United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, FIRST SESSION

Vol. 149 WASHINGTON, WEDNESDAY, APRIL 9, 2003 No. 57

House of Representatives

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

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
April 9, 2003.

I hereby appoint the Honorable JIM GIBBONS to act as Speaker pro tempore on this day.

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

PRAYER

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

Lord, God, You are the living God, the eternal King of Nations.

Yet, in tumultuous times, confident prayer is parsed with frustration. Constant trust is punctuated with anger. The weeks of war chip away resistance and lay bare the anguish of the human heart. With the prophet Jeremiah the cry goes out: ''You are just, O Lord! Yet I must argue my case against You. Why does the way of the godless prosper?''

Let such defiant questions only prove the deep faith of this Nation, Lord.

Strengthen here the leaders of Your people. Be with our troops in battle.

Bring about the resolve of justice that will build peace.

For no one is like You, O Lord. Great are You, great and mighty is Your Name, 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 his approval thereof.

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

PLEDGE OF ALLEGIANCE

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

Mr. MICHAUD led the Pledge of Allegiance as follows:

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to 10 one-minutes per side.

HONORING SOUTH FLORIDA'S Y–100 RADIO STATION AND JOHN KROSS

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

Ms. ROS-LEHTINEN. Mr. Speaker, on this great day, as we celebrate the freedom of the Iraqi people and continue the international war against terrorism, let us also continue our war against domestic drug abuse. And because of their valiant cause against substance abuse, I would like to take this opportunity to recognize south Florida's Y–100 radio station and John Kross, known as ''Footy,'' for this weekend's upcoming 16th Annual Wing Ding.

This annual charity event benefits Here's Help, Incorporated, a private, non-profit, comprehensive youth drug and alcohol treatment facility in south Florida. This important grass-roots effort seeks to combat the menace of drug abuse among the most vulnerable members of our society, our young people.

Here's Help has made an invaluable contribution to protecting the dignity and the innocence of the youth of south Florida.

I ask my colleagues to join me in thanking Y–100 and Footy for their unwavering commitment to our precious south Florida young people, as well as for the patriotic support that the radio station Y–100 has given to our Armed Forces throughout Iraqi Freedom.

VIETNAM NEEDS TO RELEASE BUDDHIST MONKS

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today in honor of two of Vietnam's most prominent Buddhist leaders and outspoken dissidents, the most Venerable Thich Huyen Quang, patriarch of the banned Unified Church of Vietnam, and his deputy, the Venerable Thich Quang Do, a 2003 Nobel Peace Prize nominee.

Last week, 36 of my colleagues joined me in sending an urgent appeal to the Government of Vietnam, calling for the immediate release of both of these individuals, both of whom are facing complications from advancing age and deteriorating health.

Both men have been detained without charge or trial for most of the past 25 years for their peaceful advocacy of human rights and religious freedom, rights guaranteed by the Vietnamese constitution and by the U.N. Covenant on Human Rights, which Vietnam has both ratified and has pledged to uphold.

The Venerable Thich Quang Do's alleged crimes included launching an appeal for democracy in Vietnam and organizing a humanitarian effort to rescue flood victims.

I urge the Government of Vietnam to release these two men.

U.N. SHOULD NOT BE CENTRAL TO PEACE IN IRAQ

(Mr. PENCE asked and was given permission to address the House for 1

Printed on recycled paper.

minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, just three weeks from the launch of Operation Iraqi Freedom, the battle for Baghdad is drawing to a close. Less than 2 hours ago, amidst the cheers and grateful smiles of the newly freed people of Iraq, the 3rd Army met the 1st Marine expeditionary force at the Tigris River.

Thanks to U.S. and coalition courage and leadership, liberty has reached the center of Baghdad, darkened by tyranny for more than a quarter of a century.

Soon we will turn this body's attention to reconstruction, to interim governments, to the creation of a free and democratic Iraq, and as the President said in Belfast yesterday, the United Nations will play a vital role in helping to stand up our humanitarian efforts.

Despite the fondest wishes of the President of France, I would offer, Mr. Speaker, since the U.N. chose against being central to the war, the U.N. should not and will not be central to the peace.

AMERICA RX

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

Mr. MICHAUD. Mr. Speaker, today, nearly 65 million Americans go without adequate prescription drug coverage, yet drug prices continue to rise, forcing more people to choose between medicine and food.

Today, I am introducing America RX, which uses the power of the free market to negotiate fairer drug prices for Americans. Like the law we passed in Maine, it is a fresh approach that will not cost the taxpayer a single dime. This approach is simple, it is fair and it works.

Everyone has heard of a volume discount. That is exactly what we are talking about when we are talking about America RX. More Americans can afford to buy prescription drugs, which means higher volume, low prices.

The time has come to lower drug prices so that more Americans are not forced to ride a bus to Canada.

I invite my colleagues to join me in moving this initiative forward.

CONGRATULATING MITCHELL HIGH SCHOOL LADY MOUNTAINEERS

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

Mr. BALLENGER. Mr. Speaker, I rise today to congratulate North Carolina's 2A high school basketball champions, the Mitchell High School Lady Mountaineers. Led by Coach Bruce Woody, the Lady Mountaineers blazed victory's trail by winning their final 19 games of the season, knocking off the top three ranked teams in the State.

In spite of their winning streak going into the March 15 championship game in Chapel Hill, the Lady Mountaineers were considered underdogs against the previously undefeated and formidable Lady Red Devils of Red Springs High School, but the Lady Mountaineers knew they could win, and cheered on by over 1,100 loyal fans in purple, the Lady Mountaineers fought hard through five lead changes and three ties.

Defense was the name of the game, and every athlete in purple did her part. Coach Woody could not believe his eyes when the final buzzer rang and the score read 61 to 50, with the Lady Mountaineers winning.

North Carolina's 10th District salutes our Lady Mountaineers. We are all inspired by the team's tenacity and winning spirit. Congratulations, Mitchell High School Lady Mountaineers.

NATIONAL DAY OF SILENCE

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

Mr. FARR. Mr. Speaker, I rise today to give voice to those who are silent: the many youth in our high schools who are afraid to speak of their place in our society because they are gay or lesbian, bisexual or transgender.

Today marks the National Day of Silence in which we celebrate the diversity of our population, but mourn the population's ignorance and intolerance toward that diversity.

I commend my colleague, the gentleman from New York (Mr. ENGEL), for introducing H. Con. Res. 86, which memorializes the National Day of Silence. This resolution encourages each State and local jurisdiction to adopt laws to prohibit discrimination and harassment against persons of alternative sexual orientation or gender identity. This is a goal I applaud and support.

It is hard to believe that in a country dedicated to the principles of freedom and individual liberty that some persons still experience out-and-out harassment because they are not heterosexual. This is especially true of gay, lesbian, bisexual or transgender youth who literally fear for their safety at school and on the street, where they are subjected to violence, hatred and taunts.

The National Day of Silence is a way to raise awareness of this issue and to work for the justice of those most vulnerable among us: our youth. I ask you all to support H. Con. Res. 86 and to support the National Day of Silence.

IS RUSSIA OUR ALLY?

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

Mr. PITTS. Mr. Speaker, right after September 11, Russia stood with us as an ally in the war on terrorism, but recent weeks have shown that Russia may have another agenda.

Russian companies have sold military equipment to Iraq, equipment used to harm American soldiers. Russian officials were told about this in June of 2002, but did nothing.

The Russian Government continues to maintain friendly relations with Kim Jong Il of North Korea, a fact that only encourages this regime's dangerous actions.

Russia has also been involved in helping Iran develop two nuclear facilities that are part of a nuclear weapons program. This is in addition to building Iran a nuclear reactor and providing them with low-enriched uranium in 1995.

Russia is deeply involved in arming terrorist-sponsoring countries.

Arming rogue regimes cannot be compatible with being an American ally. We must make it clear that Russia cannot arm America's enemies and call itself an ally. If Russia wants to be an ally, it is time to start acting like one.

MINORITY HEALTH MONTH

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

Mrs. CHRISTENSEN. Mr. Speaker, last year with the help of Congressman J.C. Watts and many others, we passed a sense of Congress that April should be Minority Health Month.

There have already been many conferences, briefings and other activities to call attention to the poor health, the lack of access and the wide disparities in the health of this country's minority populations. Whether it is heart disease, cancer, stroke, diabetes or AIDS, just to name a few, African Americans in particular, but all people of color, die and are disabled in numbers far disproportionate to their representation in our country.

No country can achieve its full greatness when it continues to essentially ignore the plight of one-third of its citizens and residents, when the right of health care is denied to so many.

Reverend Dr. Martin Luther King said that ''of all the forms of injustice, the denial of health care is the most shocking and inhumane.'' As we debate the budget, it would be shocking and inhumane to pass a tax cut of any size while almost 75 million people do not have full health insurance and while hundreds of people of color die every day prematurely from preventable causes.

We are a better country than this. Let us prove it before we go home to face our constituents and celebrate the most important holy days of the Christian and Jewish faith. In health, as in education, no one should be left behind.

HONORING CAPTAIN CHRIS WACHTER

(Mr. DREIER asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, as coalition forces enter the fourth week of military action to disarm Iraq and liberate its people, we have seen daily reminders of heroic actions. These men and women answering the call to duty have served with distinction as they continue to advance, freeing those long oppressed and removing once and for all the threat posed by Saddam Hussein and his weapons of mass destruction.

While I stand here to salute the service of all those now serving, among those is one man whom I had the honor of nominating, along with my former colleague Carlos Moorehead, to the Air Force Academy in 1992. Captain Chris Wachter, who graduated in 1997, currently serves as a pilot aboard a B–1B Lancer, the backbone of America's long-range bomber force.

Mr. Speaker, earlier this week, following the intelligence reports that indicated a possible sighting of Saddam Hussein, Chris piloted his B–1B to a location where four satellite-guided bombs were dropped on target. It serves as one example of the tireless dedication, determination and professionalism of our men and women in uniform.

□ 1015

Mr. Speaker, the price of freedom is never free and there are more days and dangers ahead. I stand with the American people united in support of our troops and in remembrance of those who paid the ultimate price in this fight.

A CLEAR SIGN OF DESPERATION

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

Mr. HOYER. Mr. Speaker, our Republican friends are desperate. House and Senate Republicans are so far apart on their tax proposals that GOP leaders are actually considering writing two reconciliation tax numbers into the budget resolution. That is an outrage. It is unprecedented, and it is a farce; and GOP leaders have no one to blame but themselves.

Senator GRASSLEY, the chairman of the Senate Committee on Finance, is quoted as saying: ''It's a pipe dream to think you can get above 350 (billion dollars) without dramatic changes of position.'' In response, the gentleman from Texas (Mr. DELAY), majority leader, warns that House Republicans may reject the budget resolution that fails to include the President's tax proposal, and the gentleman from Texas (Mr. DELAY) added: ''It probably would not be the worst thing in the world to not have a budget resolution.'' Imagine that. One year after hammering, hammering Senate Democrats for failing to pass a budget, congressional Republicans say that is not such a bad idea after all. Situational ethics. My, oh, my, how Republicans have changed their tune.

THE 88TH OBSERVANCE OF THE ARMENIAN GENOCIDE

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

Mr. MCCOTTER. Mr. Speaker, between 1915 and 1923, the Ottoman Empire systematically murdered more than 1.5 million innocent Armenian men, women, and children; and 500,000 Armenians were compelled to flee their homes and escape into exile. This crime constituted a heinous milestone in modern evil. It was the 20th century's first recorded instance of genocide. This tragedy, this crime against humanity, must be remembered by all people of good conscience, lest only evil men remember and be tempted to repeat this horrific lesson of history. For in fact, while most of the civilized world resisted acknowledging this mass murder, one barbarian at the gate did not; and that is why on the eve of his own paroxysm of mass murder, Adolph Hitler blithely remarked: ''Who today remembers the annihilation of the Armenians?''

Mr. Speaker, on the 88th observance of one of human history's greatest tragedies and most savage crimes, we have the vile Herr Hitler's answer. We remember the murdered Armenians. Today. Tomorrow. Forever.

BUDGET IMPACT ON HEALTH CARE

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

Ms. SOLIS. Mr. Speaker, I rise today to express my dismay at the budget. It is being pushed through this House by Members on the other side of the aisle. The Republican budget resolution cuts over $90 billion from Medicaid and State Children's Health Insurance Program, the S–CHIP program, better known as Healthy Families in the State of California. This provides 30 million children with coverage in their health care. The cuts will put health care coverage in jeopardy for one in five children under the age of 18.

In California, we already are experiencing a disaster in terms of health care at the fringes. We need to do more to restore that assistance for low-income families, for seniors, for children, especially for services like dental care, physical therapy and diabetes management. None of us would want to go without these services. So why should we force the most vulnerable populations to go through this? The Democratic budget provides $10 billion in fiscal relief for Medicaid, programs for low-income seniors and children.

I urge my colleagues to pass a real budget before we leave for our break.

UNLAWFUL IMPRISONMENT OF DR. SALAI TUN THAN BY THE BURMESE GOVERNMENT

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

Mr. BURNS. Mr. Speaker, I rise today to speak on a matter of great importance to my constituents in Athens, Georgia, the unlawful imprisonment of Dr. Salai Tun Than. Dr. Tun Than is a graduate of the University of Georgia and is being held as a political prisoner by the Burmese Government for making a pro-democracy speech. He is 74 years old, in poor health, and may not live through the ordeal of imprisonment. The Burmese Government is a military dictatorship. It does not respect the individual freedoms that we as Americans hold dear. Matthew Daley, the State Department chief for the Bureau of East Asia and the Pacific testified on the conditions in Burma before the House Committee on International Relations last month. He said: ''The military dictatorship in Burma severely abuses the human rights of its citizens. There is no real freedom of speech, press, assembly, association, or travel. Patterns of abuse are even worse in ethnic minority areas.''

Mr. Speaker, the situation in Burma is unacceptable. We must work to stop this regime from imprisoning political dissidents and work toward a freer nation for all Burmese citizens. I call on the Burmese Government for the immediate release of Dr. Salai Tun Than.

CONGRATULATIONS TO UNIVERSITY OF CONNECTICUT HUSKIES

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

Mr. LARSON of Connecticut. Mr. Speaker, I rise in celebration of women's basketball and to specifically congratulate the national champion University of Connecticut Huskies for the outstanding job they did last night in defeating the University of Tennessee, an equally great program. This victory underscores the importance of title IX and what it means to women's sports. And on the way, the University of Connecticut has distinguished itself. Coaches Auriemma and Dailey, athletic director Perkins, and the entire program along with the Lady Huskies deserve our admiration for the inspiration that they have provided each and every one of us. They make us so proud in the State of Connecticut.

And by the way, I am happy to collect my wager from the gentleman from Tennessee (Mr. FORD), a soon-to-be someday President of the United States who I will be able to say at some point lost his wager on Tennessee and had to pay up because of the University of Connecticut.

PAY EQUITY

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

Ms. DELAURO. Mr. Speaker, go Huskies. But let me speak about an issue that I think the Huskies care about as well and that is pay equity, and I want to speak on an issue that is important to every woman and every family in America, one that has been ignored by this Chamber. Again, it is about pay equity. The issue of pay equity goes to the heart of what we fight for as working women. It is about ensuring that women who work every bit as hard as men and who play basketball every bit as hard as men are paid what they deserve. Fair pay is not a women's issue. It is a family issue.

Two-earner families are not the only norm. Particularly in this economy, they are a necessity. Robbing women of their due worth robs entire families. It underminds their dreams, and that is why closing the wage gap must be an integral part of any pro-working family agenda. Today women are short-changed, undervalued to the tune of 76 cents on the dollar. For African American women, they earn only 69 cents for every dollar that men earn. Hispanic women, that number plummets to 56 cents.

I am reintroducing today the Paycheck Fairness Act, and what it would do for the first time is put wage discrimination on the basis of gender on the same footing as wage discrimination occurring on the basis of race or ethnicity. I ask this House leadership to please bring this legislation to the floor so that we can pass it.

PROVIDING FOR CONSIDERATION OF H.R. 1036, PROTECTION OF LAWFUL COMMERCE IN ARMS ACT

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 181 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 181

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1036) to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. GIBBONS). The gentlemen from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, I am exceedingly pleased today that we will consider legislation protecting interstate commerce in firearms and ammunition under the direction of a structured rule that allows for a total of five minority party amendments to be made in order.

Today, Mr. Speaker, I call up H. Res. 181 to do my part to ensure that businesses in the United States that are engaged in interstate and foreign commerce through the lawful design, manufacture, marketing, distribution, importation, and sale to the public of firearms or ammunition are not and should not be negligent through lawsuit for the harm caused by those who criminally or unlawfully misuse firearm products or ammunition products that function as they are designed and intended. The people who choose to bring these lawsuits want to hold manufacturers negligent for the criminal abuse of their products, but it is like suing the Louisville Slugger for harm caused by criminals using one of their famous products to unlawfully threaten or harm a third party and not for hitting baseballs, for which that product was intended.

It is my intention today to provide Members with information about this fair and balanced rule and also the underlying legislation that will be on the floor today. This underlying bill must be passed today if we are to beat back the forces who believe that responsible gun ownership is an oxymoron and those who are bent on destroying a citizen's right to firearms for lawful purposes. Lawsuits have been filed nationwide and are pending in our courts today that seek to hold these businesses responsible on a negligence theory for the harm caused by criminals or unlawful use of firearms or ammunition by others, when the product functioned and was designed and was intended to perform and it did, once again, a dangerous and slippery proposition which the underlying bill will prevent.

Guns can be dangerous and deadly when criminals and others who unlawfully use them do so. But then again, so can automobiles, especially when they are used illegally, which I will never condone, and which the underlying bill does not condone or seek to excuse from negligent causes of action. In fact, under the provisions underlined in this bill, H.R. 1036, plaintiffs may still bring negligence causes of action for harm caused by the criminal or unlawful misuse of guns or ammunition.

The forces arrayed against this bill today believe that guns have no constructive purpose in American society and believe that all firearms are so inherently dangerous that no level of responsible caution and education could ever render them useful or enjoyable to a law-abiding citizen. It is on this most tenuous, dangerous, and shaky logic that the gun haters have mounted their present flank maneuvering on the second amendment in both our State and Federal courts through these negligence lawsuits. These hostile forces to the second amendment can only be repelled when every single American who believes in the right to keep and bear arms shall be firmly entrenched by passage of this underlying legislation.

□ 1030

I believe today that the House of Representatives is rightly and correctly again invoking its right to regulate interstate commerce in the name of protecting our citizens' constitutional rights, in this case, the constitutional right to keep and bear arms. Without it, the myriad lawsuits nationwide advancing a negligence theory for the harm caused by the criminal or unlawful use of firearms or ammunition by others, when the product is functioning as it was designed and intended to do, will form a very real threat, completely halting the movement of these lawful products in interstate commerce. In fact, this is the very intent, what this bill is all about. It is to stop the chilling effect that would stop the design, production, trade and ownership of legal firearms and ammunition in the United States by lawsuits.

Mr. Speaker, I want to wrap up what I have said today by stating that the interstate commerce clause thankfully gives us the power and the right to be here in the House today to protect the Second Amendment from these dangerous attempts by others who would

twist the common law to meet their goal of eroding its protections by flanking maneuvers in State and Federal courts.

I am proud of this legislation that we are on the floor to pass today.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my friend, the gentleman from Texas (Mr. SESSIONS), for yielding me this time.

Mr. Speaker, I rise today in strong opposition to the base bill, H.R. 1036. In my view, this is a cynical, political bill that like other so-called tort reform bills that the majority has brought to the floor this year, would protect and favor wealthy businesses and campaign contributors at the expense of those victimized by irresponsible conduct.

I advocate a decent society. My strong opposition to H.R. 1036 does not reflect a broad opposition to gun ownership. I own a gun. I am for sensible gun laws that do not take away the legal rights of individuals to have guns for recreational purposes and personal protection. Gun ownership can further American values, but H.R. 1036, instead, usurps them.

I said to someone earlier today that since I was a child I have had, family and others, BB guns to single shot .22 rifles, that are sports persons and are involved at some degree in having owned a gun. I have no family member that has ever caused a criminal problem because of a gun. That does not mean that my family is any better than anyone else's, and I believe that I would go to my grave fighting for the right of Americans' values, which include owning a gun.

But I cannot have anyone make sense for me how AK–47s can be sold on the open market at a gun show. Nobody can make that make sense to me, that anyone other than the military and law enforcement should be endowed to hold those guns in their possession. I see no reason for them.

The majority, encouraged by a forceful and wealthy industry, is pushing Congress to enact a disastrous bill to give gun makers and dealers extraordinary shelter from liability suits. I do not wish to prey on the misery of one family that has suffered immensely at the hands of a gun, but several Members in this body represent the area of Palm Beach County, four of us do, and in our constituency are people who suffered a few years ago, none more than Ms. Pamela Grunow, the widow of a schoolteacher killed by gun violence.

Pamela Grunow deserves to have her day in court, and I am appalled that some representatives of the people have the contempt to propose legislation that would deny her this right.

On May 26, 2000, a 13-year-old student, a young man named Nathaniel Brazil, shot and killed his language arts teacher, Barry Grunow, at Lake Worth Middle School, that is in my district and the district of three other Members, two Republican and two Democrat.

The gun used to kill Mr. Grunow was a .25 caliber semiautomatic pistol, which is commonly known as a junk gun, or ''Saturday night special.'' Such handguns have little or no sporting or self-defense use, and are disproportionately used by criminals and juveniles to commit murder and other violent offenses. Pamela Grunow is seeking to hold the distributor of this gun responsible for selling an unreasonably dangerous and defective product.

Under Florida law, a distributor or dealer who sells a defectively designed product can be held liable, just as the manufacturer can be held liable. But some congressional colleagues of mine have the audacity to challenge the federalist and legal systems of the United States. Their hubris is infinite. You do not know better than the State governments legislating on this issue or the judges listening to these lawsuits.

Pamela Grunow deserves her day in court. She may not win, but, under Florida law, she should have that opportunity to lose or win.

An identical bill was reported out of committee last October, but the majority leaders decided not to put the measure on the floor after a series of sniper attacks in the metropolitan Washington area. Those sniper attacks made even the bill's sponsors squeamish. But less than a year later, even before the suspects in that particular atrocious crime are prosecuted, the majority is pushing an identical antivictim bill to be enacted. Less than a year later, H.R. 1036 would bar legal action filed by victims of the sniper shootings against the gun dealer, where the sniper suspects, two federally prohibited purchasers, allegedly obtained their Bushmaster assault rifle.

At a time when America needs more corporate responsibility, Congress should not give one industry a free pass. Gun makers and dealers act as though their industry was being treated unfairly. That is absurd. The gun industry wants to receive special legal protection that no other industry in America enjoys. Gun makers and dealers want to be free from the accountability of their negligent or dangerous conduct, regardless of how many people they injure or cause to be killed.

I want to make this clear: Absent legal immunity, gun makers would simply be treated like any other industry. Pharmaceutical companies must design medicine bottles that are childproof. Car manufacturers must design automobiles that withstand crashes. But those in the majority party are prepared to exempt gun makers from the responsibility of designing their products to protect against misuse that is reasonably foreseeable.

Robert A. Ricker, former Executive Director and Director of Government Affairs of the American Shooting Sports Council and former Assistant General Counsel for the NRA, recently revealed that the gun industry has long known its practices aid criminal access to guns, yet has done very little about it. In light of Mr. Ricker's declarations, it would be the height of irresponsibility for Congress to pass H.R. 1036.

America cannot afford for Congress to act irresponsibly on this issue. In 1999, firearm homicide was the number one cause of death for black men ages 15 to 34, as well as the leading cause of death for all black 15- to 24-year-olds. Former Surgeon General Satcher even saw fit to declare this an epidemic.

As a representative of the American people, I am sickened that those culpable of causing pain and devastation may be immunized from liability due to their political clout.

My dear colleagues, blood money is guiding this bill. Those supporting H.R. 1036 are pushing ill-conceived and reckless legislation through Congress, motivated by the wrong priorities.

This bill is not only a gift to the gun lobby, its timing, with floor consideration coming just a few weeks before the April 24, 2003, National Rifle Association's annual meeting, is particularly suspect. In my view, some politicians are more concerned about satisfying the priorities of contributors than in seeking justice under our American values.

The cold barrel of the gun industry is pushing on its victims' throats. The majority is proposing that Congress pull the trigger. H.R. 1036 will shoot down the fundamental right to a day in court, even retroactively. It is scandalous that this anti-American, antivictim, anti-American values, prointerest group bill is being brought to the People's House.

I oppose the bill.

I wish to end, Mr. Speaker, by saying what I said when I began: Let the NRA and all people who own guns know that one Congressperson stands here for their right to own their gun, so do not misunderstand my opposition to this scandalous bill that will do detriment to the fundamental premise of a person's right to sue someone that has caused foreseeable harm.

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

Mr. Speaker, we are continuing the debate today on the floor after we had an opportunity yesterday in the Committee on Rules to talk about this, and the bill is pretty straightforward. It says that a manufacturer of a gun, ammunition or other product that might be used, with the gun working as it was intended, we would hold them harmless; but if a person was illegally or unlawfully using these guns or obtaining these guns under some measure, that they would be held responsible.

The interesting part about this, and there are so many analogies that could be used, but it would be like an automobile, which kills millions of Americans every year. It would be like an automobile that was properly designed,

properly structured, properly placed upon the roadway, and there is not one parent or one person that I know of that has years of experience in using an automobile that would not say to an occupant or to someone who was going to use their car that this could be a dangerous product.

But if we use it properly, then we have no worry about it. But if the manufacturer of that product, the car, manufactured it, designed it or did something that they know they should not have done, and it has happened in the automobile industry, it has happened with side fuel tanks, it has happened with any other number of defective parts of that product, then they would be held liable.

Such is true today also if gun manufacturers do something that is inherently wrong with their product.

□ 1045

But what this bill says is, once that gun or ammunition, just like a car is designed properly, is sold legally and properly under the laws of this country, and if it is utilized properly, that they could not be held liable. Such is true with guns.

The bottom line is that what is true is that the Democrat Party chooses to take this up as an issue because they are antigun. That is what this is about. We see these forces every day. We see them on the street. We see them with the things that they do. This is another way to get in the way of the second amendment of the Constitution of the United States.

So the reasonable legislation that we propose today is one that says that if someone has a legally manufactured product that they obtained legally, and it is used properly within the laws of this country, that a gun manufacturer will be held harmless. It is as simple as it is. I think it makes sense. We support what we are doing here with this underlying legislation.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself 30 seconds.

I want my friend from Texas to catch my voice as it thunders in his direction. I am not antigun. I am prosensible gun legislation, and I am in favor of American values that allow for people to own guns legally. And I do not believe any of my colleagues that are opposed to this legislation would argue that under the Constitution a person has a right to bear arms. But under that same aegis that gives us a system that has served us well these number of years, a person has a right to sue.

Mr. Speaker, I yield 4 minutes to my good friend, the gentleman from Massachusetts (Mr. MCGOVERN), who serves on the Committee on Rules with distinction.

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman from Florida for yielding me this time.

Mr. Speaker, I oppose this rule. I guess the most I can say about the rule is that it is not as bad as it might have been, but it is not as good as it should have been. Five amendments were made in order. Eight Members were denied the opportunity to come to this floor and be able to speak their mind and offer their amendments. In the Committee on Rules yesterday many people who testified who had good amendments were denied the opportunity to come here today to be able to debate them. For the life of me, I cannot quite understand why. But having said that, Mr. Speaker, I want to say a few words about the underlying bill, because I think this is an awful bill.

This House is not considering this bill today because it is good policy, because it is not. And this House is not considering this bill today because it is the right thing to do, because it is not. No, Mr. Speaker, this body is considering this bill today, as my colleague from Florida pointed out, because the National Rifle Association is holding their annual convention at the end of April and the majority leadership in this Chamber feels compelled to prove to the progun special interests that they will do whatever it takes, pass whatever legislation that they can come up with, no matter how bad it is, so they get an applause line at that convention. That includes bringing a bill like this to the floor, a bill that, in my opinion, is unconstitutional.

This bill not only absolves any gun manufacturer from any claim of negligence; it prevents any lawsuit, current or future, from being filed against any gun manufacturer. In other words, any lawsuit against any gun manufacturer currently being considered by the courts will be thrown out.

Mr. Speaker, on Christmas Eve, 1999, in my hometown of Worcester, Massachusetts, 26-year-old Danny Guzman was shot and killed. A week later, police recovered the 9 millimeter Kahr Arms handgun used to kill young Danny. Through ballistics, the police determined that the gun was one of several stolen from Kahr Arms by Kahr employees with criminal records, and Kahr Arms is in my district. According to the police, one of the employees had been hired by Kahr to work in its Worcester manufacturing facility, despite the fact that he had a long history of drug addiction, theft to support that addiction, alcohol abuse, and violence, including several assault and battery charges.

Police determined that the guns were stolen from Kahr even before the weapons had serial numbers stamped on them and then resold to criminals in exchange for money and drugs. In March 2000, police arrested Mark Cronin, who pled guilty to the gun thefts. The investigation also led to the arrest of Kahr employee Scott Anderson, a man with a criminal history who pled guilty to stealing from Kahr a pistol and a slide for another weapon.

Now, the company did not conduct any criminal or general background checks on employees. Kahr did not even have any metal detectors or x-ray machines or security cameras or other similar devices to monitor the facility or to determine if employees were stealing; nor did they check employees at the end of their shifts. At the time, the company did not have security guards.

Now, Mr. Speaker, unlike diamonds stolen from a jewelry store or funds embezzled by an accountant, a gun stolen from the manufacturer can have lethal and deadly results, and the Guzman family found out the hard way.

Now, if this bill becomes law, gun manufacturers would be shielded from being held accountable for their own negligence, and the Guzman family's suit that they have filed would be dismissed.

Now, the NRA has dubbed this bill the Reckless Lawsuit Protection Act. I disagree. Reckless is hiring an employee with a rap sheet to work in a gun factory. Reckless is not locking up and keeping track of every single gun produced in that factory, and reckless is bringing this legislation to the floor.

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

The previous speaker just hijacked the intent of this law, and he misled people who are listening in this body today. The fact of the matter is that any gun manufacturer who is negligent for their product by what they produce would be held responsible under this bill, and for any person to assume otherwise means they have not read the bill. They would be incapable of understanding, and they choose not to, they choose not to.

Mr. MCGOVERN. Mr. Speaker, will the gentleman yield?

Mr. SESSIONS. Mr. Speaker, the gentleman was allowed his opportunity to speak, and I am sure that the minority has lots of time left.

Mr. MCGOVERN. Mr. Speaker, the gentleman is mischaracterizing the bill and my statement.

Mr. SESSIONS. Mr. Speaker, I appreciate the Speaker's help. Regular order, please.

So, Mr. Speaker, what happens is that anyone who chooses to mislead those people that are in this body today, that they would not be held liable, is simply not true. That is not what this bill is about. The bill that we know and the underlying legislation makes perfect sense, and that is why we are here.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. STEARNS), the original author of this bill. I, as an original cosponsor, am pleased to have him.

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

Mr. STEARNS. Mr. Speaker, I thank my distinguished colleague for yielding me this time.

Let me just see if we can discuss this bill without sort of inflaming the emotions of people. It has been said on the

floor that it is not good policy. This is a policy that has been passed by 31 States. Thirty-one States have adopted this almost similar language. So I think if the people on this side or if there is anybody on the Republican side who decides they do not want to vote for this bill, please go back to your State legislatures and see if they passed this language. I will have a graph when we move to the debate on this bill, and I will show my colleagues that 31 States have already passed this same type of legislation.

So it is good policy, so good that the majority of the States in the United States have passed it. In fact, I say to my good colleague, the gentleman from Florida (Mr. HASTINGS), the State of Florida has also passed this bill. So in his comments, I appreciate what he says, that he is not for gun control, that he has a gun himself, so he could appreciate the fact that this Bill is good policy.

The second point I want to make is there is going to be a lot of attacks on the NRA this morning and this afternoon. I authored this bill in the Committee on Commerce; and it passed out of the subcommittee, out of the full committee, and also passed out of the subcommittee of the Committee on Judiciary and out of the full Committee on the Judiciary. That was in the 107th Congress. There is nothing about timing for bringing this Bill up on the floor because the NRA is having a convention at the end of this month. We have been trying to get this bill to the floor; and as many Members know, when we try and get a bill passed, we have to go around to our colleagues day after day and ask them to cosponsor it. I had about 235 cosponsors in the last Congress, and we were ready to vote on it. So it is not a case of timing for the NRA. It is just good policy, and I think the 31 States that have passed it have shown that it is good policy.

The other thing I would point out to my colleagues is the public is now aware how important it is to pass this type of legislation. I want to mention a couple of surveys taken recently of almost 1,100 adults by DecisionQuest, a jury-consulting firm. They found that 66.2 percent of American adults oppose these types of lawsuits. These are simply lawsuits that State and local municipalities are forcing on gun manufacturers simply because they do not like the product. They do not like the distribution of the weapon. So I say to my colleagues, we cannot start attacking a company because we do not like their distribution system or their design, because under the Constitution, one has the right under the commerce clause to manufacture and distribute.

So when people say this bill is unconstitutional, no, on the contrary, it is constitutional in the sense it is saying, allow people to legally manufacture and distribute products.

So only 19 percent of Americans oppose this type of legislation that protects manufacturers from nuisance lawsuits.

Then in April 1999, an ICR/Associated Press poll found that 70 percent of the respondents thought manufacturers should not be held liable to recoup hospital and police costs. In 1999, a Gallup poll found 61 percent of Americans are opposed to lawsuits to cover costs incurred because of gun violence. A May 1999 poll by Zogby International found 71 percent of Americans opposed allowing cities to sue gun manufacturers.

I can just take my colleagues up to the current day that the public is behind us on this. They want to say that there is too much litigation. These third-party cases where violence occurs is because of the third party and one cannot go after the manufacturer with deep pockets only because he is distributing the weapons or because of the person who sells it to him because there is negligence. Still, in fact, based upon that information, I can tell my colleagues this. The question is, does this bill protect unlicensed dealers, and the answer is simply no. The bill defines manufacturers and sellers only as licensed manufacturers, dealers, or importers of firearms or trade associations representing those persons. The only exception is for ammunition sellers who are not required to be licensed by the Federal Government.

The second question: Does the bill protect those who commit State crimes or engage in negligent conduct? Under the bill, manufacturers or sellers must operate entirely within Federal and State laws.

So the bill is not giving any exemption to them if they perform criminal or negligent acts. So basically, it is just saying, we are trying to prevent these nuisance suits.

Now, I will just conclude by giving my colleagues one example of a nuisance suit and that took place in Bridgeport, Connecticut. Superior Court Judge Robert McWeeney threw out the City of Bridgeport's suit. ''The plaintiffs have no statutory common law basis to recoup their expenditures,'' he said. ''They lack any statutory authorization to initiate such claims.''

□ 1100

Those were his exact words. Yet, Bridgeport was using taxpayers' money to sue this gun manufacturer with frivolous lawsuits.

Basically, the judge said they seek to regulate firearms in a manner that is preempted by State law. In other words, they are taking the mere fact that they are involved with commerce, manufacturing a product and distributing it as a way to sue.

I can give case after case of examples where the judge has thrown out these nuisance lawsuits.

So between what the judges have said, what the States have said by passing legislation in 31 States, and what the public says, I think we have a very credible bill. I urge my colleagues to support the rule.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 15 seconds to the gentleman from Massachusetts (Mr. MCGOVERN) to respond to our colleague.

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman for yielding time to me.

I just want to make clear that under this bill, if any victim files a lawsuit based on the common law principle of negligence, it would be barred. So I would urge my colleague, the gentleman from Texas (Mr. SESSIONS) to read the bill to understand what the bill is doing. This bill is designed to protect gun manufacturers at any cost for whatever is filed against them, and I think this bill should be defeated.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 6 minutes to my very good friend, the gentleman from North Carolina (Mr. WATT), the ranking member of the relevant subcommittee of the Committee on the Judiciary.

Mr. WATT. Mr. Speaker, I thank the gentleman for yielding time to me.

I first want to associate myself with the remarks that the gentleman made so eloquently in his statement. I am sure that both of us throughout the course of the day will be subjected to a number of phone calls saying that we are antigun. I personally do not think that is what this debate is about or should be about. The debate is about the bill that is in front of us and what it does to legal rights of people that have been recognized throughout history.

I am sure that my staff in the office is prepared for the barrage of phone calls, but I hope we can keep this debate based on what is before us at this point.

I am going to reserve my comments about the bill itself to the general debate on the bill, but I did want to rise in opposition to the rule reported by the Committee on Rules on this bill.

Twelve Democratic amendments were timely submitted to the Committee on Rules. Of those 12, 10 were offered by members of the Committee on the Judiciary, and five of the 12 were made in order under this rule. I am the first to admit that that is a better record than the Committee on Rules has enjoyed throughout this Congress, and some people say I should be happy about that. But the process by which this bill came to the Committee on Rules and now comes to the floor leads me to be concerned that the rule does not do justice to us as Members or to the public.

The bill first came before the Subcommittee on Commercial and Administrative Law, on which I serve as the ranking member, one day before the full committee markup. There was no markup of the bill in the subcommittee, and the hearing was conducted at a disadvantage by the fact that two of the witnesses' statements arrived late, one coming the night before the hearing and one coming the morning of the hearing.

Under these circumstances, the full committee markup provided the sole

opportunity for all Members, not just Democrats and not just those with concerns about the bill but all Members of the Committee on the Judiciary, to speak to the merits and concerns, or even in support of the legislation.

