a fuel source or sold by or on behalf of the taxpayer to an unrelated person after the date of the enactment of this subsection and before January 1, 2005.

''(B) COALMINE METHANE GAS.—For purposes of this paragraph, the term 'coalmine methane gas' means any methane gas which is—

''(i) liberated during qualified coal mining operations, or

''(ii) extracted up to 5 years in advance of qualified coal mining operations as part of a specific plan to mine a coal deposit.

''(C) SPECIAL RULE FOR ADVANCED EXTRACTION.—In the case of coalmine methane gas which is captured in advance of qualified coal mining operations, the credit under subsection (a) shall be allowed only after the date the coal extraction occurs in the immediate area where the coalmine methane gas was removed.

''(D) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of subparagraphs (B) and (C), coal mining operations which are not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be qualified coal mining operations during such period.

''(5) FACILITIES PRODUCING FUELS FROM AGRICULTURAL AND ANIMAL WASTE.—

''(A) IN GENERAL.—In the case of facility for producing liquid, gaseous, or solid fuels from qualified agricultural and animal wastes, including such fuels when used as feedstocks, which was placed in service after the date of the enactment of this subsection and before January 1, 2005, this section shall apply with respect to fuel produced at such facility not later than the close of the 3-year period beginning on the date such facility is placed in service.

''(B) QUALIFIED AGRICULTURAL AND ANIMAL WASTE.—For purposes of this paragraph, the term 'qualified agricultural and animal waste' means agriculture and animal waste, including by-products, packaging, and any materials associated with the processing, feeding, selling, transporting, or disposal of agricultural or animal products or wastes, including wood shavings, straw, rice hulls, and other bedding for the disposition of manure.

''(6) CREDIT AMOUNT.—In determining the amount of credit allowable under this section solely by reason of this subsection, the dollar amount applicable under subsection (a)(1) shall be $3 (without regard to subsection (b)(2)).''.

(b) EXTENSION FOR CERTAIN FUEL PRODUCED AT EXISTING FACILITIES.—Paragraph (2) of section 29(f) (relating to application of section) is amended by inserting ''(January 1, 2005, in the case of any coke, coke gas, or natural gas and byproducts produced by coal gasification from lignite in a facility described in paragraph (1)(B))'' after ''January 1, 2003''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to fuel sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 511. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (E) of section 168(e)(3) (relating to classification of certain property) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and by inserting '', and'', and by adding at the end the following new clause:

''(iv) any natural gas distribution line.''.

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B), as amended by this Act, is amended by adding after the item relating to subparagraph (E)(iii) the following new item:

''(E)(iv) ..... 20''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

TITLE VI—ELECTRIC UTILITY RESTRUCTURING PROVISIONS

SEC. 601. ONGOING STUDY AND REPORTS REGARDING TAX ISSUES RESULTING FROM FUTURE RESTRUCTURING DECISIONS.

(a) ONGOING STUDY.—The Secretary of the Treasury, after consultation with the Federal Energy Regulatory Commission, shall undertake an ongoing study of Federal tax issues resulting from nontax decisions on the restructuring of the electric industry. In particular, the study shall focus on the effect on tax-exempt bonding authority of public power entities and on corporate restructuring which results from the restructuring of the electric industry.

(b) REGULATORY RELIEF.—In connection with the study described in subsection (a), the Secretary of the Treasury should exercise the Secretary's authority, as appropriate, to modify or suspend regulations that may impede an electric utility company's ability to reorganize its capital stock structure to respond to a competitive marketplace.

(c) REPORTS.—The Secretary of the Treasury shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than December 31, 2003, regarding Federal tax issues identified under the study described in subsection (a), and at least annually thereafter, regarding such issues identified since the preceding report. Such reports shall also include such legislative recommendations regarding changes to the private business use rules under subpart A of part IV of subchapter B of chapter 1 of the Internal Revenue Code of 1986 as the Secretary of the Treasury deems necessary. The reports shall continue until such time as the Federal Energy Regulatory Commission has completed the restructuring of the electric industry.

SEC. 602. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.

(a) REPEAL OF LIMITATION ON DEPOSITS INTO FUND BASED ON COST OF SERVICE; CONTRIBUTIONS AFTER FUNDING PERIOD.—Subsection (b) of section 468A is amended to read as follows:

''(b) LIMITATION ON AMOUNTS PAID INTO FUND.—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the ruling amount applicable to such taxable year.''.

(b) CLARIFICATION OF TREATMENT OF FUND TRANSFERS.—Subsection (e) of section 468A is amended by adding at the end the following new paragraph:

''(8) TREATMENT OF FUND TRANSFERS.—If, in connection with the transfer of the taxpayer's interest in a nuclear power plant, the taxpayer transfers the Fund with respect to such power plant to the transferee of such interest and the transferee elects to continue the application of this section to such Fund—

''(A) the transfer of such Fund shall not cause such Fund to be disqualified from the application of this section, and

''(B) no amount shall be treated as distributed from such Fund, or be includible in gross income, by reason of such transfer.''.

(c) DEDUCTION FOR NUCLEAR DECOMMISSIONING COSTS WHEN PAID.—Paragraph (2) of section 468A(c) is amended to read as follows:

''(2) DEDUCTION OF NUCLEAR DECOMMISSIONING COSTS.—In addition to any deduction under subsection (a), nuclear decommissioning costs paid or incurred by the taxpayer during any taxable year shall constitute ordinary and necessary expenses in carrying on a trade or business under section 162.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 603. TREATMENT OF CERTAIN INCOME OF COOPERATIVES.

(a) INCOME FROM OPEN ACCESS AND NUCLEAR DECOMMISSIONING TRANSACTIONS.—

(1) IN GENERAL.—Subparagraph (C) of section 501(c)(12) is amended by striking ''or'' at the end of clause (i), by striking clause (ii), and by adding at the end the following new clauses:

''(ii) from any open access transaction (other than income received or accrued directly or indirectly from a member),

''(iii) from any nuclear decommissioning transaction,

''(iv) from any asset exchange or conversion transaction, or

''(v) from the prepayment of any loan, debt, or obligation made, insured, or guaranteed under the Rural Electrification Act of 1936.''.

(2) DEFINITIONS AND SPECIAL RULES.—Paragraph (12) of section 501(c) is amended by adding at the end the following new subparagraphs:

''(E) For purposes of subparagraph (C)(ii)—

''(i) The term 'open access transaction' means any transaction meeting the open access requirements of any of the following subclauses with respect to a mutual or cooperative electric company:

''(I) The provision or sale of transmission service or ancillary services meets the open access requirements of this subclause only if such services are provided on a nondiscriminatory open access basis pursuant to an open access transmission tariff filed with and approved by FERC, including an acceptable reciprocity tariff, or under a regional transmission organization agreement approved by FERC.

''(II) The provision or sale of electric energy distribution services or ancillary services meets the open access requirements of this subclause only if such services are provided on a nondiscriminatory open access basis to end-users served by distribution facilities owned by the mutual or cooperative electric company (or its members).

''(III) The delivery or sale of electric energy generated by a generation facility meets the open access requirements of this subclause only if such facility is directly connected to distribution facilities owned by the mutual or cooperative electric company (or its members) which owns the generation facility, and such distribution facilities meet the open access requirements of subclause (II).

''(ii) Clause (i)(I) shall apply in the case of a voluntarily filed tariff only if the mutual or cooperative electric company files a report with FERC within 90 days after the date of the enactment of this subparagraph relating to whether or not such company will join a regional transmission organization.

''(iii) A mutual or cooperative electric company shall be treated as meeting the open access requirements of clause (i)(I) if a regional transmission organization controls the transmission facilities.

''(iv) References to FERC in this subparagraph shall be treated as including references to the Public Utility Commission of Texas with respect to any ERCOT utility (as defined in section 212(k)(2)(B) of the Federal Power Act (16 U.S.C. 824k(k)(2)(B))) or references to the Rural Utilities Service with respect to any other facility not subject to FERC jurisdiction.

''(v) For purposes of this subparagraph—

''(I) The term 'transmission facility' means an electric output facility (other than a generation facility) that operates at an electric voltage of 69 kV or greater. To the extent provided in regulations, such term includes any output facility that FERC determines is a transmission facility under standards applied by FERC under the Federal Power Act (as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003).

''(II) The term 'regional transmission organization' includes an independent system operator.

''(III) The term 'FERC' means the Federal Energy Regulatory Commission.

''(F) The term 'nuclear decommissioning transaction' means—

''(i) any transfer into a trust, fund, or instrument established to pay any nuclear decommissioning costs if the transfer is in connection with the transfer of the mutual or cooperative electric company's interest in a nuclear power plant or nuclear power plant unit,

''(ii) any distribution from any trust, fund, or instrument established to pay any nuclear decommissioning costs, or

''(iii) any earnings from any trust, fund, or instrument established to pay any nuclear decommissioning costs.

''(G) The term 'asset exchange or conversion transaction' means any voluntary exchange or involuntary conversion of any property related to generating, transmitting, distributing, or selling electric energy by a mutual or cooperative electric company, the gain from which qualifies for deferred recognition under section 1031 or 1033, but only if the replacement property acquired by such company pursuant to such section constitutes property which is used, or to be used, for—

''(i) generating, transmitting, distributing, or selling electric energy, or

''(ii) producing, transmitting, distributing, or selling natural gas.''.

(b) TREATMENT OF INCOME FROM LOAD LOSS TRANSACTIONS.—Paragraph (12) of section 501(c), as amended by subsection (a)(2), is amended by adding after subparagraph (G) the following new subparagraph:

''(H)(i) In the case of a mutual or cooperative electric company described in this paragraph or an organization described in section 1381(a)(2)(C), income received or accrued from a load loss transaction shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.

''(ii) For purposes of clause (i), the term 'load loss transaction' means any wholesale or retail sale of electric energy (other than to members) to the extent that the aggregate sales during the recovery period does not exceed the load loss mitigation sales limit for such period.

''(iii) For purposes of clause (ii), the load loss mitigation sales limit for the recovery period is the sum of the annual load losses for each year of such period.

''(iv) For purposes of clause (iii), a mutual or cooperative electric company's annual load loss for each year of the recovery period is the amount (if any) by which—

''(I) the megawatt hours of electric energy sold during such year to members of such electric company are less than

''(II) the megawatt hours of electric energy sold during the base year to such members.

''(v) For purposes of clause (iv)(II), the term 'base year' means—

''(I) the calendar year preceding the start-up year, or

''(II) at the election of the electric company, the second or third calendar years preceding the start-up year.

''(vi) For purposes of this subparagraph, the recovery period is the 7-year period beginning with the start-up year.

''(vii) For purposes of this subparagraph, the start-up year is the calendar year which includes the date of the enactment of this subparagraph or, if later, at the election of the mutual or cooperative electric company—

''(I) the first year that such electric company offers nondiscriminatory open access, or

''(II) the first year in which at least 10 percent of such electric company's sales are not to members of such electric company.

''(viii) A company shall not fail to be treated as a mutual or cooperative company for purposes of this paragraph or as a corporation operating on a cooperative basis for purposes of section 1381(a)(2)(C) by reason of the treatment under clause (i).

''(ix) In the case of a mutual or cooperative electric company, income from any open access transaction received, or accrued, indirectly from a member shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.''.

(c) EXCEPTION FROM UNRELATED BUSINESS TAXABLE INCOME.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end the following new paragraph:

''(18) TREATMENT OF MUTUAL OR COOPERATIVE ELECTRIC COMPANIES.—In the case of a mutual or cooperative electric company described in section 501(c)(12), there shall be excluded income which is treated as member income under subparagraph (H) thereof.''.

(d) CROSS REFERENCE.—Section 1381 is amended by adding at the end the following new subsection:

''(c) CROSS REFERENCE.—

''For treatment of income from load loss transactions of organizations described in subsection (a)(2)(C), see section 501(c)(12)(H).''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 604. SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.

(a) IN GENERAL.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end the following new subsection:

''(i) SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.—

''(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualifying electric transmission transaction in any taxable year—

''(A) any ordinary income derived from such transaction which would be required to be recognized under section 1245 or 1250 for such taxable year (determined without regard to this subsection), and

''(B) any income derived from such transaction in excess of such ordinary income which is required to be included in gross income for such taxable year,

shall be so recognized and included ratably over the 8-taxable year period beginning with such taxable year.

''(2) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—For purposes of this subsection, the term 'qualifying electric transmission transaction' means any sale or other disposition before January 1, 2007, of—

''(A) property used by the taxpayer in the trade or business of providing electric transmission services, or

''(B) any stock or partnership interest in a corporation or partnership, as the case may be, whose principal trade or business consists of providing electric transmission services,

but only if such sale or disposition is to an independent transmission company.

''(3) INDEPENDENT TRANSMISSION COMPANY.—For purposes of this subsection, the term 'independent transmission company' means—

''(A) a regional transmission organization approved by the Federal Energy Regulatory Commission,

''(B) a person—

''(i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) is not a market participant within the meaning of such Commission's rules applicable to regional transmission organizations, and

''(ii) whose transmission facilities to which the election under this subsection applies are under the operational control of a Federal Energy Regulatory Commission-approved regional transmission organization before the close of the period specified in such authorization, but not later than the close of the period applicable under paragraph (1), or

''(C) in the case of facilities subject to the exclusive jurisdiction of the Public Utility Commission of Texas, a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission organization.

''(4) ELECTION.—An election under paragraph (1), once made, shall be irrevocable.

''(5) NONAPPLICATION OF INSTALLMENT SALES TREATMENT.—Section 453 shall not apply to any qualifying electric transmission transaction with respect to which an election to apply this subsection is made.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions occurring after the date of the enactment of this Act.

SEC. 605. TREATMENT OF CERTAIN DEVELOPMENT INCOME OF COOPERATIVES.

(a) IN GENERAL.—Subparagraph (C) of section 501(c)(12), as amended by this Act, is amended by striking ''or'' at the end of clause (iv), by striking the period at the end of clause (v) and insert '', or'', and by adding at the end the following new clause:

''(vi) from the receipt before January 1, 2007, of any money, property, capital, or any other contribution in aid of construction or connection charge intended to facilitate the provision of electric service for the purpose of developing qualified fuels from nonconventional sources (within the meaning of section 29).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

TITLE VII—ADDITIONAL PROVISIONS

SEC. 701. EXTENSION OF ACCELERATED DEPRECIATION AND WAGE CREDIT BENEFITS ON INDIAN RESERVATIONS.

(a) SPECIAL RECOVERY PERIOD FOR PROPERTY ON INDIAN RESERVATIONS.—Section 168(j)(8) (relating to termination), as amended by section 613(b) of the Job Creation and Worker Assistance Act of 2002, is amended by striking ''2004'' and inserting ''2005''.

(b) INDIAN EMPLOYMENT CREDIT.—Section 45A(f) (relating to termination), as amended by section 613(a) of the Job Creation and Worker Assistance Act of 2002, is amended by striking ''2004'' and inserting ''2005''.

SEC. 702. STUDY OF EFFECTIVENESS OF CERTAIN PROVISIONS BY GAO.

(a) STUDY.—The Comptroller General of the United States shall undertake an ongoing analysis of—

(1) the effectiveness of the alternative motor vehicles and fuel incentives provisions under title II and the conservation and energy efficiency provisions under title III, and

(2) the recipients of the tax benefits contained in such provisions, including an identification of such recipients by income and other appropriate measurements.

Such analysis shall quantify the effectiveness of such provisions by examining and comparing the Federal Government's forgone revenue to the aggregate amount of energy actually conserved and tangible environmental benefits gained as a result of such provisions.

(b) REPORTS.—The Comptroller General of the United States shall report the analysis required under subsection (a) to Congress not later than December 31, 2003, and annually thereafter.

SEC. 703. CREDIT FOR PRODUCTION OF ALASKA NATURAL GAS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 45M. ALASKA NATURAL GAS.

''(a) IN GENERAL.—For purposes of section 38, the Alaska natural gas credit of any taxpayer for any taxable year is the credit amount per 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude, which is attributable to the taxpayer and sold by or on behalf of the taxpayer to an unrelated person during such taxable year (within the meaning of section 45).

''(b) CREDIT AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The credit amount per 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude (determined in United States dollars), is the excess of—

''(A) $3.25, over

''(B) the average monthly price at the AECO C Hub in Alberta, Canada, for Alaska natural gas for the month in which occurs the date of such entering.

''(2) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after the first calendar year ending after the date described in subsection (g)(1), the dollar amount contained in paragraph (1)(A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting 'the calendar year ending before the date described in section 45M(g)(1)' for '1990').

''(c) ALASKA NATURAL GAS.—For purposes of this section, the term 'Alaska natural gas'

means natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude produced in compliance with the applicable State and Federal pollution prevention, control, and permit requirements from the area generally known as the North Slope of Alaska (including the continental shelf thereof within the meaning of section 638(1)), determined without regard to the area of the Alaska National Wildlife Refuge (including the continental shelf thereof within the meaning of section 638(1)).

''(d) RECAPTURE.—

''(1) IN GENERAL.—With respect to each 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude after the date which is 3 years after the date described in subsection (g)(1), if the average monthly price described in subsection (b)(1)(B) exceeds 150 percent of the amount described in subsection (b)(1)(A) for the month in which occurs the date of such entering, the taxpayer's tax under this chapter for the taxable year shall be increased by an amount equal to the lesser of—

''(A) such excess, or

''(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the Alaska natural gas credit received by the taxpayer for such years had been zero.

''(2) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

''(e) APPLICATION OF RULES.—For purposes of this section, rules similar to the rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.

''(f) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such fuel.

''(g) APPLICATION OF SECTION.—This section shall apply to Alaska natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude for the period—

''(1) beginning with the later of—

''(A) January 1, 2010, or

''(B) the initial date for the interstate transportation of such Alaska natural gas, and

''(2) except with respect to subsection (d), ending with the date which is 15 years after the date described in paragraph (1).''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting '', plus'', and by adding at the end the following new paragraph:

''(24) The Alaska natural gas credit determined under section 45M(a).''.

(c) ALLOWING CREDIT AGAINST ENTIRE REGULAR TAX AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by this Act, is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) SPECIAL RULES FOR ALASKA NATURAL GAS CREDIT.—

''(A) IN GENERAL.—In the case of the Alaska natural gas credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the Alaska natural gas credit).

''(B) ALASKA NATURAL GAS CREDIT.—For purposes of this subsection, the term 'Alaska natural gas credit' means the credit allowable under subsection (a) by reason of section 45M(a).''.

(2) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by this Act, subclause (II) of section 38(c)(3)(A)(ii), as amended by this Act, and subclause (II) of section 38(c)(4)(A)(ii), as added by this Act, are each amended by inserting ''or the Alaska natural gas credit'' after ''producer credit''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45M. Alaska natural gas.''.

SEC. 704. SALE OF GASOLINE AND DIESEL FUEL AT DUTY-FREE SALES ENTERPRISES.

(a) PROHIBITION.—Section 555(b) of the Tariff Act of 1930 (19 U.S.C. 1555(b)) is amended—

(1) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively; and

(2) by inserting after paragraph (5) the following:

''(6) Any gasoline or diesel fuel sold at a duty-free sales enterprise shall be considered to be entered for consumption into the customs territory of the United States.''.

(b) CONSTRUCTION.—The amendments made by this section shall not be construed to create any inference with respect to the interpretation of any provision of law as such provision was in effect on the day before the date of enactment of this Act.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 705. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS.

(a) NO WAIVER BY FARM OWNER, TENANT, OR OPERATOR NECESSARY.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

''(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.''.

(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIRFIELD AND FARM.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:

''For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.''.

(c) EXEMPTION FROM TAX ON AIR TRANSPORTATION OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

''(f) EXEMPTION FOR CERTAIN USES.—No tax shall be imposed under subsection (a) or (b) on air transportation—

''(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

''(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel use or air transportation after December 31, 2002, and before January 1, 2004.

SEC. 706. MODIFICATION OF RURAL AIRPORT DEFINITION.

(a) IN GENERAL.—Clause (ii) of section 4261(e)(1)(B) (defining rural airport) is amended by striking the period at the end of subclause (II) and inserting '', or'' and by adding at the end the following new subclause:

''(III) is not connected by paved roads to another airport.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2003.

SEC. 707. EXEMPTION FROM TICKET TAXES FOR TRANSPORTATION PROVIDED BY SEAPLANES.

(a) IN GENERAL.—The taxes imposed by sections 4261 and 4271 shall not apply to transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2003.

Mr. BINGAMAN. Mr. President, I am pleased to join the Chairman and Ranking Member of the Finance Committee and the Chairman of the Energy and Natural Resources Committee as a sponsor of the Energy Tax Incentives Act of 2003, which we are introducing today.

The tax incentives we introduce today are designed to encourage commercial activities that will increase and diversify our energy supplies and help us to use those energy supplies more efficiently and productively. Our demand for energy continues to grow and we will need a broad portfolio of energy sources, including improved efficiency, to meet this demand. The energy tax package encompasses many of the diverse components that make up a comprehensive energy strategy. These include incentives for renewable resources, alternative transportation fuels and alternative fuel vehicles, energy efficient appliances and buildings, clean coal, domestic oil and gas production and infrastructure, as well as removing impediments to an integrated electric grid.

This bill reflects the work of the Finance Committee last year to develop a balanced package of energy tax provisions to complement the energy policy legislation developed by the Senate. The language of the bill is virtually identical to the tax sections of the Energy bill passed by the Senate last April. While new or improved versions of some of the provisions have been developed in the intervening months, this version provides a common starting point for any further refinements of the text. I look forward to participating in the Finance Committee's consideration of the energy tax package this year.

Mr. BAUCUS. Mr. President, I am pleased to join Chairman GRASSLEY in introducing the Energy Tax Incentives Act of 2003. The chairman and the ranking member of the Energy and Natural Resources Committee, Senators DOMENICI and BINGAMAN, are also original sponsors of this legislation.

This legislation is very similar to the energy tax incentives bill which won overwhelming support on the Senate floor last April and provides a strong starting point for the Senate Finance Committee towards a mark-up of an energy tax bill.

The urgency for this legislation at this point in time is particularly critical. Gasoline prices in the U.S. are at record levels. Low inventories, high crude oil prices, recent cold weather and continuing industry concern about a possible war with Iraq have raised gas prices close to the highest price ever recorded. This situation is not expected to improve in the near future.

To help alleviate this situation, this bill proposes a balanced package of alternative energy, traditional energy production and energy efficiency incentives. This legislation begins from the premise that we may accomplish energy policy goals by targeting market incentives—in the form of tax deductions and credits—at certain investments. The bill would accomplish this in three ways. First, we create incentives for new production, especially production from important renewable sources. Second, we create incentives for the development of new technology. Third, we create incentives for energy conservation.

Through targeted market incentives we hope to encourage the development of alternative sources of production and technologies, thereby boosting our overall energy resources. This will help promote energy independence in the United States, which will contribute to both greater economic growth and national security. At the same time, by encouraging development of sources of renewable energy and energy efficiency, we will also encourage pollution reduction and improve human health and the environment.

I look forward to working with my colleagues on this important piece of legislation.

By Ms. COLLINS (for herself, Mr. MILLER, Mrs. DOLE, Mr. MCCAIN, Mr. KERRY, Mr. CHAMBISS, and Mr. SPECTER):

S. 598. A bill to amend title XVIII of the Social Security Act to provide for a clarification of the definition of homebound for purposes of determining eligibility for home health services under the medicare program; to the Committee on Finance.