But that never happened in the full committee, either. There was no deliberative process that brought this bill to the floor. There was no debate on what the various provisions of the bill mean. There was no opportunity to seek clarification, no opportunity to praise or explain, no opportunity to criticize or correct the bill. There was simply no process in the committee.

Now, we wonder, how did that happen? Well, during the markup of the bill while one of my amendments was pending and numerous other Democratic amendments were at the desk to be considered, the majority abruptly decided that they would call a 5-minute recess in the proceeding, and they went into the back room. As soon as we got through deliberating the one amendment that was being considered, then they moved the previous question on the amendment, on the bill, and all other amendments got cut off.

Mr. Speaker, the amendment that I was debating when they abruptly called this recess was the only amendment that was actually offered and considered throughout the process. One other amendment had been offered and withdrawn earlier, and debate was cut off.

I raise the question, if we have had no subcommittee process and we have had no full committee process, and if only five out of 12 amendments that people seek to offer on the floor will be considered, then when will this bill be considered? I raise the question, what are the supporters afraid of? Are they afraid to defend the bill? I am baffled by what this is all about.

Now, I said in committee that I was concerned that we were rushing through the markup to get the bill to the floor so that the bill could be reported out in advance of the National Rifle Association's convention. Now I am wondering whether we are rushing through the process on the floor. When is this bill going to be considered? I think that is a relevant question.

Now, the one amendment that I offered that was not made in order by the Committee on Rules would have had us have a debate about whether pending lawsuits, lawsuits that have already been filed by people who think that they were proceeding in good faith, maybe some of them were proceeding in good faith, but they were proceeding based on the law that existed at that time, those lawsuits would be wiped out by this bill.

I think that is unconstitutional. If it is not unconstitutional as an ex post facto law, then it is certainly unfair and it is obscene. We should not be going back saying to the courts of appeals, trial courts, to dismiss cases based on a statute that we are passing at this point.

Mr. Speaker, I think this bill needs to be considered, and I hope we will send it back to committee for that consideration.

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

Mr. Speaker, the Committee on Rules took a lot of time yesterday. We heard a lot of testimony. The gentleman is correct, he did come and approach the Committee on Rules, as well as other Members of this great body.

I think the Committee on Rules, through the leadership of the gentleman from California (Mr. DREIER), heard the testimony and, in fact, Mr. Speaker, made in order several amendments, five, and two from the gentleman from North Carolina (Mr. WATT). That gives him the ability today to have two amendments for a total of 40 minutes. Three others are allowed for a total of 60 minutes, 20 minutes each. I think that is pretty good. I think that does allow debate on the floor of this House, more than almost 2 hours of debate, to talk about these issues.

Best of all, they are going to get their own vote. They are going to get their vote that they asked for up on the board, and every single Member will be here, so they have a chance to tell their story. I think that this process, while it may not always work the way every single Member wants, the Committee on Rules did the right thing.

Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. LINDER) from the Committee on Rules.

Mr. LINDER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of House Resolution 181 providing for the consideration of the Protection of Lawful Commerce in Arms Act of 2003. This is a fair but structured rule that provides for the consideration of a number of Democrat amendments submitted to the Committee on Rules yesterday afternoon. We have made in order two amendments submitted by the gentleman from North Carolina (Mr. WATT). We have made one each by the gentleman from Virginia (Mr. SCOTT), the gentlewoman from California (Ms. LINDA T. SÁNCHEZ), and the gentleman from Massachusetts (Mr. MEEHAN).

The committee heard persuasive testimony and has worked to create an amendment process that is fair and as evenhanded as possible. It is unfortunate that this bill is on the floor at this time. It is unfortunate that this Congress has to sit down and construct a law to protect a legal industry from acting legally in every State in the Nation.

For those who want to just get rid of guns, do it the right way: Propose to put a repeal of the second amendment on the floor and vote it up or down. There was a reason that our Founding Fathers fashioned the second amendment. It was for people to be able to protect themselves, in some instances, from their government.

But instead of doing it the honest way, we pick around the edges. We have lawyers willing to sue gun manufacturers who acted legally because a crime was committed with a stolen gun, and we have friendly juries willing to hand over that money. This is nothing more or less than a ripping-off of the system by a bunch of greedy people, and I want to see us have this debate in the honest way: Put their repeal of the second amendment on the floor and let us vote it up or down.

We should not have to come here every time and defend legal industries. Fifteen percent of the crimes are committed with knives. Are we going to be forced to defend the cutlery industry? Eighty percent of the crimes involve alcohol. Will we be suing distillers next? We have a tort system, a court system that has run amok. It is unfortunate that we have to sit here on the floor and protect it.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield an additional 30 seconds to the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Speaker, I would just encourage my colleagues to make their own judgment. If we add up all of the debate time about this bill, there will be about 3 hours. We are talking about undoing a system of law that has existed throughout our history, and we are doing it with 3 hours' worth of debate. Members should make the judgment about whether that is reasonable.

Additionally, we are talking about doing it without consideration of any of the amendments, other than the five that were made in order, that were offered by people in this body who have or who represent the same number of people that the gentleman on the opposite side represents. Those amendments were not considered in committee and they will not be considered on the floor.

So I do not know what this process is all about. We have made a mockery of the process in committee, and now we are about to do the same thing on the floor.

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

Mr. Speaker, the gentleman makes some points. They are that he felt that these amendments were denied through the process. But the way we operate here is that the Committee on Rules operates in the daylight. We come and tell people when they may file amendments. Either those amendments may or may not have ever seen the light of day in another committee.

This Speaker and this Committee on Rules chairman want to make sure that we are open for business, that we tell people when we will be there; that we have, in my opinion, an appropriate number of people who sit through the hearings, as I have done, as I did in this case again; and responsible people listen to the arguments and the debates about the merits of those things which they wish to have placed in order.

We then hear the deliberation, we hear the debate, and then we go back

and make a decision about it. Then there is a vote. The votes are in the open where everybody can see them happen.

Mr. Speaker, my chairman allows many times more debate than what I probably would think would be reasonable, but he does it. It is a fair and open process. We know what this bill is about. We know where there is disagreement. We know why we are doing this. It is the right thing to do.

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

□ 1115

Mr. HASTINGS of Florida. Mr. Speaker, I have no further speakers. Does my friend from Texas (Mr. SESSIONS) have additional speakers?

Mr. SESSIONS. Mr. Speaker, I have one additional speaker. Mr. Speaker, what is the time remaining?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Texas (Mr. SESSIONS) has 9½ minutes remaining. The gentleman from Florida (Mr. HASTINGS) has 8¼ minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, I am prepared to yield back after closing.

Mr. SESSIONS. Mr. Speaker, I will close after this speaker.

Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. Mr. Speaker, I thank the gentleman from Texas for yielding me time. I probable will not take 5 minutes.

Mr. Speaker, this is an important bill. It seems to me, it seems very basic to me that an industry that manufacturers, distributes, imports and/or sells a legal product lawfully should not be held liable for criminal acts of a third party. If an individual sells a firearm following all the rules and regulations of firearms, sales including conducting backgrounds checks to ensure that the purchaser is eligible to own a firearm, and the purchaser who buys the firearm violates the law by surrendering that firearm to an individual who subsequently uses the gun to commit a crime, why should the law-abiding dealer be liable?

Laws are violated in that hypothetical, Mr. Speaker, it seems to me, when the purchaser shared his firearm or surrendered his firearm to a third party, not at the point of sale. In my opinion, that means that the liability should lie with those who violated the law and not with a manufacturer who made the firearm to standard, maybe 6 months earlier, or even with the dealer who sold the gun complying with existing law.

H.R. 1036 which, by the way, came out of our House Committee on the Judiciary, does nothing to exempt the firearm industry from liability if the industry acts negligently, if the industry produces or sells a defective product, or if a firearm is sold in violation of any State or Federal law. The bill simply protects the industry from unwarranted and frivolous lawsuits. Once again, it is important to note that the firearm industry is heavily regulated, and I am not averse to that. I think it ought to be heavily regulated at both State and Federal levels.

This is not an industry that is operating willy-nilly, unchecked and unmonitored. Licensed firearm dealers are required to meet various regulations prior to the sale of a firearm. Furthermore, the industry itself is very actively involved in ensuring that dealers know and are enforcing current firearm laws. Firearm trade groups, Mr. Speaker, to my friend from Texas (Mr. SESSIONS) I would say, are responsible for publishing literature on gun safety, responding to questions about firearms, and the proper manner in which to store firearms, for example. The firearm industry also, I am told, sponsors seminars across the country for gun dealers and distributors to certify that all gun sales adhere to strict transaction requirements.

The bottom line, Mr. Speaker, it seems to me, is that firearms are legal products that are heavily regulated at the State and Federal level. It is my belief that a manufacturer, distributor, dealer, and/or importer of firearms who follows all laws of sale and marketing and does not act in any way negligently should not be held responsible for the criminal behavior of a third party.

I think this is a good piece of legislation, Mr. Speaker; and I urge my colleagues to support it. I thank the gentleman from Texas (Mr. SESSIONS) again for yielding me time.

Mr. HASTINGS of Florida. Mr. Speaker, I have had one additional speaker show up.

Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. VAN HOLLEN), my friend, who was a leader in the State senate in Maryland on this particular issue.

Mr. VAN HOLLEN. Mr. Speaker, I thank my colleague for yielding me time.

Mr. Speaker, I have not been in this body very long, but I have quickly learned that the titles we give bills often come out of ''Alice in Wonderland.'' The title of this bill is ''Protecting Commerce.'' The way I read this bill, it is protecting those gun dealers who are engaged in wrongdoing.

I am very disappointed that this bill is even on the floor. I had an amendment proposed that I took to the Committee on Rules the other day; and unfortunately, they did not approve it. I represent an area that was recently ravaged just last fall by a sniper. This body at that time was taking up this legislation and, in deference to the victims' families, took this legislation off the floor. But by taking this up today, we are adding insult to injury to the victims and the families of those victims. We are rubbing salt in their wounds because many of the families of those victims decided to go to court. They went to court. They took their case to court against a gun dealer whose activities over many years had shown a pattern of negligence that could very well have contributed to the suffering in their families. And this legislation which was taken off the floor in deference to those victims will now deny them their fair day in court. They are not going to get a fair hearing. And I find this decision of this body to proceed on this to be an insult, not just to those families, but really to decency and justice in the United States.

I had an amendment that would have addressed an issue that was adopted in the middle of the night a couple of months ago as part of the 2003 omnibus appropriations bill. At that time we exempted the ATF from requirements that all other Federal agencies are subject to under the Freedom of Information Act to get the information collected with the ATF with respect to those gun dealers who are engaged actively in selling to the criminal market. Why do we want to hide that information from the American people? But we did this in the middle of the night.

And so I had an amendment proposed to reinstate the ability of the American people to have access to that information. The committee denied us that opportunity. I think we should have had a fair debate on that question. This bill protects gun dealers who are engaged in wrong doing. It is unfair to all those gun dealers and manufacturers out there who are playing by the rules. It is unfair to them because it taints them with the wrong-doing of a few. And what this bill does is give protection, not to those who are engaged in the fair dealing in guns. What this does is protect those who are engaged in wrong-doing, those who are engaged in selling mostly to the criminal market, and we have already provided them some additional protection by denying the American people access about who they are. And now they are further shielding them from the justice that American families and the victims are due in this great country. I am sorry we are carving out a special exception for these wrong-doers, and I urge the body to reject this legislation.

Mr. HASTINGS of Florida. Mr. Speaker, I am prepared to close if the gentleman from Texas (Mr. SESSIONS) is prepared to close.

Mr. SESSIONS. Mr. Speaker, I am prepared to close.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my friend from Texas (Mr. SESSIONS), and I also thank my friend from Florida (Mr. STEARNS), who is still here, for reminding me that Florida has a law that is similar to this that I do not think ought to be preempted. But at the very same time, Florida under the aegis of a previous Attorney General did in fact sue gun manufacturers too. So we have been a leader on both fronts.

Mr. Speaker, let me say this in closing. The gentleman from Florida (Mr. STEARNS) and I live very close to Orlando. I was born and raised in Alta Mont Springs that is 10 miles north of Orlando. I will not be in Orlando when the National Rifle Association meets there 3 weeks from now. I will not be receiving contributions from some of their members, interestingly. I am sure that there are some of their members who agree with me.

Gun dealers and owners who illegally sell or use guns are subject to prosecution under Federal laws, as my friend from Texas pointed out at the Committee on Rules yesterday, such as Brady. That is not what we are talking about here today. Today we are talking about the civil damages these actions cause, the innocent victims of gun violence. This bill, in my opinion, would eviscerate this possibility; and I think in that regard that it is wrong.

Let me says that with my warm live hands I will protect the right of American citizens and American values to legally own guns. In that place where I was born in the halcyon days of segregation, be assured that almost every family member and everybody there had a gun, and I can assure you they needed them. And, therefore, when we talk about the right to bear arms, know that there were many of us that believe in that right. So the National Rifle Association should know that with these warm live hands I will defend their right to own a gun, but none of them can make sense of AK–47s being sold in the street. None of them can make sense of Saturday night specials that have caused devastating damage to this overall society, such that one Surgeon General declared an epidemic because of gun violence against our children and their community.

None of them can make sense for the gun manufacturers and gun dealers, who may be few, of being exempted from legislation that rightly ought be considered if it were not exempting certain people and giving them special conditions that so many on the majority side rail about all the time saying others are seeking special conditions. If car manufacturers have to meet standards that avoid liabilities, if drug manufacturers, and I can go on and on and on through the product liability phase of this discussion, then be assured gun manufacturers, if they do something that is foreseeably wrong, should be held to the same standards as everybody else.

Mr. Speaker, I urge this body to vote against this bill and for each one of them to use their warm live hands to protect American values.

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

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

Mr. Speaker, this is the very end of the debate about a very, very important commonsense piece of legislation.

The amendments that were before the Committee on Rules would have done a lot of things. I disagree with us having the Federal Government print a list of all the people who have a gun in this country. I think that is dangerous. I think that is dangerous precedent for us as consumers to think that we would purchase a product and then someone would print our name about a product that we buy. But that is what we were asked to do yesterday, and we denied them. We did allow the minority the chance to have its debate on five amendments. That is what is going to take place today.

This legislation is common sense. The process has been open and fair. The Committee on Rules was available yesterday. The Speaker, the gentleman from Illinois (Mr. HASTERT), and the gentleman from California (Mr. DREIER), the chairman, intentionally went out of their way to make sure that we would have a vigorous debate today because we think the light of day is the best disinfectant there is to fairness.

The gentleman from Florida (Mr. STEARNS), the original sponsor of this bill, the author of this bill, showed up on the floor and offered a hardy debate. We have had others that have done the same. So I think America is free. I think we are using this body for what it was intended, as a sharing of issues and ideas. And most of all I would like to applaud the gentleman from Wisconsin (Mr. SENSENBRENNER), who is the chairman of the Committee on the Judiciary. The gentleman has been to the Committee on Rules, placed himself available before each and every Member to answer questions. I think that the commonsense legislation that he brings forward at this time with respect to what we are going to do on floor debate is important and good.

□ 1130

Mr. Speaker, I would ask that Members would support this bill, this rule, and of course, all the underlying legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I oppose the Rule to H.R. 1036, The Protection of Lawful Commerce in Arms Act.

My opposition to the Rule to H.R. 1036, is based largely on my outrage at the disgrace that has occurred in the Mark-up and Amendment of this Bill.

The Amendment process at the Judiciary Committee Mark-up of H.R. 1036 was unfair, discourteous, and a complete departure from the accepted Committee procedures of debate. The Amendments offered by myself and my Democratic colleagues were never given the opportunity to be fully debated. The Mark-up was simply shut down by the Chairman while Amendments were at the table. The actions of the Chairman are not in the spirit of comity that both parties try to maintain in this Chamber. Every Amendment that is offered is entitled to the full consideration of the committee. Our Amendments to H.R. 1036 were not given that consideration.

Likewise, the Rules Committee has not given the Democratic Amendments full and fair consideration. The Rules Committee has picked and chosen a select few Amendments offered by my Democratic colleagues and myself. The Democrats proposed a total of thirteen Amendments to H.R. 1036. The Rules Committee concluded that only five Amendments would be made in order. Neither of the two Amendments that I offered were made in order.

One of the Amendments that I offered exempted from the scope of the bill those lawsuits brought by or on behalf of minors who were injured or killed by negligently transferred guns. This is an Amendment to the bill designed to protect America's children from the unlawful transfers of firearms. As the Chair of the Congressional Children's Caucus, I believe that provisions that protect America's children should be included in every bill that shapes gun rights. However, my Amendment to H.R. 1036 protecting minor's rights to sue negligent gun sellers was shut out of the Judiciary Committee, and not made in order by the Rules Committee.

A second Amendment that I offered exempted from the scope of the bill lawsuits against the sellers of machine guns, semi-automatic assault weapons, and large capacity ammunition feeding devices. Congress has banned all of these weapons because they are inherently dangerous. Assault weapons are even more dangerous in the hands of criminals. However, under H.R. 1036, if a gun merchant negligently sells a banned gun and that gun is used to injure or kill, the plaintiff will have no cause of action against the seller.

All of the Amendments proposed by my Democratic colleagues and myself are provisions that protect American lives. They deserved more sincere consideration by both the Judiciary Committee and the Rules Committee. That consideration was not provided.

That, Mr. Chairman, is why I oppose the Rule to H.R. 1036 bill.

Mr. SESSIONS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S.151, PROSECUTORIAL REMEDIES AND OTHER TOOLS TO END THE EXPLOITATION OF CHILDREN TODAY ACT OF 2003

Mr. SENSENBRENNER submitted the following conference report and statement on the Senate bill (S. 151) to amend title 18, United States Code, with respect to the sexual exploitation of children:

CONFERENCE REPORT (H. REPT. 108–66)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1151), to amend title 18, United States Code, with respect to the sexual exploitation of children, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003'' or ''PROTECT Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Severability.

TITLE I—SANCTIONS AND OFFENSES

Sec. 101. Supervised release term for sex offenders.
Sec. 102. First degree murder for child abuse and child torture murders.
Sec. 103. Sexual abuse penalties.
Sec. 104. Stronger penalties against kidnapping.
Sec. 105. Penalties against sex tourism.
Sec. 106. Two strikes you're out.
Sec. 107. Attempt liability for international parental kidnapping.
Sec. 108. Pilot program for national criminal history background checks and feasibility study.

TITLE II—INVESTIGATIONS AND PROSECUTIONS

Sec. 201. Interceptions of communications in investigations of sex offenses.
Sec. 202. No statute of limitations for child abduction and sex crimes.
Sec. 203. No pretrial release for those who rape or kidnap children.
Sec. 204. Suzanne's law.

TITLE III—PUBLIC OUTREACH

Subtitle A—AMBER Alert

Sec. 301. National coordination of AMBER alert communications network.
Sec. 302. Minimum standards for issuance and dissemination of alerts through AMBER alert communications network.
Sec. 303. Grant program for notification and communications systems along highways for recovery of abducted children.
Sec. 304. Grant program for support of AMBER alert communications plans.
Sec. 305. Limitation on liability.

Subtitle B—National Center for Missing and Exploited Children

Sec. 321. Increased support.
Sec. 322. Forensic and investigative support of missing and exploited children.
Sec. 323. Creation of cyber tipline.

Subtitle C—Sex Offender Apprehension Program

Sec. 341. Authorization.

Subtitle D—Missing Children Procedures in Public Buildings

Sec. 361. Short title.
Sec. 362. Definitions.
Sec. 363. Procedures in public buildings regarding a missing or lost child.

Subtitle E—Child Advocacy Center Grants

Sec. 381. Information and documentation required by Attorney General under Victims of Child Abuse Act of 1990.

TITLE IV—SENTENCING REFORM

Sec. 401. Sentencing reform.

TITLE V—OBSCENITY AND PORNOGRAPHY

Subtitle A—Child Obscenity and Pornography Prevention

Sec. 501. Findings.
Sec. 502. Improvements to prohibition on virtual child pornography.
Sec. 503. Certain activities relating to material constituting or containing child pornography.
Sec. 504. Obscene child pornography.
Sec. 505. Admissibility of evidence.
Sec. 506. Extraterritorial production of child pornography for distribution in the United States.
Sec. 507. Strengthening enhanced penalties for repeat offenders.
Sec. 508. Service provider reporting of child pornography and related information.
Sec. 509. Investigative authority relating to child pornography.
Sec. 510. Civil remedies.
Sec. 511. Recordkeeping requirements.
Sec. 512. Sentencing enhancements for interstate travel to engage in sexual act with a juvenile.
Sec. 513. Miscellaneous provisions.

Subtitle B—Truth in Domain Names

Sec. 521. Misleading domain names on the Internet.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Penalties for use of minors in crimes of violence.
Sec. 602. Sense of congress.
Sec. 603. Communications decency act of 1996.
Sec. 604. Internet availability of information concerning registered sex offenders.
Sec. 605. Registration of child pornographers in the national sex offender registry.
Sec. 606. Grants to States for costs of compliance with new sex offender registry requirements.
Sec. 607. Safe id act.
Sec. 608. Illicit Drug Anti-Proliferation Act.
Sec. 609. Definition of vehicle.
Sec. 610. Authorization of John Doe DNA indictments.
Sec. 611. Transitional housing assistance grants for child victims of domestic violence, stalking, or sexual assault.

SEC. 2. SEVERABILITY.

If any provision of this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to other persons not similarly situated or to other circumstances, shall not be affected by such invalidation.

TITLE I—SANCTIONS AND OFFENSES

SEC. 101. SUPERVISED RELEASE TERM FOR SEX OFFENDERS.

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (e)(3), by inserting ''on any such revocation'' after ''required to serve'';

(2) in subsection (h), by striking ''that is less than the maximum term of imprisonment authorized under subsection (e)(3)''; and

(3) by adding at the end the following:

''(k) Notwithstanding subsection (b), the authorized term of supervised release for any offense under section 1201 involving a minor victim, and for any offense under section 1591, 2241, 2242, 2244(a)(1), 2244(a)(2), 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, 2423, or 2425, is any term of years or life.''.

SEC. 102. FIRST DEGREE MURDER FOR CHILD ABUSE AND CHILD TORTURE MURDERS.

Section 1111 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ''child abuse,'' after ''sexual abuse,''; and

(B) by inserting ''or perpetrated as part of a pattern or practice of assault or torture against a child or children;'' after ''robbery;''; and

(2) by inserting at the end the following:

''(c) For purposes of this section—

''(1) the term 'assault' has the same meaning as given that term in section 113;

''(2) the term 'child' means a person who has not attained the age of 18 years and is—

''(A) under the perpetrator's care or control; or

''(B) at least six years younger than the perpetrator;

''(3) the term 'child abuse' means intentionally or knowingly causing death or serious bodily injury to a child;

''(4) the term 'pattern or practice of assault or torture' means assault or torture engaged in on at least two occasions;

''(5) the term 'serious bodily injury' has the meaning set forth in section 1365; and

''(6) the term 'torture' means conduct, whether or not committed under the color of law, that otherwise satisfies the definition set forth in section 2340(1).''.

SEC. 103. SEXUAL ABUSE PENALTIES.

(a) MAXIMUM PENALTY INCREASES.—(1) Chapter 110 of title 18, United States Code, is amended—

(A) in section 2251(d)—

(i) by striking ''20'' and inserting ''30''; and

(ii) by striking ''30'' the first place it appears and inserting ''50'';

(B) in section 2252(b)(1)—

(i) by striking ''15'' and inserting ''20''; and

(ii) by striking ''30'' and inserting ''40'';

(C) in section 2252(b)(2)—

(i) by striking ''5'' and inserting ''10''; and

(ii) by striking ''10'' and inserting ''20'';

(D) in section 2252A(b)(1)—

(i) by striking ''15'' and inserting ''20''; and

(ii) by striking ''30'' and inserting ''40''; and

(E) in section 2252A(b)(2)—

(i) by striking ''5'' and inserting ''10''; and

(ii) by striking ''10'' and inserting ''20''.

(2) Chapter 117 of title 18, United States Code, is amended—

(A) in section 2422(a), by striking ''10'' and inserting ''20'';

(B) in section 2422(b), by striking ''15'' and inserting ''30''; and

(C) in section 2423(a), by striking ''15'' and inserting ''30''.

(3) Section 1591(b)(2) of title 18, United States Code, is amended by striking ''20'' and inserting ''40''.

(b) MINIMUM PENALTY INCREASES.—(1) Chapter 110 of title 18, United States Code, is amended—

(A) in section 2251(d)—

(i) by striking ''or imprisoned not less than 10'' and inserting ''and imprisoned not less than 15'';

(ii) by striking ''and both,'';

(iii) by striking ''15'' and inserting ''25''; and

(iv) by striking ''30'' the second place it appears and inserting ''35'';

(B) in section 2251A(a) and (b), by striking ''20'' and inserting ''30'';

(C) in section 2252(b)(1)—

(i) by striking ''or imprisoned'' and inserting ''and imprisoned not less than 5 years and'';

(ii) by striking ''or both,''; and

(iii) by striking ''5'' and inserting ''15'';

(D) in section 2252(b)(2), by striking ''2'' and inserting ''10'';

(E) in section 2252A(b)(1)—

(i) by striking ''or imprisoned'' and inserting ''and imprisoned not less than 5 years and'';

(ii) by striking ''or both,''; and

(iii) by striking ''5'' and inserting ''15''; and

(F) in section 2252A(b)(2), by striking ''2'' and inserting ''10''.

(2) Chapter 117 of title 18, United States Code, is amended—

(A) in section 2422(b)—

(i) by striking '', imprisoned'' and inserting ''and imprisoned not less than 5 years and''; and

(ii) by striking '', or both''; and

(B) in section 2423(a)—

(i) by striking '', imprisoned'' and inserting ''and imprisoned not less than 5 years and''; and

(ii) by striking '', or both''.

SEC. 104. STRONGER PENALTIES AGAINST KIDNAPPING.

(a) SENTENCING GUIDELINES.—Notwithstanding any other provision of law regarding the amendment of Sentencing Guidelines, the United States Sentencing Commission is directed to amend the Sentencing Guidelines, to take effect on the date that is 30 days after the date of the enactment of this Act—

(1) so that the base offense level for kidnapping in section 2A4.1(a) is increased from level 24 to level 32;

(2) so as to delete section 2A4.1(b)(4)(C); and

(3) so that the increase provided by section 2A4.1(b)(5) is 6 levels instead of 3.

(b) MINIMUM MANDATORY SENTENCE.—Section 1201(g) of title 18, United States Code, is amended by striking ''shall be subject to paragraph (2)'' in paragraph (1) and all that follows through paragraph (2) and inserting ''shall include imprisonment for not less than 20 years.''.

SEC. 105. PENALTIES AGAINST SEX TOURISM.

(a) IN GENERAL.—Section 2423 of title 18, United States Code, is amended by striking subsection (b) and inserting the following:

''(b) TRAVEL WITH INTENT TO ENGAGE IN ILLICIT SEXUAL CONDUCT.—A person who travels in interstate commerce or travels into the United States, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, for the purpose of engaging in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 30 years, or both.

''(c) ENGAGING IN ILLICIT SEXUAL CONDUCT IN FOREIGN PLACES.—Any United States citizen or alien admitted for permanent residence who travels in foreign commerce, and engages in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 30 years, or both.

''(d) ANCILLARY OFFENSES.—Whoever, for the purpose of commercial advantage or private financial gain, arranges, induces, procures, or facilitates the travel of a person knowing that such a person is traveling in interstate commerce or foreign commerce for the purpose of engaging in illicit sexual conduct shall be fined under this title, imprisoned not more than 30 years, or both.

''(e) ATTEMPT AND CONSPIRACY.—Whoever attempts or conspires to violate subsection (a), (b), (c), or (d) shall be punishable in the same manner as a completed violation of that subsection.

''(f) DEFINITION.—As used in this section, the term 'illicit sexual conduct' means (1) a sexual act (as defined in section 2246) with a person under 18 years of age that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States; or (2) any commercial sex act (as defined in section 1591) with a person under 18 years of age.

''(g) DEFENSE.—In a prosecution under this section based on illicit sexual conduct as defined in subsection (f)(2), it is a defense, which the defendant must establish by a preponderance of the evidence, that the defendant reasonably believed that the person with whom the defendant engaged in the commercial sex act had attained the age of 18 years.''.

(b) CONFORMING AMENDMENT.—Section 2423(a) of title 18, United States Code, is amended by striking ''or attempts to do so,''.

SEC. 106. TWO STRIKES YOU'RE OUT.

(a) IN GENERAL.—Section 3559 of title 18, United States Code, is amended by adding at the end the following new subsection:

''(e) MANDATORY LIFE IMPRISONMENT FOR REPEATED SEX OFFENSES AGAINST CHILDREN.—

''(1) IN GENERAL.—A person who is convicted of a Federal sex offense in which a minor is the victim shall be sentenced to life imprisonment if the person has a prior sex conviction in which a minor was the victim, unless the sentence of death is imposed.

''(2) DEFINITIONS.—For the purposes of this subsection—

''(A) the term 'Federal sex offense' means an offense under section 2241 (relating to aggravated sexual abuse), 2242 (relating to sexual abuse), 2244(a)(1) (relating to abusive sexual contact), 2245 (relating to sexual abuse resulting in death), 2251 (relating to sexual exploitation of children), 2251A (relating to selling or buying of children), 2422(b) (relating to coercion and enticement of a minor into prostitution), or 2423(a) (relating to transportation of minors);

''(B) the term 'State sex offense' means an offense under State law that is punishable by more than one year in prison and consists of conduct that would be a Federal sex offense if, to the extent or in the manner specified in the applicable provision of this title—

''(i) the offense involved interstate or foreign commerce, or the use of the mails; or

''(ii) the conduct occurred in any commonwealth, territory, or possession of the United States, within the special maritime and territorial jurisdiction of the United States, in a Federal prison, on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States, or in the Indian country (as defined in section 1151);

''(C) the term 'prior sex conviction' means a conviction for which the sentence was imposed before the conduct occurred constituting the subsequent Federal sex offense, and which was for a Federal sex offense or a State sex offense;

''(D) the term 'minor' means an individual who has not attained the age of 17 years; and

''(E) the term 'State' has the meaning given that term in subsection (c)(2).

''(3) NONQUALIFYING FELONIES.—An offense described in section 2422(b) or 2423(a) shall not serve as a basis for sentencing under this subsection if the defendant establishes by clear and convincing evidence that—

''(A) the sexual act or activity was consensual and not for the purpose of commercial or pecuniary gain;

''(B) the sexual act or activity would not be punishable by more than one year in prison under the law of the State in which it occurred; or

''(C) no sexual act or activity occurred.''.

(b) CONFORMING AMENDMENT.—Sections 2247(a) and 2426(a) of title 18, United States Code, are each amended by inserting '', unless section 3559(e) applies'' before the final period.

SEC. 107. ATTEMPT LIABILITY FOR INTERNATIONAL PARENTAL KIDNAPPING.

Section 1204 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting '', or attempts to do so,'' before ''or retains''; and

(2) in subsection (c)—

(A) in paragraph (1), by inserting ''or the Uniform Child Custody Jurisdiction and Enforcement Act'' before ''and was''; and

(B) in paragraph (2), by inserting ''or'' after the semicolon.

SEC. 108. PILOT PROGRAM FOR NATIONAL CRIMINAL HISTORY BACKGROUND CHECKS AND FEASIBILITY STUDY.

(a) ESTABLISHMENT OF PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Attorney General shall establish a pilot program for volunteer groups to obtain national and State criminal history background checks through a 10-fingerprint check to be conducted utilizing State criminal records and the Integrated Automated Finger Print Identification system of the Federal Bureau of Investigation.

(2) STATE PILOT PROGRAM.—

(A) IN GENERAL.—The Attorney General shall designate 3 States as participants in an 18-month State pilot program.

(B) VOLUNTEER ORGANIZATION REQUESTS.—A volunteer organization in one of the 3 States participating in the State pilot program under this paragraph that is part of the Boys and Girls Clubs of America, the National Mentoring Partnerships, or the National Council of Youth Sports may submit a request for a 10-fingerprint check from the participating State. A volunteer organization in a participating State may not submit background check requests under paragraph (3).

(C) STATE CHECK.—The participating State under this paragraph after receiving a request under subparagraph (B) shall conduct a State background check and submit a request that a Federal check be performed through the Integrated Automated Fingerprint Identification System of the Federal Bureau of Investigation, to the Attorney General, in a manner to be determined by the Attorney General.

(D) INFORMATION PROVIDED.—Under procedures established by the Attorney General, any criminal history record information resulting from the State and Federal check under subparagraph (C) shall be provided to the State or National Center for Missing and Exploited Children consistent with the National Child Protection Act.

(E) COSTS.—A State may collect a fee to perform a criminal background check under this paragraph which may not exceed the actual costs to the State to perform such a check.

(F) TIMING.—For any background check performed under this paragraph, the State shall provide the State criminal record information to the Attorney General within 7 days after receiving the request from the organization, unless the Attorney General determines during the feasibility study that such a check cannot reasonably be performed within that time period. The Attorney General shall provide the criminal history records information to the National Center for Missing and Exploited Children within 7 business days after receiving the request from the State.

(3) CHILD SAFETY PILOT PROGRAM.—

(A) IN GENERAL.—The Attorney General shall establish an 18-month Child Safety Pilot Program that shall provide for the processing of 100,000 10-fingerprint check requests from organizations described in subparagraph (B) conducted through the Integrated Automated Fingerprint Identification System of the Federal Bureau of Investigation.

(B) ELIGIBLE ORGANIZATIONS.—An organization described in this subparagraph is an organization in a State not designated under paragraph (2) that has received a request allotment pursuant to subparagraph (C).

(C) REQUEST ALLOTMENTS.—The following organizations may allot requests as follows:

(i) 33,334 for the Boys and Girls Clubs of America.

(ii) 33,333 for the National Mentoring Partnership.

(iii) 33,333 for the National Council of Youth Sports.

(D) PROCEDURES.—The Attorney General shall notify the organizations described in subparagraph (C) of a process by which the organizations may provide fingerprint cards to the Attorney General.

(E) VOLUNTEER INFORMATION REQUIRED.—An organization authorized to request a background check under this paragraph shall—

(i) forward to the Attorney General the volunteer's fingerprints; and

(ii) obtain a statement completed and signed by the volunteer that—

(I) sets out the provider or volunteer's name, address, date of birth appearing on a valid identification document as defined in section 1028 of title 18, United States Code, and a photocopy of the valid identifying document;

(II) states whether the volunteer has a criminal record, and, if so, sets out the particulars of such record;

(III) notifies the volunteer that the Attorney General may perform a criminal history background check and that the volunteer's signature to the statement constitutes an acknowledgment that such a check may be conducted;

(IV) notifies the volunteer that prior to and after the completion of the background check, the organization may choose to deny the provider access to children; and

(V) notifies the volunteer of his right to correct an erroneous record held by the Attorney General.

(F) TIMING.—For any background checks performed under this paragraph, the Attorney General shall provide the criminal history records

information to the National Center for Missing and Exploited Children within 14 business days after receiving the request from the organization.

(G) DETERMINATIONS OF FITNESS.—

(i) IN GENERAL.—Consistent with the privacy protections delineated in the National Child Protection Act (42 U.S.C. 5119), the National Center for Missing and Exploited Children may make a determination whether the criminal history record information received in response to the criminal history background checks conducted under this paragraph indicates that the provider or volunteer has a criminal history record that renders the provider or volunteer unfit to provide care to children based upon criteria established jointly, the National Center for Missing and Exploited Children, the Boys and Girls Clubs of America, the National Mentoring Partnership, and the National Council of Youth Sports.

(ii) CHILD SAFETY PILOT PROGRAM.—The National Center for Missing and Exploited Children shall convey that determination to the organizations making requests under this paragraph.

(4) FEES COLLECTED BY ATTORNEY GENERAL. The Attorney General may collect a fee which may not exceed $18 to cover the cost to the Federal Bureau of Investigation to conduct the background check under paragraph (2) or (3).

(b) RIGHTS OF VOLUNTEERS.—Each volunteer who is the subject of a criminal history background check under this section is entitled to contact the Attorney General to initiate procedures to—

(1) obtain a copy of their criminal history record report; and

(2) challenge the accuracy and completeness of the criminal history record information in the report.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated such sums as may be necessary to the National Center for Missing and Exploited Children for fiscal years 2004 and 2005 to carry out the requirements of this section.

(2) STATE PROGRAM.—There is authorized to be appropriated such sums as may be necessary to the Attorney General for the States designated in subsection (a)(1) for fiscal years 2004 and 2005 to establish and enhance finger print technology infrastructure of the participating State.

(d) FEASIBILITY STUDY FOR A SYSTEM OF BACKGROUND CHECKS FOR EMPLOYEES AND VOLUNTEERS.—

(1) STUDY REQUIRED.—The Attorney General shall conduct a feasibility study within 180 days after the date of the enactment of this Act. The study shall examine, to the extent discernible, the following:

(A) The current state of fingerprint capture and processing at the State and local level, including the current available infrastructure, State system capacities, and the time for each State to process a civil or volunteer print from the time of capture to submission to the Federal Bureau of Investigation (FBI).

(B) The intent of the States concerning participation in a nationwide system of criminal background checks to provide information to qualified entities.

(C) The number of volunteers, employees, and other individuals that would require a fingerprint-based criminal background check.

(D) The impact on the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation in terms of capacity and impact on other users of the system, including the effect on Federal Bureau of Investigation work practices and staffing levels.

(E) The current fees charged by the Federal Bureau of Investigation, States and local agencies, and private companies to process fingerprints and conduct background checks.

(F) The existence of ''model'' or best practice programs which could easily be expanded and duplicated in other States.

(G) The extent to which private companies are currently performing background checks and the possibility of using private companies in the future to perform any of the background check process, including, but not limited to, the capture and transmission of fingerprints and fitness determinations.

(H) The cost of development and operation of the technology and the infrastructure necessary to establish a nationwide fingerprint-based and other criminal background check system.

(I) The extent of State participation in the procedures for background checks authorized in the National Child Protection Act (Public Law 103–209), as amended by the Volunteers for Children Act (sections 221 and 222 of Public Law 105–251).

(J) The extent to which States currently provide access to nationwide criminal history background checks to organizations that serve children.

(K) The extent to which States currently permit volunteers to appeal adverse fitness determinations, and whether similar procedures are required at the Federal level.

(L) The implementation of the 2 pilot programs created in subsection (a).

(M) Any privacy concerns that may arise from nationwide criminal background checks.

(N) Any other information deemed relevant by the Department of Justice.

(2) INTERIM REPORT.—Based on the findings of the feasibility study under paragraph (1), the Attorney General shall, not later than 180 days after the date of the enactment of this Act, submit to Congress an interim report, which may include recommendations for a pilot project to develop or improve programs to collect fingerprints and perform background checks on individuals that seek to volunteer with organizations that work with children, the elderly, or the disabled.

(3) FINAL REPORT.—Based on the findings of the pilot project, the Attorney General shall, not later than 60 days after completion of the pilot project under this section, submit to Congress a final report, including recommendations, which may include a proposal for grants to the States to develop or improve programs to collect fingerprints and perform background checks on individuals that seek to volunteer with organizations that work with children, the elderly, or the disabled, and which may include recommendations for amendments to the National Child Protection Act and the Volunteers for Children Act so that qualified entities can promptly and affordably conduct nationwide criminal history background checks on their employees and volunteers.

TITLE II—INVESTIGATIONS AND PROSECUTIONS

SEC. 201. INTERCEPTIONS OF COMMUNICATIONS IN INVESTIGATIONS OF SEX OFFENSES.

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (a), by inserting after ''chapter 37 (relating to espionage),'' the following: ''chapter 55 (relating to kidnapping),''; and

(2) in paragraph (c)—

(A) by inserting ''section 1591 (sex trafficking of children by force, fraud, or coercion),'' after ''section 1511 (obstruction of State or local law enforcement),''; and

(B) by inserting ''section 2251A (selling or buying of children), section 2252A (relating to material constituting or containing child pornography), section 1466A (relating to child obscenity), section 2260 (production of sexually explicit depictions of a minor for importation into the United States), sections 2421, 2422, 2423, and 2425 (relating to transportation for illegal sexual activity and related crimes),'' after ''sections 2251 and 2252 (sexual exploitation of children),''.

SEC. 202. NO STATUTE OF LIMITATIONS FOR CHILD ABDUCTION AND SEX CRIMES.

Section 3283 of title 18, United States Code, is amended to read as follows:

''§ 3283. Offenses against children

''No statute of limitations that would otherwise preclude prosecution for an offense involving the sexual or physical abuse, or kidnaping, of a child under the age of 18 years shall preclude such prosecution during the life of the child.''.

SEC. 203. NO PRETRIAL RELEASE FOR THOSE WHO RAPE OR KIDNAP CHILDREN.

Section 3142(e) of title 18, United States Code, is amended—

(1) by striking ''1901 et seq.), or'' and inserting ''1901 et seq.),''; and

(2) by striking ''of title 18 of the United States Code'' and inserting ''of this title, or an offense involving a minor victim under section 1201, 1591, 2241, 2242, 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1), 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423, or 2425 of this title''.

SEC. 204. SUZANNE'S LAW.

Section 3701(a) of the Crime Control Act of 1990 (42 U.S.C. 5779(a)) is amended by striking ''age of 18'' and inserting ''age of 21''.

TITLE III—PUBLIC OUTREACH

Subtitle A—AMBER Alert

SEC. 301. NATIONAL COORDINATION OF AMBER ALERT COMMUNICATIONS NETWORK.

(a) COORDINATION WITHIN DEPARTMENT OF JUSTICE.—The Attorney General shall assign an officer of the Department of Justice to act as the national coordinator of the AMBER Alert communications network regarding abducted children. The officer so designated shall be known as the AMBER Alert Coordinator of the Department of Justice.

(b) DUTIES.—In acting as the national coordinator of the AMBER Alert communications network, the Coordinator shall—

(1) seek to eliminate gaps in the network, including gaps in areas of interstate travel;

(2) work with States to encourage the development of additional elements (known as local AMBER plans) in the network;

(3) work with States to ensure appropriate regional coordination of various elements of the network; and

(4) act as the nationwide point of contact for—

(A) the development of the network; and

(B) regional coordination of alerts on abducted children through the network.

(c) CONSULTATION WITH FEDERAL BUREAU OF INVESTIGATION.—In carrying out duties under subsection (b), the Coordinator shall notify and consult with the Director of the Federal Bureau of Investigation concerning each child abduction for which an alert is issued through the AMBER Alert communications network.

(d) COOPERATION.—The Coordinator shall cooperate with the Secretary of Transportation and the Federal Communications Commission in carrying out activities under this section.

(e) REPORT.—Not later than March 1, 2005, the Coordinator shall submit to Congress a report on the activities of the Coordinator and the effectiveness and status of the AMBER plans of each State that has implemented such a plan. The Coordinator shall prepare the report in consultation with the Secretary of Transportation.

SEC. 302. MINIMUM STANDARDS FOR ISSUANCE AND DISSEMINATION OF ALERTS THROUGH AMBER ALERT COMMUNICATIONS NETWORK.

(a) ESTABLISHMENT OF MINIMUM STANDARDS.—Subject to subsection (b), the AMBER Alert Coordinator of the Department of Justice shall establish minimum standards for—

(1) the issuance of alerts through the AMBER Alert communications network; and

(2) the extent of the dissemination of alerts issued through the network.

(b) LIMITATIONS.—(1) The minimum standards established under subsection (a) shall be adoptable on a voluntary basis only.

(2) The minimum standards shall, to the maximum extent practicable (as determined by the

Coordinator in consultation with State and local law enforcement agencies), provide that appropriate information relating to the special needs of an abducted child (including health care needs) are disseminated to the appropriate law enforcement, public health, and other public officials.

(3) The minimum standards shall, to the maximum extent practicable (as determined by the Coordinator in consultation with State and local law enforcement agencies), provide that the dissemination of an alert through the AMBER Alert communications network be limited to the geographic areas most likely to facilitate the recovery of the abducted child concerned.

(4) In carrying out activities under subsection (a), the Coordinator may not interfere with the current system of voluntary coordination between local broadcasters and State and local law enforcement agencies for purposes of the AMBER Alert communications network.

(c) COOPERATION.—(1) The Coordinator shall cooperate with the Secretary of Transportation and the Federal Communications Commission in carrying out activities under this section.

(2) The Coordinator shall also cooperate with local broadcasters and State and local law enforcement agencies in establishing minimum standards under this section.

SEC. 303. GRANT PROGRAM FOR NOTIFICATION AND COMMUNICATIONS SYSTEMS ALONG HIGHWAYS FOR RECOVERY OF ABDUCTED CHILDREN.

(a) PROGRAM REQUIRED.—The Secretary of Transportation shall carry out a program to provide grants to States for the development or enhancement of notification or communications systems along highways for alerts and other information for the recovery of abducted children.

(b) DEVELOPMENT GRANTS.—

(1) IN GENERAL.—The Secretary may make a grant to a State under this subsection for the development of a State program for the use of changeable message signs or other motorist information systems to notify motorists about abductions of children. The State program shall provide for the planning, coordination, and design of systems, protocols, and message sets that support the coordination and communication necessary to notify motorists about abductions of children.

(2) ELIGIBLE ACTIVITIES.—A grant under this subsection may be used by a State for the following purposes:

(A) To develop general policies and procedures to guide the use of changeable message signs or other motorist information systems to notify motorists about abductions of children.

(B) To develop guidance or policies on the content and format of alert messages to be conveyed on changeable message signs or other traveler information systems.

(C) To coordinate State, regional, and local plans for the use of changeable message signs or other transportation related issues.

(D) To plan secure and reliable communications systems and protocols among public safety and transportation agencies or modify existing communications systems to support the notification of motorists about abductions of children.

(E) To plan and design improved systems for communicating with motorists, including the capability for issuing wide area alerts to motorists.

(F) To plan systems and protocols to facilitate the efficient issuance of child abduction notification and other key information to motorists during off-hours.

(G) To provide training and guidance to transportation authorities to facilitate appropriate use of changeable message signs and other traveler information systems for the notification of motorists about abductions of children.

(c) IMPLEMENTATION GRANTS.—

(1) IN GENERAL.—The Secretary may make a grant to a State under this subsection for the implementation of a program for the use of changeable message signs or other motorist information systems to notify motorists about abductions of children. A State shall be eligible for a grant under this subsection if the Secretary determines that the State has developed a State program in accordance with subsection (b).

(2) ELIGIBLE ACTIVITIES.—A grant under this subsection may be used by a State to support the implementation of systems that use changeable message signs or other motorist information systems to notify motorists about abductions of children. Such support may include the purchase and installation of changeable message signs or other motorist information systems to notify motorists about abductions of children.

(d) FEDERAL SHARE.—The Federal share of the cost of any activities funded by a grant under this section may not exceed 80 percent.

(e) DISTRIBUTION OF GRANT AMOUNTS.—The Secretary shall, to the maximum extent practicable, distribute grants under this section equally among the States that apply for a grant under this section within the time period prescribed by the Secretary.

(f) ADMINISTRATION.—The Secretary shall prescribe requirements, including application requirements, for the receipt of grants under this section.

(g) DEFINITION.—In this section, the term ''State'' means any of the 50 States, the District of Columbia, or Puerto Rico.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $20,000,000 for fiscal year 2004. Such amounts shall remain available until expended.

(i) STUDY OF STATE PROGRAMS.—

(1) STUDY.—The Secretary shall conduct a study to examine State barriers to the adoption and implementation of State programs for the use of communications systems along highways for alerts and other information for the recovery of abducted children.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study, together with any recommendations the Secretary determines appropriate.

SEC. 304. GRANT PROGRAM FOR SUPPORT OF AMBER ALERT COMMUNICATIONS PLANS.

(a) PROGRAM REQUIRED.—The Attorney General shall carry out a program to provide grants to States for the development or enhancement of programs and activities for the support of AMBER Alert communications plans.

(b) ACTIVITIES.—Activities funded by grants under the program under subsection (a) may include—

(1) the development and implementation of education and training programs, and associated materials, relating to AMBER Alert communications plans;

(2) the development and implementation of law enforcement programs, and associated equipment, relating to AMBER Alert communications plans;

(3) the development and implementation of new technologies to improve AMBER Alert communications; and

(4) such other activities as the Attorney General considers appropriate for supporting the AMBER Alert communications program.

(c) FEDERAL SHARE.—The Federal share of the cost of any activities funded by a grant under the program under subsection (a) may not exceed 50 percent.

(d) DISTRIBUTION OF GRANT AMOUNTS ON GEOGRAPHIC BASIS.—The Attorney General shall, to the maximum extent practicable, ensure the distribution of grants under the program under subsection (a) on an equitable basis throughout the various regions of the United States.

(e) ADMINISTRATION.—The Attorney General shall prescribe requirements, including application requirements, for grants under the program under subsection (a).

(f) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated for the Department of Justice $5,000,000 for fiscal year 2004 to carry out this section and, in addition, $5,000,000 for fiscal year 2004 to carry out subsection (b)(3).

(2) Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

SEC. 305. LIMITATION ON LIABILITY.

(a) Except as provided in subsection (b), the National Center for Missing and Exploited Children, including any of its officers, employees, or agents, shall not be liable for damages in any civil action for defamation, libel, slander, or harm to reputation arising out of any action or communication by the National Center for Missing and Exploited Children, its officers, employees, or agents, in connection with any clearinghouse, hotline or complaint intake or forwarding program or in connection with activity that is wholly or partially funded by the United States and undertaken in cooperation with, or at the direction of a Federal law enforcement agency.

(b) The limitation in subsection (a) does not apply in any action in which the plaintiff proves that the National Center for Missing and Exploited Children, its officers, employees, or agents acted with actual malice, or provided information or took action for a purpose unrelated to an activity mandated by Federal law. For purposes of this subsection, the prevention, or detection of crime, and the safety, recovery, or protection of missing or exploited children shall be deemed, per se, to be an activity mandated by Federal law.

Subtitle B—National Center for Missing and Exploited Children

SEC. 321. INCREASED SUPPORT.

(a) IN GENERAL.—Section 408(a) of the Missing Children's Assistance Act (42 U.S.C. 5777(a)) is amended by striking ''fiscal years 2000 through 2003'' and inserting ''fiscal years 2004 through 2005.''.

(b) ANNUAL GRANT TO NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN.—Section 404(b)(2) of the Missing Children's Assistance Act (42 U.S.C. 5773(b)(2)) is amended by striking ''$10,000,000 for each of fiscal years 2000, 2001, 2002, and 2003'' and inserting ''$20,000,000 for each of the fiscal years 2004 through 2005''.

SEC. 322. FORENSIC AND INVESTIGATIVE SUPPORT OF MISSING AND EXPLOITED CHILDREN.

Section 3056 of title 18, United States Code, is amended by adding at the end the following:

''(f) Under the direction of the Secretary of Homeland Security, officers and agents of the Secret Service are authorized, at the request of any State or local law enforcement agency, or at the request of the National Center for Missing and Exploited Children, to provide forensic and investigative assistance in support of any investigation involving missing or exploited children.''.

SEC. 323. CREATION OF CYBER TIPLINE.

Section 404(b)(1) of the Missing Children's Assistance Act (42 U.S.C. 5773(b)(1)) is amended—

(1) in subparagraph (F), by striking ''and'' at the end;

(2) in subparagraph (G), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(H) coordinate the operation of a cyber tipline to provide online users an effective means of reporting Internet-related child sexual exploitation in the areas of—

''(i) distribution of child pornography;

''(ii) online enticement of children for sexual acts; and

''(iii) child prostitution.''.

Subtitle C—Sex Offender Apprehension Program

SEC. 341. AUTHORIZATION.

Section 1701(d) of part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(d)) is amended—

(1) by redesignating paragraphs (10) and (11) as (11) and (12), respectively; and

(2) by inserting after paragraph (9) the following:

''(10) assist a State in enforcing a law throughout the State which requires that a convicted sex offender register his or her address with a State or local law enforcement agency and be subject to criminal prosecution for failure to comply;''.

Subtitle D—Missing Children Procedures in Public Buildings

SEC. 361. SHORT TITLE.

This subtitle may be cited as the ''Code Adam Act of 2003''.

SEC. 362. DEFINITIONS.

In this subtitle, the following definitions apply:

(1) CHILD.—The term ''child'' means an individual who is 17 years of age or younger.

(2) CODE ADAM ALERT.—The term ''Code Adam alert'' means a set of procedures used in public buildings to alert employees and other users of the building that a child is missing.

(3) DESIGNATED AUTHORITY.—The term ''designated authority'' means—

(A) with respect to a public building owned or leased for use by an Executive agency—

(i) except as otherwise provided in this paragraph, the Administrator of General Services;

(ii) in the case of the John F. Kennedy Center for the Performing Arts, the Board of Trustees of the John F. Kennedy Center for the Performing Arts;

(iii) in the case of buildings under the jurisdiction, custody, and control of the Smithsonian Institution, the Board of Regents of the Smithsonian Institution; or

(iv) in the case of another public building for which an Executive agency has, by specific or general statutory authority, jurisdiction, custody, and control over the building, the head of that agency;

(B) with respect to the Supreme Court Building, the Marshal of the Supreme Court; with respect to the Thurgood Marshall Federal Judiciary Building, the Director of the Administrative Office of United States Courts; and with respect to all other public buildings owned or leased for use by an establishment in the judicial branch of government, the General Services Administration in consultation with the United States Marshals Service; and

(C) with respect to a public building owned or leased for use by an establishment in the legislative branch of government, the Capitol Police Board.

(4) EXECUTIVE AGENCY.—The term ''Executive agency'' has the same meaning such term has under section 105 of title 5, United States Code.

(5) FEDERAL AGENCY.—The term ''Federal agency'' means any Executive agency or any establishment in the legislative or judicial branches of the Government.

(6) PUBLIC BUILDING.—The term ''public building'' means any building (or portion thereof) owned or leased for use by a Federal agency.

SEC. 363. PROCEDURES IN PUBLIC BUILDINGS REGARDING A MISSING OR LOST CHILD.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the designated authority for a public building shall establish procedures for locating a child that is missing in the building.

(b) NOTIFICATION AND SEARCH PROCEDURES.—Procedures established under this section shall provide, at a minimum, for the following:

(1) Notifying security personnel that a child is missing.

(2) Obtaining a detailed description of the child, including name, age, eye and hair color, height, weight, clothing, and shoes.

(3) Issuing a Code Adam alert and providing a description of the child, using a fast and effective means of communication.

(4) Establishing a central point of contact.

(5) Monitoring all points of egress from the building while a Code Adam alert is in effect.

(6) Conducting a thorough search of the building.

(7) Contacting local law enforcement.

(8) Documenting the incident.

Subtitle E—Child Advocacy Center Grants

SEC. 381. INFORMATION AND DOCUMENTATION REQUIRED BY ATTORNEY GENERAL UNDER VICTIMS OF CHILD ABUSE ACT OF 1990.

(a) REGIONAL CHILDREN'S ADVOCACY CENTERS.—Section 213 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13001b) is amended—

(1) in subsection (c)(4)—

(A) by striking ''and'' at the end of subparagraph (B)(ii);

(B) in subparagraph (B)(iii), by striking ''Board'' and inserting ''board''; and

(C) by redesignating subparagraphs (C) and (D) as clauses (iv) and (v), respectively, of subparagraph (B), and by realigning such clauses so as to have the same indentation as the preceding clauses of subparagraph (B); and

(2) in subsection (e), by striking ''Board'' in each of paragraphs (1)(B)(ii), (2)(A), and (3), and inserting ''board''.

(b) AUTHORIZATION OF APPROPRIATIONS.—The text of section 214B of such Act (42 U.S.C. 13004) is amended to read as follows:

''(a) SECTIONS 213 AND 214.—There are authorized to be appropriated to carry out sections 213 and 214, $15,000,000 for each of fiscal years 2004 and 2005.

''(b) SECTION 214A.—There are authorized to be appropriated to carry out section 214A, $5,000,000 for each of fiscal years 2004 and 2005.''.

TITLE IV—SENTENCING REFORM

SEC. 401. SENTENCING REFORM.

(a) ENFORCEMENT OF SENTENCING GUIDELINES FOR CHILD ABDUCTION AND SEX OFFENSES.—Section 3553(b) of title 18, United States Code is amended—

(1) by striking ''The court'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), the court''; and

(2) by adding at the end the following:

''(2) CHILD CRIMES AND SEXUAL OFFENSES.—

''(A) SENTENCING.—In sentencing a defendant convicted of an offense under section 1201 involving a minor victim, an offense under section 1591, or an offense under chapter 71, 109A, 110, or 117, the court shall impose a sentence of the kind, and within the range, referred to in subsection (a)(4) unless—

''(i) the court finds that there exists an aggravating circumstance of a kind, or to a degree, not adequately taken into consideration by the Sentencing Commission in formulating the guidelines that should result in a sentence greater than that described;

''(ii) the court finds that there exists a mitigating circumstance of a kind or to a degree, that—

''(I) has been affirmatively and specifically identified as a permissible ground of downward departure in the sentencing guidelines or policy statements issued under section 994(a) of title 28, taking account of any amendments to such sentencing guidelines or policy statements by Congress;

''(II) has not been taken into consideration by the Sentencing Commission in formulating the guidelines; and

''(III) should result in a sentence different from that described; or

''(iii) the court finds, on motion of the Government, that the defendant has provided substantial assistance in the investigation or prosecution of another person who has committed an offense and that this assistance established a mitigating circumstance of a kind, or to a degree, not adequately taken into consideration by the Sentencing Commission in formulating the guidelines that should result in a sentence lower than that described.

In determining whether a circumstance was adequately taken into consideration, the court shall consider only the sentencing guidelines, policy statements, and official commentary of the Sentencing Commission, together with any amendments thereto by act of Congress. In the absence of an applicable sentencing guideline, the court shall impose an appropriate sentence, having due regard for the purposes set forth in subsection (a)(2). In the absence of an applicable sentencing guideline in the case of an offense other than a petty offense, the court shall also have due regard for the relationship of the sentence imposed to sentences prescribed by guidelines applicable to similar offenses and offenders, and to the applicable policy statements of the Sentencing Commission, together with any amendments to such guidelines or policy statements by act of Congress.''.

(b) CONFORMING AMENDMENTS TO GUIDELINES MANUAL.—The Federal Sentencing Guidelines are amended—

(1) in section 5K2.0—

(A) by striking ''Under'' and inserting the following:

''(a) DOWNWARD DEPARTURES IN CRIMINAL CASES OTHER THAN CHILD CRIMES AND SEXUAL OFFENSES.—Under''; and

(B) by adding at the end the following:

''(b) DOWNWARD DEPARTURES IN CHILD CRIMES AND SEXUAL OFFENSES.—

''Under 18 U.S.C. §3553(b)(2), the sentencing court may impose a sentence below the range established by the applicable guidelines only if the court finds that there exists a mitigating circumstance of a kind, or to a degree, that—

''(1) has been affirmatively and specifically identified as a permissible ground of downward departure in the sentencing guidelines or policy statements issued under section 994(a) of title 28, United States Code, taking account of any amendments to such sentencing guidelines or policy statements by act of Congress;

''(2) has not adequately been taken into consideration by the Sentencing Commission in formulating the guidelines; and

''(3) should result in a sentence different from that described.

The grounds enumerated in this Part K of chapter 5 are the sole grounds that have been affirmatively and specifically identified as a permissible ground of downward departure in these sentencing guidelines and policy statements. Thus, notwithstanding any other reference to authority to depart downward elsewhere in this Sentencing Manual, a ground of downward departure has not been affirmatively and specifically identified as a permissible ground of downward departure within the meaning of section 3553(b)(2) unless it is expressly enumerated in this Part K as a ground upon which a downward departure may be granted.''.

(2) At the end of part K of chapter 5, add the following:

''§5K2.22 Specific Offender Characteristics as Grounds for Downward Departure in child crimes and sexual offenses (Policy Statement)

''In sentencing a defendant convicted of an offense under section 1201 involving a minor victim, an offense under section 1591, or an offense under chapter 71, 109A, 110, or 117 of title 18, United States Code, age may be a reason to impose a sentence below the applicable guideline range only if and to the extent permitted by §5H1.1.

''An extraordinary physical impairment may be a reason to impose a sentence below the applicable guideline range only if and to the extent permitted by §5H1.4. Drug, alcohol, or gambling dependence or abuse is not a reason for imposing a sentence below the guidelines.

(3) Section 5K2.20 is amended by striking ''A'' and inserting ''Except where a defendant is convicted of an offense under section 1201 involving a minor victim, an offense under section 1591, or an offense under chapter 71, 109A, 110, or 117 of title 18, United States Code, a''.

(4) Section 5H1.6 is amended by inserting after the first sentence the following: ''In sentencing a defendant convicted of an offense under section 1201 involving a minor victim, an offense under section 1591, or an offense under chapter 71, 109A, 110, or 117 of title 18, United States Code, family ties and responsibilities and community ties are not relevant in determining whether a sentence should be below the applicable guideline range.''.

(5) Section 5K2.13 is amended by—

(A) striking ''or'' before ''(3)''; and

(B) replacing ''public'' with ''public; or (4) the defendant has been convicted of an offense under chapter 71, 109A, 110, or 117 of title 18, United States Code.''.

(c) STATEMENT OF REASONS FOR IMPOSING A SENTENCE.—Section 3553(c) of title 18, United States Code, is amended—

(1) by striking ''described.'' and inserting ''described, which reasons must also be stated with specificity in the written order of judgment and commitment, except to the extent that the court relies upon statements received in camera in accordance with Federal Rule of Criminal Procedure 32. In the event that the court relies upon statements received in camera in accordance with Federal Rule of Criminal Procedure 32 the court shall state that such statements were so received and that it relied upon the content of such statements.'';

(2) by inserting '', together with the order of judgment and commitment,'' after ''the court's statement of reasons''; and

(3) by inserting ''and to the Sentencing Commission,'' after ''to the Probation System''.

(d) REVIEW OF A SENTENCE.—

(1) REVIEW OF DEPARTURES.—Section 3742(e)(3) of title 18, United States Code, is amended to read as follows:

''(3) is outside the applicable guideline range, and

''(A) the district court failed to provide the written statement of reasons required by section 3553(c);

''(B) the sentence departs from the applicable guideline range based on a factor that—

''(i) does not advance the objectives set forth in section 3553(a)(2); or

''(ii) is not authorized under section 3553(b); or

''(iii) is not justified by the facts of the case; or

''(C) the sentence departs to an unreasonable degree from the applicable guidelines range, having regard for the factors to be considered in imposing a sentence, as set forth in section 3553(a) of this title and the reasons for the imposition of the particular sentence, as stated by the district court pursuant to the provisions of section 3553(c); or''.

(2) STANDARD OF REVIEW.—The last paragraph of section 3742(e) of title 18, United States Code, is amended by striking ''shall give due deference to the district court's application of the guidelines to the facts'' and inserting '', except with respect to determinations under subsection (3)(A) or (3)(B), shall give due deference to the district court's application of the guidelines to the facts. With respect to determinations under subsection (3)(A) or (3)(B), the court of appeals shall review de novo the district court's application of the guidelines to the facts''.

(3) DECISION AND DISPOSITION.—

(A) The first paragraph of section 3742(f) of title 18, United States Code, is amended by striking ''the sentence'';

(B) Section 3742(f)(1) of title 18, United States Code, is amended by inserting ''the sentence'' before ''was imposed'';

(C) Section 3742(f)(2) of title 18, United States Code, is amended to read as follows:

''(2) the sentence is outside the applicable guideline range and the district court failed to provide the required statement of reasons in the order of judgment and commitment, or the departure is based on an impermissible factor, or is to an unreasonable degree, or the sentence was imposed for an offense for which there is no applicable sentencing guideline and is plainly unreasonable, it shall state specific reasons for its conclusions and—

''(A) if it determines that the sentence is too high and the appeal has been filed under subsection (a), it shall set aside the sentence and remand the case for further sentencing proceedings with such instructions as the court considers appropriate, subject to subsection (g);

''(B) if it determines that the sentence is too low and the appeal has been filed under subsection (b), it shall set aside the sentence and remand the case for further sentencing proceedings with such instructions as the court considers appropriate, subject to subsection (g);''; and

(D) Section 3742(f)(3) of title 18, United States Code, is amended by inserting ''the sentence'' before ''is not described''.

(e) IMPOSITION OF SENTENCE UPON REMAND.—Section 3742 of title 18, United States Code, is amended by redesignating subsections (g) and (h) as subsections (h) and (i) and by inserting the following after subsection (f):

''(g) SENTENCING UPON REMAND.—A district court to which a case is remanded pursuant to subsection (f)(1) or (f)(2) shall resentence a defendant in accordance with section 3553 and with such instructions as may have been given by the court of appeals, except that—

''(1) In determining the range referred to in subsection 3553(a)(4), the court shall apply the guidelines issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that were in effect on the date of the previous sentencing of the defendant prior to the appeal, together with any amendments thereto by any act of Congress that was in effect on such date; and

''(2) The court shall not impose a sentence outside the applicable guidelines range except upon a ground that—

''(A) was specifically and affirmatively included in the written statement of reasons required by section 3553(c) in connection with the previous sentencing of the defendant prior to the appeal; and

''(B) was held by the court of appeals, in remanding the case, to be a permissible ground of departure.''.

(f) DEFINITIONS.—Section 3742 of title 18, United States Code, as amended by subsection (e), is further amended by adding at the end the following:

''(j) DEFINITIONS.—For purposes of this section—

''(1) a factor is a 'permissible' ground of departure if it—

''(A) advances the objectives set forth in section 3553(a)(2); and

''(B) is authorized under section 3553(b); and

''(C) is justified by the facts of the case; and

''(2) a factor is an 'impermissible' ground of departure if it is not a permissible factor within the meaning of subsection (j)(1).''.

(g) REFORM OF GUIDELINES GOVERNING ACCEPTANCE OF RESPONSIBILITY.—Subject to subsection (j), the Guidelines Manual promulgated by the Sentencing Commission pursuant to section 994(a) of title 28, United States Code, is amended—

(1) in section 3E1.1(b)—

(A) by inserting ''upon motion of the government stating that'' immediately before ''the defendant has assisted authorities''; and

(B) by striking ''taking one or more'' and all that follows through and including ''additional level'' and insert ''timely notifying authorities of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the government and the court to allocate their resources efficiently, decrease the offense level by 1 additional level'';

(2) in the Application Notes to the Commentary to section 3E1.1, by amending Application Note 6—

(A) by striking ''one or both of''; and

(B) by adding the following new sentence at the end: ''Because the Government is in the best position to determine whether the defendant has assisted authorities in a manner that avoids preparing for trial, an adjustment under subsection (b) may only be granted upon a formal motion by the Government at the time of sentencing.''; and

(3) in the Background to section 3E1.1, by striking ''one or more of''.

(h) IMPROVED DATA COLLECTION.—Section 994(w) of title 28, United States Code, is amended to read as follows:

''(w)(1) The Chief Judge of each district court shall ensure that, within 30 days following entry of judgment in every criminal case, the sentencing court submits to the Commission a written report of the sentence, the offense for which it is imposed, the age, race, sex of the offender, and information regarding factors made relevant by the guidelines. The report shall also include—

''(A) the judgment and commitment order;

''(B) the statement of reasons for the sentence imposed (which shall include the reason for any departure from the otherwise applicable guideline range);

''(C) any plea agreement;

''(D) the indictment or other charging document;

''(E) the presentence report; and

''(F) any other information as the Commission finds appropriate.

''(2) The Commission shall, upon request, make available to the House and Senate Committees on the Judiciary, the written reports and all underlying records accompanying those reports described in this section, as well as other records received from courts.

''(3) The Commission shall submit to Congress at least annually an analysis of these documents, any recommendations for legislation that the Commission concludes is warranted by that analysis, and an accounting of those districts that the Commission believes have not submitted the appropriate information and documents required by this section.

''(4) The Commission shall make available to the Attorney General, upon request, such data files as the Commission may assemble or maintain in electronic form that include any information submitted under paragraph (1). Such data files shall be made available in electronic form and shall include all data fields requested, including the identity of the sentencing judge.''.

(i) SENTENCING GUIDELINES AMENDMENTS.—(1) Subject to subsection (j), the Guidelines Manual promulgated by the Sentencing Commission pursuant to section 994(a) of title 28, United States Code, is amended as follows:

(A) Application Note 4(b)(i) to section 4B1.5 is amended to read as follows:

''(i) IN GENERAL.—For purposes of subsection (b), the defendant engaged in a pattern of activity involving prohibited sexual conduct if on at least two separate occasions, the defendant engaged in prohibited sexual conduct with a minor.''.

(B) Section 2G2.4(b) is amended by adding at the end the following:

''(4) If the offense involved material that portrays sadistic or masochistic conduct or other depictions of violence, increase by 4 levels.

''(5) If the offense involved—

''(A) at least 10 images, but fewer than 150, increase by 2 levels;

''(B) at least 150 images, but fewer than 300, increase by 3 levels;

''(C) at least 300 images, but fewer than 600, increase by 4 levels; and

''(D) 600 or more images, increase by 5 levels.''.

(C) Section 2G2.2(b) is amended by adding at the end the following:

''(6) If the offense involved—

''(A) at least 10 images, but fewer than 150, increase by 2 levels;

''(B) at least 150 images, but fewer than 300, increase by 3 levels;

''(C) at least 300 images, but fewer than 600, increase by 4 levels; and

''(D) 600 or more images, increase by 5 levels.''.

(2) The Sentencing Commission shall amend the Sentencing Guidelines to ensure that the Guidelines adequately reflect the seriousness of the offenses under sections 2243(b), 2244(a)(4), and 2244(b) of title 18, United States Code.

(j) CONFORMING AMENDMENTS.—

(1) Upon enactment of this Act, the Sentencing Commission shall forthwith distribute to all courts of the United States and to the United States Probation System the amendments made by subsections (b), (g), and (i) of this section to the sentencing guidelines, policy statements, and official commentary of the Sentencing Commission. These amendments shall take effect upon the date of enactment of this Act, in accordance with paragraph (5).

(2) On or before May 1, 2005, the Sentencing Commission shall not promulgate any amendment to the sentencing guidelines, policy statements, or official commentary of the Sentencing Commission that is inconsistent with any amendment made by subsection (b) or that adds any new grounds of downward departure to Part K of chapter 5.

(3) With respect to cases covered by the amendments made by subsection (i) of this section, the Sentencing Commission may make further amendments to the sentencing guidelines, policy statements, or official commentary of the Sentencing Commission, except that the Commission shall not promulgate any amendments that, with respect to such cases, would result in sentencing ranges that are lower than those that would have applied under such subsection.

(4) At no time may the Commission promulgate any amendment that would alter or repeal the amendments made by subsection (g) of this section.

(5) Section 3553(a) of title 18, United States Code, is amended—

(A) by amending paragraph (4)(A) to read as follows:

''(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines—

''(i) issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, subject to any amendments made to such guidelines by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28); and

''(ii) that, except as provided in section 3742(g), are in effect on the date the defendant is sentenced; or'';

(B) in paragraph (4)(B), by inserting '', taking into account any amendments made to such guidelines or policy statements by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28)'' after ''Code'';

(C) by amending paragraph (5) to read as follows:

''(5) any pertinent policy statement—

''(A) issued by the Sentencing Commission pursuant to section 994(a)(2) of title 28, United States Code, subject to any amendments made to such policy statement by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28); and

''(B) that, except as provided in section 3742(g), is in effect on the date the defendant is sentenced.''.

(k) COMPLIANCE WITH STATUTE.—Section 994(a) of title 28, United States Code, is amended by striking ''consistent with all pertinent provisions of this title and title 18, United States Code,'' and inserting ''consistent with all pertinent provisions of any Federal statute''.

(l) REPORT BY ATTORNEY GENERAL.—

(1) DEFINED TERM.—For purposes of this section, the term ''report described in paragraph (3)'' means a report, submitted by the Attorney General, which states in detail the policies and procedures that the Department of Justice has adopted subsequent to the enactment of this Act—

(A) to ensure that Department of Justice attorneys oppose sentencing adjustments, including downward departures, that are not supported by the facts and the law;

(B) to ensure that Department of Justice attorneys in such cases make a sufficient record so as to permit the possibility of an appeal;

(C) to delineate objective criteria, specified by the Attorney General, as to which such cases may warrant consideration of an appeal, either because of the nature or magnitude of the sentencing error, its prevalence in the district, or its prevalence with respect to a particular judge;

(D) to ensure that Department of Justice attorneys promptly notify the designated Department of Justice component in Washington concerning such adverse sentencing decisions; and

(E) to ensure the vigorous pursuit of appropriate and meritorious appeals of such adverse decisions.

(2) REPORT REQUIRED.—

(A) IN GENERAL.—Not later than 15 days after a district court's grant of a downward departure in any case, other than a case involving a downward departure for substantial assistance to authorities pursuant to section 5K1.1 of the United States Sentencing Guidelines, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and the Senate containing the information described under subparagraph (B).

(B) CONTENTS.—The report submitted pursuant to subparagraph (A) shall set forth—

(i) the case;

(ii) the facts involved;

(iii) the identity of the district court judge;

(iv) the district court's stated reasons, whether or not the court provided the United States with advance notice of its intention to depart; and

(v) the position of the parties with respect to the downward departure, whether or not the United States has filed, or intends to file, a motion for reconsideration.

(C) APPEAL OF THE DEPARTURE.—Not later than 5 days after a decision by the Solicitor General regarding the authorization of an appeal of the departure, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and the Senate that describes the decision of the Solicitor General and the basis for such decision.

(3) EFFECTIVE DATE.—Paragraph (2) shall take effect on the day that is 91 days after the date of enactment of this Act, except that such paragraph shall not take effect if not more than 90 days after the date of enactment of this Act the Attorney General has submitted to the Judiciary Committees of the House of Representatives and the Senate the report described in paragraph (3).

(m) REFORM OF EXISTING PERMISSIBLE GROUNDS OF DOWNWARD DEPARTURES.—Not later than 180 days after the enactment of this Act, the United States Sentencing Commission shall—

(1) review the grounds of downward departure that are authorized by the sentencing guidelines, policy statements, and official commentary of the Sentencing Commission; and

(2) promulgate, pursuant to section 994 of title 28, United States Code—

(A) appropriate amendments to the sentencing guidelines, policy statements, and official commentary to ensure that the incidence of downward departures are substantially reduced;

(B) a policy statement authorizing a downward departure of not more than 4 levels if the Government files a motion for such departure pursuant to an early disposition program authorized by the Attorney General and the United States Attorney; and

(C) any other conforming amendments to the sentencing guidelines, policy statements, and official commentary of the Sentencing Commission necessitated by this Act, including a revision of paragraph 4(b) of part A of chapter 1 and a revision of section 5K2.0.

(n) COMPOSITION OF SENTENCING COMMISSION.—

(1) IN GENERAL.—Section 991(a) of title 28, United States Code, is amended by striking ''At least three'' and inserting ''Not more than 3''.