Ms. COLLINS. Mr. President, I am pleased to join with Senators MILLER, DOLE, MCCAIN, KERRY, CHAMBLISS and SPECTER in introducing the David Jayne Medicare Homebound Modernization Act of 2003 to modernize Medicare's outdated ''homebound'' requirement that has impeded access to needed home health services for many of our Nation's elderly and disabled Medicare beneficiaries.

Health care in America has gone full circle. People are spending less time in institutions, and recovery and care for patients with chronic diseases and conditions have increasingly been taking place in the home. The highly skilled and often technically complex care that our home health agencies provide has enabled millions of our most vulnerable older and disabled individuals to avoid hospitals and nursing homes and stay just where they belong—in the comfort and security of their own homes.

Under current law, a Medicare patient must be considered ''homebound'' if he or she is to be eligible for home health services. While an individual is not actually required to be bedridden to qualify for benefits, his or her condition must be such that ''there exists a normal inability to leave home.'' The statute does allow for absences from the home that are ''infrequent'' or of ''relatively short duration.'' It also gives specific permission for the individual to leave home to attend medical appointments, adult day care or religious services.

Unfortunately, however, the statute does not define precisely what ''infrequent'' or ''relatively short duration'' means. It leaves it to the fiscal intermediaries to interpret just how many absences qualify as ''frequent'' and just how short those absences must be. Interpretations of this definition have therefore varied widely.

As a consequence, there have been far too many instances where an overzealous or arbitrary interpretation of the definition has turned elderly or disabled Medicare beneficiaries—who are dependent upon Medicare home health services and medical equipment for survival—into virtual prisoners in their own home.

The current homebound requirement is particularly hard on younger, disabled Medicare patients. For example, last year I met with David Jayne, a 41-year-old man with Lou Gehrig's disease, who is confined to a wheelchair and cannot swallow, speak or even breathe on his own. Mr. Jayne needs skilled nursing visits each week to enable him to remain independent and out of an inpatient facility. Despite his disability, Mr. Jayne meets frequently with youth and church groups. Speaking through a computerized voice synthesizer, he gives inspirational talks about how the human spirit can endure and even overcome great hardship.

The Atlanta Journal Constitution ran a feature article on Mr. Jayne and his activities, including a report about how he had, with the help of family and friends, attended a football game to root for the University of Georgia Bulldogs. A few days later, at the direction of the fiscal intermediary, his home health agency—which had been sending a health care worker to his home for two hours, four mornings a week—notified him that he could no longer be considered homebound, and that his benefits were being cut off. While his benefits were subsequently reinstated due to the media attention given the case, this experience motivated him to launch a crusade to modernize the homebound definition and led him to found the National Coalition to Amend the Medicare Homebound Restriction.

The fact is that the current requirement reflects an outmoded view of life for persons who live with serious disabilities. The homebound criteria may have made sense thirty years ago, when an elderly or disabled person might have expected to live in the confines of their home—perhaps cared for by an extended family. The current definition, however, fails to reflect the technological and medical advances that have been made in supporting individuals with significant disabilities and mobility challenges. It also fails to reflect advances in treatment for seriously ill individuals that allow them brief periods of relative wellness.

It also fails to recognize that an individual's mental acuity and physical stamina can only be maintained by use, and that the use of the body and mind is encouraged by social interactions outside the four walls of a home.

The David Jayne Medicare Homebound Modernization Act of 2003 will create an exception to the homebound restriction based on the severity of the patient's functional limitations and clinical condition. The specific, limited exception to the homebound rule would apply to individuals who: one, have been certified by a physician as having a permanent and severe condition that will not improve; two, who will need assistance with three or more of the five activities of daily living, such as eating, dressing and bathing, for the rest of their lives; three, who require technological and/or personal assistance with the act of leaving home; and four, who are only able to leave home because the services provided through the home health benefit makes it possible for them to do so.

We believe that our legislation is budget neutral because it is specifically limited to individuals who are already eligible for Medicare and whose conditions require the assistance of a skilled nurse, therapist or home health

aide to make it functionally possible for them to leave the home. Our legislation does not expand Medicare eligibility—it simply gives people who are already eligible for the benefit their freedom.

This issue was first brought to my attention by former Senator Bob Dole, who has long been a vigorous advocate for people with disabilities, and I ask unanimous consent that the editorial Senator Dole wrote for the Washington Post last summer entitled ''Imprisoned by Medicare'' be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

Our proposal is also supported by the Consortium of Citizens with Disabilities, the Visiting Nurse Associations of America, the National Association for Home Care, Advancing Independence: Modernizing Medicare and Medicaid, AIMM, the National Coalition to Amend the Medicare Homebound Restriction, the Paralyzed Veterans of America, and the Half the Planet Foundation.

Moreover, the David Jayne Medicare Homebound Modernization Act of 2003 is consistent with President Bush's ''New Freedom Initiative'' which has, as its goal, the removal of barriers that impede opportunities for those with disabilities to integrate more fully into the community. By allowing reasonable absences from the home, our legislation will bring the Medicare home health benefit into the 21st Century, and I look forward to working with my colleagues to get it done.

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

[From the Washington Post, June 27, 2002]

IMPRISONED BY MEDICARE

(Bob Dole)

Heroes inspire us to achieve the unachievable, to leave America a better place for future generations. They remind us that contributing to family and community is our highest priority. I am fortunate to know such a hero, and his story has inspired me to help achieve his one simple wish before he dies—to change a Medicare restriction so that he and thousands of others who live with permanent and severe disabilities can leave their homes to see their children grow up and contribute to their community without losing life-sustaining home health services.

David Jayne was diagnosed with Lou Gehrig's disease at age 27. Otherwise known as amyotrophic lateral sclerosis (ALS), this degenerative neuromuscular condition causes his muscles to atrophy, leaving him unable to eat, breathe or move on his own. Though his mobility is limited to moving three fingers, Jayne, now 41, has demonstrated to everyone who knows him or has read about him that the human spirit is indomitable.

I met David Jayne by chance at Reagan National Airport about a year ago. Attached to life support equipment and a computerized voice simulator because of his body's deterioration at the hand of ALS, Jayne had traveled with the help of friends from his home in Rex, Ga., to meet with his elected members of Congress. He came to urge them to amend the Medicare homebound restriction.

The homebound rule was intended to deter abuse of the home health benefit by limiting services to only those individuals whose illnesses and disabilities are so severe that leaving the home would require ''a considerable and taxing effort.'' In the 1960s, when this rule was created, it reflected the limits of health care and technology at the time. It was incomprehensible then to think that someone with ALS or any severe and permanent disability could leave the home.

While the homebound restriction has not changed, the role of physicians and home health providers has. Nurses, doctors and home health administrators have been turned into watchdogs and given the responsibility to report any knowledge of their patients leaving their homes. And the awful reality of those receiving these services is that they must either lie or cheat just to enjoy fundamental liberties.

This nearly 40-year-old policy reflects an outmoded view of life for persons with disabilities. Thanks to advances in technology and greater community accessibility through the passage of the Americans with Disabilities Act (ADA), people with the most severe disabilities are able to leave their homes to go to work, volunteer in their communities and enjoy their family and friends. Unfortunately, Medicare policy has not kept pace with our times and is now punishing the very people it was intended to benefit. While Medicare has developed other and better policies to deter abuse, it has kept this outdated policy.

The Medicare statute does allow for absences from the home of ''infrequent'' or ''relatively short duration.'' But the vagueness of this allowance leaves it to Medicare contractors to interpret just how many absences qualify as ''frequent'' and just how short those absences might be. To err on the conservative side, contractors have stripped home health coverage from those most needing it, including David Jayne, whose life depends on a ventilator, intravenous feeding and daily care from a home health aide. Because Jayne's story went public, his home health agency discontinued these life-sustaining services. They were only reinstated after members of Congress became involved and Jayne agreed to pay his home health provider for any claim denied by Medicare. But thousands of others live in fear of leaving their homes because of the stories that have been reported. In two heartbreaking cases, one mother's services were cut off after she attended the funeral for her child, while another mother did not attend the funeral of her child because of fear of losing her home health care.

For millions of Americans, Medicare-covered home health services provide a less costly alternative to nursing home or hospital care. There are abuses that should be corrected, but not by extracting a price that no law-abiding American should ever have to pay.

David Jayne has inspired many people with his love and determination and his simple words, ''Always wait another day because the next day will be better.'' He inspired me to volunteer to try to help.

I urge the House of Representatives to amend this harsh restriction on individual freedom by including in the Medicare reform bill the David Jayne Amendment, carefully drafted by Rep. Ed Markey (D-Mass.) and Sen. Susan Collins (R-Maine), to do what we all know in our hearts is right, including all the appropriate safeguards to prevent abuse. And if this is not possible because of cost concerns, to adopt an amendment to provide for those who are severely and permanently disabled and who require the assistance of an attendant or a skilled nursing facility.

The amendment should give the Health and Human Services Department six months to address the homebound rule and make recommendations on how to bring it up to date with today's technology. Make no mistake, David Jayne is a prisoner—a prisoner in his specially designed wheelchair. His illness has robbed him of the ability to do anything without the aid of technology. Medicare shouldn't act as jailer too. Thousands of David Jaynes across America are looking to the president, Congress and the Department of Health and Human Services for help.

By Mrs. LINCOLN (for herself, Ms. COLLINS, and Mr. BINGAMAN):

S. 599. A bill to amend title XVIII of the Social Security Act to provide coverage under the medicare program for diabetes laboratory diagnostic tests and other services to screen for diabetes; to the Committee on Finance.

Mrs. LINCOLN. Mr. President, I rise today to introduce the ''Access to Diabetes Screening Services Act of 2003'' with my friends Senators COLLINS and BINGAMAN. This bill will help to bring the epidemic of diabetes under control by providing Medicare coverage for laboratory diagnostic tests and other services which are used to screen for diabetes. Medicare cannot currently provide these screening services because they are prohibited to do so by Federal law.

Diabetes has reached epidemic proportions among adults in the United States. The latest figures published by the Centers for Disease Control, CDC, in the January 1, 2003, edition of the ''Journal of the American Medical Association'' show that 7.9 percent of the American population has diabetes. The CDC believes that if trends continue, more than 10 percent of all Americans will have diabetes by the year 2010. Even today our Nation is feeling the effects of this disease—diabetes is the Nation's sixth leading cause of death.

Diabetes strikes even harder in our nation's minority and emerging majority populations. Today, the CDC estimates that 11.9 percent of the African American population and nine percent of the Hispanic population has diabetes. Without a doubt, diabetes is now truly the epidemic of our time.

These rising rates are especially evident among our Nation's aging population. Currently almost seven million Americans age 65 and older, or over 20 percent of seniors, have diabetes. Roughly 20 percent of seniors age 65 and older have a newly identified condition called pre-diabetes, which if left untreated will develop into diabetes. An additional 40,000 people living with diabetes and end-stage renal disease under the age of 65 participate in the Medicare program.

Even more distressing is the fact that approximately one third of the 7 million seniors with diabetes, or 2.3 million people, are undiagnosed. They simply do not know that they have this very serious condition—a condition whose complications include heart disease, stroke, vision loss and blindness, amputations, and kidney disease.

My own home State of Arkansas has had first-hand experience with the rising diabetes rates. Arkansas ranks

fifth in the Nation for diabetes incidence. Recent studies show that 8.9 percent of all Arkansas adults had diagnosed diabetes, and over one million Arkansans are at risk for undiagnosed diabetes.

Our Nation is not yet doing enough to manage this preventable and controllable disease. Last week, the National Institutes of Health, the CDC and the American Diabetes Association announced that the direct costs of treating diabetes grew by more than 50 percent between 1997 and 2002, from $44 billion to $91.8 billion. One of every ten dollars spent on healthcare in America is now spent on diabetes, and the average per capita cost of healthcare for a person living with diabetes is $13,243 versus $2,560 for a typical American without diabetes.

Those in the medical community and the federal government are only too aware of the rising prevalence and serious nature of diabetes. The Centers for Disease Control, National Institutes of Health, and the Department of Health and Human Services recently joined together in a national education campaign to inform people about diabetes and encourage people age 45 and older to get screened for diabetes.

Unfortunately, current law does not allow Medicare to reimburse for diabetes testing, even if a patient presents serious risk factors for diabetes such as obesity, high blood pressure, or high cholesterol. Most shockingly, even if a patient is experiencing early evidence of diabetes complications, such as blindness or kidney disease, Medicare still cannot reimburse a physician for diabetes testing.

This nonsensical omission of diabetes screening coverage is even more shocking in light of the fact that about 25 percent of the Medicare budget currently is devoted to providing medical care to seniors living with diabetes. In 1999, Arkansas spent $1.6 billion on direct and indirect costs of diabetes. The amount Arkansas spent on diabetes in 2002 is undoubtedly higher in light of the cost data available. Why are we continuing to react to diabetes and its complications instead of proactively screening our Medicare beneficiaries for this common and costly disease? This screening can identify the disease, even before any symptoms have appeared, and has the potential to save and improve thousands of lives. In addition, this screening will potentially help prevent countless cases of end-stage renal disease, blindness and amputations—preventable complications of the diabetes that are draining Medicare of vital resources.

The American Association of Clinical Endocrinologists strongly believes that patients with diabetes should be identified as early as possible in their illness. We have the technology to do this through screening.

I cannot overstate the need for this legislation. When faced with the rising prevalence of diabetes, the high percentage of seniors who already have the disease, the alarmingly high number of seniors who have diabetes but do not know it yet, the growing number of seniors living with preventable diabetes complications, and the high cost associated with diabetes treatment, it is obvious that Medicare should provide coverage for diabetes screening.

Our Nation must do more to battle the epidemic of diabetes through prevention, detection and treatment. This legislation will make detection of a deadly disease available to all Medicare enrollees. The American Diabetes Association has identified Medicare screening coverage as a top legislative priority, and I have worked closely with them to craft this legislation. I urge all of my colleagues to give serious consideration to cosponsoring and actively supporting the Diabetes Screening Act of 2003.

Ms. COLLINS. Mr. President, I am pleased to join my colleague from Arkansas, Senator LINCOLN, in introducing this important bill to provide Medicare coverage for laboratory diagnostic tests and other services used to screen for diabetes.

As the founder and co-chair of the Senate Diabetes Caucus, I have learned a great deal about this serious disease and the difficulties and heartbreak that it causes for so many Americans and their families. Diabetes is a devastating, lifelong condition that disproportionately affects the elderly, children and minorities. It is one of our Nation's most costly diseases in both human and economic terms, and is the leading cause of kidney failure, blindness in adults, and amputations not related to injury. Moreover, it is a major risk factor for stroke, heart disease and other chronic conditions. According to a new study released by the American Diabetes Association, diabetes cost our Nation $132 billion last year, and health care spending for people with diabetes is almost double what it would be if they did not have diabetes.

Unfortunately, diabetes frequently goes undiagnosed. Of the more than 17 million Americans who have diabetes, 7 million of whom are 65 and older, it is estimated that as many as one third don't know it. They simply do not know that they have this very serious condition that places them at increased risk of developing devastating and costly complications such as blindness, kidney failure and amputations.

Moreover, an additional 16 million Americans have a newly identified condition known as ''pre-diabetes,'' an increasingly common condition in which blood glucose levels are higher than normal, but not yet diabetic. Pre-diabetes dramatically raises the risk for developing Type 2 diabetes and increases the risk of heart disease by 50 percent. According to research supported by the Department of Health and Human Services, most people with pre-diabetes are likely to develop diabetes within a decade unless their condition is diagnosed and they make the lifestyle changes necessary to reduce their risks for the disease.

Secretary of Health and Human Services Tommy Thompson has made diabetes prevention and management a key part of the Bush Administration's broader efforts to encourage a healthier America. As a part of this effort, the Centers for Disease Control and Prevention, the National Institutes of Health and the Department of Health and Human Services have joined together in a national education campaign to inform people about diabetes and encourage people age forty-five and older to get screened for diabetes.

Unfortunately, however, current law does not allow Medicare to pay for diabetes testing, even for patients with serious risk factors for diabetes, such as obesity, high blood pressure, or high cholesterol. Astoundingly, even if a patient is experiencing early evidence of diabetes complications such as blindness or kidney disease, Medicare will not pay for diabetes testing.

This coverage omission is particularly irrational given the fact that one out of every four Medicare dollars is currently spent on medical care for seniors who are living with diabetes.

Early detection and treatment are essential if we are to improve the quality of life for people with diabetes and prevent or delay the onset of the costly and sometimes deadly complications associated with the disease. We have the technology to identify diabetes even before the onset of any symptoms. These tests have the potential of improving and saving thousands of lives, not to mention countless Medicare dollars. It only makes sense that Medicare should cover them.

Both the American Diabetes Association and the American Association of Clinical Endocrinologists support our legislation, and I encourage all of our colleagues to join us as cosponsors.

By Mr. CRAIG (for himself and Mrs. FEINSTEIN):

S. 600. A bill to authorize the Secretary of Energy to cooperate in the international magnetic fusion burning plasma experiment, or alternatively to develop a plan for a domestic burning plasma experiment, for the purpose of accelerating the scientific understanding and development of fusion as a long term energy source; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, there should be no doubt that energy is vital to our economy and that it contributes to our wealth and strength as a nation. While it is true that human intelligence, a skilled workforce, and the human spirit are essential to our economy and to our future, without useable energy, these virtues are not, of themselves, tools to make a physical difference.

As we look out decades and centuries into the future, determining whether we will have enough energy and finding

the sources from which we will get it are extremely important endeavors. Will we get our energy from oil or from coal? Will it come from solar collectors and wind farms? Will it come from nuclear fission? I submit that the answer we work to provide to this question today will have a profound effect on the future quality of life for our children and grandchildren. This is part of the reason why energy policy is so controversial. It is because the stakes are so high.

Although fossil fuels will last for many decades yet—perhaps centuries—the reality is that we must begin to plan for the time when fossil fuels might not be so plentiful. Taken together, fossil fuels provide us with well over 70 percent of the energy we consume in this country. Much of that energy is imported. When you take oil, coal and natural gas out of the equation, what are our options for the long term future?

The significant potential contributors to our energy picture that are not fossil fuels are likely to be nuclear, hydropower, renewables such as solar, wind and geothermal, and fusion energy. We must pursue all of these options as if our future depended on it, because it does. It is in this context, that I want to focus my colleagues' attention today on the subject of fusion energy.

Fusion energy is the power of the sun and the stars and has been the subject of a decades-long research effort in the United States and around the world. The bad news is that the ultimate goal of practical fusion energy here on earth has proven to be far more difficult than the early pioneers of fusion research ever envisioned. But the good news is that there has been fantastic progress in the past decade, to the point where now there is almost no doubt that large excess amounts of fusion energy can be created in the laboratory. The question is: Can fusion energy be made practical and affordable?

When proven practical, fusion will be capable of producing huge amounts of base-load energy for our cities and our economy with no air or water pollution. Its fuel is virtually inexhaustible. It cannot blow up or melt down. Perhaps most tantalizingly, given our present circumstances, no nation or region will have a monopoly because everyone will have the fuel—a common component of water.

I am very proud today to stand with my good friend from California, Senator FEINSTEIN and introduce the Fusion Development Act of 2003. The Fusion Development Act of 2003 is meant to hasten the day when we can answer the question of practical and affordable fusion energy in the affirmative.

Last month, President Bush announced that the United States would be joining international negotiations on a major next step experiment on the road to fusion energy, known as the ITER project. One of the primary purposes of this bill is to authorize the Secretary of Energy to participate fully in this international magnetic fusion burning plasma experiment called ITER.

ITER is intended to establish once and for all that magnetically-controlled fusion energy reactions can produce power plant-sized amounts of fusion energy and establish the scientific basis for doing so. Further, ITER will demonstrate some of the technologies necessary to construct a fusion power plant such as large superconducting magnets and plasma control systems. ITER will be an international science experiment of a scale and importance second to none.

The siting and financing of ITER are currently being negotiated between Europe, Japan, Russia, Canada and China. This bill will help give the Administration the license it needs to move forward and stake out a good place at the table of the ITER experiment. The importance of the ITER experiment dictates that the United States must have a strong position as the project moves forward.

In addition, our bill sets as a goal that the United States should develop the scientific, engineering and commercial infrastructure necessary to be competitive with other nations in this new frontier of energy. In this regard, it requires the Secretary of Energy to submit to Congress a plan to strengthen our existing fusion research efforts and to address the critically important issues of fusion materials and technology.

I ask that my colleagues devote their time to the extraordinarily important subject of our present and future energy supply. The deeper one delves into this subject, the more self-evident it becomes that fusion is a must-have technology for the future.

The bill we are introducing today will help bring us closer to the time when energy is less of a global political issue and energy production has minimal impact on our natural environment. Fusion is an important part of this vision and this goal. I therefore urge my colleagues to support this legislation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 79—DESIGNATING THE WEEK OF MARCH 9 THROUGH MARCH 15, 2003, AS ''NATIONAL GIRL SCOUT WEEK''

Mrs. HUTCHISON (for herself, Ms. MIKULSKI, Ms. CANTWELL, Mrs. CLINTON, Mrs. FEINSTEIN, Mrs. LINCOLN, Mrs. MURRAY, Ms. SNOWE, Ms. MURKOWSKI, Mr. BAYH, Mr. WARNER, Mr. ALLEN, Mr. KOHL, Mr. INHOFE, and Mr. LUGAR) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 79

Whereas March 12, is the anniversary of the founding of the Girl Scouts of the United States of America;

Whereas by fostering in girls and young women the qualities on which the strength of the United States depends, the Girls Scouts has significantly contributed to the advancement of the United States;

Whereas the Girl Scouts is the preeminent organization for girls, dedicated to inspiring girls and young women to become model citizens in their communities with the highest ideals of character, conduct, and service to others;

Whereas the Girls Scouts, through its prestigious program, offers girls ages 5 through 17 a wealth of opportunities to develop strong values and skills that serve girls well into adulthood; and

Whereas on March 16, 1950, the Girl Scouts became the first national organization for girls to be granted a Federal charter by Congress: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of March 9 through March 15, 2003, as ''National Girl Scout Week''; and

(2) requests the President to issue a proclamation designating such week as ''National Girl Scout Week'' and calling on the people of the United States to observe the anniversary of the Girl Scouts of the United States of America with appropriate ceremonies and activities.

Mrs. HUTCHISON. Mr. President, I rise today to submit an important resolution recognizing the Girl Scouts of America.

On March 12, 1912, Juliette Gordon Low assembled 18 girls in Savannah, Georgia for the first Girl Scout meeting. Girl Scouts of America has a current membership of nearly four million girls and adult volunteers.

It is the preeminent organization in the United States committed to inspiring girls and young women with the highest ideals of character, conduct, and service to others.

As the first National organization for girls to be granted a Federal charter by Congress, Girl Scouts offers girls of all ages, races, and socioeconomic backgrounds the opportunity to grow, develop friendships, and gain valuable life experiences.

The Girl Scout initiatives has enabled more than 50 million women in the United States to participate in community service projects, cultural exchanges, athletic events, and educational activities that teach self-confidence, responsibility, and integrity.