(2) APPLICABILITY.—The amendment made under paragraph (1) shall not apply to any person who is serving, or who has been nominated to serve, as a member of the Sentencing Commission on the date of enactment of this Act.

TITLE V—OBSCENITY AND PORNOGRAPHY

Subtitle A—Child Obscenity and Pornography Prevention

SEC. 501. FINDINGS.

Congress finds the following:

(1) Obscenity and child pornography are not entitled to protection under the First Amendment under Miller v. California, 413 U.S. 15 (1973) (obscenity), or New York v. Ferber, 458 U.S. 747 (1982) (child pornography) and thus may be prohibited.

(2) The Government has a compelling state interest in protecting children from those who sexually exploit them, including both child molesters and child pornographers. ''The prevention of sexual exploitation and abuse of children constitutes a government objective of surpassing importance,'' New York v. Ferber, 458 U.S. 747, 757 (1982), and this interest extends to stamping out the vice of child pornography at all levels in the distribution chain. Osborne v. Ohio, 495 U.S. 103, 110 (1990).

(3) The Government thus has a compelling interest in ensuring that the criminal prohibitions against child pornography remain enforceable and effective. ''The most expeditious if not the only practical method of law enforcement may be to dry up the market for this material by imposing severe criminal penalties on persons selling, advertising, or otherwise promoting the product.'' Ferber, 458 U.S. at 760.

(4) In 1982, when the Supreme Court decided Ferber, the technology did not exist to:

(A) computer generate depictions of children that are indistinguishable from depictions of real children;

(B) use parts of images of real children to create a composite image that is unidentifiable as a particular child and in a way that prevents even an expert from concluding that parts of images of real children were used; or

(C) disguise pictures of real children being abused by making the image look computer-generated.

(5) Evidence submitted to the Congress, including from the National Center for Missing and Exploited Children, demonstrates that technology already exists to disguise depictions of real children to make them unidentifiable and to make depictions of real children appear computer-generated. The technology will soon exist, if it does not already, to computer generate realistic images of children.

(6) The vast majority of child pornography prosecutions today involve images contained on computer hard drives, computer disks, and/or related media.

(7) There is no substantial evidence that any of the child pornography images being trafficked today were made other than by the abuse of real children. Nevertheless, technological advances since Ferber have led many criminal defendants to suggest that the images of child pornography they possess are not those of real children, insisting that the government prove beyond a reasonable doubt that the images are not computer-generated. Such challenges increased significantly after the decision in Ashcroft v. Free Speech Coalition, 535 U.S. 234 (2002).

(8) Child pornography circulating on the Internet has, by definition, been digitally

uploaded or scanned into computers and has been transferred over the Internet, often in different file formats, from trafficker to trafficker. An image seized from a collector of child pornography is rarely a first-generation product, and the retransmission of images can alter the image so as to make it difficult for even an expert conclusively to opine that a particular image depicts a real child. If the original image has been scanned from a paper version into a digital format, this task can be even harder since proper forensic assessment may depend on the quality of the image scanned and the tools used to scan it.

(9) The impact of the Free Speech Coalition decision on the Government's ability to prosecute child pornography offenders is already evident. The Ninth Circuit has seen a significant adverse effect on prosecutions since the 1999 Ninth Circuit Court of Appeals decision in Free Speech Coalition. After that decision, prosecutions generally have been brought in the Ninth Circuit only in the most clear-cut cases in which the government can specifically identify the child in the depiction or otherwise identify the origin of the image. This is a fraction of meritorious child pornography cases. The National Center for Missing and Exploited Children testified that, in light of the Supreme Court's affirmation of the Ninth Circuit decision, prosecutors in various parts of the country have expressed concern about the continued viability of previously indicted cases as well as declined potentially meritorious prosecutions.

(10) Since the Supreme Court's decision in Free Speech Coalition, defendants in child pornography cases have almost universally raised the contention that the images in question could be virtual, thereby requiring the government, in nearly every child pornography prosecution, to find proof that the child is real. Some of these defense efforts have already been successful. In addition, the number of prosecutions being brought has been significantly and adversely affected as the resources required to be dedicated to each child pornography case now are significantly higher than ever before.

(11) Leading experts agree that, to the extent that the technology exists to computer generate realistic images of child pornography, the cost in terms of time, money, and expertise is—and for the foreseeable future will remain—prohibitively expensive. As a result, for the foreseeable future, it will be more cost-effective to produce child pornography using real children. It will not, however, be difficult or expensive to use readily available technology to disguise those depictions of real children to make them unidentifiable or to make them appear computer-generated.

(12) Child pornography results from the abuse of real children by sex offenders; the production of child pornography is a byproduct of, and not the primary reason for, the sexual abuse of children. There is no evidence that the future development of easy and inexpensive means of computer generating realistic images of children would stop or even reduce the sexual abuse of real children or the practice of visually recording that abuse.

(13) In the absence of congressional action, the difficulties in enforcing the child pornography laws will continue to grow increasingly worse. The mere prospect that the technology exists to create composite or computer-generated depictions that are indistinguishable from depictions of real children will allow defendants who possess images of real children to escape prosecution; for it threatens to create a reasonable doubt in every case of computer images even when a real child was abused. This threatens to render child pornography laws that protect real children unenforceable. Moreover, imposing an additional requirement that the Government prove beyond a reasonable doubt that the defendant knew that the image was in fact a real child—as some courts have done—threatens to result in the de facto legalization of the possession, receipt, and distribution of child pornography for all except the original producers of the material.

(14) To avoid this grave threat to the Government's unquestioned compelling interest in effective enforcement of the child pornography laws that protect real children, a statute must be adopted that prohibits a narrowly-defined subcategory of images.

(15) The Supreme Court's 1982 Ferber v. New York decision holding that child pornography was not protected drove child pornography off the shelves of adult bookstores. Congressional action is necessary now to ensure that open and notorious trafficking in such materials does not reappear, and even increase, on the Internet.

SEC. 502. IMPROVEMENTS TO PROHIBITION ON VIRTUAL CHILD PORNOGRAPHY.

(a) Section 2256(8) of title 18, United States Code, is amended—

(1) so that subparagraph (B) reads as follows:

''(B) such visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaging in sexually explicit conduct; or'';

(2) by striking ''; or'' at the end of subparagraph (C) and inserting a period; and

(3) by striking subparagraph (D).

(b) Section 2256(2) of title 18, United States Code, is amended to read as follows:

''(2)(A) Except as provided in subparagraph (B), 'sexually explicit conduct' means actual or simulated—

''(i) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

''(ii) bestiality;

''(iii) masturbation;

''(iv) sadistic or masochistic abuse; or

''(v) lascivious exhibition of the genitals or pubic area of any person;

''(B) For purposes of subsection 8(B) of this section, 'sexually explicit conduct' means—

''(i) graphic sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex, or lascivious simulated sexual intercourse where the genitals, breast, or pubic area of any person is exhibited;

''(ii) graphic or lascivious simulated;

''(I) bestiality;

''(II) masturbation; or

''(III) sadistic or masochistic abuse; or

''(iii) graphic or simulated lascivious exhibition of the genitals or pubic area of any person;''.

(c) Section 2256 is amended by inserting at the end the following new paragraphs:

''(10) 'graphic', when used with respect to a depiction of sexually explicit conduct, means that a viewer can observe any part of the genitals or pubic area of any depicted person or animal during any part of the time that the sexually explicit conduct is being depicted; and

''(11) the term 'indistinguishable' used with respect to a depiction, means virtually indistinguishable, in that the depiction is such that an ordinary person viewing the depiction would conclude that the depiction is of an actual minor engaged in sexually explicit conduct. This definition does not apply to depictions that are drawings, cartoons, sculptures, or paintings depicting minors or adults.''.

(d) Section 2252A(c) of title 18, United States Code, is amended to read as follows:

''(c) It shall be an affirmative defense to a charge of violating paragraph (1), (2), (3)(A), (4), or (5) of subsection (a) that—

''(1)(A) the alleged child pornography was produced using an actual person or persons engaging in sexually explicit conduct; and

''(B) each such person was an adult at the time the material was produced; or

''(2) the alleged child pornography was not produced using any actual minor or minors.

No affirmative defense under subsection (c)(2) shall be available in any prosecution that involves child pornography as described in section 2256(8)(C). A defendant may not assert an affirmative defense to a charge of violating paragraph (1), (2), (3)(A), (4), or (5) of subsection (a) unless, within the time provided for filing pretrial motions or at such time prior to trial as the judge may direct, but in no event later than 10 days before the commencement of the trial, the defendant provides the court and the United States with notice of the intent to assert such defense and the substance of any expert or other specialized testimony or evidence upon which the defendant intends to rely. If the defendant fails to comply with this subsection, the court shall, absent a finding of extraordinary circumstances that prevented timely compliance, prohibit the defendant from asserting such defense to a charge of violating paragraph (1), (2), (3)(A), (4), or (5) of subsection (a) or presenting any evidence for which the defendant has failed to provide proper and timely notice.''.

SEC. 503. CERTAIN ACTIVITIES RELATING TO MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.

Section 2252A of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (3) and inserting the following:

''(3) knowingly—

''(A) reproduces any child pornography for distribution through the mails, or in interstate or foreign commerce by any means, including by computer; or

''(B) advertises, promotes, presents, distributes, or solicits through the mails, or in interstate or foreign commerce by any means, including by computer, any material or purported material in a manner that reflects the belief, or that is intended to cause another to believe, that the material or purported material is, or contains—

''(i) an obscene visual depiction of a minor engaging in sexually explicit conduct; or

''(ii) a visual depiction of an actual minor engaging in sexually explicit conduct;'';

(B) in paragraph (4), by striking ''or'' at the end;

(C) in paragraph (5), by striking the comma at the end and inserting ''; or''; and

(D) by adding after paragraph (5) the following:

''(6) knowingly distributes, offers, sends, or provides to a minor any visual depiction, including any photograph, film, video, picture, or computer generated image or picture, whether made or produced by electronic, mechanical, or other means, where such visual depiction is, or appears to be, of a minor engaging in sexually explicit conduct—

''(A) that has been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer;

''(B) that was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer; or

''(C) which distribution, offer, sending, or provision is accomplished using the mails or by transmitting or causing to be transmitted any wire communication in interstate or foreign commerce, including by computer,

for purposes of inducing or persuading a minor to participate in any activity that is illegal.''; and

(2) in subsection (b)(1), by striking ''paragraphs (1), (2), (3), or (4)'' and inserting ''paragraph (1), (2), (3), (4), or (6)''.

SEC. 504. OBSCENE CHILD PORNOGRAPHY.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by inserting after section 1466 the following:

''§ 1466A. Obscene visual representations of the sexual abuse of children

''(a) IN GENERAL.—Any person who, in a circumstance described in subsection (d), knowingly produces, distributes, receives, or possesses

with intent to distribute, a visual depiction of any kind, including a drawing, cartoon, sculpture, or painting, that—

''(1)(A) depicts a minor engaging in sexually explicit conduct; and

''(B) is obscene; or

''(2)(A) depicts an image that is, or appears to be, of a minor engaging in graphic bestiality, sadistic or masochistic abuse, or sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; and

''(B) lacks serious literary, artistic, political, or scientific value;

or attempts or conspires to do so, shall be subject to the penalties provided in section 2252A(b)(1), including the penalties provided for cases involving a prior conviction.

''(b) ADDITIONAL OFFENSES.—Any person who, in a circumstance described in subsection (d), knowingly possesses a visual depiction of any kind, including a drawing, cartoon, sculpture, or painting, that—

''(1)(A) depicts a minor engaging in sexually explicit conduct; and

''(B) is obscene; or

''(2)(A) depicts an image that is, or appears to be, of a minor engaging in graphic bestiality, sadistic or masochistic abuse, or sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; and

''(B) lacks serious literary, artistic, political, or scientific value;

or attempts or conspires to do so, shall be subject to the penalties provided in section 2252A(b)(2), including the penalties provided for cases involving a prior conviction.

''(c) NONREQUIRED ELEMENT OF OFFENSE.—It is not a required element of any offense under this section that the minor depicted actually exist.

''(d) CIRCUMSTANCES.—The circumstance referred to in subsections (a) and (b) is that—

''(1) any communication involved in or made in furtherance of the offense is communicated or transported by the mail, or in interstate or foreign commerce by any means, including by computer, or any means or instrumentality of interstate or foreign commerce is otherwise used in committing or in furtherance of the commission of the offense;

''(2) any communication involved in or made in furtherance of the offense contemplates the transmission or transportation of a visual depiction by the mail, or in interstate or foreign commerce by any means, including by computer;

''(3) any person travels or is transported in interstate or foreign commerce in the course of the commission or in furtherance of the commission of the offense;

''(4) any visual depiction involved in the offense has been mailed, or has been shipped or transported in interstate or foreign commerce by any means, including by computer, or was produced using materials that have been mailed, or that have been shipped or transported in interstate or foreign commerce by any means, including by computer; or

''(5) the offense is committed in the special maritime and territorial jurisdiction of the United States or in any territory or possession of the United States.

''(e) AFFIRMATIVE DEFENSE.—It shall be an affirmative defense to a charge of violating subsection (b) that the defendant—

''(1) possessed less than 3 such visual depictions; and

''(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any such visual depiction—

''(A) took reasonable steps to destroy each such visual depiction; or

''(B) reported the matter to a law enforcement agency and afforded that agency access to each such visual depiction.

''(f) DEFINITIONS.—For purposes of this section—

''(1) the term 'visual depiction' includes undeveloped film and videotape, and data stored on a computer disk or by electronic means which is capable of conversion into a visual image, and also includes any photograph, film, video, picture, digital image or picture, computer image or picture, or computer generated image or picture, whether made or produced by electronic, mechanical, or other means;

''(2) the term 'sexually explicit conduct' has the meaning given the term in section 2256(2)(A) or 2256(2)(B); and

''(3) the term 'graphic', when used with respect to a depiction of sexually explicit conduct, means that a viewer can observe any part of the genitals or pubic area of any depicted person or animal during any part of the time that the sexually explicit conduct is being depicted.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1466 the following new item:

''1466A. Obscene visual representations of the sexual abuse of children.''.

(c) SENTENCING GUIDELINES.—

(1) CATEGORY.—Except as provided in paragraph (2), the applicable category of offense to be used in determining the sentencing range referred to in section 3553(a)(4) of title 18, United States Code, with respect to any person convicted under section 1466A of such title, shall be the category of offenses described in section 2G2.2 of the Sentencing Guidelines.

(2) RANGES.—The Sentencing Commission may promulgate guidelines specifically governing offenses under section 1466A of title 18, United States Code, if such guidelines do not result in sentencing ranges that are lower than those that would have applied under paragraph (1).

SEC. 505. ADMISSIBILITY OF EVIDENCE.

Section 2252A of title 18, United States Code, is amended by adding at the end the following:

''(e) ADMISSIBILITY OF EVIDENCE.—On motion of the government, in any prosecution under this chapter or section 1466A, except for good cause shown, the name, address, social security number, or other nonphysical identifying information, other than the age or approximate age, of any minor who is depicted in any child pornography shall not be admissible and may be redacted from any otherwise admissible evidence, and the jury shall be instructed, upon request of the United States, that it can draw no inference from the absence of such evidence in deciding whether the child pornography depicts an actual minor.''.

SEC. 506. EXTRATERRITORIAL PRODUCTION OF CHILD PORNOGRAPHY FOR DISTRIBUTION IN THE UNITED STATES.

Section 2251 of title 18, United States Code, is amended—

(1) by striking ''subsection (d)'' each place that term appears and inserting ''subsection (e)'';

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

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

''(c)(1) Any person who, in a circumstance described in paragraph (2), employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, any sexually explicit conduct outside of the United States, its territories or possessions, for the purpose of producing any visual depiction of such conduct, shall be punished as provided under subsection (e).

''(2) The circumstance referred to in paragraph (1) is that—

''(A) the person intends such visual depiction to be transported to the United States, its territories or possessions, by any means, including by computer or mail; or

''(B) the person transports such visual depiction to the United States, its territories or possessions, by any means, including by computer or mail.''.

SEC. 507. STRENGTHENING ENHANCED PENALTIES FOR REPEAT OFFENDERS.

Sections 2251(e) (as redesignated by section 506(2)), 2252(b), and 2252A(b) of title 18, United States Code, are each amended—

(1) by inserting ''chapter 71,'' immediately before each occurrence of ''chapter 109A,''; and

(2) by inserting ''or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice),'' immediately before each occurrence of ''or under the laws''.

SEC. 508. SERVICE PROVIDER REPORTING OF CHILD PORNOGRAPHY AND RELATED INFORMATION.

(a) Section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032) is amended—

(1) in subsection (b)(1)—

(A) by inserting ''2252B,'' after ''2252A,''; and

(B) by inserting ''or a violation of section 1466A of that title,'' after ''of that title),'';

(2) in subsection (c), by inserting ''or pursuant to'' after ''to comply with'';

(3) by amending subsection (f)(1)(D) to read as follows:

''(D) where the report discloses a violation of State criminal law, to an appropriate official of a State or subdivision of a State for the purpose of enforcing such State law.'';

(4) by redesignating paragraph (3) of subsection (b) as paragraph (4); and

(5) by inserting after paragraph (2) of subsection (b) the following new paragraph:

''(3) In addition to forwarding such reports to those agencies designated in subsection (b)(2), the National Center for Missing and Exploited Children is authorized to forward any such report to an appropriate official of a state or subdivision of a state for the purpose of enforcing state criminal law.''.

(b) Section 2702 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (6), by striking subparagraph (B);

(B) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8) respectively;

(C) by striking ''or'' at the end of paragraph (5); and

(D) by inserting after paragraph (5) the following new paragraph:

''(6) to the National Center for Missing and Exploited Children, in connection with a report submitted thereto under section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032);''; and

(2) in subsection (c)—

(A) by striking ''or'' at the end of paragraph (4);

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by adding after paragraph (4) the following new paragraph:

''(5) to the National Center for Missing and Exploited Children, in connection with a report submitted thereto under section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032); or''.

SEC. 509. INVESTIGATIVE AUTHORITY RELATING TO CHILD PORNOGRAPHY.

Section 3486(a)(1)(C)(i) of title 18, United States Code, is amended by striking ''the name, address'' and all that follows through ''subscriber or customer utilized'' and inserting ''the information specified in section 2703(c)(2)''.

SEC. 510. CIVIL REMEDIES.

Section 2252A of title 18, United States Code, as amended by this Act, is amended by adding at the end the following:

''(f) CIVIL REMEDIES.—

''(1) IN GENERAL.—Any person aggrieved by reason of the conduct prohibited under subsection (a) or (b) or section 1466A may commence a civil action for the relief set forth in paragraph (2).

''(2) RELIEF.—In any action commenced in accordance with paragraph (1), the court may award appropriate relief, including—

''(A) temporary, preliminary, or permanent injunctive relief;

''(B) compensatory and punitive damages; and

''(C) the costs of the civil action and reasonable fees for attorneys and expert witnesses.''.

SEC. 511. RECORDKEEPING REQUIREMENTS.

(a) IN GENERAL.—Section 2257 of title 18, United States Code, is amended—

(1) in subsection (d)(2), by striking ''of this section'' and inserting ''of this chapter or chapter 71,'';

(2) in subsection (h)(3), by inserting '', computer generated image, digital image, or picture,'' after ''video tape''; and

(3) in subsection (i)—

(A) by striking ''not more than 2 years'' and inserting ''not more than 5 years''; and

(B) by striking ''5 years'' and inserting ''10 years''.

(b) REPORT.—Not later than 1 year after enactment of this Act, the Attorney General shall submit to Congress a report detailing the number of times since January 1993 that the Department of Justice has inspected the records of any producer of materials regulated pursuant to section 2257 of title 18, United States Code, and section 75 of title 28 of the Code of Federal Regulations. The Attorney General shall indicate the number of violations prosecuted as a result of those inspections.

SEC. 512. SENTENCING ENHANCEMENTS FOR INTERSTATE TRAVEL TO ENGAGE IN SEXUAL ACT WITH A JUVENILE.

Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and policy statements to ensure that guideline penalties are adequate in cases that involve interstate travel with the intent to engage in a sexual act with a juvenile in violation of section 2423 of title 18, United States Code, to deter and punish such conduct.

SEC. 513. MISCELLANEOUS PROVISIONS.

(a) APPOINTMENT OF TRIAL ATTORNEYS.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall appoint 25 additional trial attorneys to the Child Exploitation and Obscenity Section of the Criminal Division of the Department of Justice or to appropriate U.S. Attorney's Offices, and those trial attorneys shall have as their primary focus, the investigation and prosecution of Federal child pornography and obscenity laws.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice such sums as may be necessary to carry out this subsection.

(b) REPORT TO CONGRESSIONAL COMMITTEES.—

(1) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, and every 2 years thereafter, the Attorney General shall report to the Chairpersons and Ranking Members of the Committees on the Judiciary of the Senate and the House of Representatives on the Federal enforcement actions under chapter 110 or section 1466A of title 18, United States Code.

(2) CONTENTS.—The report required under paragraph (1) shall include—

(A) an evaluation of the prosecutions brought under chapter 110 or section 1466A of title 18, United States Code;

(B) an outcome-based measurement of performance; and

(C) an analysis of the technology being used by the child pornography industry.

(c) SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and policy statements to ensure that the guidelines are adequate to deter and punish conduct that involves a violation of paragraph (3)(B) or (6) of section 2252A(a) of title 18, United States Code, as created by this Act. With respect to the guidelines for section 2252A(a)(3)(B), the Commission shall consider the relative culpability of promoting, presenting, describing, or distributing material in violation of that section as compared with solicitation of such material.

Subtitle B—Truth in Domain Names

SEC. 521. MISLEADING DOMAIN NAMES ON THE INTERNET.

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by inserting after section 2252A the following:

''§ 2252B. Misleading domain names on the Internet

''(a) Whoever knowingly uses a misleading domain name on the Internet with the intent to deceive a person into viewing material constituting obscenity shall be fined under this title or imprisoned not more than 2 years, or both.

''(b) Whoever knowingly uses a misleading domain name on the Internet with the intent to deceive a minor into viewing material that is harmful to minors on the Internet shall be fined under this title or imprisoned not more than 4 years, or both.

''(c) For the purposes of this section, a domain name that includes a word or words to indicate the sexual content of the site, such as 'sex' or 'porn', is not misleading.

''(d) For the purposes of this section, the term 'material that is harmful to minors' means any communication, consisting of nudity, sex, or excretion, that, taken as a whole and with reference to its context—

''(1) predominantly appeals to a prurient interest of minors;

''(2) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

''(3) lacks serious literary, artistic, political, or scientific value for minors.

''(e) For the purposes of subsection (d), the term 'sex' means acts of masturbation, sexual intercourse, or physcial contact with a person's genitals, or the condition of human male or female genitals when in a state of sexual stimulation or arousal.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 110 of title 18, United States Code, is amended by inserting after the item relating to section 2252A the following new item:

''2252B. Misleading domain names on the Internet.''.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. PENALTIES FOR USE OF MINORS IN CRIMES OF VIOLENCE.

Chapter 1 of title 18, United States Code, is amended by adding at the end the following:

''§ 25. Use of minors in crimes of violence

''(a) DEFINITIONS.—In this section, the following definitions shall apply:

''(1) CRIME OF VIOLENCE.—The term 'crime of violence' has the meaning set forth in section 16.

''(2) MINOR.—The term 'minor' means a person who has not reached 18 years of age.

''(3) USES.—The term 'uses' means employs, hires, persuades, induces, entices, or coerces.

''(b) PENALTIES.—Any person who is 18 years of age or older, who intentionally uses a minor to commit a crime of violence for which such person may be prosecuted in a court of the United States, or to assist in avoiding detection or apprehension for such an offense, shall—

''(1) for the first conviction, be subject to twice the maximum term of imprisonment and twice the maximum fine that would otherwise be authorized for the offense; and

''(2) for each subsequent conviction, be subject to 3 times the maximum term of imprisonment and 3 times the maximum fine that would otherwise be authorized for the offense.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 18, United States Code, is amended by adding at the end the following:

''25. Use of minors in crimes of violence.''.

SEC. 602. SENSE OF CONGRESS.

(a) FOCUS OF INVESTIGATION AND PROSECUTION.—It is the sense of Congress that the Child Exploitation and Obscenity Section of the Criminal Division of the Department of Justice should focus its investigative and prosecutorial efforts on major producers, distributors, and sellers of obscene material and child pornography that use misleading methods to market their material to children.

(b) VOLUNTARY LIMITATION ON WEBSITE FRONT PAGES.—It is the sense of Congress that the online commercial adult entertainment industry should voluntarily refrain from placing obscenity, child pornography, or material that is harmful to minors on the front pages of their websites to protect juveniles from material that may negatively impact their social, moral, and psychological development.

SEC. 603. COMMUNICATIONS DECENCY ACT OF 1996.

Section 223 of the Communications Act of 1934 (47 U.S.C. 223) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A), by striking '', lewd, lascivious, filthy, or indecent'' and inserting ''or child pornography''; and

(B) in subparagraph (B), by striking ''indecent'' and inserting ''child pornography''; and

(2) in subsection (d)(1), by striking '', in context, depicts or describes, in terms patently offensive as measured by contemporary community standards, sexual or excretory activities or organs'' and inserting ''is obscene or child pornography''.

SEC. 604. INTERNET AVAILABILITY OF INFORMATION CONCERNING REGISTERED SEX OFFENDERS.

(a) IN GENERAL.—Section 170101(e)(2) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(e)(2)) is amended by adding at the end the following: ''The release of information under this paragraph shall include the maintenance of an Internet site containing such information that is available to the public and instructions on the process for correcting information that a person alleges to be erroneous.''.

(b) COMPLIANCE DATE.—Each State shall implement the amendment made by this section within 3 years after the date of enactment of this Act, except that the Attorney General may grant an additional 2 years to a State that is making a good faith effort to implement the amendment made by this section.

(c) NATIONAL INTERNET SITE.—The Crimes Against Children Section of the Criminal Division of the Department of Justice shall create a national Internet site that links all State Internet sites established pursuant to this section.

SEC. 605. REGISTRATION OF CHILD PORNOGRAPHERS IN THE NATIONAL SEX OFFENDER REGISTRY.

(a) JACOB WETTERLING CRIMES AGAINST CHILDREN AND SEXUALLY VIOLENT OFFENDER REGISTRATION PROGRAM.—Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071) is amended—

(1) by striking the section heading and inserting the following:

''SEC. 170101. JACOB WETTERLING CRIMES AGAINST CHILDREN AND SEXUALLY VIOLENT OFFENDER REGISTRATION PROGRAM.'';

and

(2) in subsection (a)(3)—

(A) in clause (vii), by striking ''or'' at the end;

(B) by redesignating clause (viii) as clause (ix); and

(C) by inserting after clause (vii) the following:

''(viii) production or distribution of child pornography, as described in section 2251, 2252, or 2252A of title 18, United States Code; or''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice, for each of fiscal years 2004 through 2007, such sums as may be necessary to carry out the amendments made by this section.

SEC. 606. GRANTS TO STATES FOR COSTS OF COMPLIANCE WITH NEW SEX OFFENDER REGISTRY REQUIREMENTS.

Section 170101(i)(3) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(i)(3) is amended to read as follows:

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of the fiscal years 2004 through 2007 such sums as may be necessary to carry out the provisions of section 1701(d)(10) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(d)(10)), as added by the PROTECT Act.''.

SEC. 607. SAFE ID ACT.

(a) SHORT TITLE.—This section may be cited as the ''Secure Authentication Feature and Enhanced Identification Defense Act of 2003'' or ''SAFE ID Act''.

(b) FRAUD AND FALSE STATEMENTS.—

(1) OFFENSES.—Section 1028(a) of title 18, United States Code, is amended—

(A) in paragraph (1), by inserting '', authentication feature,'' after ''an identification document'';

(B) in paragraph (2)—

(i) by inserting '', authentication feature,'' after ''an identification document''; and

(ii) by inserting ''or feature'' after ''such document'';

(C) in paragraph (3), by inserting '', authentication features,'' after ''possessor)'';

(D) in paragraph (4)—

(i) by inserting '', authentication feature,'' after ''possessor)''; and

(ii) by inserting ''or feature'' after ''such document'';

(E) in paragraph (5), by inserting ''or authentication feature'' after ''implement'' each place that term appears;

(F) in paragraph (6)—

(i) by inserting ''or authentication feature'' before ''that is or appears'';

(ii) by inserting ''or authentication feature'' before ''of the United States'';

(iii) by inserting ''or feature'' after ''such document''; and

(iv) by striking ''or'' at the end;

(G) in paragraph (7), by inserting ''or'' after the semicolon; and

(H) by inserting after paragraph (7) the following:

''(8) knowingly traffics in false authentication features for use in false identification documents, document-making implements, or means of identification;''.

(2) PENALTIES.—Section 1028(b) of title 18, United States Code, is amended—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) by inserting '', authentication feature,'' before ''or false''; and

(II) in clause (i), by inserting ''or authentication feature'' after ''document''; and

(ii) in subparagraph (B), by inserting '', authentication features,'' before ''or false''; and

(B) in paragraph (2)(A), by inserting '', authentication feature,'' before ''or a false''.

(3) CIRCUMSTANCES.—Section 1028(c)(1) of title 18, United States Code, is amended by inserting '', authentication feature,'' before ''or false'' each place that term appears.

(4) DEFINITIONS.—Section 1028(d) of title 18, United States Code, is amended—

(A) by redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) as paragraphs (2), (3), (4), (7), (8), (9), (10), and (11), respectively;

(B) by inserting before paragraph (2), as redesignated, the following:

''(1) the term 'authentication feature' means any hologram, watermark, certification, symbol, code, image, sequence of numbers or letters, or other feature that either individually or in combination with another feature is used by the issuing authority on an identification document, document-making implement, or means of identification to determine if the document is counterfeit, altered, or otherwise falsified;'';

(C) in paragraph (4)(A), as redesignated, by inserting ''or was issued under the authority of a governmental entity but was subsequently altered for purposes of deceit'' after ''entity'';

(D) by inserting after paragraph (4), as redesignated, the following:

''(5) the term 'false authentication feature' means an authentication feature that—

''(A) is genuine in origin, but, without the authorization of the issuing authority, has been tampered with or altered for purposes of deceit;

''(B) is genuine, but has been distributed, or is intended for distribution, without the authorization of the issuing authority and not in connection with a lawfully made identification document, document-making implement, or means of identification to which such authentication feature is intended to be affixed or embedded by the respective issuing authority; or

''(C) appears to be genuine, but is not;

''(6) the term 'issuing authority'—

''(A) means any governmental entity or agency that is authorized to issue identification documents, means of identification, or authentication features; and

''(B) includes the United States Government, a State, a political subdivision of a State, a foreign government, a political subdivision of a foreign government, or an international government or quasi-governmental organization;'';

(E) in paragraph (10), as redesignated, by striking ''and'' at the end;

(F) in paragraph (11), as redesignated, by striking the period at the end and inserting ''; and''; and

(G) by adding at the end the following:

''(12) the term 'traffic' means—

''(A) to transport, transfer, or otherwise dispose of, to another, as consideration for anything of value; or

''(B) to make or obtain control of with intent to so transport, transfer, or otherwise dispose of.''.

(5) ADDITIONAL PENALTIES.—Section 1028 of title 18, United States Code, is amended—

(A) by redesignating subsection (h) as subsection (i); and

(B) by inserting after subsection (g) the following:

''(h) FORFEITURE; DISPOSITION.—In the circumstance in which any person is convicted of a violation of subsection (a), the court shall order, in addition to the penalty prescribed, the forfeiture and destruction or other disposition of all illicit authentication features, identification documents, document-making implements, or means of identification.''.

*(6) TECHNICAL AND CONFORMING AMENDMENT.—Section 1028 of title 18, United States Code, is amended in the heading by inserting '', **AUTHENTICATION FEATURES,**'' after ''**DOCUMENTS**''.*

SEC. 608. ILLICIT DRUG ANTI-PROLIFERATION ACT.

(a) SHORT TITLE.—This section may be cited as the ''Illicit Drug Anti-Proliferation Act of 2003''.

(b) OFFENSES.—

(1) IN GENERAL.—Section 416(a) of the Controlled Substances Act (21 U.S.C. 856(a)) is amended—

(A) in paragraph (1), by striking ''open or maintain any place'' and inserting ''open, lease, rent, use, or maintain any place, whether permanently or temporarily,''; and

(B) by striking paragraph (2) and inserting the following:

''(2) manage or control any place, whether permanently or temporarily, either as an owner, lessee, agent, employee, occupant, or mortgagee, and knowingly and intentionally rent, lease, profit from, or make available for use, with or without compensation, the place for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance.''.

(2) TECHNICAL AMENDMENT.—The heading to section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended to read as follows:

''SEC. 416. MAINTAINING DRUG-INVOLVED PREMISES.''.

(3) CONFORMING AMENDMENT.—The table of contents to title II of the Comprehensive Drug Abuse and Prevention Act of 1970 is amended by striking the item relating to section 416 and inserting the following:

''Sec. 416. Maintaining drug-involved premises.''.

(c) CIVIL PENALTY AND EQUITABLE RELIEF FOR MAINTAINING DRUG-INVOLVED PREMISES.—Section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended by adding at the end the following:

''(d)(1) Any person who violates subsection (a) shall be subject to a civil penalty of not more than the greater of—

''(A) $250,000; or

''(B) 2 times the gross receipts, either known or estimated, that were derived from each violation that is attributable to the person.

''(2) If a civil penalty is calculated under paragraph (1)(B), and there is more than 1 defendant, the court may apportion the penalty between multiple violators, but each violator shall be jointly and severally liable for the civil penalty under this subsection.

''(e) Any person who violates subsection (a) shall be subject to declaratory and injunctive remedies as set forth in section 403(f).''.

(d) DECLARATORY AND INJUNCTIVE REMEDIES.—Section 403(f)(1) of the Controlled Substances Act (21 U.S.C. 843(f)(1)) is amended by striking ''this section or section 402'' and inserting ''this section, section 402, or 416''.

(e) SENTENCING COMMISSION GUIDELINES.—The United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines with respect to offenses involving gamma hydroxybutyric acid (GHB);

(2) consider amending the Federal sentencing guidelines to provide for increased penalties such that those penalties reflect the seriousness of offenses involving GHB and the need to deter them; and

(3) take any other action the Commission considers necessary to carry out this section.

(f) AUTHORIZATION OF APPROPRIATIONS FOR A DEMAND REDUCTION COORDINATOR.—There is authorized to be appropriated $5,900,000 to the Drug Enforcement Administration of the Department of Justice for the hiring of a special agent in each State to serve as a Demand Reduction Coordinator.

(g) AUTHORIZATION OF APPROPRIATIONS FOR DRUG EDUCATION.—There is authorized to be appropriated such sums as necessary to the Drug Enforcement Administration of the Department of Justice to educate youth, parents, and other interested adults about club drugs.

SEC. 609. DEFINITION OF VEHICLE.

Section 1993(c) of title 18, United States Code, is amended—

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(9) the term 'vehicle' means any carriage or other contrivance used, or capable of being used, as a means of transportation on land, water, or through the air.''.

SEC. 610. AUTHORIZATION OF JOHN DOE DNA INDICTMENTS.

(a) LIMITATION.—Section 3282 of title 18, United States Code, is amended—

(1) by striking ''Except'' and inserting the following:

''(a) IN GENERAL.—Except''; and

(2) by adding at the end the following:

''(b) DNA PROFILE INDICTMENT.—

''(1) IN GENERAL.—In any indictment for an offense under chapter 109A for which the identity of the accused is unknown, it shall be sufficient to describe the accused as an individual whose name is unknown, but who has a particular DNA profile.

''(2) EXCEPTION.—Any indictment described under paragraph (1), which is found not later than 5 years after the offense under chapter 109A is committed, shall not be subject to—

''(A) the limitations period described under subsection (a); and

''(B) the provisions of chapter 208 until the individual is arrested or served with a summons in connection with the charges contained in the indictment.

''(3) DEFINED TERM.—For purposes of this subsection, the term 'DNA profile' means a set of DNA identification characteristics.''.

(b) RULES OF CRIMINAL PROCEDURE.—Rule 7(c)(1) of the Federal Rules of Criminal Procedure is amended by adding at the end the following: ''For purposes of an indictment referred to in section 3282 of title 18, United States Code, for which the identity of the defendant is unknown, it shall be sufficient for the indictment to describe the defendant as an individual whose name is unknown, but who has a particular DNA profile, as that term is defined in that section 3282.''.

SEC. 611. TRANSITIONAL HOUSING ASSISTANCE GRANTS FOR CHILD VICTIMS OF DOMESTIC VIOLENCE, STALKING, OR SEXUAL ASSAULT.

Subtitle B of the Violence Against Women Act of 1994 (42 U.S.C. 13701 note; 108 Stat. 1925) is amended by adding at the end the following:

''CHAPTER 11—TRANSITIONAL HOUSING ASSISTANCE GRANTS FOR CHILD VICTIMS OF DOMESTIC VIOLENCE, STALKING, OR SEXUAL ASSAULT

''SEC. 40299. TRANSITIONAL HOUSING ASSISTANCE GRANTS FOR CHILD VICTIMS OF DOMESTIC VIOLENCE, STALKING, OR SEXUAL ASSAULT.

''(a) IN GENERAL.—The Attorney General, acting in consultation with the Director of the Violence Against Women Office of the Department of Justice, shall award grants under this section to States, units of local government, Indian tribes, and other organizations (referred to in this section as the 'recipient') to carry out programs to provide assistance to minors, adults, and their dependents—

''(1) who are homeless, or in need of transitional housing or other housing assistance, as a result of fleeing a situation of domestic violence; and

''(2) for whom emergency shelter services or other crisis intervention services are unavailable or insufficient.