Girl Scout initiatives have reflected the Nation's changing social and economic climate. For example, the National organization recently began a campaign to encourage girls to develop an interest in math, science, and technology as a way to create greater diversity in the workforce and to help bridge the techno-gender divide.

Today, one in nine girls is a member of the Girl Scouts, and over two-thirds of our female doctors, lawyers, educators, and community leaders were once Girl Scouts. I am proud to say that I, too, was a Girl Scout.

I am pleased to be joined by my colleagues in introducing this legislation, which would designate the week beginning March 9, 2003, as ''National Girl Scout Week.''

Ms. MIKULSKI. Mr. President, I am very proud to join Senator HUTCHISON

in submitting this Resolution to designate March 9 through March 15 as National Girl Scout Week. As former girl Scouts, we are so grateful for what Scouting has meant in our lives—and in the lives of millions of girls.

Girl Scouts put their values into action. As a Girl Scout, you participate in a broad range of activities—from taking nature hikes to taking in the arts. You serve in local food banks and learn about politics. As your skills grow as a Girl Scout, so does your self-confidence. The badges you earn serve as symbols for success, leadership, accomplishment, and service in your community. With help from the Girl Scouts, you can develop into a solid citizen in mind, body and spirit.

As a Girl Scout, you also learn values and attitudes that serve as good guides throughout life. You learn the importance of treating other people fairly and with the dignity they deserve. You develop the confidence to know that you can reach your goals. You learn to be a leader.

In today's hectic and uncertain world, Scouts are more important than ever. Young girls and boys need before and after school activities that are safe, educational, and fun. They need adult role models like the girl Scouts, who are dedicated to helping young people. They need to learn the high ideals of leadership, service, character, and good conduct. In sum, America needs the Girl Scouts to help us maintain a civil society.

I applaud the Girl Scouts for what you do to help girls and to help communities. I thank you for what you meant to me and what you do for millions of young women across the country. I hope the Resolution that Senator HUTCHISON and myself have introduced here today raises more public awareness of the good works that you do.

Congratulations to the Girl Scouts on your 91st anniversary. I am so proud of who you are and what you do.

SENATE RESOLUTION 80—TO AUTHORIZE THE PRINTING OF A COLLECTION OF THE RULES OF THE COMMITTEES OF THE SENATE

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 80

Resolved, That a collection of the rules of the committees of the Senate, together with related materials, be printed as a Senate document, and that there be printed 500 additional copies of such document for the use of the Committee on Rules and Administration.

SENATE CONCURRENT RESOLUTION 18—EXPRESSING THE SENSE OF CONGRESS THAT THE UNITED STATES SHOULD STRIVE TO PREVENT TEEN PREGNANCY BY ENCOURAGING TEENAGERS TO VIEW ADOLESCENCE AS A TIME FOR EDUCATION AND MATURING AND BY EDUCATING TEENAGERS ABOUT THE NEGATIVE CONSEQUENCES OF EARLY SEXUAL ACTIVITY; AND FOR OTHER PURPOSES

Mr. LIEBERMAN (for himself and Ms. SNOWE) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 18

Whereas nearly 4 in 10 girls in the United States will become pregnant before the age of 20;

Whereas the United States has the highest rates of teen pregnancy and childbirth in the industrialized world;

Whereas, despite significant progress over the past decade, there are still nearly 900,000 teen pregnancies each year;

Whereas, on average, nearly 100 teenage girls become pregnant and 55 teenage girls give birth every hour;

Whereas childbearing by teenagers costs taxpayers at least $7,000,000,000 each year in direct costs associated with health care, foster care, criminal justice, and public assistance;

Whereas teen pregnancy is closely linked to the social problems of welfare dependency, poverty and out-of-wedlock births, and has negative ramifications with respect to the critical social issues of overall child well-being, responsible fatherhood, and workforce development;

Whereas mothers who give birth as teenagers are less likely to complete high school and attend college, thereby unduly limiting their potential for economic self-sufficiency;

Whereas more than half of all mothers on welfare gave birth as teenagers to their first children;

Whereas 1 out of 2 unmarried mothers first gave birth as a teenager;

Whereas 80 percent of births to teenagers involve unmarried teen mothers;

Whereas almost all adults and teenagers believe that teenagers should be given a strong message from society that they should abstain from sex until they have at least completed high school; and

Whereas the children of teen mothers are more likely to be at risk for a variety of adverse health and educational outcomes than other children: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. DESIGNATION OF NATIONAL DAY TO PREVENT TEEN PREGNANCY.

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

(1) the United States should strive to prevent teen pregnancy by encouraging teens to view adolescence as a time for education and maturing, and by educating teens about the negative consequences of early sexual activity; and

(2) the President should designate May 7, 2003, as ''National Day To Prevent Teen Pregnancy''.

(b) PROCLAMATION.—Congress requests the President to issue a proclamation designating May 7, 2003, as ''National Day To Prevent Teen Pregnancy''.

AMENDMENTS SUBMITTED AND PROPOSED

SA 258. Mrs. MURRAY (for herself, Mr. REID, and Mrs. BOXER) proposed an amendment to the bill S. 3, to prohibit the procedure commonly known as partial-birth abortion.

SA 259. Mr. DURBIN (for himself, Ms. COLLINS, Ms. SNOWE, Mr. AKAKA, Mr. BINGAMAN, Ms. LANDRIEU, and Ms. MIKULSKI) proposed an amendment to the bill S. 3, supra.

TEXT OF AMENDMENTS

SA 258. Mrs. MURRAY (for herself, Mr. REID, and Mrs. BOXER) proposed an amendment to the bill S. 3, to prohibit the procedures commonly known as partial-birth abortion; as follows:

Beginning on page 18, strike line 23 and all that follows through the end of the bill and insert the following:

TITLE ____—PROVISIONS RELATING TO CONTRACEPTIVES

Subtitle A—Equitable Coverage of Prescription Contraceptives

SEC. ____01. SHORT TITLE.

This subtitle may be cited as the ''Equity in Prescription Insurance and Contraceptive Coverage Act of 2003''.

SEC. ____02. FINDINGS.

Congress finds that—

(1) each year, 3,000,000 pregnancies, or one half of all pregnancies, in this country are unintended;

(2) contraceptive services are part of basic health care, allowing families to both adequately space desired pregnancies and avoid unintended pregnancy;

(3) studies show that contraceptives are cost effective: for every $1 of public funds invested in family planning, $4 to $14 of public funds is saved in pregnancy and health care-related costs;

(4) by reducing rates of unintended pregnancy, contraceptives help reduce the need for abortion;

(5) unintended pregnancies lead to higher rates of infant mortality, low-birth weight, and maternal morbidity, and threaten the economic viability of families;

(6) the National Commission to Prevent Infant Mortality determined that ''infant mortality could be reduced by 10 percent if all women not desiring pregnancy used contraception'';

(7) most women in the United States, including three-quarters of women of childbearing age, rely on some form of private insurance (through their own employer, a family member's employer, or the individual market) to defray their medical expenses;

(8) the vast majority of private insurers cover prescription drugs, but many exclude coverage for prescription contraceptives;

(9) private insurance provides extremely limited coverage of contraceptives: half of traditional indemnity plans and preferred provider organizations, 20 percent of point-of-service networks, and 7 percent of health maintenance organizations cover no contraceptive methods other than sterilization;

(10) women of reproductive age spend 68 percent more than men on out-of-pocket health care costs, with contraceptives and reproductive health care services accounting for much of the difference;

(11) the lack of contraceptive coverage in health insurance places many effective forms of contraceptives beyond the financial reach of many women, leading to unintended pregnancies;

(12) the Institute of Medicine Committee on Unintended Pregnancy recommended that

''financial barriers to contraception be reduced by increasing the proportion of all health insurance policies that cover contraceptive services and supplies'';

(13) in 1998, Congress agreed to provide contraceptive coverage to the 2,000,000 women of reproductive age who are participating in the Federal Employees Health Benefits Program, the largest employer-sponsored health insurance plan in the world; and

(14) eight in 10 privately insured adults support contraceptive coverage.

SEC. ___03. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

''SEC. 714. STANDARDS RELATING TO BENEFITS FOR CONTRACEPTIVES.

''(a) REQUIREMENTS FOR COVERAGE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) exclude or restrict benefits for prescription contraceptive drugs or devices approved by the Food and Drug Administration, or generic equivalents approved as substitutable by the Food and Drug Administration, if such plan provides benefits for other outpatient prescription drugs or devices; or

''(2) exclude or restrict benefits for outpatient contraceptive services if such plan provides benefits for other outpatient services provided by a health care professional (referred to in this section as 'outpatient health care services').

''(b) PROHIBITIONS.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan because of the individual's or enrollee's use or potential use of items or services that are covered in accordance with the requirements of this section;

''(2) provide monetary payments or rebates to a covered individual to encourage such individual to accept less than the minimum protections available under this section;

''(3) penalize or otherwise reduce or limit the reimbursement of a health care professional because such professional prescribed contraceptive drugs or devices, or provided contraceptive services, described in subsection (a), in accordance with this section; or

''(4) provide incentives (monetary or otherwise) to a health care professional to induce such professional to withhold from a covered individual contraceptive drugs or devices, or contraceptive services, described in subsection (a).

''(c) RULES OF CONSTRUCTION.—

''(1) IN GENERAL.—Nothing in this section shall be construed—

''(A) as preventing a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan from imposing deductibles, coinsurance, or other cost-sharing or limitations in relation to—

''(i) benefits for contraceptive drugs under the plan, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such drug may not be greater than such a deductible, coinsurance, or cost-sharing or limitation for any outpatient prescription drug otherwise covered under the plan;

''(ii) benefits for contraceptive devices under the plan, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such device may not be greater than such a deductible, coinsurance, or cost-sharing or limitation for any outpatient prescription device otherwise covered under the plan; and

''(iii) benefits for outpatient contraceptive services under the plan, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such service may not be greater than such a deductible, coinsurance, or cost-sharing or limitation for any outpatient health care service otherwise covered under the plan; and

''(B) as requiring a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan to cover experimental or investigational contraceptive drugs or devices, or experimental or investigational contraceptive services, described in subsection (a), except to the extent that the plan or issuer provides coverage for other experimental or investigational outpatient prescription drugs or devices, or experimental or investigational outpatient health care services.

''(2) LIMITATIONS.—As used in paragraph (1), the term 'limitation' includes—

''(A) in the case of a contraceptive drug or device, restricting the type of health care professionals that may prescribe such drugs or devices, utilization review provisions, and limits on the volume of prescription drugs or devices that may be obtained on the basis of a single consultation with a professional; or

''(B) in the case of an outpatient contraceptive service, restricting the type of health care professionals that may provide such services, utilization review provisions, requirements relating to second opinions prior to the coverage of such services, and requirements relating to preauthorizations prior to the coverage of such services.

''(d) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such requirements under the plan, except that the summary description required to be provided under the last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.

''(e) PREEMPTION.—Nothing in this section shall be construed to preempt any provision of State law to the extent that such State law establishes, implements, or continues in effect any standard or requirement that provides protections for enrollees that are greater than the protections provided under this section.

''(f) DEFINITION.—In this section, the term 'outpatient contraceptive services' means consultations, examinations, procedures, and medical services, provided on an outpatient basis and related to the use of contraceptive methods (including natural family planning) to prevent an unintended pregnancy.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001) is amended by inserting after the item relating to section 713 the following:

''Sec. 714. Standards relating to benefits for contraceptives.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning on or after January 1, 2004.

SEC. ___04. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following:

''SEC. 2707. STANDARDS RELATING TO BENEFITS FOR CONTRACEPTIVES.

''(a) REQUIREMENTS FOR COVERAGE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) exclude or restrict benefits for prescription contraceptive drugs or devices approved by the Food and Drug Administration, or generic equivalents approved as substitutable by the Food and Drug Administration, if such plan provides benefits for other outpatient prescription drugs or devices; or

''(2) exclude or restrict benefits for outpatient contraceptive services if such plan provides benefits for other outpatient services provided by a health care professional (referred to in this section as 'outpatient health care services').

''(b) PROHIBITIONS.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan because of the individual's or enrollee's use or potential use of items or services that are covered in accordance with the requirements of this section;

''(2) provide monetary payments or rebates to a covered individual to encourage such individual to accept less than the minimum protections available under this section;

''(3) penalize or otherwise reduce or limit the reimbursement of a health care professional because such professional prescribed contraceptive drugs or devices, or provided contraceptive services, described in subsection (a), in accordance with this section; or

''(4) provide incentives (monetary or otherwise) to a health care professional to induce such professional to withhold from covered individual contraceptive drugs or devices, or contraceptive services, described in subsection (a).

''(c) RULES OF CONSTRUCTION.—

''(1) IN GENERAL.—Nothing in this section shall be construed—

''(A) as preventing a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan from imposing deductibles, coinsurance, or other cost-sharing or limitations in relation to—

''(i) benefits for contraceptive drugs under the plan, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such drug may not be greater than such a deductible, coinsurance, or cost-sharing or limitation for any outpatient prescription drug otherwise covered under the plan;

''(ii) benefits for contraceptive devices under the plan, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such device may not be greater than such a deductible, coinsurance, or cost-sharing or limitation for any outpatient prescription device otherwise covered under the plan; and

''(iii) benefits for outpatient contraceptive services under the plan, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such service may not be greater than such a deductible, coinsurance, or cost-sharing or limitation for any outpatient health care service otherwise covered under the plan; and

''(B) as requiring a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan to cover experimental or investigational contraceptive drugs or devices, or experimental or investigational contraceptive services, described in subsection (a), except to the extent that the plan or issuer

provides coverage for other experimental or investigational outpatient prescription drugs or devices, or experimental or investigational outpatient health care services.

''(2) LIMITATIONS.—As used in paragraph (1), the term 'limitation' includes—

''(A) in the case of a contraceptive drug or device, restricting the type of health care professionals that may prescribe such drugs or devices, utilization review provisions, and limits on the volume of prescription drugs or devices that may be obtained on the basis of a single consultation with a professional; or

''(B) in the case of an outpatient contraceptive service, restricting the type of health care professionals that may provide such services, utilization review provisions, requirements relating to second opinions prior to the coverage of such services, and requirements relating to preauthorizations prior to the coverage of such services.

''(d) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 714(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.

''(e) PREEMPTION.—Nothing in this section shall be construed to preempt any provision of State law to the extent that such State law establishes, implements, or continues in effect any standard or requirement that provides protections for enrollees that are greater than the protections provided under this section.

''(f) DEFINITION.—In this section, the term 'outpatient contraceptive services' means consultations, examinations, procedures, and medical services, provided on an outpatient basis and related to the use of contraceptive methods (including natural family planning) to prevent an unintended pregnancy.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning on or after January 1, 2004.

SEC. ____05. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE INDIVIDUAL MARKET.

(a) IN GENERAL.—Part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–41 et seq.) is amended—

(1) by redesignating the first subpart 3 (relating to other requirements) as subpart 2; and

(2) by adding at the end of subpart 2 the following:

''SEC. 2753. STANDARDS RELATING TO BENEFITS FOR CONTRACEPTIVES.

''The provisions of section 2707 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after January 1, 2004.

Subtitle B—Emergency Contraception

SEC. ____11. SHORT TITLE.

This subtitle may be cited as the ''Emergency Contraception Education Act''.

SEC. ____12. FINDINGS.

Congress finds that—

(1) each year, 3,000,000 pregnancies, or one half of all pregnancies, in the United States are unintended, and half of all of these unintended pregnancies end in abortion;

(2) the Food and Drug Administration has declared emergency contraception to be safe and effective in preventing unintended pregnancy, reducing the risk by as much as 89 percent;

(3) the most commonly used forms of emergency contraception are regimens of ordinary birth control pills taken within 72 hours of unprotected intercourse or contraceptive failure;

(4) emergency contraception, also known as post-coital contraception, is a responsible means of preventing pregnancy that works like other hormonal contraception to delay ovulation, prevent fertilization or prevent implantation;

(5) emergency contraception does not cause abortion and will not affect an established pregnancy;

(6) it is estimated that the use of emergency contraception could cut the number of unintended pregnancies in half, thereby reducing the need for abortion;

(7) emergency contraceptive use is the United States remains low, and 9 in 10 women of reproductive age remain unaware of the method;

(8) although the American College of Obstetricians and Gynecologists recommends that doctors routinely offer women of reproductive age a prescription for emergency contraceptive pills during their annual visit, only 1 in 5 ob/gyns routinely discuss emergency contraception with their patients, suggesting the need for greater provider and patient education;

(9) in light of their safety and efficacy, both the American Medical Association and the American College of Obstetricians and Gynecologists have endorsed more widespread availability of emergency contraceptive pills, and have recommended that dedicated emergency contraceptive products be available without a prescription;

(10) Healthy People 2010, published by the Office of the Surgeon General, establishes a 10-year national public health goal of increasing the proportion of health care providers who provide emergency contraception to their patients; and

(11) public awareness campaigns targeting women and health care providers will help remove many of the barriers to emergency contraception and will help bring this important means of pregnancy prevention to American women.

SEC. ____13. EMERGENCY CONTRACEPTION EDUCATION AND INFORMATION PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) EMERGENCY CONTRACEPTION.—The term ''emergency contraception'' means a drug or device (as the terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)) that is—

(A) used after sexual relations; and

(B) prevents pregnancy, by preventing ovulation, fertilization of an egg, or implantation of an egg in a uterus.

(2) HEALTH CARE PROVIDER.—The term ''health care provider'' means an individual who is licensed or certified under State law to provide health care services and who is operating within the scope of such license.

(3) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(b) EMERGENCY CONTRACEPTION PUBLIC EDUCATION PROGRAM.—

(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall develop and disseminate to the public information on emergency contraception.

(2) DISSEMINATION.—The Secretary may disseminate information under paragraph (1) directly or through arrangements with nonprofit organizations, consumer groups, institutions of higher education, Federal, State, or local agencies, clinics and the media.

(3) INFORMATION.—The information disseminated under paragraph (1) shall include, at a minimum, a description of emergency contraception, and an explanation of the use, safety, efficacy, and availability of such contraception.

(c) EMERGENCY CONTRACEPTION INFORMATION PROGRAM FOR HEALTH CARE PROVIDERS.—

(1) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and in consultation with major medical and public health organizations, shall develop and disseminate to health care providers information on emergency contraception.

(2) INFORMATION.—The information disseminated under paragraph (1) shall include, at a minimum—

(A) information describing the use, safety, efficacy and availability of emergency contraception;

(B) a recommendation regarding the use of such contraception in appropriate cases; and

(C) information explaining how to obtain copies of the information developed under subsection (b), for distribution to the patients of the providers.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000 for each of fiscal years 2004 through 2008.

Subtitle C—Compassionate Care for Female Sexual Assault Survivors

SEC. ____21. SHORT TITLE.

This subtitle may be cited as the ''Compassionate Care for Female Sexual Assault Survivors Act''.

SEC. ____22. FINDINGS.

Congress finds that—

(1) it is estimated that 25,000 women become pregnant each year as a result of rape or incest;

(2) surveys have shown that many hospitals do not routinely provide emergency contraception to women seeking treatment after being sexually assaulted;

(3) the risk of pregnancy after sexual assault has been estimated to be 4.7 percent in survivors who were not protected by some form of contraception at the time of the attack;

(4) the Food and Drug Administration has declared emergency contraception to be safe and effective in preventing unintended pregnancy, reducing the risk by as much as 89 percent;

(5) medical research strongly indicates that the sooner emergency contraception is administered, the greater the likelihood of preventing unintended pregnancy, and it is most effective if administered in the first 12 hours after unprotected intercourse;

(6) in light of the safety and effectiveness of emergency contraceptive pills, both the American Medical Association and the American College of Obstetricians and Gynecologists have endorsed more widespread availability of such pills; and

(7) it is essential that all hospitals that provide emergency medical treatment provide emergency contraception as a treatment option to any woman who has been sexually assaulted, so she may prevent an unintended pregnancy.

SEC. ____23. SURVIVORS OF SEXUAL ASSAULT; PROVISION BY HOSPITALS OF EMERGENCY CONTRACEPTIVES WITHOUT CHARGE.

(a) IN GENERAL.—Federal funds may not be provided to a hospital under any health-related program unless the hospital meets the conditions specified in subsection (b) in the

case of any woman who presents at the hospital and—

(1) states that she is the victim of sexual assault;

(2) is accompanied by someone who states she is a victim of sexual assault; or

(3) whom hospital personnel have reason to believe is a victim of sexual assault.

(b) ASSISTANCE FOR VICTIMS.—The conditions specified in this subsection regarding a hospital and a woman described in subsection (a) are as follows:

(1) The hospital promptly provides the woman with medically and factually accurate and unbiased written and oral information about emergency contraception, including information explaining that—

(A) emergency contraception does not cause an abortion; and

(B) emergency contraception is effective in most cases in preventing pregnancy after unprotected sex.

(2) The hospital promptly offers emergency contraception to the woman, and promptly provides it to her upon her request.

(3) The information provided pursuant to paragraph (1) is in clear and concise language, is readily comprehensible, and meets such conditions regarding the provision of the information in languages other than English as the Secretary may establish.

(4) The services described in paragraphs (1) through (3) are not denied because of the inability of the woman or her family to pay for the services.

(c) DEFINITIONS.—In this section:

(1) EMERGENCY CONTRACEPTION.—The term ''emergency contraception'' means a drug that is—

(A) used postcoitally;

(B) prevents pregnancy by delaying ovulation, preventing fertilization of an egg, or preventing implantation of an egg in a uterus; and

(C) is approved by the Food and Drug Administration.

(2) HOSPITAL.—The term ''hospital'' has the meanings given such term in title XVIII of the Social Security Act, including the meaning applicable in such title for purposes of making payments for emergency services to hospitals that do not have agreements in effect under such title.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(4) SEXUAL ASSAULT.—The term ''sexual assault'' means coitus in which the woman involved does not consent or lacks the legal capacity to consent.

(d) EFFECTIVE DATE; AGENCY CRITERIA.—This section takes effect upon the expiration of the 180-day period beginning on the date of the enactment of this Act. Not later than 30 days prior to the expiration of such period, the Secretary shall publish in the Federal Register criteria for carrying out this section.

Subtitle D—Improved Coverage of Infants Under Medicaid and SCHIP

SEC. ___31. ENHANCED FEDERAL MEDICAID MATCH FOR STATES THAT OPT TO CONTINUOUSLY ENROLL INFANTS DURING THE FIRST YEAR OF LIFE WITHOUT REGARD TO THE MOTHER'S ELIGIBILITY STATUS.

(a) STATE OPTION.—Section 1902(e)(4) of the Social Security Act (42 U.S.C. 1396a(e)(4)) is amended by adding at the end the following new sentence: ''A State may elect (through a State plan amendment) to apply the first sentence of this paragraph without regard to the requirements that the child remain a member of the woman's household and the woman remains (or would remain if pregnant) eligible for medical assistance.''.

(b) ENHANCED FMAP.—The first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended—

(1) by inserting ''(A)'' after ''only''; and

(2) by inserting '', or (B) on the basis of a State election made under the third sentence of section 1902(e)(4)'' before the period.

(c) EFFECTIVE DATE.—The amendments made by this section apply to medical assistance provided on or after October 1, 2003.

SEC. ___32. OPTIONAL COVERAGE OF LOW-INCOME, UNINSURED PREGNANT WOMEN UNDER A STATE CHILD HEALTH PLAN.