''(b) GRANTS.—Grants awarded under this section may be used for programs that provide—

''(1) short-term housing assistance, including rental or utilities payments assistance and assistance with related expenses such as payment of security deposits and other costs incidental to relocation to transitional housing for persons described in subsection (a); and

''(2) support services designed to enable a minor, an adult, or a dependent of such minor or adult, who is fleeing a situation of domestic violence to—

''(A) locate and secure permanent housing; and

''(B) integrate into a community by providing that minor, adult, or dependent with services, such as transportation, counseling, child care services, case management, employment counseling, and other assistance.

''(c) DURATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a minor, an adult, or a dependent, who receives assistance under this section shall receive that assistance for not more than 18 months.

''(2) WAIVER.—The recipient of a grant under this section may waive the restriction under paragraph (1) for not more than an additional 6 month period with respect to any minor, adult, or dependent, who—

''(A) has made a good-faith effort to acquire permanent housing; and

''(B) has been unable to acquire permanent housing.

''(d) APPLICATION—

''(1) IN GENERAL.—Each eligible entity desiring a grant under this section shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may reasonably require.

''(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

''(A) describe the activities for which assistance under this section is sought; and

''(B) provide such additional assurances as the Attorney General determines to be essential to ensure compliance with the requirements of this section.

''(3) APPLICATION.—Nothing in this subsection shall be construed to require—

''(A) victims to participate in the criminal justice system in order to receive services; or

''(B) domestic violence advocates to breach client confidentiality.

''(e) REPORT TO THE ATTORNEY GENERAL—

''(1) IN GENERAL.—A recipient of a grant under this section shall annually prepare and submit to the Attorney General a report describing—

''(A) the number of minors, adults, and dependents assisted under this section; and

''(B) the types of housing assistance and support services provided under this section.

''(2) CONTENTS.—Each report prepared and submitted pursuant to paragraph (1) shall include information regarding—

''(A) the amount of housing assistance provided to each minor, adult, or dependent, assisted under this section and the reason for that assistance;

''(B) the number of months each minor, adult, or dependent, received assistance under this section;

''(C) the number of minors, adults, and dependents who—

''(i) were eligible to receive assistance under this section; and

''(ii) were not provided with assistance under this section solely due to a lack of available housing; and

''(D) the type of support services provided to each minor, adult, or dependent, assisted under this section.

''(f) REPORT TO CONGRESS.—

''(1) REPORTING REQUIREMENT.—The Attorney General, with the Director of the Violence Against Women Office, shall annually prepare and submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that contains a compilation of the information contained in the report submitted under subsection (e).

''(2) AVAILABILITY OF REPORT.—In order to coordinate efforts to assist the victims of domestic violence, the Attorney General, in coordination with the Director of the Violence Against Women Office, shall transmit a copy of the report submitted under paragraph (1) to—

''(A) the Office of Community Planning and Development at the United States Department of Housing and Urban Development; and

''(B) the Office of Women's Health at the United States Department of Health and Human Services.

''(g) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $30,000,000 for each of the fiscal years 2004 through 2008.

''(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year, not more than 3 percent may be used by the Attorney General for salaries and administrative expenses.

''(3) MINIMUM AMOUNT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), unless all eligible applications submitted by any States, units of local government, Indian tribes, or organizations within a State for a grant under this section have been funded, that State, together with the grantees within the State (other than Indian tribes), shall be allocated in each fiscal year, not less than 0.75 percent of the total amount appropriated in the fiscal year for grants pursuant to this section.

''(B) EXCEPTION.—The United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated not less than 0.25 percent of the total amount appropriated in the fiscal year for grants pursuant to this section.''.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

From the Committee on the Judiciary, for consideration of the Senate bill and the House amendments, and modifications committed to conference:

F. JAMES SENSENBRENNER,
HOWARD COBLE,
LAMAR SMITH,
MARK GREEN,
MELISSA A. HART.

For consideration of the Senate bill and House amendments, and modifications committed to conference:

MARTIN FROST.

From the Committee on Education and the Workforce, for consideration of sec. 8 of the Senate bill and secs. 222, 305, and 508 of the House amendments, and modifications committed to conference:

PETE HOEKSTRA,
PHIL GINGREY,
RUBÉN HINOJOSA.

From the Committee on Transportation and Infrastructure, for consideration of sec. 303 and title IV of the House amendments, and modifications committed to conference:

DON YOUNG,
TOM PETRI,
JIM MATHESON,
Managers on the Part of the House.

ORRIN HATCH,
CHUCK GRASSLEY,
JEFF SESSIONS,
LINDSEY GRAHAM,
JOE BIDEN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 151), to amend title 18, United States Code, with respect to the sexual exploitation of children, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

Section 1. Short title; table of contents

The short title is the ''Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003'' or ''PROTECT Act.'' This section is similar to the Senate bill.

Section 2. Severability

Section 2 of the conference report is identical to section 17 of the Senate bill and section 509 of the House amendment. This section states that if any provision of this Act is held to be invalid, the remainder shall not be affected by such invalidation.

TITLE I—SANCTIONS AND OFFENSES

Sec. 101. Supervised release term for sex offenders

Section 101 of the conference report is substantively identical to section 101 of the House amendment. There is no equivalent provision in the Senate bill. This section amends 18 U.S.C. §3583 to provide a judge with the discretion to extend the term of post-release supervision of sex offenders up to a maximum of life. The House amendment required the supervised release term to be no less than five years and up to life. Under current law, the maximum period of post-release supervision in Federal cases is generally five years even for the most serious crimes, and the maximum period for most offenses is three years or less.

This section responds to the long-standing concerns of Federal judges and prosecutors regarding the inadequacy of the existing supervision periods for sex offenders, particularly for the perpetrators of child sexual abuse crimes, whose criminal conduct may reflect deep-seated aberrant sexual disorders that are not likely to disappear within a few years of release from prison. The current length of the authorized supervision periods is not consistent with the need presented by many of these offenders for long-term—and in some cases, life-long—monitoring and oversight. This section is similar to H.R. 4679, the ''Lifetime Consequences for Sex Offenders Act of 2002,'' which passed the House 409–3 on June 25, 2002.

Sec. 102. First degree murdei-for child abuse and child torture murders

Section 102 of the conference report is substantively identical to section 102 of the House amendment. There is no equivalent provision in the Senate bill. This section amends 18 U.S.C. §1111, by inserting ''child abuse'' and ''the pattern or practice of assault or torture against a child or children'' that results in murder as a predicate for first degree murder. Section 1111 is the Federal murder statute. Under current law, first degree murder includes murder committed in the perpetration of, or attempt to perpetrate, certain crimes including arson, escape, kidnapping, sexual abuse, and several other crimes. ''Child abuse'' and ''torture'' would be added to the list for first degree murder. Acts of child abuse with lethal consequences are as deserving of such treatment as killings occurring in the course of such offenses as burglary or robbery. Since first degree murder is punishable by death or life imprisonment, these changes will help to ensure that child abusers who kill their victims will receive penalties that reflect the heinousness of their crimes. However, with regard to the definition of child abuse, it is the intent of the conferees that this section is not intended to impair the free exercise of one's religious beliefs with regard to a parent's decision about the provision of medical care for their children.

Sec. 103. Sexual abuse penalties

Section 103 of the conference report is substantively identical to section 103 of the House amendment. There is no equivalent provision in the Senate bill. This section increases the maximum and minimum penalties of section 1591 and chapters 110 and 117 of title 18, United States Code, relating to the sexual exploitation of children and the sex trafficking of children. This section increases the mandatory minimum penalties for only the most serious crimes of sexual abuse and sexual exploitation of children at the request of the Senate.

Statutory maximum penalties provide only an upper limit on punishment, and accordingly should be coordinated to the type of penalty which would be appropriate for the most aggravated forms of the offenses in question, as committed by offenders with the most serious criminal histories, Where the statutory maximum penalty is too low, it may be impossible to impose a proportionate penalty in cases involving highly aggravated offense conduct. Likewise, in cases involving incorrigible offenders, low statutory maximum penalties may force the court to impose a sentence that is less than what is warranted in light of the offender's criminal history.

The increased mandatory minimum sentences are responsive to real problems of excessive leniency in sentencing under existing law. For example, the offenses under chapter 117 of title 18, United States Code, apply in sexual abuse cases involving interstate movement of persons or use of interstate instrumentalities, such as luring of child victims through the Internet. Courts all too frequently impose sentences more lenient than those prescribed by the sentencing guidelines in cases under chapter 117, particularly in situations where an undercover agent rather than a child was the object of the enticement. Yet the offender's conduct in such a case reflects a real attempt to engage in sexual abuse of a child, and the fact that the target of the effort turned out to be an undercover officer has no bearing on the culpability of the offender, or on the danger he presents to children if not adequately restrained and deterred by criminal punishment. Likewise, courts have been disposed to grant downward departures from the guidelines for child pornography possession offenses under chapter 110, based on the misconception that these crimes are not serious.

Sec. 104. Stronger penalties against kidnapping

Section 104 of the conference report is identical to section 104 of the House amendment. There is no equivalent provision in the Senate bill. This section directs the United States Sentencing Commission to increase the base offense level for kidnapping from level 24 (51–63 months) to a base offense level of 32 by amending §2A4.1(a) of the United States Sentencing Guidelines. It further deletes §2A4.1(b)(4)(C) of the United States Sentencing Guidelines, which rewards kidnappers for releasing the victim within 24 hours by reducing the base offense level by one point. Under the current Guidelines, if a defendant sexually exploits the kidnapping victim, then the defendant's base offense level is increased by 3 levels. This is amended to a 6 level increase by amending §2A4.1(b)(5) of the United States Sentencing Guidelines.

This section also amends 18 U.S.C. §1201 to provide for a mandatory minimum sentence of 20 years if the victim of the non-family kidnapping is under the age of 18.

Sec. 105. Penalties against sex tourism

Section 105 of the conference report is substantively identical to section 105 of the House amendment. There is no equivalent provision in the Senate bill. This section addresses a number of problems related to persons who travel to foreign countries and engage in illicit sexual relations with minors. Current law requires the government to prove that the defendant traveled with the intent to engage in the illegal activity. Under this section, the government would only have to prove that the defendant engaged in illicit sexual conduct with a minor while in a foreign country. This section also criminalizes the actions of sex tour operators who arrange, induce, procure, or facilitate the travel of a person for commercial advantage or private financial gain, knowing that such a person is traveling in interstate or foreign commerce for the purpose of engaging in illicit sexual conduct. The maximum penalty a defendant could receive is up to thirty years imprisonment. This section is similar to H.R. 4477, the ''Sex Tourism Prohibition Improvement Act of 2002,'' which passed the House by 418 yeas to 8 nays on June 26, 2002.

Sec. 106. Two strikes you're out

Section 106 of the conference report is similar to section 106 of the House amendment. There is no equivalent provision in the Senate bill. This section would establish a mandatory sentence of life imprisonment for twice-convicted child sex offenders. This section amends 18 U.S.C. §3559 to provide for a mandatory minimum sentence of life imprisonment for any person convicted of a ''Federal sex offense'' if they had previously been convicted of a similar offense under either Federal or state law. The legislation defines Federal sex offense to include offenses committed against a person under the age of 17 and involving the crimes of sexual abuse, aggravated sexual abuse, sexual exploitation of children, abusive sexual contact, and the interstate transportation of minors for sexual purposes. This section is similar to H.R. 2146, the ''Two Strikes and You're Out Child Protection Act,'' which passed the House by 382 to 34 on March 14, 2002.

Sec. 107. Attempt liability for international parental kidnapping

Section 107 of the conference report is identical to section 107 of the House amendment. There is no equivalent provision in the Senate bill. This section amends 18 U.S.C. §1204, which generally prohibits removing a child from the United States or retaining a child outside the United States with intent to obstruct the lawful exercise of parental rights. As amended, the statute would prohibit attempts to commit this offense, as well as completed offenses.

This change is needed to facilitate effective intervention and prevention of parental kidnappings of children before they are removed from the United States. The current absence of attempt liability has created difficulties in cases in progress where the abducting parent is on the way out of the country, but is still transiting in the United States. In those cases, the FBI now has very limited ability to become involved and prevent the abduction from becoming an international occurrence. Local and state law enforcement must be looked to prevent the removal of the child from the country in such cases, but state and local authorities have been very reluctant to become involved. The addition of attempt liability will resolve these problems by enabling the FBI to deal with these cases directly. In addition, it will make penalties and means of restraint available through criminal prosecution and conviction in cases where persons attempt international child abductions in violation of 18 U.S.C. §1204, but are apprehended before they succeed in getting the child out of the country.

Sec. 108. Pilot program for National Criminal History Background Checks and Feasibility Study

Section 108 of the conference report is similar to section 307 of the House amendment. There is no equivalent provision in the

Senate bill. The National Child Protection Act was enacted in 1993 to provide a process for background checks for volunteers, but according to the groups that depend on volunteers to work with children, the disabled, and the elderly, the process was not working as intended. Additional legislation to improve this process was enacted through the Volunteers for Children Act of 1998. Concerns remain about the background check process.

This section responds to those concerns and establishes criminal history records check pilot programs and requires the Attorney General to study the current state of fingerprinting technology and the Federal and state governments capacity to perform these checks. The first pilot program permits certain volunteer organizations designated in three states selected by the Attorney General to request state criminal background checks and Federal 10-fingerprint criminal background checks on their volunteers. The second pilot program authorizes three designated volunteer organizations to receive 100,000 Federal 10-fingerprint criminal background checks, equally allocated, to determine whether potential volunteers are fit to work with children. Each pilot program will last for eighteen months. The Attorney General will report to Congress on the implementation of the pilot programs at their conclusion.

TITLE II—INVESTIGATIONS AND PROSECUTIONS

Sec. 201. Interceptions of communications in investigations of sex offenses

Section 201 of the conference report is substantively identical to section 15 of the Senate bill. Current Federal law allows the interception of oral and electronic communications (''wiretapping'') if authorized by a court order. A number of requirements must be satisfied to issue such an order, including probable cause to believe that an offense specifically enumerated in 18 U.S.C. §2516 has been or will be committed and that particular communications concerning the offense will be obtained through the proposed interception.

Current law provides inadequate investigative tools to combat child sexual exploitation, Internet luring of children for purposes of sexual abuse, and sex trafficking. For example, the list of wiretap predicates now includes a variety of offenses such as theft, fraud, and trafficking in stolen property. The current wiretap predicates, however, do not include the crime of buying or selling a child to be used in the production of child pornography,[1] or the offense of sex trafficking in persons,[2] or the crimes under chapter 117 of title 18 of the United States Code prohibiting interstate transportation or travel or use of interstate instrumentalities to promote prostitution. Section 201 enhances investigative authority for these heinous crimes by adding as wiretap predicates for several offenses under the sex offense chapters of the criminal code which are not currently covered—specifically, 18 U.S.C. §§2251A, 2252A, 2260, 2421, 2422, 2423, and 2425, as well as the sex trafficking statute, 18 U.S.C. §1591. This section is similar to H.R. 1877, the ''Child Sex Crimes Wiretapping Act of 2002,'' which passed the House by 396 yeas—11 nays on May 21, 2002.

Sec. 202. No statute of limitations for child abduction and sex crimes

Section 202 of the conference report contains similar language to section 202 of the House amendment. The Senate bill did not have comparable language. The House amendment created a new section in the criminal code that provided that child abductions and felony sex offenses are not subject to a statute of limitations. The conference report amends the current law that covers the statute of limitations for offenses involving the sexual or physical abuse of a child. This section adds crimes of kidnapping and extends the statute of limitations to the life of the child victim. Under current law, the limitation period applicable to most Federal crimes is five years.[3] There are some exceptions to this limitation.[4] Under current law, the standard limitation rules do not bar prosecution ''for an offense involving the sexual or physical abuse of a child under the age of eighteen years . . . before the child reaches the age of 25 years.''[5] While this is better than a flat five-year rule, it remains inadequate in many cases. For example, a person who abducted and raped a child could not be prosecuted beyond this extended limit—even if DNA matching conclusively identified him as the perpetrator one day after the victim turned 25.

Sec. 203. No pretrial release for those who rape or kidnap children

Section 203 of the conference report is substantively identical to section 221 of the House amendment. There is no equivalent provision in the Senate bill. This section provides a rebuttable presumption that child rapists and kidnappers should not get pretrial release. Under current law, a defendant may be detained before trial if the government establishes by clear and convincing evidence that no release conditions will reasonably assure the appearance of the person and the safety of others. Current law also provides rebuttable presumptions that the standard for pretrial detention is satisfied in certain circumstances. For example, such a presumption exists if the court finds probable cause to believe that the defendant committed a drug offense punishable by imprisonment for 10 years or more, or that the person committed a crime of violence or drug trafficking crime while armed with a firearm, in violation of 18 U.S.C. §924(c).[6] Thus, existing law creates a presumption that, for example, an armed robber charged under 18 U.S.C. §924(c) cannot safely be released before trial. This section will provide the same presumption for crimes such as child abduction and child rape.

Sec. 204. Suzanne's law

Section 204 of the conference report is identical to section 241 of the House amendment. There is no equivalent provision in the Senate bill. This section amends section 3701 (a) of the Crime Control Act of 1990 (42 U.S.C. §5779(a)) to require law enforcement agencies to report missing persons less than 21 years of age to the National Crime Information Center. Current law only requires reporting for children under the age of 18.

TITLE III—PUBLIC OUTREACH

SUBTITLE A—AMBER ALERT

Sec. 301. National coordination of AMBER Alert communications network

Section 301 of the conference report is identical to section 301 of the House amendment. There is no equivalent provision in the Senate bill. This section codifies the establishment of an AMBER Alert Coordinator within the Department of Justice to assist states with their AMBER Alert plans. This coordinator will eliminate gaps in the network, including gaps in interstate travel, work with states to encourage development of additional AMBER plans, work with states to ensure regional coordination among plans, and serve as a nationwide point of contact. On October 2, 2002, President Bush directed the Attorney General to designate a Justice Department officer to serve as AMBER Alert Coordinator to help expand the AMBER Alert system nationwide. Assistant Attorney General Deborah J. Daniels was designated as that coordinator and has been working to assist state and local officials with developing and enhancing AMBER plans, and to promote statewide and regional coordination among plans ever since. This section requires that not later than March 1, 2005, the Coordinator submit a report to Congress on the effectiveness and status of the AMBER plans of each state.

The AMBER program is a voluntary partnership between law-enforcement agencies and broadcasters to activate an urgent alert bulletin in serious child-abduction cases. The goal of the AMBER Alert is to instantly galvanize the entire community to assist in the search for and safe return of the child.

Sec. 302. Minimum standardsfor issuance and dissemination of alerts through AMBER Alert communications network

Section 302 of the conference report is identical to section 302 of the House amendment. There is no equivalent provision in the Senate bill. Section 302 requires the Department of Justice Coordinator to establish nationwide minimum standards for the issuance of an AMBER alert and the extent of dissemination of the alert. The legislation allows for voluntary adoption of these standards. The Conference Committee intends that the establishment of minimum standards will limit the use of the system to those rare instances of serious child abductions. Limiting the use of AMBER Alerts is critical to the long-term success of the program because overuse or misuse of AMBER Alerts could lead to public fatigue or apathy to the alerts.

Sec. 303. Grant program for notification and communications systems along highways for recovery of abducted children

Section 303 of the conference report is identical to section 303 of the House amendment. There is no equivalent provision in the Senate bill. This section authorizes $20,000,000 for fiscal year 2004 for the Secretary of Transportation to make grants to states for the development or enhancement of notification or communications systems along highways for alerts and other information for the recovery of abducted children. The guidelines for these grants are intended to mirror what the AMBER Alert grant program that the Department of Transportation has been developing since October, 2002, and currently has in place.

Sec. 304. Grant program for support of AMBER Alert communications plans

Section 304 of the conference report is identical to section 304 of the House amendment. There is no equivalent provision in the Senate bill. This section authorizes $5,000,000 for fiscal year 2004 for the Attorney General to administer a grant program for the development and enhancement of programs and activities for the support of AMBER Alert communication plans. This section also authorizes an additional $5,000,000 for fiscal year 2004 for grants to develop and implement new technologies to improve AMBER Alert communications.

Sec. 305. Limitation on liability

Section 305 of the conference report is a new section that is related to the purpose of this title. This section provides the National Center for Missing and Exploited Children (NCMEC) with civil immunity arising out of

[1] 18 U.S.C. §2251A.

[2] 18 U.S.C. §1591.

[3] See 18 U.S.C. §3282.

[4] See, e.g., 18 U.S.C. §3281 (no limitation period for capital crimes); 18 U.S.C. §3293 (ten-year limitation period for certain financial institution offenses); 18 U.S.C. §3294 (twenty-year limitation period for certain thefts of artwork).

[5] 18 U.S.C. §3283.

[6] See 18 U.S.C. §3142(e).

any action by NCMEC in connection with activity that is undertaken with, or at the direction of, a Federal law enforcement agency.

SUBTITLE B—NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN

Sec. 321. Increased support

Section 321 of the conference report is identical to section 305 of the House amendment. There is no equivalent provision in the Senate bill. The National Center for Missing and Exploited Children (NCMEC) is the nation's resource center for child protection. The Center provides assistance to parents, children, law enforcement, schools, and the community in recovering missing children and raising public awareness about ways to help prevent child abduction, molestation and sexual exploitation. To date, NCMEC has worked on more than 73,000 cases of missing and exploited children and helped recover more than 48,000 children. This section amends the Missing, Exploited, and Runaway Children Protection Act by reauthorizing NCMEC, and reauthorizing and doubling the annual grant to NCMEC from $10,000,000 to $20,000,000 through fiscal year 2005.

Sec. 322. Forensic and investigative support of missing and exploited children

Section 322 of the conference report is substantively identical to section 308 of the House amendment. There is no equivalent provision in the Senate bill. This section amends section 3056 of title 18, United States Code, to allow the U.S. Secret Service to provide forensic and investigative support to the National Center for Missing and Exploited Children to assist in efforts to find missing children. Nearly a decade ago, Congress authorized the U.S. Secret Service to participate in a multi-agency task force with the purpose of providing resources, expertise and other assistance to local law enforcement agencies and the National Center for Missing and Exploited Children (NCMEC) in cases involving missing and exploited children. This began a strong partnership between the Secret Service and NCMEC, and resulted in the Secret Service providing critical forensic support—including polygraph examinations, handwriting examinations, fingerprint research and identification, age progressions/regressions and audio and video enhancements—to NCMEC and local law enforcement in numerous missing children cases. This section will provide explicit statutory authorization permitting the Secret Service to continue this forensic and investigative support upon request from local law enforcement or NCMEC.

Sec. 323. Creation of a cyber tipline

Section 323 of the conference report is a new section that is related to the purpose of this title. This section amends the Missing Children's Assistance Act to coordinate the operation of a cyber tipline to provide online users an effective means of reporting Internet related child sexual exploitation.

SUBTITLE C—SEX OFFENDER APPREHENSION PROGRAM

Sec. 341. Authorization

Section 341 of the conference report is identical to section 306 of the House amendment. There is no equivalent provision in the Senate bill. This section would authorize Community Oriented Policing Services (COPS) funding for Sex Offender Apprehension Programs in states that have a sex offender registry and have laws that make it a crime for failure to notify authorities of any change in address information, among other things. The money could be used by local law enforcement agencies to fund officers who would check up on sex offenders and arrest them for noncompliance. Keeping up to date records will help law enforcement in future investigations of missing children.

SUBTITLE D—MISSING CHILDREN PROCEDURES IN PUBLIC BUILDINGS

Sec. 361. Short title

Section 361 of the conference report is substantively identical to section 401 of the House amendment. There is no equivalent provision in the Senate bill. This section states that this subtitle may be cited as the ''Code Adam Act of 2003.''

Sec. 362. Definitions

Section 362 of the conference report is identical to section 402 of the House amendment. There is no equivalent provision in the Senate bill. This section defines the following terms: child, code adam alert, designated authority, executive agency, Federal agency, and public building.

Sec. 363. Procedures in public buildings regarding a missing or lost child

Section 363 of the conference report is substantively identical to section 403 of the House amendment. There is no equivalent provision in the Senate bill. This section requires that, not later than 180 days after the date of enactment of this Act, the designated authority for a public building shall establish procedures for locating a child that is missing in the building. The procedures shall provide, at a minimum, the notification of security personnel, obtaining a detailed description of the child, monitoring all points of egress from the building, conducting a thorough search of the building, and notifying local law enforcement.

The original Code Adam is one of the country's largest child-safety programs, and it is supported by the National Center for Missing and Exploited Children. The Wal-Mart retail stores created it in 1994, and it is used in more than 36,000 stores across the United States.

SUBTITLE E—CHILD ADVOCACY CENTER GRANTS

Sec. 381. Information and documentation required by the Attorney General under Victims of Child Abuse Act of 1990

Section 381 of the conference report is substantively identical to section 222 of the House amendment. There is no equivalent provision in the Senate bill. This section reauthorizes grant programs within the Victims of Child Abuse Act of 1990, 42 U.S.C. §13001 et seq., that provide funding to child advocacy centers and training and technical assistance to programs to improve the prosecution of child abuse cases. This funding trains law enforcement agencies, prosecutors and local jurisdictions to help them establish comprehensive, interdisciplinary approaches to the investigation and prosecution of child abuse. The goal of these programs is to minimize the trauma of the justice system for children who are victims of abuse as well as to ensure that the mental, emotional and physical needs of these children are not forgotten. The authorization for this funding expired in fiscal year 2000, however, the Department of Justice has continued to receive funds for these programs and continues to administer them.

TITLE IV—SENTENCING REFORM

Sec. 401. Sentencing reform

Section 401 of the conference report is a modification of section 109 of the House amendment. There is no equivalent provision in the Senate bill. This section addresses the longstanding problem of downward departures from the Federal Sentencing Guidelines. According to the Sentencing Commission's 2001 Sourcebook of Federal Sentencing Statistics, trial courts reduced the sentence of those convicted of all non-immigration offenses in 12.2 percent of the cases while those convicted of sexual abuse received a downward departure over 16 percent of the cases, and granted reductions below the guideline range of those convicted of sexual abuse by an astonishing 63 percent from the guideline range. For those convicted of pornography and/or prostitution related offenses, trial courts departed from the recommended guidelines over 18 percent of the time, reducing these defendants' sentences by a staggering 66 percent.

The provisions of this section would restrict departures in cases under section 1201 involving a minor victim, section 1591, or under chapters 109A, 110 or 117 of title 18, United States Code. Specifically, in those cases, a court could only sentence a defendant outside the guideline range upon grounds specifically enumerated in the guidelines as proper for departure. This would eliminate ad hoc departures based on vague grounds, such as ''general mitigating circumstances.''

In addition, this section would for all cases require courts to give specific written reasons for any departure from the guidelines; change the standard of review for appellate courts to a de novo review to allow appellate courts more effectively to review illegal and inappropriate downward departures; prevent sentencing courts, upon remand, from imposing the same illegal departure on a different theory; and only allow courts to grant an additional third point reduction for ''acceptance of responsibility'' upon motion of the government.

Also, the definition of ''pattern of activity involving prohibited sexual conduct'' in the Sentencing Guidelines is broadened. Currently, the guidelines provides that such a pattern exists only where the defendant engaged in prohibited sexual conduct on at least two separate occasions with at least two different minor victims. This definition does not adequately take account of the frequent occurrence of repeated sexual abuse against a single child victim, and the severity of the harm to such victims from the repeated abuse. This section would broaden the definition to include repeated abuse of the same victim on separate occasions.

For cases other than those involving offenses in section 1201 involving a minor victim, section 1591, or chapters 109A, 110 or 117 of title 18 of the United States Code, this section directs the Sentencing Commission to review grounds for downward departures and promulgate amendments to ensure that the incident of downward departure are substantially reduced.

The Sentencing Guidelines are also amended with regard to the penalties for possession of child pornography in two ways. First, penalties are increased if the offense involved material that portrays sadistic or masochistic conduct or other depictions of violence and, second, penalties are increased based on the amount of child pornography involved in the offense.

TITLE V—OBSCENITY AND PORNOGRAPHY

SUBTITLE A—CHILD OBSCENITY AND PORNOGRAPHY PREVENTION

This subtitle is a compromise that incorporates parts of the House and Senate anti-child pornography bills. Both these bills address the April 16, 2002 Supreme Court decision in *Ashcroft* v. *the Free Speech Coalition*.[7] That decision struck down parts of a 1996 law written to combat computer-generated pornography as too broad.

Sec. 501. Findings

Section 501 of the conference report is identical to section 501 of the House amendment and similar to section 2 of the Senate bill. This section provides detailed congressional findings.

[7] 535 U.S. 234 (2002).

Sec. 502. Improvements to prohibition on virtual child pornography

Section 502 addresses the Supreme Court's holding that the definition of child pornography under 18 U.S.C. §2256(8)(B), relating to virtual child pornography, was over broad and unconstitutional. Section 502 incorporates the House definition for computer-generated child pornography and the Senate affirmative defense language, with a technical amendment.

Section 502(a) of the conference report is substantively identical to section 502(a) of the House amendment and similar to section 5 of the Senate bill. This section narrows the definition of child pornography under 18 U.S.C. §2256(8)(B) to depictions that are ''digital images'' (e.g., picture or video taken with a digital camera), ''computer images'' (e.g., pictures scanned into a computer), or ''computer-generated images'' (e.g., images created or altered with the use of a computer). The Supreme Court was concerned in Free Speech Coalition that the breadth of the language would prohibit legitimate movies like ''Traffic'' or plays like ''Romeo and Juliet.'' Limiting the definition to digital, computer, or computer-generated images will help to exclude ordinary motion pictures from the coverage of ''virtual child pornography.'' Section 502(a) further narrows the definition by replacing the phrase ''appears to be'' with the phrase ''is indistinguishable from.'' That new phrase addresses the Court's concern that cartoon-sketches would be banned under the statute. ''The substitution of 'is indistinguishable from' in lieu of 'appears to be' more precisely reflects what Congress intended to cover in the first instance, and eliminates an ambiguity that infected the current version of the definition and that enabled those challenging the statute to argue that it 'capture[d] even cartoon -sketches and statues of children that were sexually suggestive.'''[8]

Section 502(b) also narrows the definition of child pornography by amending 18 U.S.C. §2256(2) to require a simulated image to be lascivious to constitute child pornography under the new definition in 18 U.S.C. §2256(8)(B). Thus, child pornography that simulates sexually explicit conduct must be lascivious as well as meet the other requirement of the definition. This language is identical to the House Amendment.

Section 502(c) of the conference report is similar to section 502(c) of the House amendment and defines the terms ''graphic'' and ''indistinguishable.''

Section 502(d) of the conference report amends the existing statutory provision in the Federal criminal code to conform with the Supreme Court's holding by replacing 18 U.S.C. §2252A(c), the affirmative defense for violations of 18 U.S.C. §2252A. The section contains a modified affirmative defense provided in section 3(c) of the Senate bill.

The current affirmative defense in 18 U.S.C. §2252A(c) provides a defense for violations of subsections 2252A(a)(1)–(4) of title 18, United States Code, where the person producing the material used adults and did not distribute the material so as to convey the impression that the material was child pornography. The Supreme Court in *Free Speech Coalition* did not rule on the existing affirmative defense in 18 U.S.C. §2252A(c). The Court left open the possibility that the 1996 statute might have survived the constitutional challenge as overbroad if the affirmative defense had been more complete. Specifically, the Court stated, ''We need not decide, however, whether the Government could impose this burden [of an affirmative defense] on a speaker. Even if an affirmative defense can save a statute from First Amendment challenge, here the defense is incomplete and insufficient, even on its own terms.''[9] Justice Thomas, in his concurring opinion, stated that the ''Court does leave open the possibility that a more complete affirmative defense could save a statute's constitutionality.''[10] Thus, the Court appears to have implicitly accepted that some reculation of virtual child pornography might be constitutional and this provision strengthens the affirmative defense as suggested by the Court.

Like the House Amendment, the Senate language creates a new and comprehensive affirmative defense for anyone charged with distributing or possessing child pornography. With this new affirmative defense an accused can completely escape liability by showing that the sexually explicit depictions in question were produced without using any actual minors. The provision also makes clear that the defendant must provide timely and specific notice of his intent to raise either the youthful-looking adult or virtual porn defense. The Senate language was modified to ensure the defense does not apply to the pandering provisions or the morphing provisions. This defense does not apply to any old or new obscenity provisions.

Sec. 503. Certain activities relating to material constituting or containing child pornography

Section 503 of the conference report is identical to section 3(a) and (b) of the Senate bill and substantively identical to sections 503 and 505 of the House Amendment. Section 503 includes a new pandering provision (to be codified at 18 U.S.C. §2252A(a)(3)(B)) that prohibits ''advertis[ing], promot[ing], present[ing], distribut[ing], or solicit[ing]'' real or purported materials that the actor believes, or intends to cause another to believe, contain depictions of actual or obscene child pornography. This provision bans the offer to transact in unprotected material, coupled with proof of the offender's specific intent. Thus, for example, this provision prohibits an individual from offering to distribute anything that he specifically intends to cause a recipient to believe would be actual or obscene child pornography. It likewise prohibits an individual from soliciting what he believes to be actual or obscene child pornography. The provision makes clear that no actual materials need exist; the government establishes a violation with proof of the communication and requisite specific intent. Indeed, even fraudulent offers to buy or sell unprotected child pornography help to sustain the illegal market for this material.

Section 503 (to be codified at 18 U.S.C. §2252A(a)(6)) creates a new offense that criminalizes the act of using any type of real or apparent child pornography to induce a child to commit a crime.

Sec. 504. Obscene child pornography

Section 504 of the conference report is substantively identical to section 6 of the Senate bill and similar to section 504 of the House amendment. Section 504 of the conference report creates new obscenity offenses under Chapter 71 of title 18, United States Code, (to be codified at 18 U.S.C. §1466A) that criminalizes obscene sexually explicit depictions of minors. This section prohibits any obscene depictions of minors engaged in any form of sexually explicit conduct and prohibits a narrow category of ''hardcore'' pornography involving real or apparent minors, where such depictions lack literary, artistic, political, or scientific value. These new offenses are subject to the penalties applicable to child pornography, not the lower penalties that apply to obscenity, and it also contains a directive to the U.S. Sentencing Commission requiring the Commission to ensure that the U.S. Sentencing Guidelines are consistent with this fact.

Sec. 505. Admissibility of evidence

Section 505 of the conference report is identical to section 4 of the Senate bill. There is no comparable provision in the House amendment. This section (to be codified at 18 U.S.C. §2252A(e)) protects the privacy of minors depicted in obscenity and child pornography by permitting the government to seek an order that shields non-physical identifying information from public scrutiny. Of course, such information may be a critical component of the government's proof at trial. There may be evidence, for example, that the defendant stored the sexually explicit depiction in a folder labeled ''Jennifer—Age 12.'' For this reason, this provision does not require the government to seek the exclusion of such information in every instance. When the government moves to do so, however, this provision creates a strong presumption that the privacy of the minor shall be protected. In that event, the government also is entitled to obtain a jury instruction that the absence of this information shall not be used to infer that the depictions are not, in fact, actual minors.

Sec. 506. Extraterritorial production of child pornography for distribution in the United States

Section 506 of the conference report is identical to section 10 of the Senate bill and substantively identical to section 506 of the House amendment. This section amends current law by providing the Government with the authority to prosecute foreign producers of child pornography if that material is transported, or intended to be transported, to the United States. Persons and entities who target, exploit, profit from, or help to perpetuate the market for child pornography in the United States are fairly subject to our system of laws and penalties. The purpose of this section is to stop efforts by producers of child pornography to avoid criminal liability based on the fact that the child pornography was produced outside of the United States, but intended for use inside the United States.[11]

Sec. 507. Strengthening enhanced penalties for repeat offenders

Section 507 of the conference report is identical to section 507 of the House amendment and similar to section 12 of the Senate bill. This section amends chapter 110, the child pornography chapter of title 18, United States Code, which provides enhanced penalties for recidivists in that chapter, chapter 109A (relating to sexual abuse), and chapter 117 (relating transportation for illegal sexual activity and related crimes). The new language includes the offenses under the obscenity chapter, chapter 71 and the sexual assault crimes under military law in article 120 of the Uniform Code of Military Justice. Recidivism is a huge problem in sexual exploitation cases. This section addresses the problem by enhancing the penalties for repeat offenders.

Sec. 508. Service provider reporting of child pornography and related information

Section 508 of the conference report is substantively identical to section 508 of the House Amendment and substantively identical to sections 8 and 9 of the Senate bill.

[8] Department of Justice Transmittal Letter with draft legislation to the Speaker of the House, at 3 (May 2002) (citing *Free Speech Coalition*, 535 U.S. at 264 (O'Connor, J., concurring in part and dissenting in part)).

[9] *Free Speech Coalition*, 535 U.S. at 256.

[10] *Free Speech Coalition*, 535 U.S. at 259 (Thomas, J., concurring).

[11] See, e.g., *United States* v. *Thomas*, 893 F. 2d 1066 (9th Cir. 1990).

The conference report amends section 227 of the Victims of Child Abuse Act of 1990, which requires providers of electronic communications and remote computing services to report apparent offenses that involve child pornography.[12] Section 508 of the conference report strengthens this reporting system by adding the new offenses under §§2252B and 1466A.