(a) IN GENERAL.—Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following new section:

''SEC. 2111. OPTIONAL COVERAGE OF LOW-INCOME, UNINSURED PREGNANT WOMEN.

''(a) OPTIONAL COVERAGE.—Notwithstanding any other provision of this title, a State child health plan (whether implemented under this title or title XIX) may provide for coverage of pregnancy-related assistance for targeted low-income pregnant women in accordance with this section, but only if the State has established an income eligibility level under section 1902(l)(2)(A) for women described in section 1902(l)(1)(A) that is 185 percent of the income official poverty line.

''(b) DEFINITIONS.—For purposes of this section:

''(1) PREGNANCY-RELATED ASSISTANCE.—The term 'pregnancy-related assistance' has the meaning given the term child health assistance in section 2110(a) as if any reference to targeted low-income children were a reference to targeted low-income pregnant women, except that the assistance shall be limited to services related to pregnancy (which include prenatal, delivery, and postpartum services) and to other conditions that may complicate pregnancy.

''(2) TARGETED LOW-INCOME PREGNANT WOMAN.—The term 'targeted low-income pregnant woman' has the meaning given the term targeted low-income child in section 2110(b) as if any reference to a child were deemed a reference to a woman during pregnancy and through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends.

''(c) REFERENCES TO TERMS AND SPECIAL RULES.—In the case of, and with respect to, a State providing for coverage of pregnancy-related assistance to targeted low-income pregnant women under subsection (a), the following special rules apply:

''(1) Any reference in this title (other than subsection (b)) to a targeted low income child is deemed to include a reference to a targeted low-income pregnant woman.

''(2) Any such reference to child health assistance with respect to such women is deemed a reference to pregnancy-related assistance.

''(3) Any such reference to a child is deemed a reference to a woman during pregnancy and the period described in subsection (b)(2).

''(4) The medicaid applicable income level is deemed a reference to the income level established under section 1902(l)(2)(A).

''(5) Subsection (a) of section 2103 (relating to required scope of health insurance coverage) shall not apply insofar as a State limits its coverage to services described in subsection (b)(1) and the reference to such section in section 2105(a)(1) is deemed not to require, in such case, compliance with the requirements of section 2103(a).

''(6) There shall be no exclusion of benefits for services described in subsection (b)(1) based on any pre-existing condition and no waiting period (including any waiting period imposed to carry out section 2102(b)(3)(C)) shall apply.

''(d) NO IMPACT ON ALLOTMENTS.—Nothing in this section shall be construed as affecting the amount of any initial allotment provided to a State under section 2104(b).

''(e) APPLICATION OF FUNDING RESTRICTIONS.—The coverage under this section (and the funding of such coverage) is subject to the restrictions of section 2105(c).

''(f) AUTOMATIC ENROLLMENT FOR CHILDREN BORN TO WOMEN RECEIVING PREGNANCY-RELATED ASSISTANCE.—Notwithstanding any other provision of this title or title XIX, if a child is born to a targeted low-income pregnant woman who was receiving pregnancy-related assistance under this section on the date of the children's birth, the child shall be deemed to have applied for child health assistance under the State child health plan and to have been found eligible for such assistance under such plan (or, in the case of a State that provides such assistance through the provision of medical assistance under a plan under title XIX, to have applied for medical assistance under such title and to have been found eligible for such assistance under such title) on the date of such birth and to remain eligible for such assistance until the child attains 1 year of age. During the period in which a child is deemed under the preceding sentence to be eligible for child health or medical assistance, the child health or medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all claims shall be submitted and paid under such number (unless the State issues a separate identification number for the child before such period expires).''.

(b) STATE OPTION TO USE ENHANCED FMAP AND SCHIP ALLOTMENT FOR COVERAGE OF ADDITIONAL PREGNANT WOMEN UNDER THE MEDICAID PROGRAM.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in the fourth sentence of subsection (b), by inserting ''and in the case of a State plan that meets the condition described in subsections (u)(1) and (u)(4)(A), with respect to expenditures described in subsection (u)(4)(B) for the State for a fiscal year'' after ''for a fiscal year,''; and

(2) in subsection (u)—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following new paragraph:

''(4)(A) The condition described in this subparagraph for a State plan is that the plan has established an income level under section 1902(l)(2)(A) with respect to individuals described in section 1902(l)(1)(A) that is 185 percent of the income official poverty line.

''(B) For purposes of subsection (b), the expenditures described in this paragraph are expenditures for medical assistance for women described in section 1902(l)(1)(A) whose income exceeds the income level established for such women under section 1902(l)(2)(A)(i) as of the date of the enactment of this paragraph but does not exceed 185 percent of the income official poverty line.''.

(c) NO WAITING PERIODS OR COST-SHARING.—

(1) NO WAITING PERIOD.—Section 2102(b)(1)(B) of the Social Security Act (42 U.S.C. 1397bb(b)(1)(B)) is amended—

(A) by striking '', and'' at the end of clause (i) and inserting a semicolon;

(B) by striking the period at the end of clause (ii) and inserting ''; and''; and

(C) by adding at the end the following new clause:

''(iii) may not apply a waiting period (including a waiting period to carry out paragraph (3)(C)) in the case of a targeted low-income pregnant woman, if the State provides for coverage of pregnancy-related assistance for such women in accordance with section 2111.''.

(2) NO COST-SHARING FOR PREGNANCY-RELATED BENEFITS.—Section 2103(e)(2) of such Act (42 U.S.C. 1397cc(e)(2)) is amended—

(A) in the heading, by inserting ''AND PREGNANCY-RELATED SERVICES'' after ''PREVENTIVE SERVICES''; and

(B) by inserting before the period at the end the following: ''or for pregnancy-related services, if the State provides for coverage of pregnancy-related assistance for targeted low-income pregnant women in accordance section 2111''.

(d) PRESUMPTIVE ELIGIBILITY.—

(1) IN GENERAL.—Section 1920A(b)(3)(A)(i)(III) of the Social Security Act (42 U.S.C. 1396r–1a(b)(3)(A)(i)(III)) is amended by inserting ''a child care resource and referral agency,'' after ''a State or tribal child support enforcement agency,''.

(2) APPLICATION TO PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN UNDER MEDICAID.—Section 1920(b) of the Social Security Act (42 U.S.C. 1396r–1(b)) is amended by adding at the end after and below paragraph (2) the following flush sentence:

''The term 'qualified provider' includes a qualified entity as defined in section 1920A(b)(3).''.

(3) APPLICATION UNDER TITLE XXI.—

(A) IN GENERAL.—Section 2107(e)(1)(D) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended to read as follows:

''(D) Sections 1920 and 1920A (relating to presumptive eligibility).''.

(B) EXCEPTION FROM LIMITATION ON ADMINISTRATIVE EXPENSES.—Section 2105(c)(2) of the Social Security Act (42 U.S.C. 1397ee(c)(2)) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR PRESUMPTIVE ELIGIBILITY EXPENDITURES.—The limitation under subparagraph (A) on expenditures shall not apply to expenditures attributable to the application of section 1920 or 1920A (pursuant to section 2107(e)(1)(D)), regardless of whether the child or pregnant woman is determined to be ineligible for the program under this title or title XIX.''.

(e) PROGRAM COORDINATION WITH THE MATERNAL AND CHILD HEALTH PROGRAM (TITLE V).—

(1) IN GENERAL.—Section 2102(b)(3) of the Social Security Act (42 U.S.C. 1397bb(b)(3)) is amended—

(A) in subparagraph (D), by striking ''and'' at the end;

(B) in subparagraph (E), by striking the period and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(F) that operations and activities under this title are developed and implemented in consultation and coordination with the program operated by the State under title V in areas including outreach and enrollment, benefits and services, service delivery standards, public health and social service agency relationships, and quality assurance and data reporting.''.

(2) CONFORMING MEDICAID AMENDMENT.—Section 1902(a)(11) of such Act (42 U.S.C. 1396a(a)(11)) is amended—

(A) by striking ''and'' before ''(C)''; and

(B) by inserting before the semicolon at the end the following: '', and (D) provide that operations and activities under this title are developed and implemented in consultation and coordination with the program operated by the State under title V in areas including outreach and enrollment, benefits and services, service delivery standards, public health and social service agency relationships, and quality assurance and data reporting''.

(3) EFFECTIVE DATE.—The amendments made by this subsection take effect on January 1, 2004.

(f) APPLICATION OF ANNUAL AGGREGATE COST-SHARING LIMIT.—Section 2103(e)(3)(B) of the Social Security Act (42 U.S.C. 1397cc(e)(3)(B)) is amended by adding at the end the following new sentence: ''In the case of a targeted low-income pregnant woman provided coverage under section 2111, or the parents of a targeted low-income child provided coverage under this title under an 1115 waiver or otherwise, the limitation on total annual aggregate cost-sharing described in the preceding sentence shall be applied to the entire family of such woman or parents.''.

(g) EFFECTIVE DATE.—Except as provided in subsection (e), the amendments made by this section take effect on the date of the enactment of this Act and apply to expenditures incurred on or after that date.

SEC. ___33. INCREASE IN SCHIP INCOME ELIGIBILITY.

(a) DEFINITION OF LOW-INCOME CHILD.—Section 2110(c)(4) of the Social Security Act (42 U.S.C. 42 U.S.C. 1397jj(c)(4)) is amended by striking ''200'' and inserting ''250''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to child health assistance provided, and allotments determined under section 2104 of the Social Security Act (42 U.S.C. 1397dd), for fiscal years beginning with fiscal year 2004.

SA 259. Mr. DURBIN (for himself, Ms. COLLINS, Ms. SNOWE, Mr. AKAKA, Mr. BINGAMAN, Ms. LANDRIEU, and Ms. MIKULSKI) proposed an amendment to the bill S. 3, to prohibit the procedure commonly known as partial-birth abortion; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Late Term Abortion Limitation Act of 2003''.

SEC. 2. BAN ON CERTAIN ABORTIONS.

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

''CHAPTER 74—BAN ON CERTAIN ABORTIONS

''Sec.
''1531. Prohibition of post-viability abortions.
''1532. Penalties.
''1533. Regulations.
''1534. State law.
''1535. Definitions.

''§ 1531. Prohibition of Post-Viability Abortions.

''(a) IN GENERAL.—It shall be unlawful for a physician to intentionally abort a viable fetus unless the physician prior to performing the abortion including the procedure characterized as a ''partial birth abortion''—

''(1) certifies in writing that, in the physician's medical judgment based on the particular facts of the case before the physician, the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health; and

''(2) an independent physician who will not perform nor be present at the abortion and who was not previously involved in the treatment of the mother certifies in writing that, in his or her medical judgment based on the particular facts of the case, the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health.

''(b) NO CONSPIRACY.—No woman who has had an abortion after fetal viability may be prosecuted under this chapter for conspiring to violate this chapter or for an offense under section 2, 3, 4, or 1512 of title 18.

''(c) MEDICAL EMERGENCY EXCEPTION.—The certification requirements contained in subsection (a) shall not apply when, in the medical judgment of the physician performing the abortion based on the particular facts of the case before the physician, there exists a medical emergency. In such a case, however, after the abortion has been completed the physician who performed the abortion shall certify in writing the specific medical condition which formed the basis for determining that a medical emergency existed.

''§ 1532. Penalties.

''(a) ACTION BY THE ATTORNEY GENERAL.—The Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney specifically designated by the Attorney General may commence a civil action under this chapter in any appropriate United States district court to enforce the provisions of this chapter.

''(b) FIRST OFFENSE.—Upon a finding by the court that the respondent in an action commenced under subsection (a) has knowingly violated a provision of this chapter, the court shall notify the appropriate State medical licensing authority in order to effect the suspension of the respondent's medical license in accordance with the regulations and procedures developed by the State under section 1533(b), or shall assess a civil penalty against the respondent in an amount not to exceed $100,000, or both.

''(c) SECOND OFFENSE—Upon a finding by the court that the respondent in an action commenced under subsection (a) has knowingly violated a provision of this chapter and the respondent has been found to have knowingly violated a provision of this chapter on a prior occasion, the court shall notify the appropriate State medical licensing authority in order to effect the revocation of the respondent's medical license in accordance with the regulations and procedures developed by the State under section 1533(b), or shall assess a civil penalty against the respondent in an amount not to exceed $250,000, or both.

''(d) HEARING.—With respect to an action under subsection (a), the appropriate State medical licensing authority shall be given notification of and an opportunity to be heard at a hearing to determine the penalty to be imposed under this section.

''(e) CERTIFICATION REQUIREMENTS.—At the time of the commencement of an action under subsection (a), the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney who has been specifically designated by the Attorney General to commence a civil action under this chapter, shall certify to the court involved that, at least 30 calendar days prior to the filing of such action, the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney involved—

''(1) has provided notice of the alleged violation of this chapter, in writing, to the Governor or Chief Executive Officer and Attorney General or Chief Legal Officer of the State or political subdivision involved, as well as to the State medical licensing board or other appropriate State agency; and

''(2) believes that such an action by the United States is in the public interest and necessary to secure substantial justice.

''§ 1533. Regulations.

''(a) FEDERAL REGULATIONS.—

''(1) IN GENERAL.—Not later than 60 days after the date of enactment of this chapter, the Secretary of Health and Human Services shall publish proposed regulations for the filing of certifications by physicians under this chapter.

''(2) REQUIREMENTS.—The regulations under paragraph (1) shall require that a certification filed under this chapter contain—

''(A) a certification by the physician performing the abortion, under threat of criminal prosecution under section 1746 of title 28 that, in his or her best medical judgment, the abortion performed was medically necessary pursuant to this chapter;

''(B) a description by the physician of the medical indications supporting his or her judgment;

''(C) a certification by an independent physician pursuant to section 1531(a)(2), under threat of criminal prosecution under section 1746 of title 28, that, in his or her best medical judgment, the abortion performed was medically necessary pursuant to this chapter; and

''(D) a certification by the physician performing an abortion under a medical emergency pursuant to section 1531(c), under threat of criminal prosecution under section 1746 of title 28, that, in his or her best medical judgment, a medical emergency existed, and the specific medical condition upon which the physician based his or her decision.

''(3) CONFIDENTIALITY.—The Secretary of Health and Human Services shall promulgate regulations to ensure that the identity of a mother described in section 1531(a)(1) is kept confidential, with respect to a certification filed by a physician under this chapter.

''(b) STATE REGULATIONS.—A State, and the medical licensing authority of the State, shall develop regulations and procedures for the revocation or suspension of the medical license of a physician upon a finding under section 1532 that the physician has violated a provision of this chapter. A State that fails to implement such procedures shall be subject to loss of funding under title XIX of the Social Security Act.

''§ 1534. State Law.

''(a) IN GENERAL.—The requirements of this chapter shall not apply with respect to post-viability abortions in a State if there is a State law in effect in that State that regulates, restricts, or prohibits such abortions to the extent permitted by the Constitution of the United States.

''(b) DEFINITION.—In subsection (a), the term 'State law' means all laws, decisions, rules, or regulations of any State, or any other State action, having the effect of law.

''§ 1535. Definitions.

''In this chapter:

''(1) GRIEVOUS INJURY.—

''(A) IN GENERAL.—The term 'grievous injury' means—

''(i) a severely debilitating disease or impairment specifically caused or exacerbated by the pregnancy; or

''(ii) an inability to provide necessary treatment for a life-threatening condition.

''(B) LIMITATION.—The term 'grievous injury' does not include any condition that is not medically diagnosable or any condition for which termination of the pregnancy is not medically indicated.

''(2) PHYSICIAN.—The term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions, except that any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs an abortion in violation of section 1531 shall be subject to the provisions of this chapter.''.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

''74. Ban on certain abortions ..... 1531.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, on Tuesday, March 11 at 10:00 a.m. to receive testimony regarding Federal Programs for energy efficiency, and conservation.

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

COMMITTEE ON FINANCE

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, March 11, 2003, at 10:00 a.m., to hear testimony on The Funding Challenge: Keeping Defined Benefit Pension Plans Afloat.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, March 11, 2003 at 9:30 a.m. to hold a hearing on Iraq: Reconstruction,

Agenda

Witnesses

Panel 1: Mr. Eric Schwartz, Senior Fellow and Director, Independent Task Force on Post-Conflict Iraq, Council on Foreign Relations, Washington, DC; Dr. Gordon Adams, Director, Security Policy Studies Program; Elliott School of International Affairs, The George Washington University, Washington, DC; Ms. Sandra Mitchell, Vice President, Government Relations, International Rescue Committee, Washington, DC; Dr. Phebe Marr, Former Senior Fellow, National Defense University, Washington, DC.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Tuesday, March 11, 2003, at 2:30 p.m. in Room 485 of the Russell Senate Office Building to consider the Committee's Views and Estimates on the President's FY 2004 Budget Request for Indian Programs.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, March 11, 2003 at 2:30 p.m. to hold a closed hearing.

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

SPECIAL COMMITTEE ON AGING

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Tuesday, March 11, 2003 from 10 a.m. to 12 p.m. in Dirksen 628 for the purpose of conducting a hearing.

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

SELECT COMMITTEE ON AVIATION

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Select Committee on Commerce, Science, and Transportation, Subcommittee on Aviation, be authorized to meet on Tuesday, March 11, 2003 at 9:30 a.m., in SR–253, for a hearing on FAA Reauthorization: Air Service to small Communities.

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

SUBCOMMITTEE ON PERSONNEL

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, March 11, 2003 at 2:30 p.m., in open session to receive testimony on active and reserve military and civilian personnel programs in review of the defense authorization request for fiscal year 2004

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

Mr. SANTORUM. Mr. President, if I read real fast, I think I can get done by 9 o'clock, but I would not be a very popular person here with the pages who would have to go to school tomorrow morning if I do finish by 9 o'clock. So we will see what happens

AUTHORIZING PRINTING OF RULES OF SENATE COMMITTEES

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 80 which was submitted earlier today by Senator LOTT.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 80) to authorize the printing of a collection of the rules of the committees of the Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the matter be printed in the RECORD.

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

The resolution (S. Res. 80) was agreed to, as follows:

S. RES. 80

Resolved, That a collection of the rules of the committees of the Senate, together with related materials, be printed as a Senate document, and that there be printed 500 additional copies of such document for the use of the Committee on Rules and Administration.

UNANIMOUS CONSENT AGREEMENT—REFERRAL OF NOMINATION

Mr. SANTORUM. Mr. President, I ask unanimous consent that when the nomination for the Assistant Secretary of the Army for Civil Works is received by the Senate, it be referred to the Committee on Armed Services; provided that when the Committee on Armed Services reports the nomination, it be referred to the Committee on Public Works for a period of 20 days of session; provided further that if the Committee on Public Works does not report the nomination within those 20 days, the committee be discharged from further consideration of the nomination and the nomination be placed on the calendar.

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

ORDERS FOR WEDNESDAY, MARCH 12, 2003

Mr. SANTORUM. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Wednesday, March 12. I further ask unanimous consent that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of Calendar No. 19, S. 3, the partial-birth abortion bill, as provided under the previous order.

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

PROGRAM

Mr. SANTORUM. For the information of all Senators, on Wednesday, the Senate will resume consideration of the partial-birth abortion bill. Under the previous order, Senator BOXER will be recognized to offer a motion to commit. There will be up to 2 hours of debate equally divided. Following debate on the Boxer motion, the Senate will resume debate on the Durbin amendment. At the conclusion of those debate times, the Senate will proceed to consecutive votes in relation to those two pending amendments. Votes will occur at approximately 12:30, if all debate time is used. Additional votes can be expected throughout the day in an effort to complete the bill tomorrow.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SANTORUM. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:02 p.m., adjourned until Wednesday, March 12, 2003, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 11, 2003:

FARM CREDIT ADMINISTRATION

LOWELL JUNKINS, OF IOWA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION. (REAPPOINTMENT)

GLEN KLIPPENSTEIN, OF MISSOURI, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION, VICE MARILYN FAE PETERS.

JULIA BARTLING, OF SOUTH DAKOTA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION, VICE EUGENE BRANSTOOL.

DEPARTMENT OF STATE

RALPH FRANK, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CROATIA.

WILLIAM M. BELLAMY, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KENYA.

AFRICAN DEVELOPMENT FOUNDATION

JOHN W. LESLIE, JR., OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING SEPTEMBER 22, 2007, VICE ERNEST G. GREEN, TERM EXPIRED.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

MARY LUCILLE JORDAN, OF MARYLAND, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF SIX YEARS EXPIRING AUGUST 30, 2008. (REAPPOINTMENT)

DEPARTMENT OF JUSTICE

RAUL DAVID BEJARANO, OF CALIFORNIA, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF CALIFORNIA FOR THE TERM OF FOUR YEARS, VICE STEPHEN SIMPSON GREGG.

DEPARTMENT OF HOMELAND SECURITY

EDUARDO AGUIRRE, JR., OF TEXAS, TO BE DIRECTOR OF THE BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES, DEPARTMENT OF HOMELAND SECURITY. (NEW POSITION)

CORPORATION FOR PUBLIC BROADCASTING

ELIZABETH COURTNEY, OF LOUISIANA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 31, 2004, VICE DIANE D. BLAIR.

IN THE COAST GUARD

UNDER SECTION 211, TITLE 14, U. S. CODE, THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS PERMANENT COMMISSIONED REGULAR OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED:

To be lieutenant commander

JOHN P. NOLAN, 0000

UNDER SECTION 211, TITLE 14, U. S. CODE, THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS PERMANENT COMMISSIONED REGULAR OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED:

To be lieutenant

CHRISTY L. HOWARD, 0000

UNDER SECTION 211, TITLE 14, U.S. CODE, THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD :

To be lieutenant commander

BRUCE E GRAHAM, 0000
JOHN W GREEN, 0000

To be lieutenant

JEFFREY L AHLGREN, 0000
BRADFORD E APITZ, 0000
PAUL D ARNETT, 0000
LORI J BARD, 0000
ABBY S BENSON, 0000
RONALD E BRAHM, 0000
ROQUE DANAS, 0000
CARMEN S DEGEORGE, 0000
REBECCA A DREW, 0000
LONNIE J EVANS, 0000
JAMES T FLANNERY, 0000
FRANK L FLOOD, 0000
GENE G GONZALES, 0000
MARK A GRABOSKI, 0000
JOANNE N HANSON, 0000
MICHAEL L HERSHBERGER, 0000
TEDD B HUTLEY, 0000
JERALD R JARVI, 0000
RANDY J JENKINS, 0000
JOSEPH W KLATT, 0000
ROBERT K KORNEXL, 0000
AMY E KOVAC, 0000
PERRY J KREMER, 0000
KATHRYN A KULAGA, 0000
KEITH H LAPLANT, 0000
TIMOTHY J LIST, 0000
RANDY L LITTLE, 0000
MICHAEL C LUNASIN, 0000
LUIS E MARTINEZ, 0000
PAUL S MCCONNELL, 0000
WILLIAM A NABACH, 0000
GARY R NAUS, 0000
LAWRENCE J NORRIS, 0000
SUZANNE C B OLGUIN, 0000
ROBERT M PEKARI, 0000
MARK E PESNELL, 0000
MICHAEL R PIERNO, 0000
RONALD P POOLE, 0000
KENNETH U POTOLICCHIO, 0000
LEE S PUTNAM, 0000
TIMOTHY M RAYCOB, 0000
JOHN A SMITH, 0000
KYLE J SMITH, 0000
JAMES W SUMMERLIN, 0000
DEREK R THORSRUD, 0000
JASON E TIEMAN, 0000
KIETH M UTLEY, 0000
JAMES D WEAVER, 0000
ERIC A WESCOTT, 0000
MATTHEW T WELLER, 0000
GARY S WILLIAMS, 0000
CHARLES T WRIGHT, 0000
MICHAEL E YENSZ, 0000

To be lieutenant junior grade

ERIC C ALLEN, 0000
TOUSSAINT K ALSTON, 0000
MICHAEL J ANDERSON, 0000
RICHARD A ANGELET, 0000
DAVID E ARAGON, 0000
KYLE S ARMSTRONG, 0000
KYLE T ARNETT, 0000
DOUGLAS G ATKINS, 0000
STEPHEN D AXLEY, 0000
PATRICK T BACHER, 0000
MARK A BAFETTI, 0000
BRANDI A BALDWIN, 0000
SCOTT D BARANOWSKI, 0000
WILLIAM M BASHWINGER, 0000
CLAYTON R BEAL, 0000
JAMES A BINNIKER, 0000
LAURA E BOSWELL, 0000
JOHN M BOTDORF, 0000
WILLIAM C BRENT, 0000
CURTIS G BROWN, 0000
CHANING D BURGESS, 0000
PATRICK C BURKETT, 0000
DERREK W BURRUS, 0000
CONRADO R CABANTAC, 0000
TIMOTHY F CALLISTER, 0000
MARK CALTAGIRONE, 0000
ROBERT W CARROLL, 0000
JOHN D CASHMAN, 0000
STEVEN E CERVENY, 0000
JOHN V CHANG, 0000
THOMAS P CLOHERTY, 0000
MEGAN L CULL, 0000
ELAINA R DAVIS, 0000
BRIAN D DEMIO, 0000
AARON W DEMO, 0000
MATTHEW J DENNING, 0000
DANIEL T DEUTERMANN, 0000
ADRIAN DIAZ, 0000
DONALD G DOUGAN, 0000
JOHN F DRUELLE, 0000
DANIEL D DUMAS, 0000
GREGORY A DUNCAN, 0000
BRIAN J ECKLEY, 0000
JOHN A ELY, 0000
THOMAS C EVANS, 0000
PETER M EVONUK, 0000
WILLIAM D FIELD, 0000
JAMES T FOGLE, 0000
STEVEN P FORAN, 0000
JOSHUA M FULCHER, 0000
MARIANNE M GELAKOSKA, 0000
SHAWN T GERAGHTY, 0000
SHANNON B GIAMMANCO, 0000
RANDY L GIEBEN, 0000
MATTHEW S GINGRICH, 0000
MARK P GLANCY, 0000
JEFFREY M GLASS, 0000
SHIELDS R GORE, 0000
ANDREW C GORMAN, 0000
MARCELLA A GRANQUIST, 0000
SEAN W GREEN, 0000
ROBERT P GRIFFITHS, 0000
JAMES J HARKINS, 0000
WENDY L HART, 0000
JEFF S HENDERSON, 0000
JOHN G HENIGHAN, 0000
JAMES S HERALD, 0000
ROLANDO HERNANDEZ, 0000
CHAD B HOLM, 0000
MICHAEL T HOLMES, 0000
ASHLEY R HOLT, 0000
MICHAEL J HOSEY, 0000
CHRISTOPHER M HOWARD, 0000
JEFFERY S HOWARD, 0000
THOMAS A HOWELL, 0000
APRIL A ISLEY, 0000
EDWARD V JACKSON, 0000
MICHAEL S JACKSON, 0000
JAMES L JARNAC, 0000
DARWIN A JENSEN, 0000
JASON J JESSUP, 0000
GEOFFREY W JOHANNESEN, 0000
SANCHO V JOHNSON, 0000
ERIC J JONES, 0000
DEAN E JORDAN, 0000

DEBORAH D KAMZOL, 0000
MERIDENA D KAUFFMAN, 0000
MICHAEL S KELLOGG, 0000
BRAD W KELLY, 0000
JOHNNY J KIDWELL, 0000
JAMES A KLEIN, 0000
CHICO R KNIGHT, 0000
BRIAN M KOSTECKI, 0000
MARK I KUPERMAN, 0000
THOMAS L LAKE, 0000
TAYLOR Q LAM, 0000
KENNETH R LANGFORD, 0000
DANIEL P LANIGAN, 0000
MATTHEW H LAUGHLIN, 0000
BLANCA A LEIVA, 0000
LANCE E LINDGREN, 0000
DANIEL W LONG, 0000
ERICA N MACKCANNADY, 0000
NEIL C MARCELINO, 0000
KEASHA D MARTINDILL, 0000
JOSE D MARTIS, 0000
MARK R MATHEWS, 0000
ROMULUS P MATTHEWS, 0000
LEON MCCLAIN, 0000
NEIL MCHUTCHISON, 0000
CHRISTOPHER J MCINTYRE, 0000
LOUVENIA A MCMILLAN, 0000
IVAN R MENESES, 0000
ZEITA MERCHANT, 0000
STACY L MILLER, 0000
CHAD A MOORE, 0000
MATTHEW J MOORLAG, 0000
SHANA R MORRIS, 0000
MASAMBA A MOSES, 0000
EDWARD X MUNOZ, 0000
ANDRE C MURPHY, 0000
DAVID B MURRAY, 0000
PATRICK M MURRAY, 0000
ROBERT A NAKAMA, 0000
CHRISTOPHER A O'NEAL, 0000
THOMAS A OTTENWAELDER, 0000
JOHN D PACK, 0000
PATRICIA K PALADINO, 0000
TERESA K PEACE, 0000
JOSE PEREZ, 0000
TODD M PETERSON, 0000
KENNETH G PHILLIPS, 0000
NATHAN R PHILLIPS, 0000
WILLIAM E PICKERING, 0000
CRAIG J PINO, 0000
SARA S PLATT, 0000
ANGEL L POL, 0000
DAVID J POTYOK, 0000
MARC A RANDOLPH, 0000
MICHAEL J RASCH, 0000
MICHAEL C REED, 0000
DAVID J REINHARD, 0000
JORGE F REYES, 0000
RYAN S RHODES, 0000
RONALD E RICHARDS, 0000
FRED E RIPLEY, 0000
FERNANDO RODRIGUEZ, 0000
JAMES M ROGAN, 0000
PAUL J ROONEY, 0000
SHOLUNDA J RUCKER, 0000
PAUL C RUSSO, 0000
CHRISTY D RUTHERFORD, 0000
DAVID J SALICETI, 0000
PRIDE L SANDERS, 0000
DONALD E SHAFFER, 0000
GREGORY A SHOUSE, 0000
RYAN T SIEWERT, 0000
JAMES S SMALL, 0000
BRECKINRIDGE S SMITH, 0000
KEITH L SMITH, 0000
ROBERT J SMITH, 0000
GREGORY A SOMERS, 0000
NICOLE A STARR, 0000
JAMES B SUFFERN, 0000
CHRISTOPHER J TANTILLO, 0000
DALE T TAYLOR, 0000
JOHN R TAYLOR, 0000
MARK A TAYLOR, 0000
TRAVIS G TAYLOR, 0000
BRETT J THOMPSON, 0000
DOUGLAS TINDALL, 0000
GREGORY P TORGERSEN, 0000
KEITH A TREPANIER, 0000
RICHARD E VINCENT, 0000
DAVID C VONDAMM, 0000
DANIEL R WADDINGHAM, 0000
CHARLES E WEBB, 0000
KIMBERLY S WHEATLEY, 0000
ANDRE J WHIDBEE, 0000
KELLY K WHIDDEN, 0000
CHRISTOPHER WILLIAMMEE, 0000
CONNIE L WILLIAMSON, 0000
TIMOTHY C WILLIAMSON, 0000
CORNEDA Y WINTON, 0000
NORMAN C WITT, 0000
LANCE M WOOD, 0000
ROBERT S WORKMAN, 0000
RICHARD V YOUNG, 0000
BRADFORD W YOUNGKIN, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. ROBERT T. CLARK, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. EMILE P. BATAILLE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. KEITH M. HUBER, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. SHEILA R. BAXTER, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) JOHN P. DEBBOUT, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) ROGER T. NOLAN, 0000
REAR ADM. (LH) ROBERT O. PASSMORE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. CRAIG O. MCDONALD, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. DAVID O. ANDERSON, 0000
CAPT. DAVID J. CRONK, 0000
CAPT. DIRK J. DEBBINK, 0000
CAPT. FRANK F. RENNIE IV, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be colonel

WILLIAM O. PRETTYMAN II, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

DARRELL S. RANSOM, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 628, AND 3064:

To be major

FREDERICK D. WHITE, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

MICHAEL P. KILLION, 0000
DOUGLAS S. KURTH, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

DONALD J ANDERSON, 0000
LYLE O ARMEL III, 0000
LAURENT O BAKER, 0000
STEPHEN C BAKER, 0000
JEFFREY J BARE, 0000
DAVID H BERGER, 0000
WILLIAM D BEYDLER, 0000
MICHAEL S BOHN, 0000
CHRISTOPHER M BOURNE, 0000
GREGORY A BOYLE, 0000
JAMES R BRADEN, 0000
BARETT R BYRD, 0000
JEREMIAH D CANTY, 0000
EDWARD R CAWTHON, 0000
ROBERT H CHASE JR., 0000
DANIEL J CHOIKE, 0000
MARK G CIANCIOLO, 0000
MARK A CLARK, 0000
ROBERT J COATES, 0000
RAYMOND E COIA, 0000
PETER B COLLINS, 0000
THOMAS N COLLINS, 0000
JAMES T CONKLIN, 0000
CHRISTOPHER C CONLIN, 0000
MARSHALL I CONSIDINE III, 0000
SCOTT C COTTRELL, 0000
WILLIAM B CROWE, 0000
MARK R CYR, 0000
MICHAEL G DANA, 0000
JAMES T DAULTON JR., 0000
ENRICO G DEGUZMAN, 0000
PETER H DEVLIN, 0000
JAMES A DIXON, 0000
MICHAEL J DONOVAN, 0000
MARK A DUNGAN, 0000
LEO A FALCAM JR., 0000
DOUGLAS O FEGENBUSH JR., 0000
PETER J FERRARO, 0000
JAMES N FLOWERS, 0000
STEVEN A FOLSOM, 0000
CARL J FOSNAUGH III, 0000
KEVIN F FREDERICK, 0000
DAVID C FUQUEA, 0000
PIERRE C GARANT, 0000
JOHN C GAUTHIER, 0000
WILLIAM R GRACE, 0000
JACOB L GRAHAM, 0000
PATRICK J GREENE, 0000
RAYBURN G GRIFFITH, 0000
CURTIS E HABERBOSCH, 0000
KATHLEEN V HARRISON, 0000
KIP J HASKELL, 0000
DAVID J HEAD, 0000
BRIAN J HEARNSBERGER, 0000
PAUL K HILTON, 0000
ADELE E HODGES, 0000
DAVID K HOUGH, 0000
CHARLES L HUDSON, 0000
DAVID W HUNT, 0000
OSAMAH A JAMMAL, 0000
CAROL K JOYCE, 0000
PATRICK J KANEWSKE, 0000
MICHAEL R KENNEDY, 0000
DOUGLAS M KING, 0000
RICHARD W KOENEKE, 0000
BRUCE D LANDRUM, 0000
JAMES K LAVINE, 0000
BRADLEY C LINDBERG, 0000
JOHN P LOPEZ, 0000
BRUCE D MACLACHLAN, 0000
NICHOLAS J MARSHALL, 0000
ROBERT A MARTINEZ, 0000
PETER T MCCLENAHAN, 0000
MICHAEL W MCERLEAN, 0000
WALTER L MILLER, 0000
JOSEPH MOLOFSKY, 0000
ARCHIBALD MORRISON VI, 0000
DAVID C MYERS, 0000
KEVIN J NALLY, 0000
MICHAEL G NAYLOR, 0000
WALTER L NIBLOCK, 0000
CARLOS I NORIEGA, 0000
JOSEPH L OSTERMAN, 0000
STEVEN R PETERS, 0000
ILDEFONSO PILLOTOLIVE II, 0000
RICHARD S POMARICO, 0000
ALBERT F POTWIN, 0000
MATTHEW D REDFERN, 0000
RAYMOND G REGNER JR., 0000
DANIEL S ROGERS, 0000
ROBERT R RUARK, 0000
RICHARD W SCHMIDT JR., 0000
MARK C SEMPF, 0000
JOHN E SHOOK, 0000
MICHAEL A SHUPP, 0000
GREGORY P SIESEL, 0000
GLENN T STARNES, 0000
VINCENT R STEWART, 0000
CALVIN F SWAIN JR., 0000
JAMES J TABAK, 0000
PHILLIP C TISSUE JR., 0000
JAMES R TRAHAN, 0000
GREGORY S TYSON, 0000
MARK W VANOUS, 0000
BRIAN J VINCENT III, 0000
ERIC M WALTERS, 0000
JOHN R WASSINK, 0000
NATHAN O WEBSTER, 0000
GARY D WIEST, 0000
JOHN C WRIGHT, 0000
FRANCIS S ZABOROWSKI JR., 0000
DONALD W ZAUTCKE, 0000

EXTENSIONS OF REMARKS

TRIBUTE TO THE BROOKLYN TABERNACLE CHOIR

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Mr. TOWNS. Mr. Speaker, today I rise to pay tribute to the Brooklyn Tabernacle Choir.

The internationally renowned Brooklyn Tabernacle Choir was founded in 1973. As part of the ministry of the Brooklyn Tabernacle Church in Brooklyn, New York, the 250-voice choir is recognized worldwide for the magnitude of its sound and the soul-filled inspiration of its music. Since its formation three decades ago, the choir has emerged as a major influence within the Christian/gospel music industry.

With a multi-ethnic and economically diverse membership, the choir truly represents the best of New York and America. Some members have been singing with the choir for more than 25 years. Despite their differing backgrounds, the entire choir operates like a close knit family. This level of cooperation is possible because of the individual commitment of the members and the inspired leadership of its director, Carol Cymbala. I want to commend the choir on its ability to apply the harmony of music to the ministry of life.

On February 23, 2003, the Brooklyn Tabernacle Choir won a Grammy Award for Best Gospel Choir or Chorus for its album ''Be Glad''. With this most recent recognition, the group has become one of a few choirs which has attained the acknowledgment of both the popular music business and the Christian music industry. As a five-time winner of the Grammy Award and two-time winner of the Dove Award, the Brooklyn Tabernacle Choir has performed in some of the most celebrated venues in New York City, including Carnegie Hall, Radio City Music Hall, and the Paramount Theater. In a rare testament to the power of its music, the choir has played to a sold-out audience at Madison Square Garden. With New York City and Brooklyn as its home, the choir continues to greatly impact the local community, including my district, the 10th Congressional District of New York.

Mr. Speaker, I rise today to commend this choir not only on its most recent Grammy Award but on its 30 years of dedicated music ministry. In these difficult and uncertain times, I sincerely hope that the Brooklyn Tabernacle Choir continues to use music to bring a message of good news and hope to Brooklyn and the world.

A PROCLAMATION RECOGNIZING KEVIN H. BARNETT

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Mr. NEY. Mr. Speaker, whereas, Kevin H. Barnett has devoted himself to serving others through his membership in the Boy Scouts of America; and

Whereas, Kevin H. Barnett has shared his time and talent with the community in which he resides; and

Whereas, Kevin H. Barnett has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Kevin H. Barnett must be commended for the hard work and dedication he put forth in earning the Eagle Scout Award; and

Therefore, I join with Troop 141, the residents of Carrollton, and the entire 18th Congressional District in congratulating Kevin H. Barnett as he receives the Eagle Scout Award.

SOCIETY FOR HUMAN RESOURCE MANAGEMENT (SHRM)

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Mr. BOEHNER. Mr. Speaker, I rise today to welcome the members of the Society for Human Resource Management (SHRM) to Washington, D.C. for their 20th Annual Employment Law and Legislative Conference. Today, more than 200 SHRM members will visit Capitol Hill to share their views and experiences with issues such as the Fair Labor Standards Act, health care reform, and pension reform.

SHRM is the world's largest association devoted to human resource management. Representing more than 170,000 individual members, the Society serves the needs of human resource (HR) professionals by providing the most essential and comprehensive set of resources available. As an influential voice, SHRM also seeks to advance the HR profession by ensuring that HR is an essential and effective partner in developing and executing organizational strategy.

As a legislator, I want to congratulate the members of SHRM for recognizing the important role individuals can play in affecting the legislative process. HR professionals maintain demanding schedules and are crucial to the successful operation of our nation's organizations. Most importantly they understand the positive impact of meeting with their Senators and Representatives to discuss recent workplace trends, their policy implications, and suggested remedies. Citizen participation is a crucial component of the legislative process, allowing legislators and their staff the opportunity to hear constituents explain personal experiences as they live and work within our nation's laws. Finally, legislators gain critical knowledge through these conversations, resulting in legislation that's clearly applicable to the workplace and effective for employees and employers.

Mr. Speaker, I sincerely thank the members of SHRM for their commitment to provide value to employees and employers across the United States while contributing an essential component to the political process—practical real world experience.

ARTICLE BY RABBI ISRAEL ZOBERMAN

HON. EDWARD L. SCHROCK

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Mr. SCHROCK. Mr. Speaker, I am pleased to share the following article written by a constituent, Rabbi Israel Zoberman. His article is timely and informative with respect to the current political situation in Israel.

With a heavy heart I bade shalom's farewell to elderly parents who are Holocaust survivors, and to Israel where I grew up, on the eve of the unknown. I left a country calmly readying itself for a probable American attack on Iraq in freedom's name, and possible ramifications for the Jewish state that already experienced a limited taste of Saddam Hussein's Scud missiles during the 1991 Gulf War. As then, which I witnessed as well, the Israeli public receives updated gas masks, and urged to prepare a sealed shelter with essential food items. There is less concern now though it can quickly change.

I visited Israel with fellow rabbis immediately following the general elections there which serve as a barometer for the citizens' mindset, particularly after enduring over two years of the bloody Second Initifada presenting Israel with its greatest crisis since its 1948 inception. The resulting shrinking economy and the growing gap between the haves and the have-nots have added pressure, but also fortified the Israeli resolve to withstand the Palestinian assault of unprecedented suicide-homicide bombings, reflected in the elections' outcome. Free elections are not to be taken for granted in that part of the world, and Israel's vibrant example is the only such sign of democratic life! Israel is worried that only 69 percent of eligible voters participated this time, that should only happen in our own great democracy.

Prime Minister Sharon and the political Right were assured a major victory though the message was primarily aimed at Chairman Arafat along with punishing Israel's Left for providing him through the Oslo Accords with the means to terrorize though short of submission to his agenda. Thus Arafat's plan boomeranged to gain through violence beyond what former Prime Minister Barak so trustfully offered him. He lost his gamble, with the Palestinians miscalculating once more and continuing to hurt their own welfare. This time Arafat succeeded to convince Israel and the U.S., both victims of terrorism and allies in combating it, that he is a critical obstacle to peace. I was fortunate to participate in a helicopter ride along the seam line separating the Israelis and Palestinians, watching from above the complexity of erecting the separation fence and Israel's disconcerting narrow waistline.

The sharpening conflict has also adversely impacted European Jewry as

we studied the precipitous rise in anti-Semitism in France during our initial stop there, mindful of the contributing presence of millions of Arab Muslims though the French authorities are not indifferent to the Jewish plight. We were warmly greeted and candidly briefed by Howard Leach, the American Ambassador to France in his official residence. Israel's ambassador, Nissin Zvllli, was gracious as well. Both ambassadors pointed at the linkage between the events in the Middle East and the French scene. Our moving meeting with the legendary Nazi-hunter Beatte Klarsfeld reminded us that the Holocaust's ghosts are not altogether expunged. This sense was reinforced at the Drancy Memorial on the outskirts of Paris, where French Jews were herded into the surrounding building complex before deportation to death.

I painfully watched in disbelief on Israeli TV the shattering dream, so close to realization though so far, of Israel's first astronaut on his maiden voyage. Ilan Ramon's call from outer space to remember that we are all one human family on a precious but fragile planet Earth will long echo. His radiating and captivating optimism is so sorely missing and needed at this trying time. He, whose mother survived Auschwitz, along with his inspiring American colleagues aboard the Columbia, taught us how vulnerable are our most noble human aspirations and that the road to accomplishing them is strewn with broken pieces of a reality we are yet pledged to redeem through shalom's persistent promise of peace.

Rabbi Israel Zoberman, spiritual leader of Congregation Beth Chaverim in Virginia Beach, is a member of the Rabbinic Cabinet of United Jewish Communities.

TRIBUTE TO WILLIAM C. WRIGHT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to the life and memory of William C. Wright of Pueblo, Colorado. Bill was a hero who saved the lives of five people and was a constant contributor to his community. Today, I stand before this body of Congress and this nation to honor the heroism of William C. Wright, and commemorate his recent passing.

In a span of less than ten years, Mr. Wright's selflessness and quick thinking saved the lives of five people. In June of 1964, while working on a construction site, Bill saved an 18-month-old girl who had stepped in front of a moving truck. Bill risked his own life by jumping in front of the truck and cushioning the girl's fall with his own body. Then, a few weeks later, Bill stopped his car at an accident on La Veta Pass. Seeing a man pinned beneath the overturned car, Bill lifted the car, freeing the man to crawl to safety. Always humble, Mr. Wright said he doubted his own physical strength. The strength of his resolve saved the trapped man's life.

Less than a year later, Bill saved a young girl in a busy intersection in Gunnison, Colorado. Then, while traveling to Golden, Bill again paused to check on a vehicle stopped in the middle of the road. He saw a five-year-old boy brush against the gearshift, sending the car down a steep incline. Bill dashed after the car and, after breaking the window with his shoulder, stopped the car, saving the boy inside it. Finally, during a trip to Las Vegas, Bill saved another young girl, though he himself suffered a fractured elbow and a broken wrist. Mr. Wright's quick actions and selfless thinking saved the lives of five individuals, making him a true hero who will be deeply missed.

Mr. Speaker, it is with great sadness that we mourn the loss of Mr. William Wright. He saved many lives, and was a hero for Pueblo and all of Colorado. As we mourn Bill's passing, our thoughts are with those who knew him, and we are sure that his memory will live on in the lives of all those he touched, and especially those he saved.

IN RECOGNITION OF THE 60TH ANNIVERSARY OF INTERSTATE WORLDWIDE RELOCATION

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Mr. WOLF. Mr. Speaker, I am proud today to recognize the 60th anniversary of Interstate Worldwide Relocation, headquartered in northern Virginia, a worldwide relocation and transportation management company specializing in household goods moving and storage.

A sterling example of the American dream fulfilled, Arthur E. Morrissette started the company on March 15, 1943, with a used truck worth $450, a dolly and a few furniture pads. His first move was billed at $12.50, and in the winter of that year he sold bundles of firewood just to keep the business going. Today, Interstate is a multi-million dollar enterprise, operating a fleet of approximately 300 vehicles, employing more than 300 people in northern Virginia and consisting of over 500 representatives worldwide.