Section 508(b) amends 18 U.S.C. §2702 to be consistent with section 227 of the Victims of Child Abuse Act, which provides that, in addition to the required information that is reported to NCMEC, the reports may include ''additional information.'' This should make it clear, for example, that an Internet service provider can disclose the identity of a subscriber who sent a message containing child pornography, in addition to the contents of such a communication already required to be reported under current law. Section 2702(b)(6)(B) of title 18, United States Code, only authorizes disclosure of content information required by the Victims of Child Abuse Act, and contains no language that appears to cover relevant non-content information, such as the identity of the sender of the child pornography in the example described above. This section corrects that inconsistency.

This section also includes a provision to change the current law that prevents the Federally funded Internet Crimes Against Children Task Forces to receive reports from the Cyber Tipline. These Task Forces are state and local police agencies that have been identified by the NCMEC as competent to investigate and prosecute computer facilitated crimes against children. The new language authorizes Internet Crimes Against Children Task Forces access to the Cyber Tipline Reports as the vast majority of cases in this area are investigated and prosecuted by state and local law enforcement.

Sec. 509. Investigative authority relating to child pornography

Section 509 of the conference report is identical to section 510 of the House amendment and section 16 of the Senate bill. This section is technical in nature. This section updates the current law regarding the use of administrative subpoenas. Section 3486 of title 18, United States Code, covers administrative subpoenas. Recent changes to the law updated the transactional information that may be obtained under 18 U.S.C. §2703(c)(2) through an administrative subpoena. To update 18 U.S.C. §3486, which covers subpoenas issued involving the sexual exploitation or abuse of children, this provision inserts the information specified in 18 U.S.C. §2703(c)(2) for the list of transactional information in 18 U.S.C. §3486. Transactional information includes billing records and other similar records.

Sec. 510. Civil remedies

Section 510 of the conference report is identical to section 11 of the Senate bill. There is no equivalent provision in the House amendment. This section creates a new civil cause of action against producers, distributors, and possessors of obscenity relating to children and child pornography. Persons aggrieved by such conduct may bring suit seeking appropriate relief, including punitive damages and reasonable attorneys' fees.

Sec. 511. Recordkeeping requirements

Section 511 of the conference report reflects a merger of two related, but not identical, reporting requirements. The conference report merges section 7 of the Senate bill and section 512 of the House amendment. Section 7 of the Senate bill expands the scope of materials subject to the record keeping requirements of 18 U.S.C. §2257. Specifically, ''computer generated image[s], digital image[s], or picture[s]'' are added to the existing categories of sexually explicit materials for which records must be created and maintained. In making these changes, 18 U.S.C. §2257 is designed to include the most common medium for distributing, exchanging or obtaining child pornography over the internet. This section further increases the existing penalties for violations of 18 U.S.C. §2257, and incorporates the requirement in section 512 of the House amendment that the Department of Justice detail its record of enforcing such violations.

Sec. 512. Sentencing enhancements for interstate travel to engage in sexual act with a juvenile

Section 512 of the conference report is identical to section 12 of the Senate bill. There is no equivalent House provision. This section directs the United States Sentencing Commission to review the existing penalties for persons who travel across state lines to engage in sexual activity with a minor in violation of 18 U.S.C. §2423. The current penalty structure for this offense in the United States Sentencing Guidelines appears too lenient, as such offenders are punished less harshly than offenders who simply possess child pornography.

Section 513. Miscellaneous provisions

Section 513 of the conference report is identical to section 14 of the Senate bill. The House amendment has no equivalent provision. This section directs the Department of Justice to appoint twenty-five more attorneys who are dedicated to the enforcement of child pornography laws, and authorizes the appropriations of funds necessary to fulfill this mission. It also directs the Department of Justice to prepare periodic reports to Congress on the enforcement of the Federal child pornography laws and obscenity laws related to children, as well as the technology being employed by the producers and distributors of child pornography. Finally, the section requires the United States Sentencing Commission to carefully review and consider the penalties needed to deter and punish the new offenses created in 18 U.S.C. §2252A.

SUBTITLE B—TRUTH IN DOMAIN NAMES

Sec. 521. Misleading domain names on the internet

Section 521 of the conference report is similar to section 108 of the House amendment. The Senate bill has no equivalent provision. Section 521 makes it a crime to knowingly use a misleading domain name with the intent to deceive a person into viewing obscenity on the Internet and a crime to knowingly use a misleading domain name with the intent to deceive a minor into viewing ''material that is harmful to minors'' on the Internet.

The term ''material that is harmful to minors'' means any communication, consisting of nudity, sex, or excretion, that, taken as a whole and with reference to its context—(1) predominantly appeals to the prurient interest of minors; (2) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and (3) lacks serious literary, artistic, political, or scientific value for minors. Section 2252B(e) defines ''sex.''

A domain name that includes a word or words to indicate the sexual content of the site, such as ''sex'' or ''porn'', is not misleading.

Neither obscenity[13] nor material deemed ''harmful to minors'' is protected by the First Amendment as to minors.[14] Congress, therefore, may ban such material outright. While Congress, may not ban material harmful to minors on the Internet in a manner that results in ''an unnecessarily broad suppression of speech addressed to adults,''[15] prohibiting misleading domain names on Web sites containing material ''harmful to minors'' would only limit unintentional access by adults to such Web sites, and is not an unnecessarily broad restriction on adults.

Furthermore, under the Central Hudson[16] test, speech that concerns an unlawful activity or misleading is not protected by the First Amendment. The domain names that the amendment would prohibit would be misleading, and therefore would not be protected by the First Amendment if the Web sites that they name propose a commercial transaction.

This provision is constitutional and necessary. There is a growing trend for those attempting to sell pornography to use aggressive and misleading tactics to deceive unsuspecting and unwilling individuals, both adults and minors, into viewing the pornography—often obscene or harmful to minors.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Penalties for use of minors in crimes of violence

Section 601 of the conference report is a new section that is related to the purpose of this Act. Section 601 adds a new section 25 of title 18 to the United States Code to provide that any person who is 18 years of age or older who intentionally uses a minor to commit a crime of violence shall be imprisoned up to twice the maximum term of imprisonment and twice the maximum fine authorized for the offense for a first offense. New section 25 provides that for each subsequent conviction, a defendant shall be subject to imprisonment to three times the maximum term of imprisonment and three times the maximum fine authorized for the offense.

Sec. 602. Sense of Congress

Section 602 of the conference report is a new section that is related to the purpose of this Act. Section 602(a) states that it is the sense of the Congress that the Department of Justice should focus its investigative and prosecutorial efforts on major producers, distributors, and sellers of obscene material and child pornography that use misleading methods to market their material to children. Section 602(b) states that it is the sense of the Congress that the online commercial adult entertainment industry should voluntarily refrain from placing obscenity, child pornography, or material that is harmful to minors on the front pages of their websites to protect juveniles from material that may negatively impact their social, moral, and psychological development.

Sec. 603. Comniunications Decency Act of 1996

Section 603 of the conference report is a new section that is related to the purpose of this Act. Section 603(l)(A) and (B) amends the Communication Decency Act by making it unlawful to use a telephone device to

[12] Under the current law, communications providers must report to the National Center for Missing and Exploited Children (NCMEC) when the provider obtains knowledge of facts or circumstances from which a violation of sexual exploitation crimes against children occurs. 42 U.S.C. §13032(b)(1). A provider of electronic communication services may be fined for knowingly and willfully failing to make a report. 42 U.S.C. §13032(b)(3). Federal criminal law provides that ''[n]o provider or user of an electronic communication service or a remote computing service to the public shall be held liable on account of any action taken in good faith to comply with this section.'' 42 U.S.C. §13032(c).

[13] *Miller* v. *California*, 413 U.S. 15 (1973).

[14] *Ginsberg* v. *New York*, 390 U.S. 629, 631 (1968).

[15] *Reno* v. *American Civil Liberties Union*, 521 U.S. 844, 875 (1997).

[16] *Central Hudson Gas & Electric Corp.* v. *Public Service Commission of New York*, 447 U.S. 557 (1980).

make or solicit transmission of child pornography to adults and minors. Section 603(2) also making it a crime to send or display child pornography by computer to persons under 18.

Sec. 604. Internet availability of information concerning registered sex offenders

Section 604 of the conference report is a new section that is related to the purpose of this Act. To protect children, current law requires a state, or any agency authorized by the state, to release information to the public regarding persons required to register as sex offenders. Section 604 amends the Violent Crime Control and Law Enforcement Act of 1994 to authorize states to create an Internet site containing the names of sex offenders within three years.

Sec. 605. Registration of child pornographers in the National Sex Offender Registry

Section 605 of the conference report is a new section that is related to the purpose of this Act. Current law requires a person convicted of certain criminal offenses against a minor or certain sexually violent offenses to register with the sex offender registry. Section 605 amends Violent Crime Control and Law Enforcement Act of 1994 by including in the crimes against children and sexually violent offender registration program persons convicted of crimes relating to the production and distribution of child pornography and appropriates sufficient funds to make such chance to the Department of Justice.

Sec. 606. Grants to states for costs of compliance with new sex offender registry requirements

Section 606 of the conference report is a new section that is related to the purpose of this Act. The Violent Crime Control and Law Enforcement Act of 1994 authorized $25 million for fiscal years 1999 and 2000 to establish a grant program, the Sex Offender Management Assistance program, to the states to offset the costs associated with establishing and maintaining a sex offender registry. Section 606 amends the Violent Crime Control and Law Enforcement Act of 1994 by authorizing sufficient funds to the states for fiscal years 2004 through 2007 to continue to carry out Sex Offender Management Assistance Programs.

Sec. 607. SAFE ID Act

Section 607 of the conference report is a new section that is related to the purpose of this Act. Under current law, it is not illegal to possess, traffic in, or use false or misleading authentication features whose purpose is to create fraudulent IDs. Section 607 would correct this oversight by making it a crime to counterfeit or alter ''authentication features,'' as well as to traffic such features in false identification documents or without the authorization of the appropriate authority. Authentication features are the holograms, symbols, codes, etc., used by the issuing authority to verify that an ID is authentic. In addition, this section requires forfeiture of equipment used in creating or trafficking in illicit authentication features. This section will help the fight against child abduction, terrorism, identity theft, and underage drinking, among other things, by addressing the growing trade in illicit authentication feature for IDs.

Sec. 608. Illicit Drug Anti-Proliferation Act

Section 608 of the conference report is a new section that is related to the purpose of this Act. This section, known as the Illicit Drug Anti-Proliferation Act, helps to protect children by amending the Controlled Substances Act to expand the ''crack house'' statute.[17] This expansion makes it clear that anyone who knowingly and intentionally uses their property, or allows another person to use their property, for the purpose of distributing or manufacturing or using illegal drugs will be held accountable. This section raise the penalties for people who traffic in a substance often marketed to children at clubs; and authorizing funds for drug prevention activities. It also creates a civil penalty for violating 21 U.S.C. §856.

In addition, the language directs the Sentencing Commission to consider increasing the sentencing guidelines for offenses involving gamma hydroxybutyric acid (GHB), a Schedule I substance often used to facilitate sexual assault. Under current law, an offender would have to have 13 gallons (equivalent to 100,000 doses) of GHB to qualify for a five year penalty. Because large-scale GHB dealers generally distribute gallon quantities of the drug, they generally are not prosecuted at the federal level because the penalties are too low. In order to prevent the abuse of club drugs and other illicit substances, the bill also authorizes $5.9 million for the Drug Enforcement Administration to hire a Demand Reduction Coordinator in each state and authorizes such sums as may be necessary for the Drug Enforcement Administration to educate youth, parents and other interested adults about the dangers associated with club drugs.

Sec. 609. Definition of vehicle

Section 609 of the conference report is a new section that is related to the purpose of this Act. This section amends 18 U.S.C. §1993(c) prohibiting terrorist attacks and other acts of violence against mass transportation systems to add a new section (a)(9) to define ''vehicle'' as itany carriage or other contrivance used, or capable of being used, as a means of transportation on land, water, or through the air.''

Sec. 610. John Doe/DNA indictments

Section 610 of the conference report is a new section that is related to the purpose of this Act. Section 610 would change current law to encourage Federal prosecutors to bring ''John Doe/DNA indictments'' in Federal sex crimes. Specifically, the provision amends 18 U.S.C. §3282 to authorize Federal prosecutors to issue an indictment identifying an unknown defendant by a DNA profile within the five-year statute of limitations. If the indictment is issued within the five-year statute of limitations, the statute is then tolled until the perpetrator is identified through the DNA profile at a later date. The John Doe/DNA indictment would permit prosecution at anytime once there was a DNA ''cold hit'' through the national DNA database system. John Doe/DNA indictments strike the right balance between encouraging swift and efficient investigations, recognizing the durability and credibility of DNA evidence, and preventing an injustice if a ''cold hit'' occurs years after the crime and law enforcement did not promptly process forensic evidence. Providing incentives for law enforcement to test crime scene DNA from sexual assaults will also help identify sex offenders (who are often recidivists) to permit their speedy apprehension and prosecution.

Sec. 611. Transitional housing assistance grants for child victims of domestic violence, stalking, or sexual assault

Section 611 of the conference report is a new section that is related to the purpose of this Act. This section amends Subtitle B of the Violence Against Women Act of 1994 (42 U.S.C. 13701 note; 108 Stat. 1925) to authorize $30 million for the Attorney General to award grants to organizations, States, units of local government, and Indian tribes to carry out programs to provide assistance to individuals who are in need of transitional housing or related assistance as a result of fleeing, a situation of domestic violence, and for whom emergency shelter services or other crisis intervention services are unavailable or insufficient.

The grants may be used for programs that provide short-term housing assistance, including rental or utilities payments assistance and assistance with related expenses. Grants will also be available for support services designed to help individuals locate and secure permanent housing, as well as integrate into a community by providing with services, such as transportation, counseling, child care services, case management, employment counseling, and other assistance. Any recipient of a grant must annually prepare and submit a report to the Attorney General describing the number of minors, adults, and dependents assisted, and the types of housing assistance and support services provided.

Under the program, victims would be eligible for assistance for a period of 18 months and would be entitled to seek a waiver for an additional six months of assistance based on an inability to obtain adequate housing.

From the Committee on the Judiciary, for consideration of the Senate bill and the House amendments, and modifications committed to conference:

F. JAMES SENSENBRENNER,
HOWARD COBLE,
LAMAR SMITH,
MARK GREEN,
MELISSA A. HART.

For consideration of the Senate bill and House amendments, and modifications committed to conference:

MARTIN FROST.

From the Committee on Equation and the Workforce, for consideration of sec. 8 of the Senate bill and secs. 222, 305, and 508 of the House amendments, and modifications committed to conference:

PETE HOEKSTRA,
PHIL GINGREY,
RUBÉN HINOJOSA.

From the Committee on Transportation and Infrastructure, for consideration of sec. 303 and title IV of the House amendments, and modifications committed to conference:

DON YOUNG,
TOM PETRI,
JIM MATHESON,
Managers on the Part of the House.

ORRIN HATCH,
CHUCK GRASSLEY,
JEFF SESSIONS,
LINDSEY GRAHAM,
JOE BIDEN,
Managers on the Part of the Senate.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. 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.R. 1036 to be considered later.

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

There was no objection.

PROTECTION OF LAWFUL COMMERCE IN ARMS ACT

The SPEAKER pro tempore (Mr. SESSIONS). Pursuant to House Resolution 181 and rule XVIII, the Chair declares the House in the Committee of the

[17] 21 U.S.C. §856.

Whole House on the State of the Union for the consideration of the bill, H.R. 1036.

The Chair designates the gentleman from Illinois (Mr. SHIMKUS) as chairman of the Committee of the Whole, and requests the gentleman from Idaho (Mr. SIMPSON) to assume the chair temporarily.

□ 1131

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1036) to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others, with Mr. SIMPSON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

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

Mr. Chairman, logic and fairness dictate that manufacturers and sellers should not be held responsible for the unlawful use of their lawful products. H.R. 1036 will stop ludicrous lawsuits against the manufacturer or seller of firearms for harm resulting from the criminal or unlawful misuse of their products by prohibiting such lawsuits from being filed in State or Federal court.

H.R. 1036, which has significant bipartisan support, does not preclude lawsuits against a person who transfers a firearm or ammunition knowing that it will be used to commit a crime of violence or a drug trafficking crime. It also does not prevent lawsuits against a seller for negligent entrustment or negligence per se.

The bill also includes several additional exceptions, including an exception for actions in which a manufacturer or seller of a qualified product knowingly and willfully violates any State or Federal statute applicable to sales or marketing when such violation was a proximate cause of the harm for which relief is sought. Other exceptions include actions for breach of contract or warranty and an exception for actions for damages resulting directly from a defect in design or manufacture.

Recent litigation against the tobacco industry that forced multibillion dollar settlements has inspired lawsuits against a much smaller firearms industry on theories of liability that would hold it financially responsible for the harm caused, through no fault of its own, by those who criminally misuse its products. While some of these lawsuits have been dismissed, and some States have acted to limit them in one way or another, the fact remains that these lawsuits continue to be aggressively pursued. Such lawsuits threaten to rip tort law from its moorings in personal responsibility and drive firearms manufacturers out of business.

John Coale, one of the personal injury lawyers suing the gun industry, told the Washington Post, ''The legal fees alone are enough to bankrupt the industry.'' The police, along with our military, also rely on the domestic firearms industry to supply them with reliable and accurate weapons that can best protect them in the line of fire. The best and most reliable guns are not going to be those designed under requirements personal injury attorneys seek to impose in firearms lawsuits.

Lawsuits seeking to hold the firearms industry responsible for the criminal and unlawful use of its products are brazen attempts to accomplish through litigation what has not been achieved by legislation and the democratic process. Various courts have correctly described such suits as ''improper attempts to have the court substitute its judgment for that of the legislature.'' As explained by another Federal judge, ''The plaintiff's attorneys simply want to eliminate handguns.''

Under the currently unregulated tort system, personal injury lawyers are seeking to obtain through the courts stringent limits on the sale and distribution of firearms beyond the court's jurisdictional boundaries. Such State lawsuits in a single county could destroy a national industry and deny citizens nationwide the right to keep and bear arms guaranteed by the Constitution. Insofar as these lawsuits have the practical effect of burdening interstate commerce in firearms, Congress has the authority to act under the commerce clause of the Constitution.

In 1985, one Federal judge said it would be nonsensical to claim that a product can be defective under the law when it has no defect. He predicted that the plaintiff's unconventional application of tort law against such a product would also apply to automobiles, knives and even high-calorie food.

In 1999, another judge observed that cities suing the firearms industry ''have envisioned the dawning of a new age of litigation during which the gun industry, liquor industry, and purveyors of junk food would follow the tobacco industry in reimbursing government expenditures.'' Only a few years later, that disastrous new age of litigation is already upon us, and even once-fanciful lawsuits against fast food companies are rapidly proliferating.

Congress must do what it can to stop the slide down this slippery slope. It is time for Congress to fulfill its constitutional duty and exercise its authority under the commerce clause to prevent a few State courts from bankrupting the national firearms industry and denying all Americans their fundamental right to bear arms.

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

Mr. WATT. Mr. Chairman, I ask unanimous consent to control the time of the gentleman from Michigan (Mr. CONYERS) in opposition to the bill.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. WATT. Mr. Chairman, I yield myself as much time as I may consume.

First of all, I think I want to clarify this debate because, starting at 7:30 this morning, eight o'clock this morning, I was on a television show debating about the bill I thought, and I heard all of the arguments related to how trial lawyers are irresponsible, how judges are irresponsible. I heard arguments about whether people ought to have guns or not have guns.

I submit to my colleagues that this debate is not about any of that. It is about a bill which I believe is an extreme bill, and I want to call my colleagues' attention to five points.

This is reform. I believe it is extreme reform. We are not talking about capping recoveries or putting a limit on recoveries from gun manufacturers, sellers, dealers, importers. We are talking about immunizing them from their liability for negligence. So this is extreme reform. It is not the kind of reform that we have been talking about in other contexts.

The second point I want to make is, this is unprecedented reform. The reform that this bill would provide is not available to any other manufacturer in America. It is not available to the automobile industry. It is not available to the pharmaceutical industry. It is not, despite what my chairman has said, about the tobacco industry. It is not available to the tobacco or the cigarette industry. There is no industry in America that has this kind of immunity. So it is unprecedented reform that is being sought here.

The third point I want to make is, this is not well-thought-out reform. There are major problems with this bill, and the committee made no effort to try to debate those problems, consider those problems, try to correct those problems.

There was no markup. If my colleagues heard the debate on the rule, there really was no markup. The total markup of this bill in committee took a total of 44 minutes, 44 minutes, and most of that was spent debating and arguing about whether the previous question ought to have been called. So these issues have not been considered. So we have got a bill that has not been well thought out because nobody has taken the time to worry about the specific provisions in the bill.

The fourth point I would make to my colleagues is that this is unconstitutional reform. We have a bill that says,

not only will it apply henceforth, now and forever, forward, but it will apply henceforth, now and forever, backwards. So if a person had a lawsuit and they are already in court, they already had their trial, their case is on appeal, this lawsuit would tell the appeals court to dismiss that lawsuit. If a person is in the middle of selecting a jury, if they have had motions and arguments about whether the conduct of the manufacturer or seller or dealer has been outrageous, this legislation would require that that lawsuit be dismissed. I think that retroactivity is unconstitutional, and if it is not unconstitutional, it is certainly unfair, unwise and unwarranted.

The fifth point I want to make about this legislation is that it is politically motivated reform. The reason this bill had not gotten any attention in the Committee on the Judiciary and that nobody wants to take the time to really debate about it on the floor is that we are rushing this bill through to the other side so that 2 weeks from now, when the National Rifle Association convenes its national convention in Florida, they will be energized, they will be motivated to do whatever they need to do to support many of the supporters of this bill. There is no reason that this bill has to be dealt with in the form that it is being dealt with.

So it is extreme. It is unprecedented. It is not well thought out, has not been debated. It is unconstitutional and if not unconstitutional, certainly unfair and unwise, and it is politically motivated.

Those five things should give us pause today, even aside from how this bill got here. We should be concerned that this institution is moving an irresponsible piece of legislation that is solely for the benefit of some right-wing agenda.

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

Mr. SENSENBRENNER. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, I thank the distinguished chairman of the Committee on the Judiciary for his help in bringing this bill to the floor. I also want to thank my colleagues, the gentleman from Louisiana (Mr. JOHN), the gentlewoman from Pennsylvania (Ms. HART) and the gentleman from Virginia (Mr. BOUCHER) for their support.

H.R. 1036, the Protection of Lawful Commerce in Arms Act, as we pointed out earlier, addresses the growing concerns of junk lawsuits filed with the intention of driving the firearms industry out of business by simply attempting to hold manufacturers and dealers liable for the criminal acts of third parties who are totally beyond their control.

These suits are different from other lawsuits that affect other industries. The cities and counties are not representing specific victims nor are they claiming specific damage against city property. No, instead, they are simply suing because they happen to dislike a product, its appearance, its distribution and how it markets its product. Yet, under the Constitution, these companies have the constitutional right to manufacture these products.

□ 1145

Now, the previous speaker mentioned that this has been a very quick process and he thought it was extreme. That is the word he used, extreme, unprecedented. I have on this chart here 31 States which have already passed legislation that prohibits frivolous lawsuits against the firearm industry. So I would say to my colleagues, perhaps your State, when you come on the House floor, you should look at this chart to make sure before you vote whether your State has already passed a bill that has recognized the absurdity of these lawsuits. As such these States have acted to prohibit these types of suits, and H.R. 1036 is designed to simply mirror what the States have done.

The goal is to seize the attempts at regulation through lawsuits that achieve nothing except the blatant interference in a company's constitutional right to sell and market a legal product and the constitutional duty of the Congress to regulate the commerce of such product. As I stated, creative legal theory does not make good public policy.

We have seen through the course of these 30-plus suits that have come to the courts that the courts are not buying the theory either. Many of these suits have been dismissed. If my colleagues will bear with me, I will show my colleagues another chart. I have just taken a sample of the municipal lawsuits that have been dismissed, but I particularly want to highlight the city of Boston's case. Twenty-nine manufacturers and distributors and three associations were defendants. The alleged claim: negligent distribution. Very simply, negligent distribution was the claim against them, and 29 manufacturers were sued, distributors and associations. Defective design, deceptive advertising, nuisance, unjust enrichment. It was dismissed.

The city dropped its own suit saying it was too expensive for the city to do and acknowledging that, through its vigorous prosecution, the suit would need hundreds of thousands of pages of documents, would go on forever and ever, and would not be realistic and concrete in its steps to reduce illegal acquisition of firearms, and need to reduce the incidence of firearm accidents and increasing public awareness concerning the safe handling and storage of firearms. So the city of Boston voluntarily decided this is wrong. Not the courts' decision, but the city of Boston, after spending all this money.

We can go from New Orleans to Miami-Dade County. Twenty-six manufacturers, distributors, three associations, and two dealers were all sued simply because of their design, their distribution, and what they said was negligent deceptive advertising. It was dismissed at trial court and dismissed at appellate court. The Florida Supreme Court denied this petition. So it went through every one. The trial court, the appellate court, and the Supreme Court; and they all denied. So, my colleagues, this bill we have here is simply mirroring what has been done in the other 31 States.

Now, the question comes up, this bill is just a carve-out for the firearms industry. The previous speaker mentioned that, so I would like to bring to his attention other Federal legislation that protects specific industries and other cases where these industries or groups have found themselves uniquely threatened by bizarre or novel legal situations.

For example, in 1994, we passed legislation, the General Aviation Revitalization Act, which generally protects manufacturers of small planes more than 18 years old against personal injury lawsuits in both Federal and State courts.

Let us take another act, the Federally Supported Health Centers Assistance Act of 1995, which declared certain community, migrant and homeless health care center employees to be employees of the Public Health Service, thus protecting them under the Federal Tort Claims Act from malpractice lawsuits in State courts.

Another example: the Bill Emerson Good Samaritan Food Donation Act of 1996, which protects nonprofit organizations from State or Federal lawsuits arising from the nature, age, packaging or condition of apparently wholesome food received in good-faith donation to benefit the needy.

The Volunteer Protection Act of 1997 provides limited immunity from liability for volunteers acting on behalf of a nonprofit organization and preempts inconsistent State law unless such law provides additional protection.

The Biomaterials Access Assurance Act of 1998, which supersedes State law to create an exclusion from liability for manufacturers of raw materials or components of medical implants.

And let us not forget the Y2K Act of 1999, which limits punitive damages and establishes special procedures for liability in Y2K cases.

The Public Health Improvement Act of 2000, which provides Good Samaritan liability protection for users of cardiac defibrillators.

So, my colleagues, there are literally dozens and dozens of such pieces of legislation, major pieces of legislation, very similar, very like this bill that have been passed by Congress to protect and to enforce protection against nuisance lawsuits.

Basically, what we have is a bill that has been cosponsored by 250 colleagues here in the House. And the bill did not just happen to appear recently for anything like a convention of the NRA. This bill has gone through Congress. In

the 107th Congress, we had almost 240 sponsors. It went through the Subcommittee on Commerce, Trade, and Consumer Protection and then the full committee and passed. It went through the appropriate subcommittee and the full Committee on the Judiciary in the 107th Congress. And we now have even more support for it, so the time is right for passage on the House floor.

My colleagues will hear a lot about victims' rights from opponents to this bill. I want to emphatically state that this bill protects victims' rights. Their right to sue is protected in this bill, relying on product defect, negligent entrustment, and industry compliance with Federal and State law. What is not protected is the use of creative legal theory to sue the deepest pockets.

My colleagues, we have a good bill here, one that 250 Members of Congress agree with. It is bipartisan, both sides. They agree that using the courts to circumvent the constitutional authority of this body to make public policy is an improper use of our judicial system.

I will close in a moment, but want to leave my colleagues with several quotes. Dave Kopel, a professor at New York University Law School, has stated that the cities do not have to win in court with these nuisance suits. All they have to do is keep suing and suing. They will kill the industry with the cost of defending the lawsuits. He has got it right.

And then I would like to give another quote here. This is from a former labor secretary in which he pointed out that if I had my way, we would have laws restricting hand guns, and we are launching here an effort to succeed where legislation has failed. The strategy may work, but at the cost of making our frail democracy even weaker. You might approve the outcome in these cases, but they establish a precedent for other cases that you might find wildly unjust.

My point is that most nuisance lawsuits are taking to the courts an attempt to bankrupt these manufacturers. It is clear the courts agree, it is clear my colleagues agree, it is clear the State legislatures agree; and so I urge my colleagues to support the bill.

Mr. WATT. Mr. Chairman, I yield myself 30 seconds, just long enough to respond to the gentleman that I am glad he demonstrated the court process is working. Most of the cases he talked about have been dismissed if they did not have merit, and that is exactly what should happen to them. And to distinguish for him between all of those cases, I know he would like to put this bill in the category of volunteer protections and Good Samaritans, but I do not think he is going to succeed on that front.

Mr. Chairman, I yield 3¼ minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, this legislation is an attempt to provide special legal protection for the gun industry at the expense of innocent Americans who have been harmed by the dangerous and irresponsible actions of some firearm manufacturers and sellers.

The gun industry should be subject to the same legal standards of conduct that govern all other people and industries in society. Guns are only one of two consumer products, tobacco is the other, that are exempt from Federal health and safety regulation. Consequently, American consumers receive Federal protection from safety flaws in products such as children's toys, pillows, car seats, but not from deadly firearms.

This legislation is especially unconscionable in light of the gun violence that continues to plague our Nation. Recently, Americans watched in horror as citizens were gunned down by a sniper in Maryland, the District of Columbia, and my home State of Virginia. While local law enforcement officials are prosecuting the snipers for their crimes, the families who lost loved ones in the attack have also filed civil lawsuits to ensure that those responsible for arming the snipers also are held accountable. This includes the gun store from which the assault rifle used in the shootings mysteriously disappeared, along with 238 other guns over the last 3 years alone. These are guns whose intended purpose is to kill other human beings.

If H.R. 1036 is enacted into law, the families of the sniper victims will be thrown out of court without a hearing. Given the suffering experienced by gun violence victims, it is unconscionable for the gun lobby to call their efforts to obtain justice frivolous. Gun violence victims seeking their day in court have based their lawsuits on long-standing rights well established in our Nation's common law.

In addition to the civil lawsuits brought by the families of the sniper victims, another part of the fight to obtain justice for gun violence victims includes the NAACP's current legal action against firearms manufacturers and dealers who have facilitated the supply of hand guns to an unlawful underground market. Gun violence is the number one killer of African Americans ages 15 to 24. And though African Americans represent 13 percent of the total U.S. population, they account for the majority of gun homicides. The legal remedy being sought by the NAACP does not involve damages, but rather calls on the gun industry to behave responsibly.

In the words of a New York Times editorial, ''Under cover of war, the domestic gun industry is prodding Congress to anoint it as the ''arsenal of democracy'' by enacting a disastrous bill to give gun makers and dealers unprecedented protection from liability suits by State and local governments and victims of gun violence.

''The passage of this bill would do nothing for average gun owners. What the sudden pressure to get it through Congress makes clear is that the gun lobby, while theoretically concerned with the right to bear arms, is chiefly worried about protecting the right to make money off of them.''

We, the representatives of the people, not the special interests, should reject this legislation which would undermine the legal rights of individuals and communities and provide unwarranted special immunity for the firearm industry. Let us do the right thing. Let us vote this bill down.

□ 1200

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. BOUCHER) to show the bipartisan nature of the support for this bill.

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

Mr. BOUCHER. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me this time. I urge passage of this legislation by the House, and I am pleased to join with the gentleman from Florida (Mr. STEARNS), the gentleman from Louisiana (Mr. JOHN), and the gentlewoman from Pennsylvania (Ms. HART) as one of the principal cosponsors of the measure.

Lawsuits which would impose liability on firearm manufacturers, distributors and dealers for misuse of the firearm by someone who comes into possession of it are thinly veiled attempts to impose gun control by judicial means. If liability is imposed on manufacturers in these circumstances, the result will be a large reduction in the availability of firearms for purchase by sportsmen and other law-abiding citizens. The rights of hunters, of gun collectors, and those who purchase firearms for self-defense must be considered. The lawsuits which this bill seeks to end leave little room for the consideration of those rights.

The lawsuits are merely gun control by a nonlegislative means. I happen to oppose gun control, but even if I favored it, I would be for this bill which will remove gun control policy-making from the courts and return it to the legislative arena where it belongs and where all competing interests have an opportunity to be considered.

Mr. Chairman, this bill deserves, and it has, broad bipartisan support. It will further the protection of gun-owner rights, and I urge its passage by the House.

Mr. WATT. Mr. Chairman, I yield 4¼ minutes to the gentlewoman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY of New York. Mr. Chairman, I would like to straighten a few things that are being said here on the floor: Number one, this has nothing to do with guns, and it does not; number two, we are not trying to shut down gun manufacturers, and we are not; number three, this is not about gun control, and it is not.

What this is basically about is trying to have, as victims, our day in court.

My colleague said that we have frivolous cases in court. Yet it is funny because we always get into the case, yet we are turned back because they say, go to the legislative branch. The legislative branch is where you should be trying to change law. That is not going to happen. This is a progun House and it is a progun Senate. Now we are basically taking away every right that victims have.

Let me say why we look at the gun manufacturers on their distribution: mainly because we do know that a lot of these illegal guns that get on the streets come from certain areas and are going through certain distributions to gun stores. Yet the legislature here passed a law that our ATF agents cannot even go and inspect a gun store except once a year, but only if they call them first.

What we hear is also, in my opinion, a reckless attempt at providing special legal protection for the gun industry. We do not do it with other manufacturers. This is different. The gun industry should be subject to the same legal standards of conduct that govern every other industry. What makes this particular industry so special, we all know that it is the lobbyists.

But let me say what we are trying to do as far as the gun manufacturers. We are asking them to make the guns safer. The technology is out there. I asked the Committee on Rules last night to have child safety locks able to be sent out with every gun that goes out on the market. It certainly would be up to the consumer whether they used that particular product on the gun or not, but we do know it would save children's lives.

An attempt to improve the bill, as I said, we see unintentional shootings commonly occur with children when they find an adult-loaded handgun in a drawer or closet, and while playing with it shoot themselves, a sibling or young friend. When reading the newspapers, one sees that this happens all too frequently. No matter how careful parents are, their child is still exposed to the potential negligence of a neighbor or relative or other adult that the child visits.

Instead of providing immunity to a particular industry because of the potential legal costs associated with a lawsuit, we should first focus on the merits of the lawsuit. Many negligent suits brought against gun manufacturers are based on the claim that the product they manufacture and sell does not take into consideration the foreseeable dangers associated with their product, for example, a child playing with a handgun.

Although I happen to agree with these claims, I believe we could limit them by ensuring the safety of a firearm if it falls into the hands of a child. There are many things our gun manufacturers could do. There are many things that have already been done against car dealers, against barbecue pits, all in the name of safety, all for the safety of our American people.

When the gun manufacturers start really taking seriously where their guns are going, when the gun manufacturers start looking at the technology that is out there to save lives, when the gun manufacturers really start listening to, hopefully, the consumers and not the NRA. And by the way, I do not think there is anybody in this Chamber, right or left, that is trying to take away the right of someone to own a gun.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana (Mr. JOHN) to show the continued bipartisan support for this bill.

Mr. JOHN. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me this time.

Mr. Chairman, I rise in strong support of H.R. 1036. As an original cosponsor of this piece of legislation, I also thank the gentleman from Florida (Mr. STEARNS) for his vision and leadership in introducing this piece of legislation and allowing me to be part of the passage of this legislation through committee and now here on the floor.

Mr. Chairman, frivolous lawsuits against gun manufacturers jeopardize a legitimate, legal, and I underscore and repeat, legal industry which is worth billions of dollars to our national economy. I cannot in good conscience support any of these actions.

Being from Louisiana, officially known as the sportsmen's paradise, and I am an avid hunter and fisherman in a region that depends heavily on the sporting industry, I can easily see the potential that these lawsuits have to seriously restrict not only our freedoms but our constitutional rights. Not only would continued frivolous lawsuits against gun manufacturers threaten the firearm industry, but it would have an enormous impact on many other businesses that are dependent on this industry. These lawsuits could have serious negative economic impact on the various hunting and sportsmen-related industries which depend on safe, reliable gun manufacturing.

However, of even more concern to me is the possibility that if we continue to allow municipalities across our country to file these suits against lawful gun manufacturers, we risk restricting freedoms of something very dear to me, and that is rural America where the use of firearms is a very important and integral part of our life-style and our livelihoods. Rather than acting as a deterrent, as many of the opponents of this legislation consider irresponsible, lawsuits such as these will take money away from beneficial programs and safety programs.

The firearms industry has committed millions of dollars to the safe, legal and responsible sale and use of their product. Millions of dollars are spent each year by this industry to promote numerous preventive safety designs and educational programs that promote safe handling of firearms. I would hate to see the funding for these programs wasted, defending these needless lawsuits that in all probability will be thrown out and dismissed in our Nation's court systems.

In response to these attacks on our Nation's firearms industry, many States, including Louisiana, have enacted laws. I urge Members to go along with 31 of the other States that have presented laws that have thrown out these lawsuits and urge support of H.R. 1036.

Mr. WATT. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia (Mr. SCOTT).

(Mr. SCOTT of Virginia asked and was given permission to revise and extend his remarks.)

Mr. SCOTT of Virginia. Mr. Chairman, the bill has a number of technical problems which we have already heard discussed, including one for which I will have an amendment later in the debate. But the point I want to make here is, on page 3 of the bill, under findings, the findings have as the number one finding, citizens have a right protected by the second amendment to the United States Constitution to keep and bear arms.