Interstate, ranked in the nation's top twenty for relocation and transportation management companies, is committed to its motto of providing ''Top Hat Service.'' The company has been recognized by both industry and community organizations for its outstanding customer service and safety efforts. To mention a few, American Moving and Storage Association honored Interstate in 2001 with a first place Safety Initiative Award and Fleet Safety Award. Fairfax County Economic Development Authority awarded its 2001 Blue Diamond Quality First Award to Interstate distinguishing the company as a business that provides high quality customer service above and beyond industry standards.

In addition, Interstate was awarded the 2001 National Capital Ethics Award by the Greater Washington and Northern Virginia Chapter of the Society of Financial Services Professionals as a business that exemplifies a strong commitment to business excellence and to the highest standards of civic and social responsibility, integrity and ethical conduct.

Interstate also has become the U.S. Department of Defense's second-largest mover, and has provided a superior level of service to military families moving domestically, and internationally.

The company also has a long standing commitment to serving the needs of the community, both locally and across the Commonwealth. Interstate's dedication to the support of education from the elementary school level through and including endowed scholarships at universities in the Commonwealth is commendable.

It is an honor to present Interstate Worldwide Relocation as an example of the business values America holds dear and as an example of an outstanding corporate citizen. On behalf of the northern Virginia community, we wish the entire Interstate family of management and employees another 60 years of ''Top Hat Service.''

A TRIBUTE TO YOLANDA J. MARTIN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of Yolanda J. Martin in recognition of her dedication to helping those in need.

Yolanda was born in the town of Puerto Armuelles in the Republic of Panama. However, she spent her formative years of elementary and high school in the city of Colon.

She immigrated to the United States in 1981 and has been a resident of Brooklyn ever since that time. Yolanda has a strong desire to improve her community by assisting the less fortunate. She believes that we must provide children and adults with the necessary resources to become educated and gain financial independence. Through education and financial development, she feels communities can empower themselves. She has shown a consistent dedication to these ideals through both her professional and personal life.

At fourteen, Yolanda joined the Boy Scouts Explorer unit where she was exposed to Emergency Medical rescue trainings. This experience cultivated her fascination with the medical field. Yolanda has become a State certified Emergency Medical Technician (EMT), Nurses Assistant, C.P.R. and First Aid Instructor, and HIV/AIDS Educational Instructor. As a way of giving back to the community, she worked as an EMT from 1990 to 1995, responding to 911 calls with a volunteer ambulance service. She volunteered an average of 20 to 30 hours a week.

Yolanda began her professional career in the United States working with mentally disabled people for the State of New York State from 1982 to 1985. For the next three years, she worked at the New York State Division for Youth. Yolanda followed this experience by working for the Board of Education as a bilingual Paraprofessional in Special Education.

More recently, she has founded three childcare services: Parents United for a Better Society Inc., child care center number one and child care center number two, and Minnie's Family Group Day Care, where she serves as the Executive Director and CEO.

The center offers the community 95 slots for day care, after school programs, summer programs, and universal pre-kindergarten for children up to 13 years old. Adult training and parenting classes are provided to the parents and others in the community as well. Yolanda is presently working on creating an additional day care center that will provide 178 childcare

slots and a senior citizen day care program in the East New York area of Brooklyn.

Yolanda participates in a wide array of community activities. She helps distribute food to disadvantaged families in the community and assists undocumented residents with referrals to the appropriate agencies that can address their needs. Yolanda is the President and founder of a women's support group called Innovation and serves on the Board of Directors for the New York Lions Club. She is also a member of the Panamanian Black Chambers of Commerce, the Prospect Park Alliance group, the Interfaith Medical Center Auxiliary, and the PNM group of North America.

When Yolanda is not working with others in the community, she spends time with her children and family. She has three children, Ronald, Kendra, and Courtney. Yolanda is known for her excellent cooking as well as her interior decorating ability. She also enjoys the performing arts, horseback riding, and grooming horses.

Mr. Speaker, Yolanda is devoted to improving her community. As such, she is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable woman.

A PROCLAMATION RECOGNIZING JOHN ALEXANDER GRECO

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Mr. NEY. Mr. Speaker, Whereas, John Alexander Greco has devoted himself to serving others through his membership in the Boy Scouts of America; and

Whereas, John Alexander Greco has shared his time and talent with the community in which he resides; and

Whereas, John Alexander Greco has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, John Alexander Greco must be commended for the hard work and dedication he put forth in earning the Eagle Scout Award;

Therefore, I join with Troop 150, the residents of Minerva, and the entire 18th Congressional District in congratulating John Alexander Greco as he receives the Eagle Scout Award.

TRIBUTE TO DONALD LEE KRIZ

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to the life and memory of Donald Lee Kriz and thank him for his contributions to the community of Glenwood Springs, Colorado. Donald passed away recently, and will be truly missed in his community.

Donald was born in Nebraska in 1929 and later moved to Greeley, Colorado, after having served in the U.S. Navy. While in the Navy, Donald was stationed in the Philippines for 13 months. After arriving in Greeley in the early 1950s, Donald worked for a farm equipment company. Then in 1965, he and his brother started Mountain Mobil Mix, a ready-mix concrete company in Frisco. The business boomed, and eventually expanded to cover over eight Western Slope counties. After having become a leader in concrete technology, Mr. Kriz sold the business in 1982. Once retired, Donald divided his time between his beloved Colorado and Arizona.

Donald was a leader in the business community, but his influence did not stop there—he was also an avid philanthropist. Donald was well known as a generous soul. He helped many young people with their college tuitions, their first homes and even with starting a business. Mr. Kriz was not only generous with his money, but also with his time. He helped to raise money for Garfield Youth Service through the annual ''Kiss-a-Pig'' fundraiser for many years. Donald was a gracious and giving man, whose community benefited significantly from his knowledge, time and efforts.

Mr. Speaker, it is with profound sadness that I remember the life of Donald Lee Kriz. The many people he impacted deeply value his dedication and generosity. My thoughts and prayers are with Donald's family and friends during this difficult time.

HELP MORE FULL-TIME WORKERS BRING HOME A DECENT PAYCHECK

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Mr. GUTIERREZ. Mr. Speaker, today I am introducing the ''Federal Living Wage Responsibility Act of 2003,'' legislation to mandate a livable wage for employees under Federal contracts and subcontracts. Forty-eight representatives currently cosponsor this important legislation.

Nearly a third of the members of the U.S. labor force work full-time, year-round and still do not earn enough to sustain a family above the poverty threshold of $18,400 per year for a family of four. Employees who work hard at full-time jobs should be paid a wage that assures they will not live in poverty.

To address this problem, this Act requires that:

Employees of Federal contracts or subcontracts of more than $10,000 be paid the greater of $8.85 per hour or the hourly wage necessary to reach the poverty level.

Individuals hired by the United States government also receive a living wage, helping thousands of more workers to stay above the poverty level.

Employees of Federal contracts or subcontracts and individuals hired by the United States government receive benefits such as medical or hospital care, vacation and holiday pay, disability and sickness insurance, life insurance and pensions.

Although Congress passed laws such as the Davis-Bacon Act and the Service Contract Act to help ensure that employees of Federal contractors earn a decent wage, thousands of federal workers and federally-contracted workers still do not earn enough to support themselves or their families.

This legislation will allow hard-working Americans to earn quality wages and to increase their savings for such essential needs as their retirement and their children's education. We believe the Federal government must take responsible, workable steps to reward working Americans and to help keep them out of poverty. This bill represents a practical step toward that goal.

Mr. Speaker, I urge my colleagues to support this important legislation.

TRIBUTE TO DEREK GRAY

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Mr. MEEHAN. Mr. Speaker, I rise to express my strong support for the resolution offered by my colleague from Rhode Island. This resolution expresses the sense of the House of Representatives with regard to the need for improved fire safety in nonresidential buildings in the aftermath of the tragic fire on February 20, 2003, at a nightclub in West Warwick, Rhode Island, and expresses the condolences of Congress to the families and friends of the people who died in that horrible fire.

I was deeply saddened to learn of the tragic deaths of the 99 people who were killed and more than 180 others who were injured in the fire, including the death of Derek Gray. Derek was a Dracut, Massachusetts resident and only 22 years old when he died as a result of the nightclub fire. I want to express my deep condolences to Derek's family, as well as to the families and friends of all of the people who died or were injured as a result of the fire.

The Station nightclub fire was a massive tragedy—one in which nearly 100 people lost their lives. What we know about that horrible event is that the people who perished that night were the victims of a lack of protections—or enforcement of existing protections—to ensure the safety of club-goers. Last month, numerous others lost their lives in a Chicago nightclub stampede for the same reason.

We in Congress have a duty to the people who lost their lives and their families to work to ensure that these events never occur again. We need to dramatically increase safety protections at entertainment facilities across this country, and we need to do it now.

A TRIBUTE TO EVELYN MEDORA MOSS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of Evelyn Medora Moss in recognition of her commitment to her community.

Born in the Republic of Panama to George Leopole and the late Imogene Elisa Ashley, Evelyn came to the United States in the early 1960s. She is truly one of Panama's and America's success stories. Realizing early on that education was a key for a successful future, Evelyn attended the University of Panama and received a degree in Home Economics in 1959. After graduating, she took a job

as a home economics teacher for Christ Church Episcopal School in Colon, Republic of Panama.

In the early 1960s, when she moved to the United States, Evelyn used her aptitude for numbers to start a new career. In 1962, she obtained a job as an Assistant Bookkeeper for White Mark Stores in New York City. She continued there until 1968 when she took a job at Ebasco Services where she worked for the next 25 years. She began as a Lead Accounting Clerk and would work her way up to Corporate Manager of Accounts Payable. In 1994 Evelyn joined Raytheon Engineers and Constructors as an Accounting Supervisor. Currently, she works for Washington Infrastructure Services as an Assistant Accountant. Never losing sight of the importance of education, Evelyn attended Brooklyn College during this time, receiving her Bachelor of Arts in Economics in 1977 and her Bachelor of Science in Accounting in 1978. Later, she completed courses at the Businesswomen's Training Institute, focusing on leadership issues. She also participated in the Institute's Advanced Studies' program.

Evelyn has also become a member of several professional organizations including the National Association of Black Accountants, the National Association of Female Executives, the National Association of University Women (NAUW), Harry S. Truman New Way Democratic Club in Brooklyn, the National Political Congress of Black Women, Brooklyn College Alumni Association, and the Women's Empowerment Movement.

She has been honored with several awards and distinctions for her accomplishments. The list includes: NAUW's 1987 Women of the Year Award, Women's Empowerment Movement's 2001 Outstanding Member of the Year, and NAUW's 2002 Distinguished Member award. She has also been listed in Who's Who in America, Who's Who in Finance, Who's Who in the World, and Two Thousand Notable American Women. Evelyn notes that her most important achievement is her son Marc Anthony.

The other important aspect of her life is her role as an active member of Trinity Church on Wall Street in New York City. She served for three years as Vice-President of the Congregation Council and is currently President. She has also performed several other functions including layperson, head usher, and congregation representative to the vestry.

Mr. Speaker, with her numerous awards and professional memberships, Evelyn Medora Moss has shown that she is clearly dedicated her community. As such, she is more than worthy of receiving our recognition today. I urge my colleagues to join me in honoring this truly remarkable woman.

TRIBUTE TO CHIEF DARWIN HIBBS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize the service of Chief Darwin Hibbs of Salida, Colorado before this body of Congress and this nation. After thirty-seven years working for the people of Salida, Chief Hibbs can be confident that his community is truly grateful for his years of dedicated service.

Darwin, who grew up in Salida, started working for the Police Force when he was only 25 years old. He started as a parking monitor, but through his hard work and dedication he moved through the ranks to become Salida's longest serving Police Chief. Under his guidance, the Police Force has nearly tripled in size from its original five officers. Chief Hibbs and his force have greatly improved the protection that the people of Salida receive. While acting as Police Chief, Darwin has created a strong and capable force that has been intricately involved in the capture of Colorado's largest cocaine ring, and various other high profile cases in the state. It is with great pride that I have the ability to honor Chief Hibbs today.

As a law enforcement officer, I am well aware of the dangers and hazards our peace officers face today. These individuals work long hours, weekends, and holidays to guarantee their fellow citizens' rights and protections. They work tirelessly, with great sacrifice to their personal and family lives, to ensure our freedoms remain strong in our homes and communities. Their service and dedication deserve the recognition and thanks of this body of Congress and our nation, and that is why I bring the name of officers like Police Chief Hibbs to light today.

Mr. Speaker, it is with great honor that I rise before this distinguished body of Congress and this nation to pay tribute to the extraordinary service of Chief Darwin Hibbs. His strong leadership and dedication have improved the quality of policing for the people of Salida and the residents of the entire State of Colorado.

HONORING MAYOR DAVID W. SMITH FOR HIS 25 YEARS OF OUTSTANDING SERVICE TO THE CITY OF NEWARK, CA

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Mr. STARK. Mr. Speaker, I rise today to honor Mayor David W. Smith for his years of dedicated service to the city of Newark, California. On March 13, 2003, Mayor Smith's colleagues will celebrate his 25 years of service at a reception in Newark.

Mayor Smith was elected to the Newark City Council in 1976, and two years later was elected mayor. He is currently serving his 12th consecutive term, making him the most senior mayor currently serving in California and the 7th most senior mayor in the country.

Mayor Smith's genuine love for the city of Newark shows in the intelligent, commonsense approach he brings to decision making, and colleagues point to his terrific sense of humor as one of his great attributes. Under Mayor Smith's leadership, Newark has evolved into an efficient and responsive government.

When he first came into office in 1978, Newark generated little tax revenue outside of property taxes. Throughout his tenure, Mayor Smith has led Newark's resurgence by working to attract top companies and building state-of-the-art educational and recreational facilities.

Under Mayor Smith's leadership, the NewPark Mall Regional Shopping Center and the Newark Hilton Hotel opened for business in the 1980s. In the last decade, he has worked to accelerate development of the Newark Auto Center, which now houses 13 auto dealerships. He was also instrumental in attracting a large Sun Microsystems complex to the city.

Recently, Mayor Smith provided leadership in planning a new community college and in developing and constructing the George M. Silliman Complex, a world-class recreation center that will include a large indoor aquatic park.

While leading Newark's growth, Mayor Smith has also maintained his position as Vice-President of the Oatey Company's Retail Division. He serves on the U.S. Conference of Mayors, the Alameda County Conference of Mayors, and the Alameda County Transportation Authority, and on many local and national committees and boards. His many awards and honors include a Lifetime Membership in the U.S. Jaycees, and a listing in Who's Who in the West.

I am honored to join the colleagues of Newark Mayor David W. Smith in commending his exemplary leadership, which has enabled Newark to grow into a wonderful place to live and a successful commercial leader.

IN SUPPORT OF TITLE IX

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Ms. SLAUGHTER. Mr. Speaker, I rise today to announce the introduction of a resolution in support of Title IX.

In 1972, about 30,000 women played college sports. Today, that number has increased by more than 500 percent.

In 1972, about 200,000 girls participated in high school athletics. Today, that number has increased by more than 800 percent.

Mr. Speaker, it is no coincidence that women and girls have more opportunity today than they did 30 years ago. It is not because they have more interest than they used to, and it is not because they have more ability than they used to. These increased opportunities are attributable to one law: Title IX.

Title IX of the Education Amendments of 1972 is the Federal law that prohibits sex discrimination in education. It states: ''No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.'' In essence, Title IX requires schools and colleges receiving Federal funds to give women and girls equal athletic opportunities, including athletic scholarships, equipment, coaching, and facilities, among other benefits.

Unfortunately, Title IX has come under assault. Those who favor changing Title IX argue mistakenly that it has led to the disappearance of athletic opportunities for male athletes. While both sides of the debate over Title IX athletics policies agree that they should allow for gender parity and overall fairness in sports,

the real question that begs to be answered is, ''What constitutes fairness?''

For those who want to alter Title IX and how it has been implemented, fairness means that male athletes should have a monopoly over opportunities and resources for their programs, regardless of how under-funded or nonexistent similar programs for female athletes may be.

For these challengers to Title IX, it is fair that while more women than men attend college, only 42 percent of all college athletes are women.

For them, it is fair that females currently receive 1.1 million fewer (41 percent) opportunities at the high school level and 58,000 fewer (38 percent) opportunities at the college level than do their male counterparts.

This ill-conceived notion of fairness that opponents of Title IX put forth justifies the fact that men currently receive $133 million (36 percent) more than women in athletic scholarships. Division 1–A colleges and universities allocate on average 71 percent of their scholarship money for men's athletics, and their recruiting dollars for male athletes double those spent on female athletes.

Not only do these opponents of Title IX feel that this is fair, but they oppose any efforts to salvage the progress that has been made. It bothers me deeply that opponents of Title IX say that male athletes are treated unfairly. Although 30 years of progress since Title IX have seen sports participation for males and females grow, female athletes are still not treated equitably.

This resolution expresses the sense of the House of Representatives that changes to Title IX athletics policies contradict the spirit of athletic equality and gender parity and should not be implemented. Title IX has been the dam that holds back gender discrimination in educational programs for 30 years, allowing millions of young women the opportunity to pursue goals of which their predecessors could only dream.

I am standing here to defend the integrity of this landmark civil rights law because it is the right thing to do, but I also rise in honor of my dear friend and beloved colleague, Patsy Mink. In 1972, Patsy helped to enact Title IX. I know that she would be standing right beside me were she alive today. She struggled for 30 years to protect educational equity for men and women, and it is in memory of the legacy she left behind that we must not give up on the fight to preserve equality for women.

Opponents of Title IX are trying to redefine what America sees as fair. As a consistent defender of gender equality and the protection of equal rights for all of our citizens, I am outraged by this particular brand of fairness. Patsy would have been outraged as well, and she would not have tolerated it. I hope all of my colleagues will join me, with our Republican and Democratic friends who support this legislation, as we all fight to preserve the integrity of this landmark law. Please cosponsor this resolution for the sake of Patsy Mink, for the sake of our Nation's girls, and for the sake of equality.

PAYING TRIBUTE TO LEONARD AND GEORGIANA KINDER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Mr. McINNIS. Mr. Speaker, it is with great honor that I rise today in order to recognize Leonard and Georgiana Kinder of Norwood, Colorado. The Kinders have been important members of their local community and the State of Colorado for many years.

The Kinders met in the early 1940s, when Leonard offered to give Georgiana a ride home. The two continued to grow closer when, in 1945, Leonard became a pilot in the United States Navy and was stationed in the South Pacific. After being transferred to a base in Oklahoma, Leonard sent Georgiana an engagement ring. A few years later, in 1948, the two moved to Redvale, Colorado. From 1959 until 1972, Leonard worked in the Union Carbide mines near Leadville, Colorado. During this same time, the Kinders built a school in Bullion Canyon, in which Georgiana taught first to eighth grade. The Kinders, along with a group of their friends, built and ran Ski Dallas, San Miguel County's first ski area and the forerunner of the now famous Telluride Ski Resort. Both Leonard and Georgiana have been extremely active in the Norwood area and have helped to build a strong sense of community.

Enjoying their retirement, the couple divides their time between their beloved Colorado and Arizona. Both Leonard and Georgiana are avid rock collectors and find joy in being outside with nature and perusing their hobby. Leonard is an excellent lapidary, creating polished stone spheres and globes. Georgiana is currently involved in the efforts to restore the Pioneer Day Stagecoach, the former school bus between Norwood and Telluride. The Kinders are exceedingly proud of their close-knit community, which they have supported for many years.

Mr. Speaker, it is with pride that I recognize Mr. and Mrs. Kinder before this body of Congress and this nation. Their dedication to Colorado and our country is truly noteworthy. The Kinders' active involvement in their community has benefited not only those in San Miguel County, but in the entire State of Colorado as well.

HONORING THE 25TH ANNIVERSARY OF MICHIGAN AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME) COUNCIL 25

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Mr. DINGELL. Mr. Speaker, I rise today to pay tribute to Michigan AFSCME Council 25 on their 25th Anniversary.

Michigan AFSCME Council 25 is one of the most dynamic unions in the Michigan AFL–CIO. The more than 60,000 members of Council 25 are comprised of state and local government workers committed to achieving dignity and improving their working conditions through collective bargaining. Michigan AFSCME Council 25 was formed by a special convention held March of 1978. Five smaller Michigan AFSCME Councils combined forces to form Council 25, which became larger and stronger than the previous councils. The new Council 25 streamlined and enhanced services and realized economies of scale to benefit AFSCME members across Michigan.

Today, Mr. Speaker, Michigan AFSCME Council 25 has blossomed into more than 300 local unions, representing more than 600 bargaining units. The local unions have their own constitutions, elect their own officers and administer a wide variety of local affairs. For 25 years, Michigan AFSCME Council 25 has been committed to Michigan's communities, has provided effective political activism and years of advocacy for Michigan's working families.

Mr. Speaker, I want to thank the numerous employees of state, county and municipal govennnents, school districts, public hospitals and nonprofit agencies to name a few, for their tireless efforts on behalf of workers throughout Michigan. I also want to commend AFSCME Council 25 President, Albert Garrett, who is a good friend and a passionate advocate for the members of Council 25 and all of Michigan's working families. Additionally, Lawrence Roehrig, the Secretary-Treasurer of Council 25 deserves our appreciation for his commitment to community service and the values held dear to working people across this great Nation.

On the occasion of their 25th Anniversary, Mr. Speaker, I ask all my colleagues to join me in saluting the Michigan AFSCME Council 25.

A TRIBUTE TO GLORIA MILLER

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of Gloria Miller in recognition of her dedication to improving the health of her community and uplifting those in need.

Born in Jamaica, W.I., Gloria at the age of 16 traveled to London England to study and begin a career in nursing. Her commitment and strong desire, then as it is now, was to educate, inform, and help others in the community. She immigrated to the United States in March 1968 and began working at Kings County Hospital in Brooklyn, New York. While working at the hospital, Gloria attended Lincoln Hospital School in the Bronx. After graduating, she was elevated to the position of Head Nurse. She furthered her education at St. Francis College where she earned a degree in both a Bachelor of Arts and a Bachelor of Science, graduating Summa Cum Laude. Next, Gloria took administrative courses in Long Term Care at the New York City Technical College in Brooklyn. Eventually, she received a Master of Public Administration from New York University with distinction. She accomplished all of this while working full time, caring for her two children, and planning numerous health fairs for St. Gabriel's Church.

In 1980, Gloria, now an Administrative Supervisor at Kings County Hospital, focused her energy on improving treatment for the drug

dependent community, instituting a program to closely monitor dosage of medication and evaluation of patient progress. As part of the program, she also upgraded the hospital's system for documenting or recording nurses' interventions or admissions notes. She also encouraged greater participation in the hospital's drug addiction classes by holding teaching sessions in the hospital's lobby. Special emphasis was placed on intervention for drug addicts and alcohol dependent clients who were pregnant.

In 1989, Gloria moved to Coney Island Hospital where she focused on the facility's ''Drug Free Clientele Program.'' As a clinical therapist, she identified clients with drug and alcohol problems and referred them to an in-house drug free program. She shared her work with the March of Dimes Foundation, which used some of the information as part of a paper on birth defects. In the late 1990s when Gloria retired, her main focus became helping her daughter who is following in her mother's footsteps by working as a nurse at Coney Island Hospital.

However, Gloria continues to be an asset to her community through her volunteer work. She volunteers at Samuel J. Tilden High School, where she conducts conflict management intervention groups and sessions on alternative ways of dealing with angry students. She also helped establish a scholarship fund for two consecutive years for four students entering the health administration field of study from Tilden. Gloria's volunteer service also extends to several other community-based organizations such as the Caribbean Women United for Social and Political Action (CWUSPA) and the Caribbean Women's Association. Additionally, she has served as Secretary and Chairperson for the Social Service Committee on Community Board 17. Gloria holds the position of 1st Vice-President at Dr. Susan McKinney Nursing and Rehabilitation Center Auxiliary and has been the Chairperson of the Community Advisory Board for the past three years. As Chairperson, she served as a member of the NYC Health and Hospitals Corporation Council of Community Advisory Board.

She is an active member of the St. Augustine's Episcopal Church and is one of the founding members and the first president of the Health Guild. During her presidency, she raised $23,000 for the church. She also holds a certificate from the New York Theological Seminary for assisting her priest with his Doctorate of Divinity Degree. Currently, she assists the priest-in-charge in coordinating annual services to honor the 67th precinct with the goal of fostering a better relationship between the police and community.

Mr. Speaker, Gloria Miller has dedicated her life to helping her fellow community members. As such, she is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable woman.

THOMPSON CANCER SURVIVAL CENTER

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Mr. DUNCAN. Mr. Speaker, today I would like to share with you and the House news from my district that will offer life-saving technology to people across our Nation.

Thompson Cancer Survival Center in Knoxville, Tennessee, recently received state-of-the-art equipment that experts say will revolutionize cancer treatment. The $2.9 million TomoTherapy unit allows doctors to deliver radiation treatments more accurately, and with far fewer side effects, than traditional treatment.

TomoTherapy is especially effective for cancers of the prostate, neck, head and spinal cord, and other cancers that are near sensitive organs or structures. Doctors at Thompson will begin treating patients with TomoTherapy this spring, making them the first in the Nation to benefit from this new technology.

Thompson's TomoTherapy unit is one of only nine in the world, and so far only six U.S. hospitals are slated to receive this life-saving equipment. This means people from across our Nation and around the world will look to East Tennessee for help in battling cancer.

Mr. Speaker, I congratulate Thompson Cancer Survival Center for this latest victory in the fight against cancer.

PAYING TRIBUTE TO KYLEE SMITH

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Kylee Smith of Montrose, Colorado. Through Kylee's diligent efforts, numerous Cottonwood Elementary School students have developed a love for physical fitness that will allow the students to reap many benefits for the rest of their lives.

Kylee has created an innovative program called ''Shape Up Across Colorado'' to encourage her students to participate in physical activity. The program, which has been in place since 1991, uses 400 squares, each representing a square mile in a model of the State of Colorado. As children advance through numerous levels of activities, they are allowed to fill in corresponding squares. Using this program, the students are able to see their progress while they participate in activities they love, such as running outside, and playing in the playground. Kylee has really taught her students how to love physical exercise as well as being in the outdoors.

Earlier this year, Colorado Governor Bill Owens honored Mrs. Smith for her efforts to teach children about the benefits of physical education. She was presented with the ''Shape Up Colorado Teacher of the Year'' award from the Governor's Council for Physical Fitness and the Colorado Foundation for Physical Fitness. Kylee, who is proud to live in Colorado with its great outdoor resources, believes that programs like this one will help my state become the nation's leader in physical fitness.

Mr. Speaker, it is with great pride that I stand before you, this body of Congress, and this nation today to honor Kylee Smith. Mrs. Smith has inspired her students to participate in vital lifelong, and life sustaining, physical exercise. The children of Montrose are lucky to have such a wonderful resource helping and guiding them to healthier lives. I applaud Kylee Smith for her efforts.

A TRIBUTE TO ROXANNE PERSAUD

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of Roxanne Persaud in recognition of her commitment to her community.

Roxanne was born in Georgetown, Guyana. The eldest child of Kenrick and Yvonne Persaud, she immigrated to the United States after graduating from high school. Upon arriving in the United States, she immediately enrolled in an adult after school program. Currently, she holds degrees in Bachelor of Science and a Master of Science in Education. Roxanne is in the process of completing her Master of Science Degree in Information Systems.

In August 1984, Roxanne began a part-time job at Pace University's Undergraduate Registrar's office. With no previous background in this area, she set out to learn all of the functions and task of the office. Today, she is the Senior Degree Audit Coordinator.

Roxanne is the Treasurer of the Organization for Social and Health Advancement in Guyana (OSHAG), a member of the 69th Precinct Community Council in Canarsie, Brooklyn, and an advisor for the Caribbean Students Association at Pace University, New York City campus. In addition, she is a member of the Thomas Jefferson Democratic Club.

In November 2002, Roxanne and members of OSHAG visited Guyana with a team of doctors representing Kings County Hospital in Brooklyn. Representatives from the American Cancer Society as well as HIV/AIDS specialists from representing Young Adult Institute were on the team. While in South America, the doctors conducted a medical workshop for Guyananese doctors on current cancer treatments and hosted a two-day conference for health care professionals, university students, and other members of the public. Throughout the trip, team members also provided other outreach services to the public as needed. Finally, the group cosponsored a cancer walk in collaboration with the Guyana Cancer Society. The team will be returning to Guyana again in 2003 to continue this mission.

On March 30, 2003, Roxanne and the members of OSHAG in collaboration with a Volunteer Youth Corp in Guyana will be launching a Big Brother/Big Sister mentoring initiative in Guyana. This will be the first of its kind in the South America region.

In addition to volunteering, Roxanne enjoys traveling and reading when she finds the time. She is thankful for her parents, siblings, colleagues, and Henry and Josephine Bolus' support, which has been essential in helping her accomplish so much.

Mr. Speaker, Roxanne Persaud is committed to community service and improving the lives of those in her own community and abroad. As such, she is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable woman.

RECOGNIZING THE FAIRFAX COUNTY CHAMBER OF COMMERCE 2003 VALOR AWARD RECIPIENTS

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to recognize an extraordinary group of men and women in Northern Virginia. Several members of the Fairfax County Office of the Sheriff were honored at the Fairfax County Chamber of Commerce's 25th Annual Valor Awards. Each year, the Chamber recognizes individuals who have courageously demonstrated selfless dedication to public safety. These outstanding men and women have played an intricate role in building a better community. This hard work and determination has earned several members of the Office of the Sheriff the highest honor that Fairfax County bestows upon its public safety officials—The Valor Award.

There are several Valor Awards that a public safety officer can be given: Lifesaving Award, a Certificate of Valor, or a Gold, Silver or Bronze Medal of Valor. During the 25th Annual Awards Ceremony, 88 men and women from the Office of the Sheriff, Fire and Rescue Department, and Police Department received one of the aforementioned honors for their bravery and heroism.

It is with great honor that I enter into the RECORD the names of the recipients of the 2003 Valor Award in the Fairfax County Office of the Sheriff. Receiving the Lifesaving Award: Deputy Charles Taggart; Certificate of Valor: Private First Class Michael Hammond, Private First Class Leslie Sheehan, Deputy Randall Naeve, Master Deputy Sheriff Amy Gaisor, Private First Class Sharon Fogle, Sergeant Kevin Timothy, and Deputy Charles Taggart.

Mr. Speaker, in closing, I ask that my colleagues join me in congratulating this group of extraordinary citizens. In addition, I would like to take this opportunity to thank all the men and women who serve the Fairfax County Office of the Sheriff. The events of September 11th served as a reminder of the sacrifices our emergency service workers make for us everyday. Their constant efforts on behalf of Fairfax County citizens are paramount to preserving security, law and order throughout our neighborhoods, and their individual and collective acts of heroism deserve our highest praise.

PAYING TRIBUTE TO ALOYS AND WANDA SCHNEIDER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Mr. MCINNIS. Mr. Speaker, it is with great honor that I rise today to recognize ''Moon'' and Wanda Schneider of Montrose, Colorado. The Schneiders have been important members of their local community and the State of Colorado for many years, and I would like to pay tribute to their efforts before this body of Congress and this nation today.

The Schneiders have been married for fifty-six years and are the parents of eight children. The couple began volunteering after Moon retired from the Agriculture Stabilization Conservation Service in 1978. Wanda had learned to play the piano, accordion and clarinet as a young girl in Canon City, so in 1983 the Schneiders started visiting nursing homes, where Wanda would play her keyboard and Moon would entertain the residents with his sharp sense of humor. When the new senior center opened in Montrose, the Schneiders put on their show once a week.

Eight years ago, Wanda volunteered to serve as the senior center's program chairman. Since then, she and Moon have helped with a variety of activities, including producing four plays. Moon himself has starred in three of them, most recently portraying the colorful actress Carmen Miranda. Moon has also served on the board of directors for the Golden Circle for six years, and the couple still finds time to pack and deliver Meals on Wheels.

Mr. Speaker, it is with pride that I recognize Moon and Wanda Schneider for the countless hours they have contributed to the welfare of seniors in Montrose, Colorado. They have been a great asset to the senior center and to the people of the nursing homes they serve. Their active involvement in their community is a credit to Montrose County and the entire State of Colorado.

TRIBUTE TO THE LOLA DE RODRIGUEZ DE TIO ACADEMY OF FUTURE TECHNOLOGIES AT INTERMEDIATE SCHOOL 162 FROM THE SOUTH BRONX

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute and to congratulate The Lola de Rodriguez de Tio Academy of Future Technologies at Intermediate School 162 from the South Bronx which, on Saturday, February 8, 2003, won the 2003 New York City FIRST Lego League Tournament. This is a highly competitive tournament that trains students to use Lego blocks and computers to solve challenges that urban planners face every day.

The New York City competition included 115 schools from the five boroughs, including Manhattan East, IS 72—The Rocco Laurle School, Brooklyn Tech, Hunter High School, IS 98K—Bay Academy, MS 51K, Satellite West Academy, IS 227Q—Louis Armstrong, MS 217 Q, IS 90M—Mirabel Sisters, IS 22—Mott Hall, IS 187—The Christa McAulliffe School in Brooklyn, among many others.

Despite being a rookie team they went on to win every category—including the robotics competition and the research competition. They also won the 2003 First Lego League Bronx Ryders Winner of the Top Prize Director's Award.

Mr. Speaker, I would like to take a moment to recognize the members of the team. From the 8th Grade Team they are: Terrell Washington, Byron Flores, Durrell Washington, Hazel Rivera, Elyse Arroyo, Noel Pichardo, Valentine Dixon and Austin Leak. From the 7th Grade Team they are: Jose Verdejo, David Quiñones, Nikisha Romsaran, Nickolos Rivera, Joshua Rodríguez, Natholy Torella, Jose Matos and Alexis Herrera.

The team will be heading to Houston, Texas to compete in the National Tournament from April 10–April 13. Only 20 teams out of 2500 nationwide have been chosen to compete. We wish these amazing young people from the South Bronx the best of luck.

They have demonstrated that they have the ability and the desire to be assets and role models in our community. We are proud of their accomplishments and I hope they will continue to be successful. They are terrific examples for young men and women throughout our communities.

Again, I congratulate and I wish them the best of luck in their future enterprises. They are our Champions!

Mr. Speaker, I ask my colleagues to join me in paying tribute to and congratulating The Lola de Rodriguez de Tio Academy of Future Technologies at Intermediate School 162 from the South Bronx.

RECOGNIZING BOWIE STATE UNIVERSITY MEN'S BASKETBALL TEAM

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Mr. HOYER. Mr. Speaker, I rise today to give recognition to the Bowie State University men's basketball team. On March 1, 2003, the Bowie State Bulldogs defeated Virginia Union to earn their first central intercollegiate athletic association men's title.

In their first appearance in the CIAA tournament in 30 years of play, the Bulldogs were down 41–32 at half-time against a 14-time league champion. Nevertheless, the team rallied back for a neck-and-neck second half. The winning basket was a heartstopper and came with less than a minute to go, giving the Bulldogs a 72–71 victory.

Mr. Speaker and colleagues, please join me in recognizing the great accomplishment of the Bowie State University men's basketball team and wish them the best of luck in their upcoming NCAA Division II tournament.

INTRODUCING THE MEDIKIDS HEALTH INSURANCE ACT OF 2003

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Mr. STARK. Mr. Speaker, I join with 34 colleagues to introduce the MediKids Health Insurance Act of 2003, which will provide universal health care for our nation's children through a new Medicare-like national program with benefits tailored toward children.

Sen. JAY ROCKEFELLER is introducing a companion bill in the Senate. I am grateful to Senator ROCKEFELLER for his leadership and commitment to this issue. We are introducing the bill at this time in recognition of the national educational and awareness campaign that has named this week ''Cover the Uninsured Week.''

Despite Medicaid and the implementation of the S–CHIP program, more than 9 million children are still without health insurance in America today. Now, with states facing severe

budget crises, past expansions of Medicaid and S–CHIP are in real danger. In fact, with 35 states currently facing budget shortfalls that must be resolved this year, the number of uninsured children will grow. The outlook for the next fiscal year looks even more fiscally challenging for states. Programs like Medicaid and S–CHIP are the most vulnerable for eligibility and service provision reductions due to fiscal crisis.

The number of uninsured children is more than a statistic. It reflects the harsh reality experienced by many families—80% of whom are working families—who are forced to delay or do without needed medical care for their precious children. And, what does the research tell us about children brought up under these circumstances? Compared to those with health insurance, uninsured children have poorer health and higher mortality; they miss more school and have lower educational achievement; and they are less successful as adults in the workforce.

The MediKids Health Insurance Act is a real solution to the growing problem of children without health insurance. Our bill will guarantee health insurance for all children in the United States regardless of family income. Importantly, it would be a fully-federal program so that children's health care would not change from state to state as it does today.

The program is modeled after Medicare, but the benefits are tailored toward children. MediKids is financed like the Medicare Part B program with families paying a premium of 25% of the value of the program and the rest financed through general revenues. Premiums for MediKids would be collected each year when their parents' file their taxes. There is also a generous low-income subsidy for families phasing out at 300% of poverty.

MediKids would not override other forms of health insurance for children. Parents who have other coverage for their children—employer-sponsored insurance, individual policies, S–CHIP, Medicaid, or other policies—could maintain that coverage. But, if something happens and that coverage is no longer available, their children could always rely on MediKids for coverage. If the family moves, MediKids follows the children across state lines. And, no longer would kids get caught with no health insurance coverage if their parents are climbing out of welfare.

Enrollment in MediKids is simple with no complicated paperwork or re-determination hoops to jump through. When children are born or legally immigrate to this country, the parents are automatically given a MediKids insurance card and information on the benefits. For those children who are already born, the bill authorizes presumptive eligibility and enrollment at out-stationed sites such as Disproportionate Share Hospitals and Federally Qualified Health Centers to simplify outreach efforts. Once the program is fully phased in no outreach will be needed because enrollment into the program will be automatic.

Both children's advocates and the health care professionals who care for children support our legislation. Endorsing organizations include: the American Academy of Pediatrics, the Children's Defense Fund, the American Academy of Child and Adolescent Psychiatry, the American Nursing Association, FamiliesUSA, the March of Dimes, the National Association of Children's Hospitals, the National Association of Community Health Centers, the National Association of Public Hospitals and Health Systems, the National Health Law Program, and NETWORK: a Catholic Social Justice Lobby. These providers and children's advocacy groups are united around the concept that children deserve access to continuous health insurance. MediKids meets that goal.

The successful future of our society rests in our ability to provide our children with the basic conditions to thrive and become healthy, educated and productive adults.

Guaranteeing continuous health care coverage is a necessary component for us to realize the potential of our future. This is not only a good investment; it is also a noble goal and obligation that we must fulfill. I look forward to working with my colleagues and with the many supporting organizations for the passage of the MediKids Health Insurance Act of 2003.

Below is a short summary of the bill.

SUMMARY OF THE MEDIKIDS HEALTH INSURANCE ACT OF 2003

The MediKids Health Insurance Act provides health insurance for all children in the United States regardless of family income level by 2009. The program is modeled after Medicare, but the benefits are targeted toward children. Families below 150 percent of poverty pay no premium or copays, while those between 150 percent and 300 percent of poverty pay a graduated premium up to 5 percent of their income and receive a graduated refundable tax credit for cost sharing expenses.

The MediKids enrollment process is simple with no re-determination hoops to jump through because it is not means tested. MediKids follows children across state lines when fan-Lilies move, and covers them until their parents can enroll them in a new insurance program. Moreover, MediKids fills the gaps when families climbing out of poverty become ineligible for means-tested programs. It provides security for children until their parents can obtain reliable health insurance coverage.

ENROLLMENT

Every child born after 2004 is automatically enrolled in MediKids, and those children already born are enrolled over a 5–year phase-in as described below. Children who immigrate to this country are enrolled when they receive their immigration cards. Materials describing the program's benefits, along with a MediKids insurance card, are issued to the parent(s) or legal guardian(s) of each child. Once enrolled, children remain enrolled in MediKids until they reach the age of 23.

Parents may choose to enroll their children in private plans or government programs such as Medicaid or S–CHIP. During periods of equivalent alternative coverage, the MediKids premium is waived. However, if a lapse in other insurance coverage occurs, MediKids automatically covers the children's health insurance needs (and a premium will be owed for those months).

PHASE-IN

Year 1 (2005) = the child has not attained age 6.

Year 2 (2006) = the child has not attained age 11.

Year 3 (2007) = the child has not attained age 16.

Year 4 (2008) = the child has not attained age 21.

Year 5 (2009) = the child has not attained age 23.

BENEFITS

The benefit package is based on Medicare and the Medicaid Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) benefits for children, and includes prescription drugs. The benefits will be reviewed annually and updated by the Secretary of Health and Human Services to reflect age-appropriate benefits as needed with input from the pediatric community.

PREMIUMS, DEDUCTIBLES, AND COPAYS

Families up to 150 percent of poverty pay no premiums or copays. Families between 150 percent and 300 percent of poverty pay a graduated premium up to 5 percent of their income and receive a graduated refundable tax credit for cost sharing expenses. Parents above 300 percent of poverty are responsible for a small premium equal to one fourth of the average annual cost per child. Premiums are collected at the time of income tax filing. There is no cost sharing for preventive and well childcare for any children; all other cost sharing mimics Medicare.

FINANCING

Congress would need to determine initial funding. In future years, the Secretary of Treasury would develop a package of progressive, gradual tax changes to fund the program, as the numbers of enrollees grows.

STATES

Medicaid and S–CHIP are not altered by MediKids. These programs remain the safety net for children until MediKids is fully implemented and appropriately modified to best serve our nation's children. Once MediKids is fully operational, Congress can revisit the role of these programs in covering children.

To the extent that the states save money from the enrollment of children into MediKids, states are required to maintain those funding levels in other programs and services directed toward the Medicaid population. This can include expanding eligibility or offering additional services. For example, states could expand eligibility for parents and single individuals, increase payment rates to providers, or enhance quality initiatives in nursing homes.

PAYING TRIBUTE TO: GRAND RIVER HOSPITAL DISTRICT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2003

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise before you today to honor the good people of the Grand River Hospital District of Rifle, Colorado. America's rural health facilities are in crisis and it is our duty to embrace them in these trying times. Fortunately, the success of the Grand River Hospital District offers other rural medical providers hope. It gives me great pleasure to recognize them before this Congress and this nation.

The people of the Grand River Hospital District are devoted servants, dedicated to improving the delivery of quality, cost-effective health care in their community. Their hard work has paid off, and on May 12, they will open the doors to their brand-new 16.5 million dollar Grand River Medical Center. This expansion is an amazing accomplishment at a time when so many rural medical providers are struggling to stay open. Like all success, it has taken smart and dedicated people who have given much of themselves in the pursuit of excellence.

Mr. Speaker, I am proud to stand before this body of Congress and this great nation to recognize the accomplishments of the Grand River Hospital District. They are a guiding light for all struggling medical providers in rural America. Their example offers hope, and I am grateful to them for their dedication and the quality service they provide for the people of my district.

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S3421–S3558

Measures Introduced: Sixteen bills and four resolutions were introduced, as follows: S. 15, S. 586–600, S.J. Res. 8, S. Res. 79–80, and S. Con. Res. 18.

Pages S3504–05

Measures Reported:

S. 113, to exclude United States persons from the definition of ''foreign power'' under the Foreign Intelligence Surveillance Act of 1978 relating to international terrorism, with an amendment in the nature of a substitute. **Page S3504**

Measure Passed:

Printing of Collection of the Rules: Senate agreed to S. Res. 80, to authorize the printing of a collection of the rules of the committees of the Senate.

Page S3556

Partial-Birth Abortion Ban: Senate continued consideration of S. 3, to prohibit the procedure commonly known as partial-birth abortion, taking action on the following amendment:

Pages S3422–29, S3454, S3456–63, S3482–94

Pending:

Durbin Amendment No. 259, in the nature of a substitute. **Pages S3479–82**

During consideration of this measure today, Senate also took the following action:

By 49 yeas to 47 nays (Vote No. 45), three-fifths of those Senators duly chosen and sworn not having voted in the affirmative, Senate rejected the motion to waive section 207 of H. Con. Res. 68, the Concurrent Budget Resolution on the Budget for fiscal year 2000 as amended by S. Res. 304 from the 107th Congress with respect to the consideration of Murray Amendment No. 258, to improve the availability of contraceptives for women. Subsequently, a point of order that the amendment was in violation of the Congressional Budget Act was sustained, and the amendment thus fell. **Pages S3478–79**

A unanimous-consent agreement was reached providing for further consideration of the bill at 9:30 a.m., on Wednesday, March 12, 2003, providing that Senator Boxer be recognized to offer a motion to commit, that there be two hours equally divided in the usual form, that following the debate, the motion be temporarily set aside, and Senate resume consideration of the Durbin Amendment No. 259 (listed-above) for one hour of debate equally divided; that following the use or yielding back of time, Senate proceed to a vote on, or in relation to the Durbin Amendment No. 259, to be followed by a vote on, or in relation to the Boxer motion to commit, and that no amendments be in order to either the motion or amendment prior to the votes. **Page S3557**

Nomination Considered: Senate continued consideration of the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit. **Pages S3429–54, S3455–56**

A second motion was entered to close further debate on the nomination and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on cloture will occur on Thursday, March 13, 2003. **Pages S3455–56**

Nomination—Agreement: A unanimous consent agreement was reached providing that when the nomination for the Assistant Secretary of the Army for Civil Works is received by the Senate, it be referred to the Committee on Armed Services, provided that when the Committee reports the nomination, it be referred to the Committee on Environment and Public Works for a period of 20 days of session; provided further that if the Committee on Environment and Public Works does not report the nomination with those 20 days, that Committee be discharged from further consideration of the nomination and the nomination be placed on the executive calendar. **Page S3557**

Messages From the President: Senate received the following messages from the President of the United States:

Transmitting, pursuant to the National Defense Authorization Act for Fiscal Year 2003, the report providing a plan for securing nuclear weapons, material, and expertise of the states of the Former Soviet Union and reports on the implementation of that plan during Fiscal Year 2002; to the Committee on Armed Services. (PM–22) **Page S3502**

Nominations Received: Senate received the following nominations:

Lowell Junkins, of Iowa, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation. (Reappointment)

Glen Klippenstein, of Missouri, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

Julia Bartling, of South Dakota, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

Ralph Frank, of Washington, to be Ambassador to the Republic of Croatia.