It is interesting that the word is ''citizens,'' plural, not an individual has a right. Just so there is no confusion, I think it is important to get the record straight on what the second amendment says, particularly in light of the fact that the supporters of the bill on numerous occasions in committee hearings have been unable to cite a single final judgment which supports the idea that an individual has the right to bear arms under the second amendment.

This goes back to the United States v. Miller case in 1939, where the court held that for the proposition, in the beginning of the second amendment, mentioning well-regulated militia. It says that the possession of a weapon must be reasonably related to a well-regulated militia. The circuit courts have ruled on this.

The First Circuit held that the second amendment applies only to firearms having a ''reasonable relationship to the preservation or efficiency of a well-regulated militia.'' That is a 1939 case.

In 1996, in the Third Circuit, defendant's possession of machine guns did not have a connection with militia-related activity required for second amendment protections to apply.

The Fourth Circuit, a 1995 case, stated that courts have consistently held that the second amendment only confers a collective right of keeping and bearing arms which bear a reasonable relationship to the preservation or efficiency of a well-regulated militia.

The Sixth Circuit, in 2000, held that the lower courts have uniformly held that the second amendment preserves a collective rather than an individual right.

The Seventh Circuit, the second amendment establishes no right to possess a firearm apart from the role possession of the gun might play in maintaining a State militia. That is a 1999 case.

The Eighth Circuit stated that the purpose of the second amendment is to restrain the Federal Government from regulating the possession of arms where such regulation would interfere with the preservation or efficiency of the militia. That is a 1992 case.

The Ninth Circuit in 2002 stated that it is this collective rights model which provides the best interpretation of the second amendment.

The Tenth Circuit, a 1977 case, to apply the amendment so as to guarantee an appellant's right to keep an unregistered firearm which has not been shown to have any connection with the militia, merely because he is technically a member of the Kansas militia, would be unjustifiable in terms of either logic or policy.

The Eleventh Circuit, a 1997 case concerning motivating the creation of the second amendment, convinces us that the amendment was intended to protect only the use or protection of weapons reasonably related to a militia actively maintained and trained by the States.

I want the RECORD to reflect, in case someone has read the second amendment, that our record is replete with what the second amendment means.

[From the Legal Action Project]

A SAMPLING OF COURT DECISIONS THAT SUPPORT THE MILITIA INTERPRETATION OF THE SECOND AMENDMENT

U.S. SUPREME COURT

U.S. v. Miller, 307 U.S. 174 (1939).

Lewis v. United States, 445 U.S. 55 (1980).

U.S. COURTS OF APPEALS

U.S. v. Wright, 117 F.3d 1265 (11th Cir.), *cert. denied,* 522 U.S. 1007 (1997).

U.S. v. Baer, 235 F.2d 561 (10th Cir. 2000)

U.S. v. Oakes, 564 F.2d 384 (10th Cir. 1977), *cert. denied,* 435 U.S. 926 (1978).

U.S. v. Swinton, 521 F.2d 1255 (10th Cir. 1975), *cert. denied,* 424 U.S. 918 (1976).

U.S. v. Hancock, 231 F.3d 557 (9th Cir. 2000), *cert. denied,* 121 S. Ct. 1641 (2001).

U.S. v. Finitz, 234 F.3d 1278 (9th Cir. 2000), *cert. denied,* 121 S. Ct. 833 (2001).

Hickman v. Block, 81 F.3d 98 (9th Cir.), *Cert. denied,* 519 U.S. 912 (1996).

U.S. v. Lewis, 236 F.3d 948 (8th Cir. 2001).

U.S. v. Farrell, 69 F.3d 891 (8th Cir. 1995).

U.S. v. Hale, 978 F.2d 1016 (8th Cir.), *Cert. denied,* 507 U.S. 997 (1993).

U.S. v. Nelson, 859 F.2d 1318 (8th Cir. 1988).

Cody v. U.S., 460 F.2d 164 (8th Cir.), *cert. denied,* 409 U.S. 1010 (1972).

U.S. v. Decker, 446 F.2d 164 (8th Cir. 1971).

U.S. v. Synnes, 438 F.2d 764 (8th Cir. 1971), *vacated on other grounds,* 404 U.S. 1009 (1972).

Gillespie v. City of Indianapolis, 185 F.3d 693 (7th Cir. 1999), *cert. denied,* 528 U.S. 1116 (2000).

Quilici v. Village of Morton Grove, 695 F.2d 261 (7th Cir. 1982), *cert. denied,* 464 U.S. 863 (1983).

U.S. v. McCutcheon, 446 F.2d 133 (7th Cir. 1971).

U.S. v. Napier, 233 F.3d 394 (6th Cir. 2000).

U.S. v. Warin, 530 F.2d 103 (6th Cir.), *cert. denied,* 426 U.S. 948 (1976).

U.S. v. Day, 476 F.2d 562 (6th Cir. 1973).

Stevens v. U.S., 440 F.2d 144 (6th Cir. 1971).

U.S. v. Johnson, Jr., 441 F.2d 1134 (5th Cir. 1971).

Love v. Pepersack, 47 F.3d 120 (4th Cir.), *cert. denied,* 516 U.S. 813 (1995).

U.S. v. Johnson, 497 F.2d 548 (4th Cir. 1974).

U.S. v. Rybar, 103 F.3d 273 (3rd Cir. 1996), *cert. denied,* 522 U.S. 807 (1997).

U.S. v. Graves, 554 F.2d 65 (3rd Cir. 1977).

Eckert v. City of Philadelphia, 477 F.2d 610 (3rd Cir.), *cert. denied,* 414 U.S. 839 (1973).

U.S. v. Tot, 131 F.2d 261 (3rd Cir. 1942), *rev'd on other grounds,* 319 U.S. 463 (1943).

U.S. v. Toner, 728 F.2d 115 (2d Cir. 1984).

U.S. v. Friel, 1 F.3d 1231 (1st Cir. 1993).

Thomas v. City Council of Portland, 730 F.2d 41 (1st Cir. 1984).

U.S. v. Cases, 131 F.2d 916 (1st Cir. 1942), *cert. denied sub nom.*

Velaquez v. U.S., 319 U.S. 770 (1943).

U.S. FEDERAL DISTRICT COURTS

Golt v. City of Signal Hall, 132 F. Supp. 2d 1271 (C.D. Cal. 2001).

Olympic Arms v. Magaw, 91 F. Supp. 2d 1061 (E.D. Mich. 2000).

U.S. v. Willbern, 2000 WL 554134 (D. Kan. Apr. 12, 2000).

U.S. v. Bournes, 105 F. Supp. 2d 736 (E.D. Mich. 2000).

U.S. v. Boyd, 52 F. Supp. 2d 1233 (D. Kan. 1999), *aff'd,* 211 F.3d 1279 (10th Cir. 2000).

U.S. v. Henson, 55 F. Supp. 2d 528 (S.D. W. Va. 1999).

U.S. v. Visnich, 65 F. Supp. 2d 669 (N.D. Ohio 1999).

U.S. v. Caron, 941 F. Supp. 2d 238 (D. Mass. 1996).

Mascowitz v. Brown, 850 F. Supp. 1185 (S.D.N.Y. 1994).

U.S. v. Kruckel, 1993 WL 765648 (D.N.J. Aug. 13, 1993).

Krisko v. Oswald, 655 F. Supp. 147 (E.D. Pa. 1987).

U.S. v. Kozerski, 518 F. Supp. 1082 (D.N.H. 1981), *cert. denied,* 496 U.S. 842 (1984).

Vietmanese Fishermen's Association v. KKK, 543 F. Supp. 198 (S.D. Tex. 1982).

Thompson v. Dereta, 549 F. Supp. 297 (D. Utah 1982).

U.S. v. Kraase, 340 F. Supp. 147 (E.D. Wis. 1972).

U.S. v. Gross, 313 F. Supp. 1330. (S.D. Ind. 1970), *aff'd on other grounds,* 451 F.2d 1355 (7th Cir. 1971).

STATE COURTS

Arnold v. Cleveland, 616 N.E.2d 163 (Ohio 1993).

State v. Fennell, 382 S.E.2d 231 (N.C. 1989).

U.S. v. Sandidge, 520 A.2d 1057 (D.C.), *cert. denied,* 108 S. Ct. 193 (1987).

Kalodimos v. Village of Morton Grove, 470 N.E.2d 266 (III. 1984).

Masters v. State, 653 S.W.2d 944 (Tex.App. 1983).

City of East Cleveland v. Scales, 460 N.E.2d 1126 (Ohio App. 1983).

State v. Vlacil, 645 P.2d 677 (Utah 1982).

In Re Atkinson, 291 N.W.2d 396 (Minn. 1980).

State v. Rupp, 282 N.W.2d 125 (Iowa 1979).

Commonwealth v. Davis, 343 N.E.2d 847 (Mass. 1976).

Burton v. Sills, 248 A.2d 521 (N.J. 1968), *appeal dismissed,* 394 U.S. 812 (1969).

Harris v. State, 432 P.2d 929 (Nev. 1967).

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentlewoman from Michigan (Mrs. MILLER).

□ 1215

Mrs. MILLER of Michigan. Mr. Chairman, I appreciate the gentleman yielding me this time.

Mr. Chairman, our Nation's Founding Fathers, in their wisdom, guaranteed the people of America the fundamental right to keep and to bear arms in the second amendment of our Constitution. This right allows Americans to keep and own firearms for the protection of themselves, their families, and their property. This right has helped to guarantee freedom for every American citizen for over 214 years. Unfortunately, there are many people in our Nation who will do anything to destroy this freedom; and as a Member of Congress, I am fighting to uphold this basic right.

Opponents of the second amendment have tried for years to pass laws to restrict the people's access to firearms. In that effort they have been successful in making the firearms industry one of the most regulated industries in America, but that is not enough for the antifirearm fanatics. Now they are attempting to sue domestic manufacturers of firearms with the express purpose of putting them out of business; and if these efforts are successful, not only would it destroy jobs and companies that produce a product that the Constitution itself protects our citizens' right to own, they would do serious damage to our homeland and our national security.

Currently there are lawsuits attempting to punish companies that make firearms because of the actions of criminals. These lawsuits threaten the viability of these firms; and if successful, they would not keep firearms out of the hands of criminals, but they would potentially keep them out of the hands of those who protect our freedom. Take, for instance, the Colt Company, which is the target of one of these lawsuits. This company not only produces small arms, but it is also the sole provider of the M–16 rifle that is being used so ably by our troops in Operation Iraqi Freedom and by our soldiers fighting the war on terror worldwide. If this company is destroyed, where will our soldiers get the arms that they need to protect our freedoms? From France? From Germany?

What about the Beretta USA Company, another target of these lawsuits? This company supplies the standard sidearm for all branches of the Armed Forces and provides firearms to countless law enforcement agencies across our Nation. If this company is destroyed, where will soldiers and law enforcement officers get the arms to protect our freedom and to keep our streets safe?

Take the Sig Arms Company, another target of these lawsuits. This company makes a sidearm of choice carried by the men and women who protect the President of the United States, as well as the official sidearm of the Navy SEALS.

The aim of such suits is clear, to destroy our American firearms industry, in a blatant attempt to deny law-abiding citizens access to firearms and to stop them from exercising their constitutional right to keep and to bear arms. Not only are the rights of American citizens at stake but so is our national security. The men and women in

the armed services and the men and women in law enforcement need to have the best possible firearms to protect our freedom, to defeat terrorists, and to safeguard our streets. We must protect freedom. I urge my colleagues to support this important legislation.

Mr. WATT. Mr. Chairman, I yield 4 minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Chairman, I am genuinely concerned about our justice system in this country, both civilly and criminally. This bill is but the latest in a series of assaults by this Congress on the right of the people to apply to the courts to seek redress for their grievances. And it is also but the latest in a series of assaults on the right of the States to provide remedies under the law for the wrongs done to their citizens. If we continue, Mr. Chairman, we will have a justice system that is available only for business litigation. That is the direction in which we are going.

What situation, what emergency would have prompted the sponsors of this bill to deny victims their remedies? According to the findings in this bill, the emergency is ''lawsuits have been commenced'' against the gun industry. I am not kidding. The reason given is that lawsuits have been commenced. One wonders what other industry would have the clout, let alone the audacity, to come to Congress and seek blanket immunity from the consequences of their misbehavior because lawsuits have been commenced against it.

Lawsuits are commenced every day. Most of them never reach a jury. Sure enough, when I asked the industry witness how many of these lawsuits had actually resulted in a jury verdict awarding damages against the industry, he could come up with only one case in which a verdict had been returned, one case; and then it turned out upon further questioning that even that one award had been reversed on appeal. The truth is that this legislation will continue to erode our justice system as well as the 10th amendment. I cannot believe that this body continues to allow the rights of the individual States to be encroached on by the Federal Government. Whatever happened to devolution? Whatever happened to the 10th amendment?

The State courts have been doing their job well. There has been no rash of questionable verdicts, no epidemic of excessive jury awards. In fact, the proponents have been unable to point to a single final judgment in any court in this country that supports the rationale for this legislation, not one. So, please, let us hear no more about lawsuits that have been commenced. Let them ask for immunity when the courts actually start holding them accountable for their negligence. That is when the proponents of this bill should come back to this Congress.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. BOEHLERT), the chairman of the Committee on Science.

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

Mr. BOEHLERT. Mr. Chairman, I rise in strong support of H.R. 1036, the Protection of Lawful Commerce in Arms Act. The purpose and intent of this bill are simple. Legal manufacturers of legal products that are sold legally and purchased legally and used legally should not be held liable for the subsequent illegal misuse of their products somewhere far down the chain. Our Nation's firearm manufacturers have been providing high-paying, stable jobs for generations and have become part of the American tradition. They are supplying our Nation's hunters and target shooters and other sports enthusiasts with quality products which, once again, are legally manufactured, legally sold, legally purchased, and legally used for legal activities.

My district is home to three such manufacturers, Remington Arms, the Ithaca Gun Company and Dan Wesson Firearms. Founded in 1816, Remington Arms has been a faithful supplier of quality firearms to this country in times of conflict and war and has been a leader in the commercial market for sporting arms and ammunition and accessories. For over 187 years, the company has set the standard for safe and responsible use of firearms.

The Ithaca Gun Company was founded in 1880, and it too has a proud and rich history. Today with the fast pace and rush-rush mode that is evident in just about everything, it is refreshing to know that every Ithaca gun is still finished and assembled in the same way as it was over 100 years ago, by the hands of a skilled Ithaca gun maker.

Dan Wesson Firearms, located in Norwich, New York was founded back in 1968 by the great grandson of D.B. Wesson, co-founder of Smith & Wesson. They too place an enormous amount of skill and craftsmanship into each firearm they manufacture.

Remington Arms, Ithaca Gun Company and Dan Wesson Firearms are three classic examples of responsible American companies that take pride in producing quality products while at the same time employing thousands of American men and women, and I am proud to have them located in my district.

It is time we put a stop to frivolous lawsuits against our Nation's responsible gun manufacturers. Those frivolous lawsuits not only cost manufacturers dearly in terms of what should be unnecessary legal costs, but they also cost America's sportsmen dearly in terms of the added charge which has to be built into the price of every firearm for those same unnecessary legal costs.

Support our responsible firearm manufacturers and our honest law-abiding sportsmen, and join me in support of this measure.

Mr. WATT. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Chairman, to the gentlewoman from Michigan, I need to respond because no one is suggesting in this body today that we change the right to bear arms, and to suggest that those who oppose this legislation are aiding criminals and terrorists and hurting our Armed Forces and uniformed law enforcement is incredible pap. That is what it is; and as a vet, I resent it.

Those who profit from the sale of guns have the ultimate responsibility to safeguard the American public by ensuring that their weapons do not get into the wrong hands, but we all know that this is often not the case. We have all heard on far too many occasions stories of dealer negligence that results in tragic consequences.

Take the case of David Lemongello. David is a graduate of Bloomfield High School in my district, had his career as a police detective, his lifelong dream, cut short from the injuries he sustained at the hands of a career criminal with a gun. And where did the gun that shot David three times come from? How did a criminal get his hands on the gun that ended David's career? It was thanks in large part to an irresponsible gun dealer. The criminal got it from a gun trafficker who bought it along with 11 other handguns from a West Virginia gun dealer.

Do my colleagues not think that if someone comes into a gun shop with thousands of dollars and purchases a dozen handguns that an automatic red flag should go up? Do my colleagues not think that there should be some accountability when gun dealers do not take even the minimum amount of oversight? Is there anyone here willing to tell David Lemongello to his face that he does not have the right to hold this irresponsible gun dealer accountable for the pain and the anguish he has suffered? Who here will tell David Lemongello that he does not deserve his day in court?

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in support of the Protection of Lawful Commerce in Arms Act. If I had listened to the opposition on this and we had followed that path of logic, then auto dealers would be next. Lawful commerce in anything, where there are far more accidents and far more injuries with automobiles, I cannot disconnect the logic between the lawful manufacturers of firearms. But the goal of this reckless law is to financially destroy the firearms industry by filing countless meritless lawsuits. These suits are based on the absurd legal theory that gun manufacturers and dealers should be held responsible for the acts of violent criminals who use safe, nondefective firearms to commit violent crimes.

Although losses in court continue to mount for lawyers who bring these baseless suits, the firearms industry is still saddled with the cost of defending them in court. We should be outraged that certain lawyers and gun-ban advocates feel that they can circumvent the legislative process by moving their anti-second amendment efforts into the courts.

I am a stalwart defender of our second amendment freedoms. They are guaranteed to us by the Constitution, and I oppose any attempt to water down the principles embodied in the second amendment. The first and most important reason for the second amendment as intended by our Founding Fathers was to provide a deterrent for tyrants.

□ 1230

The right to keep and bear arms was meant to ensure that citizens can defend our democratic republic from despots and those who seek to take away our rights and free society.

Today, lawsuits against the firearms industry threaten to drive it out of business. These businesses are vital to our national interest. They supply our troops with weapons that they use in the war in Iraq. Our homeland law enforcement officers also need the weapons manufactured by these companies to defend us against terror and protect our homeland. If we allow frivolous lawsuits to bankrupt the industry, we are only hurting ourselves, both at home and abroad.

Mr. WATT. Mr. Chairman I yield 2 minutes to the gentleman from Illinois (Mr. EMANUEL).

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

Mr. EMANUEL. Mr. Chairman, I rise in strong opposition to H.R. 1036, the Gun Manufacturer's Liability Reform Act. Shielding gun makers, dealers and distributors from liability and dismissing all pending lawsuits is the most egregious form of corporate welfare I have yet to see. This is special treatment for a special interest. The gun industry would become the envy of every industry. It is a back-handed insult to tens of thousands of victims of gun violence each year.

Let us apply the Firestone tire test. We should all agree that those who have been in accidents caused by Firestone tires have the right to their day in court. If Firestone had provisions similar to H.R. 1036, Americans whose families were either killed or injured would lose their right and there would be no recourse.

On July 3, 1999, 43-year-old Ricky Byrdsong, basketball coach for Northwestern University in Evanston, Illinois, was out walking with his children. During his walk, he was shot and killed with a gun which was illegally purchased from a dealer who probably should have known better than to sell the weapon.

The family of Ricky Byrdsong, the coach, is currently suing. This bill on this floor today would automatically dismiss that suit without so much as a trial. I do not know if the dealer is liable in this case, but that is not my decision to decide, nor is it the people of this body's decision to decide.

Mr. Chairman, this bill denies Americans one of their most basic rights. I understand that the issue of gun violence is a contentious one, but I think we can all agree that this body should work to protect our citizens, not the Washington gun lobby. This is special protection for a very special interest.

This is a bad bill, which sets a dangerous precedent, and I strongly urge my colleagues on both sides, people of good values and good principles, to vote against this legislation.

Mr. WATT. Mr. Chairman, I yield 2 minutes to the gentleman from Rhode Island (Mr. LANGEVIN).

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

Mr. Chairman, I rise today in strong opposition to H.R. 1036. By protecting an industry from liability, we eliminate a major incentive for it to operate in a safer way, and ultimately we make people and corporations less accountable for questionable manufacturing and sales practices.

As an individual who was paralyzed at the age of 16 when a police officer's gun accidentally discharged and severed my spinal cord, I know how a person's life may be changed by gun violence or accidents.

Our society frequently witnesses the needless misfortunes that can take place due to firearm mishandling, and we should strive to make our society safer. Yet this bill would move us away from that goal. Too many people who suffer from gun violence and accidents are victims of an industry that fights every effort to improve the safety of its products, including the installation of chamber load indicators and trigger locks, features that could have changed the course of my life.

They are victims of dealers who look the other way as their wares are used for criminal activity, and gun control laws that are not sufficiently enforced. Supporters of the bill claim that it has exemptions to permit lawsuits in the case of clear knowledge of criminal activity or negligence. But they will not mention that the exemptions are so narrowly worded that they are meaningless.

They also make intriguing parallels about how the gun industry is currently being held to a higher standard than other industries, while not recognizing the exemptions from Federal consumer safety laws that the gun industry enjoys.

I am deeply disappointed that this measure will not do a single thing to prevent gun violence or accidents in the United States. However, I am even more disturbed that it may exacerbate our existing problem.

Mr. Chairman, I strongly urge my colleagues to vote against H.R. 1036, so that we can demonstrate our commitment to a safer America.

Mr. WATT. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentleman's courtesy in permitting me to speak on this.

It is unfortunate that people are willing to accept the astoundingly high rate of gun violence in this country. Every Member of this Chamber knows people who have been touched by needless gun violence, and we are set to accept more damage unless and until we are willing to accept common-sense steps to reduce gun violence that will save lives. The step that my colleague from Rhode Island just mentioned will not interfere with anybody's right to hunt, will not interfere with the manufacture; it simply extends the simple common-sense consumer protection that we accept for toy guns to real guns. It is not rocket science, it is not a lack of compassion, it is just simply doing the right thing.

I believe we will live to see the day when we stop the dark side of gun trafficking in this country, when we extend simple common-sense consumer protections, when we have the courage in this Chamber to fund adequate enforcement of the gun laws that we have. But, until that day comes, for God's sake, do not make the situation worse.

Extending protections to the gun industry, unnecessary protections, alone, is not going to move us forward. It is a step backward. It reinforces the notion that we are powerless, that all we have to do is pander to the people who make a career out of twisting the second amendment.

Mr. Chairman, I strongly urge that we reject this proposal today and avoid the shameful record that we have with unnecessary gun laws that lose lives and shatter families.

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

Mr. Chairman, I thank all Members who have participated in the debate. I would just reemphasize the five points that I made at the outset of this debate.

This legislation is extreme. It is unprecedented because it will give gun manufacturers, sellers and dealers immunity that no other industry has in America. It is not well thought out, because it has not gone through the process in a proper way and had amendments put on it. It is unconstitutional. Finally, it is politically motivated.

Mr. Chairman, I urge my colleagues to vote against this legislation.

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

Mr. Chairman, the proponents of this bill have stated time and time again that courts have determined that those who file lawsuits against the firearms industry are doing so because they want to bankrupt the industry. They want to bankrupt the industry through

legal fees, and even though they might not win their cases in court, there is no reimbursement for the defense costs that have to be run up once a lawsuit is filed.

Now, anybody who uses a firearm for illegal purposes, we should throw the book at. I certainly support what has gone on in Richmond in Project Exile, and I hope we can give the Justice Department enough money to extend Project Exile nationwide. I also strongly support the InstaCheck system that is designed to keep firearms out of the hands of people who have not been lawfully able to possess those firearms for over 70 years, convicted felons, adjudicated mental incompetents and some other people.

But we should not use the judicial process to bankrupt an industry that produces a legal product. If you do not like the product, introduce a bill here to make it illegal. I will vote against it, but at least you can deal with that directly through the democratic process, rather than going through the back door and trying to get the courts to do what legislatures and the Congress have failed to do.

Mr. JOHNSON of Illinois. Mr. Chairman, I would like to express my strong opposition to the words used by Congresswoman CUBIN in reference to an amendment to H.R. 1036 offered by Congressman WATT. While her comments were within the parliamentary rules of the House of Representatives, they were clearly improper and offensive, and had at least the appearance of racial basis. I appreciate Congresswoman CUBIN's subsequent apology, and her statement that her words were incomplete and misinterpreted, but I unequivocally denounce the original statement, and it is my sincere hope that it is not interpreted as indicative of the views and sentiments of this distinguished body.

Mrs. MALONEY. Mr. Chairman, I rise today in opposition to H.R. 1036, The Protection of Lawful Commerce in Arms Act.

The sole intent of this bill is to divert the responsibility of gun manufacturers in ensuring the safe distribution of firearms in our society. Passage of this legislation would cripple the public's ability to seek justice in instances of negligence by these manufacturers.

Why are we exempting the gun industry from liability provisions that we apply to other manufacturers, even the makers of toy guns?

It is in the timing of this bill that the true intent of the Majority becomes evident. This bill was conveniently taken off the schedule during the sniper shootings in the Washington metropolitan area last fall, but now been brought back just in time for the NRA's annual conference.

Every step must be taken to keep these deadly weapons out of criminal hands. We must look past the interests of lobbyists and look deeply at the interests of the American public. If gun manufacturers and dealers are involved with the illegal and irresponsible sales of firearms, then it is essential that those who violate the law are held responsible.

A study conducted by The Department of Justice revealed that 12.7 percent of students age 12 to 19 reported knowing a student who brought a firearm to school. This statistic speaks directly to the need for providing additional safeguards to keep firearms away from children.

We should not be taking up legislation that prevents gun manufacturers from being held accountable. Instead, we should be voting on legislation that will help to prevent gun violence from even occurring.

I urge my colleagues to oppose this legislation.

Mr. TOWNS. Mr. Chairman, I rise in opposition to H.R. 1036. If this bill were to become public law, the gun industry would be granted more liability protection than any other industry in America. I must say that I've heard of throwing bones to constituency bases before, but I might define this as the 96 ounce Peter Lugar's Porterhouse with all the sides included.

The gun industry dumps thousands and thousands of guns onto the streets in municipalities like New York and has never been held responsible for their irresponsible actions. This bill would make it impossible to hold the industry accountable for their actions.

H.R. 1036 would also prohibit future lawsuits and dismiss current liability lawsuits underway against the gun industry. I am particularly concerned about the timing of this bill given the lawsuit filed by the NAACP against the gun industry, which is currently taking place in U.S. District court in Brooklyn. This bill would prohibit that suit from going forward.

Instead of dealing with the real problems that are confronting us such as job security or a prescription drug bill for seniors, the Republican leadership rushed this bill to the House floor before the NRA convention begins in a couple of weeks. This bill should be defeated.

Mr. UDALL of Colorado. Mr. Chairman, I will vote against this bill, because I do not see why it is necessary or desirable for Congress to act now to restrict just one kind of lawsuit, against just one kind of manufacturer.

My reluctance to support such legislation is increased when it not just prospective, but would require the immediate dismissal of cases that are now being considered by the courts.

I am not a lawyer, and it seems to me that the courts are in a much better position than I am to decide whether the people bringing these lawsuits have valid claims or whether the complaints are frivolous.

It happens that this bill deals with lawsuits against firearms manufacturers. But my concerns would be the same if the bill dealt with similar lawsuits against the makers of other consumer products—for example, automobiles, electronic appliances, or toys.

During the debate, some of the bill's supporters have argued that firearms manufacturers are different because there is a Constitutional right to keep and bear arms. But the freedom of the press is also protected by the Constitution—yet I have not heard anyone say that Congress has to cut off lawsuits against the makers of printing presses or television cameras in order to sustain that right.

And, if the lawsuits covered by the bill are contrary to the Constitution, I am confident that the judges—who are sworn to uphold the Constitution—will dismiss them.

There is no doubt lawsuits can be costly, and I am not in favor of frivolous lawsuits. But, based on what I know now, I think we in the Congress should leave it to the courts to decide which of the lawsuits covered by this bill are frivolous and which are not.

Therefore, I cannot support this legislation.

Mr. WAXMAN. Mr. Chairman, I rise in strong opposition to H.R. 1036. This bill is special interest legislation of the worst kind. It would grant extensive immunity from liability to gun manufacturers and gun dealers.

Under current law, gun manufacturers and gun dealers must act responsibly. Like other businesses and individuals, if they act negligently—or if they blatantly disregard the obvious consequences of their actions—they may be held liable.

H.R. 1036 would eviscerate this protection. The bill says to gun manufacturers and gun dealers: go ahead and ignore common sense, disregard the consequences of your actions, and we will let you off the hook. You are no longer responsible for your actions. This special exemption will endanger our citizens and almost certainly cost lives.

Furthermore, this bill is drafted so broad and carelessly that it could extend complete immunity from liability to gun dealers—even if they sell weapons to suspected terrorists.

To resolve that ambiguity, I offered an amendment in the Rules Committee to ensure that gun dealers are held accountable when they sell weapons to people they know or suspect are members of terrorist organizations, or people they know are likely to supply these weapons to terrorist organizations.

But the Rules Committee refused to allow debate on my amendment. This is simply inexplicable. My amendment would clarify that gun dealers who sell to terrorists are not shielded from liability. Are we so captured by the gun industry that we want to immunize the industry from liability even when terrorists are involved?

There is an exemption in the bill that would hold dealers liable if they know or should have known that a buyer would use the weapons to injure himself or others. But what about the more dangerous prospect of a suspicious buyer who is acquiring the weapons to give to someone else in his terrorist organization.

These is an exemption in the bill to preserve civil liability if the dealer is convicted of ''knowingly'' assisting the commission of a violent act. But what about a gun dealer that has a strong suspicion—not definite knowledge—that the weapon is going to end up in the hands of a terrorist organization.

This is precisely the difference between criminal conduct and civil negligence. Our civil liability laws require that people act reasonably, even if there is no criminal penalty. And this is exactly the protection this bill would eliminate.

We are in a war against terrorism. The last thing we should do is immunize gun dealers who traffic with suspected terrorists. Yet that is just what this bill does. It is dangerously shortsighted that the Rules Committee blatantly ignored an opportunity to fix it.

Civil liability should be determined based on a comprehensive review of all the relevant circumstances. But there should be no impregnable shield to liability, because that only encourages careless and reckless behavior. This is wrong, and it is dangerous. That's why this bill must be defeated.

Mr. OTTER. Mr. Chairman, I rise today to address H.R. 1036, the Protection of Lawful Commerce in Arms Act. In light of the concerted efforts by opponents of the Second Amendment to destroy the gun industry through frivolous lawsuits, it has become imperative we provide manufacturers and sellers

of firearms and ammunition protection from these attacks. I find the idea of holding an industry liable for the criminal misuse of their legal products deplorable. Our nation cannot allow the innocent to pay for the dealings of the guilty, or we serve to circumvent the very foundation of the rule of law. Those individuals, not the makers of the means, who commit violent crimes, with or without the use of a firearm, must take personal responsibility for their actions through the restitution and civil penalties affirmed by law.

Without this legislation, further unfounded lawsuits against the gun industry will lead to an encroachment upon our second amendment rights. Congress must work diligently to reduce the level of political rhetoric surrounding gun control, protect the Second Amendment, and promote the role of personal responsibility in society.

Mr. STARK. Mr. Chairman, I rise today in strong opposition to this outrageously irresponsible legislation put forth by the Republican Majority. Giving gun makers, gun dealers, and gun sellers total immunity from product liability doesn't make our streets safer of our neighborhoods any more secure.

The manner in which this bill finds its way to the floor deserves some attention. It is my understanding that the Judiciary Committee Majority developed this legislation in secret, bypassed the subcommittee and prevented the Minority in Full Committee to make any amendments to it—a trend all too familiar.

In the 107th Congress, similar gun liability legislation was introduced, made its way to the House calendar, but didn't get far. The media's focus of the sniper attacks in Washington, DC provoked an outcry of horror as the country watched the violence of guns firsthand. Ironically, that atrocious bill was put on the back burner. It would have illuminated the legislation for what it was, autonomy from product liability for the gun lobby.

So, here we are today to debate the issue in less traumatic times, but the fact remains that this legislation has not changed—it is reckless, pro gun political banter.

Proponents will tout fallacies that H.R. 1036 is considered necessary to weed out frivolous lawsuits, and that this legislation will not outlaw lawsuits brought by injured private citizens. Instead, they say, it would simply prevent the gun industry from being held legally responsible because a criminal misused a gun. In fact, these allegations couldn't be farther from the truth. This bill will immunize the gun industry from most lawsuits brought by anyone—including private citizens and government entities.

Manufacturers for every other consumer product in this country must adhere to strict regulations on product liability. However, my colleagues on the other side of the aisle believe the gun industry should be exempt from criminal and negligent acts.

Conveniently, this bill is being debated just weeks before the National Rifle Association holds its annual meeting. That assures that House Republicans can show up at their conference having passed a priority bill for a huge campaign supporter.

I have been a long time supporter of stricter laws regulating guns in our nation. I also oppose any individual or entity being granted blanket immunity from product liability. I urge my colleagues to vote against this bill that both weakens our gun laws and removes gun manufacturers from liability when their products are used to kill.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I oppose H.R. 1036, The Protection of Lawful Commerce In Arms Act.

H.R. 1036 is nothing more than special interest legislation that grants the gun industry legal immunity from the vast majority of civil lawsuits. The bill generally prohibits any action ''brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages resulting from the criminal or unlawful misuse of a qualified product by the person or a third party.''

This is a drastic departure from established principles of liability law, which generally hold that persons and companies may be held liable for the foreseeable consequences of their negligent or wrongful acts, including the foreseeable criminal conduct of others. H.R. 1036 will bar suits against not only gun manufacturers, but also dealers, distributors, and trade associations.

If H.R. 1036 is passed, the well-accepted legal principle that gun manufacturers are liable for failing to include feasible safety devices that prevent injuries caused by foreseeable use or misuse of their products will be wiped out. Likewise, there will be no legal liability for dealers who have negligently sold numerous guns to gun traffickers.

This legislation goes beyond simply holding the gun industry liable because a criminal misuses a gun. This legislation would make the gun industry immune from suits for negligent sales and defective designs. H.R. 1036 immunizes the gun industry from civil lawsuits by both government entities and individual citizens, both of whom would lose their legal rights to civil damages. This could have a profound impact on the victims of gun violence.

At a minimum, the victims of gun violence have the right to have their day in court. It is ludicrous to deny the families of persons killed by negligently or recklessly manufactured or sold guns the right to seek justice in courts of law. H.R. 1036 not only deprives gun violence victims of the chance to bring future lawsuits, it dismisses all qualified pending civil lawsuits against the gun industry in both federal and state courts.

In my home state of Texas, for example, the family of murder victim Raymond Lamb Payne will have their case against a pawn shop called EZ Pawn dismissed. In that case, Raymond Lamb Payne was shot and killed by David Lee Williams. David Lee Williams had been committed to a mental institution and was by law not permitted to purchase a gun. David Lee Williams' brother warned EZ Pawn that David Lee Williams had mental illness, and had threatened to kill people. Despite the warning EZ Pawn negligently sold David Lee Williams a gun. Five days later that same gun was used to murder Raymond Lamb Payne. Under H.R. 1036, EZ Pawn will be immune from liability and the family of Raymond Lamb Payne will have their pending case dismissed.

The gun industry is one of only two industries, along with the tobacco industry, that is exempt from federal safety oversight. Lawsuits are an important tool, the only tool, available to motivate the gun industry to act responsibly, and to engage in reforms that make guns and gun sales safer. Lawsuits against the gun industry are not frivolous, as gun proponents claim. That is clear from the fact that many lawsuits against the gun industry have been successful in court.

If passed without substantial amendment, H.R. 1036 will deny justice to America's gun violence victims. It will grant unfettered power to gun manufacturers to produce unsafe guns. It will enable gun merchants to negligently and recklessly sell their guns to criminals.

I oppose H.R. 1036 as it is presently drafted, and support the Amendments offered by my colleagues.

Mr. VITTER. Mr. Chairman, today I rise in strong support of H.R. 1036, the Protection of Lawful Commerce in Arms Act.

This bill protects licensed manufacturers and sellers of firearms or ammunition from lawsuits based on criminal use by a third party. It's patently absurd—and bad legal theory as well—to allow these sorts of lawsuits to move forward. This legislation today is an important step in stopping it.

Just as importantly, these lawsuits seriously threaten the Second Amendment rights of law-abiding citizens. Time and again those who would curtail firearm rights enshrined in our Constitution have tried to regulate and legislate against our freedoms. The American people rightly have opposed and rejected these misguided efforts. Now the same folks are trying to use the courts and twist the law into achieving their aims. Therefore, this response from Congress is not something done to please any special interests other than the American people and the Bill of Rights.

Thirty-one states have laws that prevent these junk lawsuits, and I am pleased that my home state of Louisiana is one of them. The Federal government should act quickly and I hope that the courts dismiss these junk lawsuits as well.

I commend Congressman STEARNS and the Judiciary Committee for their hard work in producing this legislation, and I strongly urge my colleagues to support this bill.

Mr. CARSON of Oklahoma. Mr. Chairman, I rise in support of H.R. 1036, the Protection of Lawful Commerce in Arms Act.

As my esteemed colleagues have discussed, H.R. 1036 would prohibit civil lawsuits from being brought against gun manufacturers by parties that have been injured by the unlawful use of firearms.

Mr. Chairman, I am a great believer in personal responsibility. It is one of the key principles upon which America was founded. The Protection of Lawful Commerce in Arms Act would strengthen this great notion.

Imposing liability on an entire industry for harm caused solely by the unlawful actions of others is an abuse of the United States legal system—it undermines public confidence in our judicial system and threatens the viability of law-abiding companies.