William M. Bellamy, of California, to be Ambassador to the Republic of Kenya.

John W. Leslie, Jr., of Connecticut, to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 22, 2007.

Mary Lucille Jordan, of Maryland, to be a Member of the Federal Mine Safety and Health Review Commission for a term of six years expiring August 30, 2008. (Reappointment)

Raul David Bejarano, of California, to be United States Marshal for the Southern District of California for the term of four years.

Eduardo Aguirre, Jr., of Texas, to be Director of the Bureau of Citizenship and Immigration Services, Department of Homeland Security. (New Position)

Elizabeth Courtney, of Louisiana, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for the remainder of the term expiring January 31, 2004.

4 Army nominations in the rank of general.

8 Navy nominations in the rank of admiral.

Routine lists in the Army, Coast Guard, Marine Corps. **Page S3558**

Executive Communications: **Pages S3502–04**

Additional Cosponsors: **Pages S3505–06**

Statements on Introduced Bills/Resolutions: **Pages S3506–51**

Additional Statements: **Pages S3499–S3502**

Amendments Submitted: **Pages S3551–56**

Authority for Committees to Meet: **Page S3556**

Record Vote: One record vote was taken today. (Total—45) **Pages S3478–79**

Adjournment: Senate met at 9:30 a.m., and adjourned at 9:02 p.m., until 9:30 a.m., on Wednesday, March 12, 2003. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S3557.)

Committee Meetings

(Committees not listed did not meet)

MEDICARE

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, and Education concluded hearings to examine Medicare outlier payments to hospitals, focusing on the successful implementation of a new outlier policy that contains an adequate transition period, and a proposed rule issued by the Centers for Medicare and Medicaid Service that would prevent further gaming of the Medicare system by a few hospitals that obtain the majority of these outlier payments, after receiving testimony from Thomas A. Scully, Administrator, Centers for Medicare and Medicaid Services, Department of Health and Human Services; and Joseph W. Marshall, Temple University Health Care System, Philadelphia, Pennsylvania.

2004 BUDGET: PERSONNEL PROGRAMS

Committee on Armed Services: Subcommittee on Personnel concluded hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense, focusing on active and reserve military and civilian personnel programs, after receiving testimony from David S.C. Chu, Under Secretary for Personnel and Readiness, William Winkenwerder, Jr., Assistant Secretary for Health Affairs, and Thomas F. Hall, Assistant Secretary for Reserve Affairs, all of the Department of Defense; Lieutenant General John M. LeMoyne, USA, Deputy Chief of Staff for Personnel, United States Army; Vice Admiral Gerald L. Hoewing, USN, Chief of Naval Personnel, United States Navy; Lieutenant General Garry L. Parks, USMC, Deputy Chief of Staff for Manpower and Reserve Affairs, United States Marine Corps; Lieutenant General Richard E. Brown, USAF, Deputy Chief of Staff for Personnel, United States Air Force; James E. Lokovic, Air Force Sergeants Association, Temple Hills, Maryland; Steven Anderson, Reserve Officers Association, Washington, D.C.; and Joseph L. Barnes, Fleet Reserve Association, Joyce W. Raezer, National Military Family Association, Inc., and Susan Schwartz, Military Officers Association of America, all of Alexandria, Virginia.

SMALL AND RURAL COMMUNITY AIR SERVICE

Committee on Commerce, Science, and Transportation: Subcommittee on Aviation concluded hearings to examine the existing federal programs and new proposals to promote air service to small and rural communities, focusing on the Essential Air Service program

and the Small Community Air Service Development Pilot Program, after receiving testimony from Read Van de Water, Assistant Secretary of Transportation for Aviation and International Affairs; JayEtta Z. Hecker, Director, Physical Infrastructure Issues, General Accounting Office; and Bryan O. Elliott, Charlottesville Albemarle Airport Authority, Charlottesville, Virginia.

ENERGY EFFICIENCY

Committee on Energy and Natural Resources: Committee held hearings to examine federal programs for energy efficiency and conservation, focusing on the Federal Energy Management Program, the appliance efficiency standards programs under the National Appliance Energy Conservation Act, and the Energy Policy of Act of 1992, receiving testimony from David K. Garman, Assistant Secretary of Energy for Energy Efficiency and Renewable Energy; Paul Lynch, Assistant Commissioner of Business Operations, Public Buildings Service, General Services Administration; Erbin Keith, Sempra Energy Solutions, San Diego, California, on behalf of the Federal Performance Contracting Coalition; and Joseph M. McGuire, Association of Home Appliance Manufacturers, and David M. Nemtzow, Alliance to Save Energy, both of Washington, D.C.

PENSION PLANS

Committee on Finance: Committee held hearings to examine defined benefit pension plans, focusing on possible reforms for funding, receiving testimony from Steven A. Kandarian, Executive Director, Pension Benefit Guaranty Corporation; Christopher W. O'Flinn, AT&T Corporation, Bedminster, New Jersey, on behalf of the ERISA Industry Committee; Mark Schuler, U.S. Airways, Inc., Barrington, New Hampshire; Henry Eickelberg, General Dynamics Corporation, Falls Church, Virginia, on behalf of the American Benefits Council; and Ron Gebhardtsbauer, American Academy of Actuaries, Washington, D.C.

Committee recessed subject to the call.

IRAQ: RECONSTRUCTION

Committee on Foreign Relations: Committee concluded hearings to examine the commitment of U.S. financial and personnel resources to post-conflict transitional assistance and reconstruction in Iraq, focusing on the cost of maintaining a military presence in the region, the restoration of governance and any steps toward democracy, securing the elimination of Iraqi weapons of mass destruction, ending Iraqi contacts with international terrorist organizations, ensuring that a post-transition Iraqi government can maintain the country's territorial integrity and economic independence while contributing to regional stability, and the costs of not going to war with Iraq, which include the costs of maintaining a military presence in the region, the continuation of inspections of weapons of mass destruction, accelerated funding to combat terrorism abroad, and maintaining a high level of homeland security, after receiving testimony from Eric P. Schwartz, Council on Foreign Relations, Gordon Adams, George Washington University, Sandra Mitchell, International Rescue Committee, and Phebe Marr, all of Washington, DC.

BUSINESS MEETING

Committee on Indian Affairs: Committee met and approved the committees views and estimates with respect to the President's proposed budget request for fiscal year 2004 for Indian programs.

INTELLIGENCE

Select Committee on Intelligence: Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee will meet again on Thursday, March 13.

HEALTHY AGING

Special Committee on Aging: Committee concluded hearings to examine the prescription for healthy aging, focusing on the benefits of fitness and nutrition care, and exercise, after receiving testimony from Judith A. Salerno, Deputy Director, National Institute on Aging, National Institutes of Health, and Lynn C. Swann, Chairman, President's Council on Physical Fitness and Sports, Office of Public Health and Science, both of the Department of Health and Human Services; Linda Netterville, on behalf of Meals On Wheels Association of America, Alexandria, Virginia; Jane V. White, University of Tennessee at Knoxville Graduate School of Medicine, on behalf of Nutrition Screening Initiative; Alfred Maguire, Twin Falls, Idaho; and Sam Ulano, New York, New York.

House of Representatives

Chamber Action

Measures Introduced: 50 public bills, H.R. 1169–1218; and 11 resolutions, H.J. Res. 36; H. Con. Res. 86–90, and H. Res. 134–138, were introduced. **Pages H1743–46**

Additional Cosponsors: **Pages H1746–47**

Reports Filed: Reports were filed today as follows:

H.R. 877, to amend title XI of the Social Security Act to improve patient safety, amended (H. Rept. 108–31, Pt. 1);

H.R. 5, to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system, amended (H. Rept. 108–32, Pt. 1);

H.R. 5, to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system, amended (H.Rept. 108–32, Pt. 2); and

H.R. 866, to amend the Federal Water Pollution Control Act to enhance the security of wastewater treatment works (H. Rept. 108–33). **Page H1743**

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Simmons to act as Speaker Pro Tempore for today. **Page H1691**

Recess: The House recessed at 1:06 p.m. and reconvened at 2 p.m. **Page H1697**

Suspensions—Proceedings Postponed: The House postponed further proceedings until tomorrow, March 12, on the following motions to suspend the rules that were debated today:

Recognizing the Bicentennial of Ohio's Admission to the Union: H. Res. 122, recognizing the bicentennial of the admission of Ohio into the Union and the contributions of Ohio residents to the economic, social, and cultural development of the United States; and **Pages H1697–H1701**

Urging Improved Fire Safety in Nonresidential Buildings in the Aftermath of the Nightclub Fire in West Warwick, Rhode Island: H. Con. Res. 85, expressing the sense of the Congress with regard to the need for improved fire safety in nonresidential buildings in the aftermath of the tragic fire on February 20, 2003, at a nightclub in West Warwick, Rhode Island. **Pages H1701–04**

Suspensions: The House agreed to suspend the rules and pass the following measures:

Obtaining Observer status for Taiwan at the May 2003 World Health Assembly: H.R. 441, to amend Public Law 107–10 to authorize a United States plan to endorse and obtain observer status for Taiwan at the annual summit of the World Health Assembly in May 2003 in Geneva, Switzerland (agreed to by yea-and-nay vote of 414 yeas with none voting ''nay'', Roll No. 50); **Pages H1704–06, H1710–11**

Commemorating the 60th Anniversary of the Rescue of 50,000 Bulgarian Jews from the Holocaust and Commending the Bulgarians for Their Ethnic and Religious Tolerance: H. Con. Res. 77, amended, commemorating the 60th anniversary of the historic rescue of 50,000 Bulgarian Jews from the Holocaust and commending the Bulgarian people for preserving and continuing their tradition of ethnic and religious tolerance (agreed to by yea-and-nay vote of 418 yeas with none voting ''nay'', Roll No. 51); and **Pages H1706–09, H1711–12**

Designating H–236 in the Capitol as the ''Richard K. Armey Room'': H. Res. 19, designating the room numbered H–236 in the House of Representatives wing of the Capitol as the ''Richard K. Armey Room'' (agreed to by yea-and-nay vote of 406 yeas with none voting ''nay'' and 8 voting ''present'', Roll No. 52). **Pages H1709–10, H1712–13**

Presidential Message—Plan for Securing Nuclear Weapons: Message wherein he transmitted a report which presents a plan for securing nuclear weapons, material, and expertise of the states of the Former Soviet Union and reports on implementation of that plan during Fiscal year 2002—referred to the committee on International Relations. **Page H1713**

Meeting Hour—Wednesday, March 12: Agreed that when the House adjourns today, it adjourn to meet at 11 a.m. on Wednesday, March 12. **Page H1713**

Quorum Calls—Votes: Three yea-and-nay votes developed during the proceedings of the House today. There were no quorum calls.

Adjournment: The House met at 12:30 p.m. and adjourned at 10:57 p.m.

Committee Meetings

LABOR, HHS, EDUCATION AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, Education and Related Agencies held a hearing on Corporation for Public

Broadcasting. Testimony was heard from Robert Coonrod, President and CEO, Corporation for Public Broadcasting.

The Subcommittee also concluded hearings on Corporation for National and Community Services. Testimony was heard from Leslie Lenkowsky, CEO.

WORKFORCE INVESTMENT AND REHABILITATION ACTS

Committee on Education and the Workforce: Subcommittee on 21st Century Competitiveness held a hearing on ''Workforce Investment and Rehabilitation Acts: Improving Services and Empowering Individuals.'' Testimony was heard from Emily DeRocco, Assistant Secretary, Department of Labor; Robert Pasternack, Assistant Secretary, Department of Education; Bettie Shaw-Henderson, District Manager, Department of Vocational Rehabilitation, State of Michigan; and public witnesses.

PROGRESS SINCE 9/11—ANTI-TERRORIST FINANCING EFFORTS EFFECTIVENESS

Committee on Financial Services: Subcommittee on Oversight and Investigations held a hearing entitled ''Progress Since 9/11: The Effectiveness of U.S. Anti-Terrorist Financing Efforts.'' Testimony was heard from Alice Fisher, Deputy Assistant Attorney General, Criminal Division, Department of Justice; Richard Hoglund, Interim Director, Office of Customs Investigations, Bureau of Immigration and Customs Enforcement, Department of Homeland Security; James Sloan, Director, Financial Crimes Enforcement Network, Department of the Treasury; and public witnesses.

FEDERAL REGULATIONS—IMPROVE REGULATORY ACCOUNTING COSTS, BENEFITS, AND IMPACTS

Committee on Government Reform: Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs held a hearing entitled ''How to Improve Regulatory Accounting: Costs, Benefits, and Impacts on Federal Regulations.'' Testimony was heard from John D. Graham, Administrator, Office of Information and Regulatory Affairs, OMB; and public witnesses.

SAVING THE CONGO BASIS: THE STAKES

Committee on International Relations: Subcommittee on Africa held a hearing on Saving the Congo Basin: The Stakes, The Plan. Testimony was heard from the following officials of the Department of State: Walter H. Kansteiner III, Assistant Secretary, Bureau of African Affairs; John F. Turner, Assistant Secretary, Bureau of Oceans and International Environmental and Scientific Affairs; and Constance Berry Newman, Assistant Administrator, Bureau for Africa, AID; and a public witness.

CHILD ABDUCTION PREVENTION ACT; CHILD OBSCENITY AND PORNOGRAPHY PREVENTION ACT

Committee on the Judiciary: Subcommittee on Crime, Terrorism, and Homeland Security approved for full Committee action H.R. 1104, Child Abduction Prevention Act.

Prior to this action, the Subcommittee held a hearing on H.R. 1104 and H.R. 1161, Child Obscenity and Pornography Prevention Act. Testimony was heard from Daniel P. Collins, Associate Deputy Attorney General, Department of Justice; Ronald S. Sullivan, Jr., Director, Public Defender Service, District of Columbia; and a public witness.

RESPA REFORM AND THE ECONOMIC EFFECTS ON SMALL BUSINESS

Committee on Small Business, hearing entitled ''RESPA Reform and the Economic Effects on Small Business.'' Testimony was heard from the following officials of the Department of Housing and Urban Affairs: Mel Martinez, Secretary; and John C. Weicher, Assistant Secretary for Housing-FHA Commissioner; and public witnesses.

ADMINISTRATION'S ECONOMIC GROWTH PROPOSALS

Committee on Ways and Means: Concluded hearings on the Administration's Economic Growth Proposals. Testimony was heard from Representatives Dreier, Upton, Ney and Blackburn.

COMMITTEE MEETINGS FOR WEDNESDAY, MARCH 12, 2003

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: Subcommittee on District of Columbia, to hold hearings to examine proposed budget estimates for fiscal year 2004 for the District of Columbia Courts, Court Services, and the Offender Supervision Agency, 9:30 a.m., SD–138.

Subcommittee on Defense, to hold closed hearings to examine proposed budget estimates for fiscal year 2004 for defense programs, focusing on worldwide threats to the United States, 10 a.m., S–407, Capitol.

Subcommittee on Energy and Water Development, to hold hearings to examine proposed budget estimates for fiscal year 2004 for the Department of Energy Office of Energy and Efficiency and Renewable Energy, Office of Science, and the Office of Nuclear Energy Science and Technology, 2:30 p.m., SD–124.

Committee on Armed Services: Subcommittee on Strategic Forces, to hold hearings to examine national security

space programs and management in review of the Defense Authorization Request for fiscal year 2004, 9:30 a.m., SR–222.

Subcommittee on Airland, to hold hearings to examine Army transformation in review of the Defense Authorization Request for fiscal year 2004 and the Future Years Defense Program, 3 p.m., SR–232A.

Committee on the Budget: business meeting to mark up a proposed concurrent resolution setting forth the fiscal year 2004 budget for the Federal Government, 2:15 p.m., SD–608.

Committee on Commerce, Science, and Transportation: Subcommittee on Oceans, Atmosphere, and Fisheries, to hold hearings to examine the President's proposed budget request for fiscal year 2004 for the Coast Guard and the National Oceanic and Atmospheric Administration, 2:30 p.m., SR–253. *Committee on Energy and Natural Resources:* business meeting to consider pending calendar business, 9:30 a.m., SD–366.

Committee on Finance: to hold hearings to examine welfare reform, 10 a.m., SD–215.

Committee on Foreign Relations: business meeting to consider the Convention Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital Gains, signed at London on July 24, 2001, together with an Exchange of Notes, as amended by the Protocol signed at Washington on July 19, 2002 (the ''Convention'') (Treaty Doc. 107–19), Protocol Amending the Convention Between the Government of the United States of America and the Government of Australia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Canberra on September 27, 2001 (the ''Protocol'') (Treaty Doc. 107–20), the Second Additional Protocol that Modifies the Convention Between the Government of the United States of America and the Government of the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Mexico City on November 26, 2002 (Treaty Doc. 108–03), and a Foreign Service List received on January 28, 2003, 11:30 a.m., SD–419.

Full Committee, to hold hearings to examine regional implications of the changing nuclear equation on the Korean Peninsula, 2:30 p.m., SH–216.

Committee on the Judiciary: Subcommittee on Immigration, with the Subcommittee on Technology, Terrorism, and Government Information, to hold joint hearings to examine border technology, focusing on keeping terrorist out of the United States, 10 a.m., SD–226.

Full Committee, to hold hearings to examine the nominations of James V. Selna and Cormac J. Carney, both to be a United States District Judge for the Central District of California, Philip P. Simon and Theresa Lazar Springmann, both to a United States District Judge for the Northern District of Indiana, Mary Ellen Coster Williams, of Maryland, and Victor J. Wolski, of Virginia, both to be a Judge of the United States Court of Federal Claims, and Ricardo H. Hinojosa, of Texas, and Michael E. Horowitz, of Maryland, both to be a Member of the United States Sentencing Commission, 2 p.m., SD–226.

Committee on Veterans' Affairs: to hold joint hearings with the House Committee on Veterans' Affairs to examine a legislative presentation of the Veterans of Foreign Wars, 10 a.m., 345 Cannon Building.

House

Committee on Appropriations, Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies, on Food Safety and Inspection Service, 9:30 a.m., and on Marketing and Regulatory Programs, 1:30 p.m., 2362A Rayburn.

Subcommittee on Defense, on Fiscal Year 2004 Army Posture, 1:30 p.m., 2212 Rayburn.

Subcommittee on Interior, on Bureau of Indian Affairs and Office of Special Trustee for American Indians, 10 a.m., B–308 Rayburn.

Subcommittee on Labor, Health and Human Services, Education and Related Agencies, on Department of Education-Panel: ''No Child Left Behind Act'' program, 10:15 a.m., 2358 Rayburn.

Subcommittee on Military Construction, on Pacific Command Military Construction, 10 a.m., B–300 Rayburn.

Subcommittee on Transportation and Treasury, and Independent Agencies, on Inspector General, Department of Treasury, 10 a.m., 2358 Rayburn.

Committee on Armed Services, to continue hearings on the fiscal year 2004 national defense authorization budget request, 10 a.m., and 2 p.m., 2118 Rayburn.

Subcommittee on Tactical Air and Land Forces, hearing on the fiscal year 2004 national defense authorization budget request, 5 p.m., 2118 Rayburn.

Subcommittee on Total Force, hearing on patron and industry perspectives on military exchanges, commissaries, and morale, welfare and recreation programs, 5 p.m., 2212 Rayburn.

Committee on the Budget, to mark up the Budget Resolution for Fiscal Year 2004, 10:30 a.m., 210 Cannon.

Committee on Education and the Workforce, Subcommittee on Select Education, hearing on ''Recent Improvements of Financial Management Practices at the U.S. Department of Education,'' 2 p.m., 2261 Rayburn.

Subcommittee on Workforce Protections, hearing on H.R. 1119, Family Time Flexibility Act, 2 p.m., 2175 Rayburn.

Committee on Energy and Commerce, Subcommittee on Energy and Air Quality, to continue hearings on ''Comprehensive National Energy Policy,'' 2:30 p.m., 2123 Rayburn.

Subcommittee on Health, hearing on ''Medicaid Today: The States' Perspective,'' 10 a.m., 2123 Rayburn.

Subcommittee on Oversight and Investigations, to continue hearings on the ''Procurement and Property Mismanagement and Theft at Los Alamos National Laboratory,'' 10 a.m., 2322 Rayburn.

Committee on Financial Services, Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, hearing entitled ''Mutual Fund Industry Practices

and their Effect on Individual Investors,'' 10 a.m., 2128 Rayburn.

Committee on Government Reform, hearing entitled ''Energy Efficiency Improvements in Federal Buildings and Vehicles,'' 10 a.m., 2154 Rayburn.

Committee on House Administration, to consider Committee funding requests, 11:20 a.m., 1310 Longworth.

Committee on International Relations, to mark up the following: H. Res. 68, requesting the President to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution documents in the President's possession relating to Iraq's declaration on its weapons of mass destruction that was provided to the United Nations on December 7, 2002; and the Northern Ireland Peace and Reconciliation Support Act, 10:15 a.m., 2172 Rayburn.

Committee on the Judiciary, to mark up the following: H. Res. 132, expressing the sense of the House of Representatives that the Ninth Circuit of Appeals ruling in Newdow v. United States Congress is inconsistent with the Supreme Court's interpretation of the first amendment and should be overturned; a resolution authorizing the Chairman to issue subpoenas in the matter relating to the Honorable James M. Rosenbaum; and H.R. 975, Bankruptcy Abuse Prevention and Consumer Protection Act of 2003, 10 a.m., 2141 Rayburn.

Committee on Resources, hearing on H.R. 39, Arctic Coastal Plain Domestic Energy Security Act of 2003, 10 a.m., 1324 Longworth.

Committee on Science, hearing on Aerospace Commission Report and NASA Workforce, 2 p.m., 2318 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Aviation, hearing on Authorization of the Federal Aviation Administration and the Aviation Programs: Commercial Aviation, 2 p.m., 2167 Rayburn.

Committee on Ways and Means, hearing on the Administration's Fiscal Year 2004 Budget for the U.S. Department of Labor, 10:30 a.m., 1100 Longworth.

Permanent Select Committee on Intelligence, executive, hearing on the Director of the CIA Overview, 2:30 p.m., H–405 Capitol.

Joint Meetings

Joint Meetings: Senate Committee on Veterans' Affairs, to hold joint hearings with the House Committee on Veterans' Affairs to examine a legislative presentation of the Veterans of Foreign Wars, 10 a.m., 345 Cannon Building.

Next Meeting of the SENATE

9:30 a.m., Wednesday, March 12

Senate Chamber

Program for Wednesday: Senate will continue consideration of S. 3, to prohibit the procedure commonly known as partial-birth abortion; Senate will vote on, or in relation to a Boxer motion to commit; and Senate will vote on, or in relation to a Durbin amendment.

Next Meeting of the HOUSE OF REPRESENTATIVES

11 a.m., Wednesday, March 12

House Chamber

Program for Wednesday: Consideration of Suspensions:

(1) H.R. 659, Hospital Mortgage Insurance Act;

(2) H.R. 389, Automatic Defibrillation in Adam's Memory Act;

(3) H.R. 342, Mosquito Abatement for Safety and Health Act;

(4) H.R. 398, Birth Defects and Developmental Disabilities Prevention Act;

(5) H.R. 399, Organ Donation Improvement Act; and

(6) H.R. 663, Patient Safety and Quality Improvement Act.

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