Frivolous lawsuits against the firearm industry are nothing more than an attack on the Second Amendment. It seems a logical anti-gun tactic to me, if you can't lawfully prevent the sale of guns, then you go after the people who sell guns and make them afraid to sell their lawful products for fear of incurring substantial financial liability. Thus far, these frivolous and merit-less lawsuits have had little success in court. Their only success is in placing an enormous financial burden on gun manufacturers. However, these litigation costs are then passed onto consumers and makes it more difficult law-abiding citizens to own guns. In the end, the ones who suffer the most are law-abiding consumers.

H.R. 1036 would help protect our Second Amendment rights by protecting legitimate

businesses that comply with federal, state and local gun laws. It is time to stop these frivolous lawsuits that threaten to bankrupt a responsible American industry by blaming the firearm industry for the actions of criminals. I urge my colleagues to support the Protection of Lawful Commerce in Arms Act.

Mr. PAUL. Mr. Chairman, I rise today as a firm believer in the second amendment to the United States Constitution and an opponent of all federal gun laws. In fact, I have introduced legislation, the Second Amendment Restoration Act (H.R. 153), which repeals the misguided federal gun control laws such as the Brady Bill and the assault weapons ban. I believe that the second amendment is one of the foundations of our constitutional liberties. However, Mr. Speaker, another foundation of those liberties is the oath all of us took to respect the Constitutional limits on federal power. While I understand and sympathize with the goals of the proponents of the Protection of Lawful Commerce in Arms Act (H.R. 1036), this bill exceeds those constitutional limitations, and so I must oppose this bill.

It is long past time for Congress to recognize that not every problem requires a federal solution. This country's founders recognized the genius of separating power amongst federal, state and local governments as a means to maximize individual liberty and make government most responsive to those persons who might most responsibly influence it. This separation of powers strictly limited the role of the federal governments in dealing with civil liability matters; instead, it reserved jurisdiction over matters of civil tort, such as gun related alleged-negligence suits, to the state legislatures from which their respective jurisdictions flow.

While I am against the federalization of tort reform, I must voice my complete disapproval for the nature of these very suits brought against gun manufacturers. Lawsuits for monetary damages form gun violence should be aimed at the perpetrators of those crimes, not the manufacturers! Holding manufacturers liable for harm they could neither foresee nor prevent is irresponsible and outlandish. The company that makes a properly functioning product in accordance with the law is acting lawfully and thus should not be taken to court because of misuse by the purchaser (or in many cases, by the one who stole the weapon). I fear these lawsuits are motivated not by a concern for justice but by a search for deep pockets, since gun manufactures have higher incomes than the average criminals, and a fanatical anti-gun political agenda.

These attacks on gun manufacturers are disturbing, since the gun industry provides our law enforcement and military with the necessary tools needed to fight crime and defend our country. We should be helping our law enforcement officers and military, not hurting them by putting reputable gun manufacturers out of business.

However, Mr. Chairman, the most disturbing aspect of these lawsuits is the idea that the gun, an inanimate object, is somehow responsible for crimes. H.R. 1036 enables individuals to abrogate responsibility for their actions, in that it allows gun dealers to be sued because they ''should have known'' the gun would be used in a crime. Under H.R. 1036, gun dealers will still be unjustly forced to scrutinize their customers for criminal intent.

This further erodes the ethics of individual responsibility for one's own actions that must form the basis of a free and moral society. The root problem of violence is not the gun in the hand, but the gun in the heart: each person is accountable for the deeds that flow out of his or her own heart. One can resort to any means available to complete a crime (such as knives, fertilizer, pipes, and baseball bats). Should we start suing the manufacturers of these products as well because they are used in crimes? Of course not—its implications are preposterous.

Finally, Mr. Chairman, I would remind my fellow supporters of gun rights that using unconstitutional federal powers to restrict state gun lawsuits makes it more likely those same powers will be used to restrict our gun rights. Despite these lawsuits, the number one threat to gun ownership remains a federal government freed of its constitutional restraints. Expanding that government in any way, no matter how just the cause may seem, is not in the interests of gun owners or any lovers of liberty.

In conclusion, while I share the concern over the lawsuits against gun manufacturers, which inspired H.R. 1036, this bill continues the disturbing trend toward federalization of tort law. Enhancing the power of the federal government is not in the long-term interests of defenders of the second amendment and other constitutional liberties. Therefore, I must oppose this bill.

Mr. WILSON of South Carolina. Mr. Chairman, if there were previously any doubt about the importance of a vibrant and vigorous firearms industry in the United States, that doubt must surely have dissipated in the months since Sept. 11, 2001.

Since that fateful day, American military personnel have been engaged in operations overseas, against those who seek and plot our destruction.

At this moment, a quarter of a million of our soldiers, sailors, airmen and Marines are deployed in support of Operation Iraqi Freedom.

Thousands of reservists are mobilized, not only to support operations in Iraq, but also to support Operation Enduring Freedom—maintaining the watch against acts of terrorism on American soil.

Thousands of Coast Guardsmen are protecting our coastlines. Tens of thousands of federal, state, and local law enforcement and security personnel are guarding our communities and our public facilities

And millions of private citizens are doing what they always have done—protecting themselves, their families, and their neighborhoods,

One thing these Americans share in common is the need for firearms.

Another thing in common is the firearms that they use. In many instances, our military, law enforcement, security personnel, and private citizens use firearms made by the same manufacturers.

Unfortunately, frivolous lawsuits that have been filed against firearms manufacturers, with the sole intent of driving them out of business. These shameful efforts have been based upon outlandish and widely-rejected theories of liability—theories that would be equally absurd if applied against the manufacturers of any other lawful product.

Many states have already acted to put an end to these unwarranted lawsuits, which seek to hold the firearms industry responsible for the acts of criminals.

It is time for Congress to do so nationwide. It's the right thing to do for America's security.

Mr. SULLIVAN. Mr. Chairman, today, I rise in support of H.R. 1036, the Protection of Lawful Commerce in Arms Act of 2003.

I am a cosponsor of this legislation for several reasons. First, I do not believe that licensed gun manufacturers and merchants should be held legally responsible for the unlawful use of their lawful products. Second, I feel this constitutes a violation of tort law, and could send a dangerous precedent for future lawsuits affecting many other industries to come.

Tort law rests upon a foundation of individual responsibility in which a product may not be defined as defective unless there is something wrong with the product, rather than with the product's user.

Today, this Congress has the opportunity to address frivolous lawsuits and protect a legal and law-abiding industry from legal excess. We should pass this legislation to end the effort to drive law-abiding firearm manufacturers, distributors, and dealers into bankruptcy under the crushing weight of illegitimate lawsuits.

Congress has a constitutional authority to protect the interstate commerce in firearms, a lawful and legal product. I urge my colleagues to vote for this sensible legislation and set a precedent of legal business protection.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 1036

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 ''Protection of Lawful Commerce in Arms Act''.

SEC. 2. FINDINGS; PURPOSES.

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

(1) Citizens have a right, protected by the Second Amendment to the United States Constitution, to keep and bear arms.

(2) Lawsuits have been commenced against manufacturers, distributors, dealers, and importers of firearms that operate as designed and intended, which seek money damages and other relief for the harm caused by the misuse of firearms by third parties, including criminals.

(3) The manufacture, importation, possession, sale, and use of firearms and ammunition in the United States are heavily regulated by Federal, State, and local laws. Such Federal laws include the Gun Control Act of 1968, the National Firearms Act, and the Arms Export Control Act.

(4) Businesses in the United States that are engaged in interstate and foreign commerce through the lawful design, manufacture, marketing, distribution, importation, or sale to the public of firearms or ammunition that has been shipped or transported in interstate or foreign commerce are not, and should not, be liable for the harm caused by those who criminally or unlawfully misuse firearm products or ammunition products that function as designed and intended.

(5) The possibility of imposing liability on an entire industry for harm that is solely caused by others is an abuse of the legal system, erodes

public confidence in our Nation's laws, threatens the diminution of a basic constitutional right and civil liberty, invites the disassembly and destabilization of other industries and economic sectors lawfully competing in the free enterprise system of the United States, and constitutes an unreasonable burden on interstate and foreign commerce of the United States.

(6) The liability actions commenced or contemplated by the Federal Government, States, municipalities, and private interest groups are based on theories without foundation in hundreds of years of the common law and jurisprudence of the United States and do not represent a bona fide expansion of the common law. The possible sustaining of these actions by a maverick judicial officer or petit jury would expand civil liability in a manner never contemplated by the Framers of the Constitution, by the Congress, or by the legislatures of the several states. Such an expansion of liability would constitute a deprivation of the rights, privileges, and immunities guaranteed to a citizen of the United States under the Fourteenth Amendment to the United States Constitution.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To prohibit causes of action against manufacturers, distributors, dealers, and importers of firearms or ammunition products for the harm caused by the criminal or unlawful misuse of firearm products or ammunition products by others when the product functioned as designed and intended.

(2) To preserve a citizen's access to a supply of firearms and ammunition for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting.

(3) To guarantee a citizen's rights, privileges, and immunities, as applied to the States, under the Fourteenth Amendment to the United States Constitution, pursuant to section 5 of that Amendment.

(4) To prevent the use of such lawsuits to impose unreasonable burdens on interstate and foreign commerce.

(5) To protect the right, under the First Amendment to the Constitution, of manufacturers, distributors, dealers, and importers of firearms or ammunition products, and trade associations, to speak freely, to assemble peaceably, and to petition the Government for a redress of their grievances.

SEC. 3. PROHIBITION ON BRINGING OF QUALIFIED CIVIL LIABILITY ACTIONS IN FEDERAL OR STATE COURT.

(a) IN GENERAL.—A qualified civil liability action may not be brought in any Federal or State court.

(b) DISMISSAL OF PENDING ACTIONS.—A qualified civil liability action that is pending on the date of the enactment of this Act shall be dismissed immediately by the court in which the action was brought or is currently pending.

SEC. 4. DEFINITIONS.

In this Act:

(1) ENGAGED IN THE BUSINESS.—The term ''engaged in the business'' has the meaning given that term in section 921(a)(21) of title 18, United States Code, and, as applied to a seller of ammunition, means a person who devotes, time, attention, and labor to the sale of ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of ammunition.

(2) MANUFACTURER.—The term ''manufacturer'' means, with respect to a qualified product, a person who is engaged in the business of manufacturing the product in interstate or foreign commerce and who is licensed to engage in business as such a manufacturer under chapter 44 of title 18, United States Code.

(3) PERSON.—The term ''person'' means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(4) QUALIFIED PRODUCT.—The term ''qualified product'' means a firearm (as defined in subparagraph (A) or (B) of section 921(a)(3) of title 18, United States Code, including any antique firearm (as defined in section 921(a)(16) of such title)), or ammunition (as defined in section 921(a)(17) of such title), or a component part of a firearm or ammunition, that has been shipped or transported in interstate or foreign commerce.

(5) QUALIFIED CIVIL LIABILITY ACTION.—

(A) IN GENERAL.—The term ''qualified civil liability action'' means a civil action brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages or injunctive relief resulting from the criminal or unlawful misuse of a qualified product by the person or a third party, but shall not include—

(i) an action brought against a transferor convicted under section 924(h) of title 18, United States Code, or a comparable or identical State felony law, by a party directly harmed by the conduct of which the transferee is so convicted;

(ii) an action brought against a seller for negligent entrustment or negligence per se;

(iii) an action in which a manufacturer or seller of a qualified product knowingly and willfully violated a State or Federal statute applicable to the sale or marketing of the product, and the violation was a proximate cause of the harm for which relief is sought;

(iv) an action for breach of contract or warranty in connection with the purchase of the product; or

(v) an action for physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended.

(B) NEGLIGENT ENTRUSTMENT.—In subparagraph (A)(ii), the term ''negligent entrustment'' means the supplying of a qualified product by a seller for use by another person when the seller knows or should know the person to whom the product is supplied is likely to use the product, and in fact does use the product, in a manner involving unreasonable risk of physical injury to the person and others.

(6) SELLER.—The term ''seller'' means, with respect to a qualified product—

(A) an importer (as defined in section 921(a)(9) of title 18, United States Code) who is engaged in the business as such an importer in interstate or foreign commerce and who is licensed to engage in business as such an importer under chapter 44 of title 18, United States Code;

(B) a dealer (as defined in section 921(a)(11) of title 18, United States Code) who is engaged in the business as such a dealer in interstate or foreign commerce and who is licensed to engage in business as such a dealer under chapter 44 of title 18, United States Code; or

(C) a person engaged in the business of selling ammunition (as defined in section 921(a)(17) of title 18, United States Code) in interstate or foreign commerce at the wholesale or retail level, consistent with Federal, State, and local law.

(7) STATE.—The term ''State'' includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, and any political subdivision of any such place.

(8) TRADE ASSOCIATION.—The term ''trade association'' means any association or business organization (whether or not incorporated under Federal or State law) that is not operated for profit, and 2 or more members of which are manufacturers or sellers of a qualified product.

The CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 108–64. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by a proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider Amendment No. 1 printed in House Report 108–64.

AMENDMENT NO. 1 OFFERED BY MR. WATT

Mr. WATT. Mr. Chairman, I offer Amendment No. 1.

The CHAIRMAN. The Clerk will designate the amendment.

The text of Amendment No. 1 is as follows:

Amendment No. 1 offered by Mr. WATT:

In section 4(5)(A)(v), strike '', when used as intended''.

The CHAIRMAN. Pursuant to House Resolution 181, the gentleman from North Carolina (Mr. WATT) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. WATT).

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

Mr. Chairman, the bill, because it has not been properly considered through the committee process, leaves a lot to be desired in terms of drafting. This amendment is an effort to correct a real problem with the bill, because the bill purports to give an exception for suits where there are physical injuries or property damage resulting directly from a defect in design or manufacture of the product when the product is used as intended.

The problem is that there is no definition of ''when the product is used as intended,'' so you are left with this situation.

I am sure my colleagues are going to tell you all kinds of things where lawsuits could go forward under this rubric, but I think a number of lawsuits are going to be foreclosed by this language, and I would like to just give one or two examples.

First of all, I am holding in my hand 13 recall notices from manufacturers of weapons. These recall notices recall a product, a gun, a kind of gun, in a lot of cases because when it is accidentally dropped, the gun will discharge.

Well, the question then becomes, if a gun is accidentally dropped, is it being used as intended? Is that gun being used as intended if a person accidentally drops the gun and it discharges?

Mr. Chairman, you have heard the gentleman from Rhode Island (Mr. LANGEVIN) say that was the exact situation which left him paralyzed here, and we should leave no doubt that in those circumstances that there should be liability.

Under this bill, this would apply even if the manufacturer had sent out a recall notice and the person had not acted on that recall notice. In fact, some of those recall notices say, do not do anything immediately on this, we are going to get to you 6 months down the road, and you can bring the gun

back to the dealer, and we will correct whatever problem there is with the gun.

□ 1245

So even if it is during that time period, there could be no potential liability here under this bill.

I think this language is irresponsible; and I am sure my colleagues are going to say, well, we did not intend that. But that is what the bill says, I am reading from the language, and if we had considered this bill in the regular process in the committee, perhaps we could have done a better job. But they were so intent on getting this bill out of committee to the floor and at the National Rifle Association's convention 2 weeks down the road that they did not care about the language.

Mr. Chairman, we should correct this, and this amendment allows us to do that.

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

Mr. CANNON. Mr. Chairman, I rise to seek the time in opposition.

The CHAIRMAN. The gentleman from Utah (Mr. CANNON) is recognized for 10 minutes.

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

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

I would like to first thank the chairman of the full committee for his expeditious movement of this bill through a hearing and through markup. I would also like to thank the ranking member of my Subcommittee on Commercial and Administrative Law, the gentleman from North Carolina (Mr. WATT), with whom I sometimes differ, but who never, never differs without grace. I appreciate his positions.

There are a number of issues upon which we differ here. Let me just point out, the markup was shortened, to some degree, partly because it was treated as a joke. Nevertheless, this legislation has been considered in the past and was subject to a hearing.

The gentleman from North Carolina is pointing out that a number of lawsuits will be prohibited or stopped by this legislation; and the answer to that statement is yes, that is the purpose of this legislation. It is to stop lawsuits which are frivolous and intended only to destroy the manufacturers and distributors and importers of guns in America as viable commercial activities.

The gentleman also pointed out that some of these lawsuits that will be prohibited would be wrongly prohibited, and that is where we disagree. The gentleman referred to 13 recall notices. The gentleman will recall that in our hearing, we had an expert from the gun industry who said that if a weapon discharged because of a defect which was subject to a recall notice, or even if it was not subject to a recall notice, but if it discharged improperly, they would, that is the industry, the gun manufacturing industry, would still be responsible for that defect according to current law.

Now, the bill before us does not change current law. It only preempts the recent rash of frivolous lawsuits that are intended and explicitly intended by the proponents of these lawsuits to destroy the industry.

This amendment should be defeated because it would strip away from the bill an essential protection from frivolous lawsuits. The bill allows manufacturing and product defect cases to go forward provided that the product was used as intended. This phrase is vital to, for example, protect a gun manufacturer from a frivolous claim that the gun should have been designed to prevent someone from sticking a gun up his nose to scratch, with his finger on the trigger. That is clearly not what was intended for the use of the gun.

Another example, while all manufacturers under national standards voluntarily adopted by the industry design guns to be safe from firing on impact when dropped, a person who uses a pistol as a hammer should not be able to sue for defective design, which just makes sense, when the gun discharges after its foolish abuse of the design.

As one important product liability case stated, it is well settled that a manufacturer is under a duty to use reasonable care in designing his product when used in the manner for which the product was intended. The phrase ''used as intended'' is today routinely applied by courts and juries based on circumstances of the case and what the court or the jury sees as a reasonable intended use. Of course, the juries will no doubt draw extensively on, for example, the owner's manual of a firearm for guidance as to what the intended use is.

It would seem clear in most circumstances to carry a gun is an intended use and that manufacturing and design defects that cause harm when a person drops the gun during the course of its intended use properly and appropriately falls within the exceptions of the bill's provision. It would also seem clear that in most, if not all, circumstances pointing a gun at an innocent person and pulling the trigger is not an intended use. These would be fact-intensive inquiries, however, best left to the discretion of judges and juries. The phrase ''used as intended'' is by no means an unfamiliar term in the case law. The amendment should be defeated so existing case law among the States can be used to appropriately apply it on a case-by-case basis.

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

Mr. WATT. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in support of his amendment to close that loophole in the bill when used as intended.

But I also rise in opposition to the whole bill itself, to H.R. 1036. The bill would provide Federal immunity to gun manufacturers and, in my opinion, would halt progress towards safer guns and greater industry accountability. H.R. 1036 would block suits filed by individuals, victims of gun violence seeking to hold the gun industry accountable for irresponsible manufacturing or selling of guns.

Now, gun manufacturers and sellers are exempt from Federal consumer product safety regulation. The gun lobby made sure that the gun industry was exempted from regulation when the Consumer Product Safety Commission was established in the 1970s. This is wrong. The only other product that enjoys this exemption is tobacco. And in my estimation, Teddy bears are more regulated for safety than guns. Giving the gun industry immunity would remove the only incentive to gun manufacturers and dealers to ensure that guns do not fall into the wrong hands.

Past suits have resulted in improved safety features such as internal locks to prevent unauthorized access. Right now, there are local governments who are in court attempting to show that the manufacturers that make guns that too often surface in illegal activities, and the stores that make no attempt to follow the law in selling guns, should be held liable for the relentless damages of gun violence. Now, survivors of some of the Washington area sniping victims have gone to court to sue the manufacturer of the gun that is said to be the murder weapon and the gun shop that sold it after discovering that the dealer had reported 238 guns missing from its inventory in 3 years alone. This bill would prevent these lawsuits from going forward.

I believe that this industry, like every other industry, has an obligation to its consumers and to the public to ensure that their product is manufactured and sold in ways that are safe, legal, and responsible. So I urge my colleagues to support the gentleman's amendment and to vote against this bill.

Mr. CANNON. Mr. Chairman, I yield myself 15 seconds to respond to the gentleman.

We have, in fact, protected manufacturers in dozens of industries. One example is the light aircraft industry where we have set up rules so that we could actually continue, or actually recreate, our light aircraft industry in America.

Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. DINGELL).

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

Mr. DINGELL. Mr. Chairman, I thank my distinguished friend for yielding me this time, and I rise in support of this much-needed commonsense legislation.

I am the proud and original supporter of this legislation entitled the Protection of Lawful Commerce in Firearms

Act. It will shield gun manufacturers from irresponsible lawsuits and from damages in cases where firearms are used during criminal acts of third parties, and only there. It does not protect them against wrong-doing and negligent entrustment; it does not protect gun manufacturers against negligent manufacture of dangerous firearms, but only where the firearm is sold legitimately and lawfully.

The legislation is based on a simple, sound premise. We ought not sue Boeing because somebody took a Boeing jet and crashed it into the World Trade Center. We ought not sue Ford Motor Company because of negligence of a drunk driver.

The bill has broad support with 251 cosponsors, including some 46 Democrats. The legislation is supported by organized labor, including local affiliates of the United Auto Workers and the United Mine Workers. It is necessary simply because there are junk lawsuits which are being filed to harass law-abiding businessmen. If successful, such lawsuits would bankrupt U.S. firearms manufacturers and destroy a legitimate, lawfully, and carefully and intensely regulated industry in which the manufacturers and sellers are regulated intensely by ATF and other Federal and State regulatory agencies.

Some two dozen lawsuits have been filed in States and municipalities that would be dealt with under this. The courts have spoken with regard to these lawsuits, dismissing them almost entirely. In spite of the fact that the lawsuits filed against the firearms industry have produced no lawful or successful results, cities, counties, and others continue to file them, mostly for harassment purposes. These lawsuits cost not only the firearms industry, but municipalities, hundreds of millions of dollars. This legislation is directed at curtailing that.

The bill does not affect the right of a lawsuit to sue for negligence or other wrong-doing.

Mr. WATT. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. INSLEE).

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

Mr. INSLEE. Mr. Chairman, I rise in support of the Watt amendment. I think anyone who has been listening to this debate realizes that this is not a debate about the ability of Americans to have responsible gun ownership, something I think everyone in this debate has recognized. But I rise to support the Watt amendment because it shows some attention to the over 1,000 children a year, our children, who kill themselves using a firearm. I rise to pay some attention to the hundreds of children every year who shoot their playmates unintentionally, our children.

The reason these children deserve some standing in this debate is that those children would be alive if there was some way that these guns were secured so that our children did not get access to these firearms. Right now, many people of common sense who may stand as jurors believe that manufacturers should provide responsible gun owners with the ability to secure their firearms so kids do not get them. That may include trigger locks, it may include boxes, it may include these new computerized systems to keep our kids from shooting their playmates and shooting themselves in a moment of temporary teenage depression.

But this legislation, without the Watt amendment, would preclude jurors from holding manufacturers responsible and prevent jurors, reasonably minded jurors, from finding them responsible and not giving consumers what they deserve. And consumers of a firearm deserve the ability to lock them away and not allow them to be used by their children. If we adopt the Watt amendment, we will allow jurors to make that decision.

I have to tell my colleagues, when I read about some 10-year-old getting his uncle's gun and shooting his playmate because it was not secured, I stand for the proposition that jurors ought to be able to say that trigger locks ought to be sold with these firearms so that consumers will have them.

Support the Watt amendment.

Mr. CANNON. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. STEARNS), the author of the underlying bill.

□ 1300

Mr. STEARNS. Mr. Chairman, I thank my colleague, the gentleman from Utah, for yielding time to me.

Mr. Chairman, the Watt amendment is attacking the words ''used as intended'', and he has sort of indicated that those words are vague and perhaps they should be deleted because the courts could not quite understand them.

I have Black's Law Dictionary back in my office, Mr. Chairman. I went up and looked up the words. It is defined as ''the intended use doctrine,'' defined as ''The rule imposing a duty on a manufacturer to develop a product so that it is reasonably safe for its intended or foreseeable users.''

In fact, if we look up the words ''used as intended,'' for example, the words ''manufacturing defects'' or ''design defects,'' any of these terms which, at first glance, would connote some nebulous concept. Indeed, it is not a nebulous concept; there is a strict interpretation of these words in tort law.

In Westlaw, which is a commonly used legal database, if we go into that and put in the words ''used as intended,'' we come up with that it has been cited in 1,300 State cases and over 900 Federal cases come up. That is ample guidance for courts to use regarding what ''used as intended'' means in a case alleging defective design or manufacture.

The treatise American Law of Products Liability states that ''Courts have consistently refused to impose liability on manufacturers of firearms that function exactly as intended.''

Mr. Chairman, I think what I am saying is, there is ample evidence in the law, both in the Federal and in the State, where the term ''used as intended'' is clearly understood in tort law, so there is no ambiguity here.

Mr. Chairman, I would urge defeat of the Watt amendment.

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

Mr. Chairman, I think, regarding the people who have made statements in support of and against this amendment, I think the problem is that we have left a substantial ambiguity in the law because we have not taken the time to deal with this in the committee, where it should have been dealt with.

With all respect to the chairman of my subcommittee, the gentleman from Utah (Mr. CANNON), whom I respect and admire greatly, the fact that somebody shows up at a hearing and says that this language, ''used as intended,'' means one thing or another really is not going to be what controls that. The same judges that they have said are irresponsible are going to be making that determination.

Mr. Chairman, when we write a piece of legislation, it is our responsibility to write it in a way that leaves them no discretion about what we mean. I would submit that a child who picks up a gun and drops it, and it discharges, most of us would stand here and say that that gun was not being used as intended. Therefore, the parents of that child would have no recourse; nobody would have any recourse against the manufacturer.

I would submit that anybody who drops a gun and it accidentally discharges, as it did in the case of the gentleman from Rhode Island (Mr. LANGEVIN), could reasonably argue that that was not, or that that falls within the exception.

It is our responsibility to close these loopholes, not open additional ones. I ask my colleagues to support the amendment.

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

Mr. Chairman, I thank the gentleman from North Carolina (Mr. WATT), my friend, for his gracious comments.

Referring back to the prior speaker, the gentleman from Washington, he made a couple points that I think are important. This is not about the right to own a gun; this is an entirely different discussion.

I indicated, on his concern about seeing trigger locks on all guns, frankly, we need to research and improve safety devices over time. Hopefully, some of those improvements in safety will come from a healthy, robust manufacturing center in our country that can afford to develop the kinds of technologies that will keep the many police officers who are shot with their own guns safe from their own guns. That takes a robust industry to do that.

In closing, let me just point out to the gentleman, if we enter the words ''used as intended,'' ''manufacturing defect,'' or ''design defect'' into Westlaw, a commonly used database, we come up with 1,300 State cases and 900 Federal cases. We have a great deal of understanding about the concept that is being attacked in this amendment.

I encourage the Members of this body to oppose this amendment, to go with legislation that is sensible and reasonable and will improve the environment in which we have to exercise our right to keep and bear arms in America.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from North Carolina (Mr. WATT).

The amendment was rejected.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 108–64.

AMENDMENT NO. 2 OFFERED BY MR. SCOTT OF VIRGINIA

Mr. SCOTT of Virginia. Mr. Chairman, I offer amendment No. 2.

The CHAIRMAN. The Clerk will designate amendment No. 2.

The text of amendment No. 2 is as follows:

Amendment No. 2 offered by Mr. SCOTT of Virginia:

In section 4(5)(A), strike clause (i) and insert the following:

(i) an action brought against a transferor who transfers a firearm in violation of section 924(h) of title 18, United States Code, or a comparable or identical State felony law, by a party directly harmed by conduct of the transferee involving the firearm;

The CHAIRMAN. Pursuant to House Resolution 181, the gentleman from Virginia (Mr. SCOTT) and a Member opposed each will control 10 minutes.

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

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

Mr. Chairman, the underlying right for redress would apply if the defendant transfers a firearm in violation of the law and is convicted of that crime. In other words, if the defendant has been convicted of an illegal transfer of a firearm, he loses the benefits of the bill.

This amendment eliminates the requirement under the bill for a conviction before a defendant can be sued, and substitutes the requirement that the defendant actually committed the crime. Requiring a conviction before a defendant can be sued for civil consequences of his unlawful acts would constitute an extraordinary change in traditional civil liability standards. Moreover, such a requirement would create bizarre results based on what a prosecutor decides to do in a particular case and when he decides to do it.

The prosecutor may choose not to prosecute a particular case for various reasons. This would preclude a claim, regardless of how egregious the injuries are or how clear the liability; or even if a case is prosecuted, the prosecutor may decide to plea bargain a case, allowing a defendant who has illegally transferred many guns to plead guilty to one transfer and drop the other cases. It would be absurd to suggest that only the victims in the case pleaded to can sue while the others cannot.

Of course, there is always a possibility the case can be thrown out because of an unlawful search or seizure, because of a coerced confession, or simply because the prosecutor is unable to prove his case beyond a reasonable doubt. The case might be lost because a jury was pretty sure the defendant was guilty, but not beyond a reasonable doubt.

Even where there is a conviction, the timing of the conviction alone might be dispositive of the claim because there is nothing in the bill or the law which tolls the statute of limitations in a civil claim pending prosecution and appeals.

Mr. Chairman, this is a dramatic departure from traditional civil proceedings. In an automobile accident, for example, one can be successful if one can prove that the defendant went through the red light. We do not lose our case because the police officer did not give the defendant a ticket, or gave him a ticket but did not get a conviction. Say one brings the witnesses to court and proves the defendant, in fact, went through the red light. Under the theory under this bill, that person would lose his case if the police officer failed to successfully prosecute the defendant.

If this amendment is adopted, even without the conviction, the unlawful transfer would still have to be proven in order to pursue the case. Under traditional civil law, we would still have to prove the defendant violated the law and that the violation was the proximate cause of the injury.

If someone's criminal activity causes injury, he should not escape civil liability merely because he was not technically convicted of that crime. So I urge my colleagues to support the amendment.

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

Mr. FEENEY. Mr. Chairman, I rise in opposition.

The CHAIRMAN. The gentleman from Florida (Mr. FEENEY) is recognized for 10 minutes.

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

Mr. Chairman, I respectfully disagree with the amendment of the gentleman from Virginia (Mr. SCOTT), and would ask a ''no'' vote on his proposed amendment.

In essence, this is a battle about two competing theories with respect to gun manufacturers and gun sellers in America. There is one theory that presumes that gun manufacturers and gun sellers are inherently guilty of something, somewhere, almost all of the time. The other theory is that, consistent with the second amendment, if we really believe that the second amendment protects the right to bear and own arms, that we must inherently protect the right of people to manufacture and distribute those arms.

What the gentleman's amendment does, as I read it, is basically several things that are very, very important, including allowing civil courts to find somebody guilty of criminal offenses without all of the inherent protections that we give to people who are accused of crimes.

It actually flies in the face of a subsequent amendment filed by the gentlewoman from California (Ms. LINDA T. SANCHEZ), who makes the keystone of her amendment actually that one be convicted and found guilty of a crime before they are responsible in a civil action.

What this amendment of the gentleman from Virginia (Mr. SCOTT) does is to remove the requirement that you are convicted of any criminal act before you are held guilty in civil responsibility. It would allow lawsuits against firearms manufacturers, dealers, or importers if the action is against a transferor who knowingly transfers a firearm, knowing that such firearms will be used to commit a crime of violence or drug trafficking crime.

The bill currently allows for suits against people if the transferor is actually convicted of a crime. What this amendment does is to undermine the ability of somebody to defend themselves with all the inherent criminal protections that they ought to have before they are essentially found to have committed a crime.

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

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I would just point out that without this amendment, this bill protects criminals. Without the amendment, we could have a criminal actually admitting to the crime, but unless there was a conviction, we could not use that admission in a civil case.

Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Chairman, I just want to join in support of this amendment offered by the gentleman from Virginia (Mr. SCOTT). Again, this is a case where, had we taken the time in committee to evaluate the language and allow the amendment of the gentleman from Virginia (Mr. SCOTT), which was at the desk when the question was called on the bill in committee, if we had had this debate, we could probably have corrected this language to say what the gentleman from Florida (Mr. FEENEY) would like for it to say.

Unfortunately, the bill says what it says. As much as he would like for it to say something different than what it says, it does not. It says that in order to pursue a cause of action, we have to have had a conviction.

That is ridiculous. The bill should not say that. Now, maybe the drafters did not intend for it to say that, which is exactly the point that I have been making throughout this process: If we had taken the time to evaluate the provisions of this bill, then we could have at least gotten the bill to say what they intend for it to say.

However, no judge is going to have the luxury of saying, well, they intended to say this, and therefore I am going to interpret this statute in that way. The judge has to look at the law as we have written it. Right now, this bill does not say what my colleagues would like for it to say because we have not taken the time to make it say that.

Mr. Chairman, we are being irresponsible and we are passing legislation through this House that we know has a serious flaw, and they are looking at us saying, well, you cannot read. I learned to read a long time ago. I can read what the language of this bill says, and it says exactly what the gentleman from Virginia (Mr. SCOTT) says it says. Nothing that my colleagues on the other side can say can change that.

We need to amend the bill so that it says what they want it to say.

Mr. FEENEY. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, the gentleman is a very capable reader. I have discovered that in committee, and enjoy working with him.

However, I can read as well. What the bill does is say, before you are treated as a criminal, you need to be tried as a criminal in a criminal court, and you need to be convicted as a criminal. That is the American way.

What the amendment says is that you can be treated as a criminal even though you have never been tried as a criminal, and even though you have never been in a criminal court and certainly never been convicted.

Members will recall that the Bill of Rights, aside from protecting the right to bear firearms, also protects certain rights before one is convicted of a crime. It is the great American criminal jurisprudence.

□ 1315

Among other things, before you are a criminal, you have the right to a trial, you have the right to face your accusers, you have a right to call witnesses, you have a right to an attorney, you have a right to due process, and you have a right to be proven guilty beyond a reasonable doubt.

What the gentleman's amendment does is to essentially eviscerate all of the protections we give people in America who are accused of a crime and make them criminals even though they have never had a day to protect themselves in a criminal court.

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

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

Mr. Chairman, I would ask the gentleman if he could state any other civil statute that requires a criminal conviction as a predicate. And I would point out on page 9 of the bill ''in an action in which a manufacturer or seller of a qualified product knowingly and willfully violated,'' but it does not say anything about a conviction. So the manufacturer or seller is not afforded any of those rights we just heard of. And I just want to know if there is any other civil law that requires a criminal conviction as a predicate to your right to get civil remedies.

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

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

Mr. Chairman, I would suggest that there are thousands of civil laws both at the Federal level and the State level, and we will try to get some research on which ones actually require a criminal predicate. But what I would suggest to the gentleman is that the part of the bill that he references regarding statutes that have been violated could be either a civil or criminal statute. So it does not require a civil court to find an individual defendant guilty of a crime. It actually permits a case against a gun manufacturer who violates a State law or Federal law in a civil matter. And I think this is very different because what the gentleman's amendment does is to specify a Federal criminal offense and to suggest civil courts can find you guilty even though you have never had your day in court, never been in criminal court, and certainly never been convicted in criminal court.

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

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

Mr. Chairman, since the gentleman is defending the bill, I would ask him on page 8 of the bill, lines 17 through 22, whether or not the word ''transferee'' on line 22 and ''transferor'' on lines 17 and 18, whether that is a typographical error.

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

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

Mr. Chairman, actually I was debating the gentleman's amendment, and we have got staff taking a look at the specific provisions you have referred to. What I would suggest, Mr. Chairman, is ultimately this amendment is an attempt to eviscerate the second amendment in a way that the Constitution would not permit, in a way the courts fortunately have not permitted, and in a way that elected representatives and legislatures around the country and in this Congress would not permit.

What it basically does is to try to, through all sorts of litigation against gun manufacturers and gun sellers, make weapons that are protected under the second amendment unavailable. So what it does is to say that the second amendment to the United States Constitution, while it may protect your theoretical right to own and bear a weapon, actually is meaningless because we are not going to allow anybody either to manufacture or to sell those weapons.

And I would suggest that the adversaries of this bill and the people that are trying to weaken or undermine or eviscerate the bill refer back to Oliver Wendell Holmes's great statement in 1894 where he explained why you hold certain people responsible. He said:

> Why is not a man who sells firearms answerable for assaults committed with pistols bought of him since he must be taken to know the probability that sooner or later someone will buy a pistol of him for some unlawful end? The principle seem pretty well established, in this country at least, that everyone has the right to rely upon his fellow man acting lawfully.

What the opponents of this bill want to do is to presume that everybody who manufactures or sells a weapon is guilty of something, ought to be put out of business through bankruptcy or some other means.

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

Mr. SCOTT of Virginia. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to support what is an enormously sensible amendment to legislation that has come to the floor with a lot of its own baggage. I recognize that we have legislation that people proudly say there are 250 sponsors. I have not had my time on the floor, so I will just add 250 celebratory sponsors gearing themselves toward a pending convention and looking, of course, towards making a lot of new friends in the National Rifle Association.

But we have to deal with life and death on the floor of the House. We have to deal with the question of saving lives. And certainly I would think that the amendment that the gentleman from Virginia (Mr. SCOTT) has offered again provides added protection to those who are left most vulnerable with this legislation.

Clearly I think if we were to explain this in the ABC's and we would explain to the American people that we are closing the door on a number of petitioners who have been injured and/or killed because of the misuse of a firearm, they would understand that this is not in conflict with the second amendment. We all believe that the second amendment does give the right to Americans to bear arms. I believe, unfortunately, that it dealt with the militia, but to bear arms. But we also understand that there is normal product liability, if you will, laws that deal with the protection of those who have the right to engage in a lawsuit because they have been injured.

This particular amendment deals with the requirement under the bill for

the conviction of a transferer who knowingly transfers a firearm knowing that such a firearm will be used to commit a crime of violence before a transferer can be sued. And we eliminate that requirement.

It makes sense that if you are dealing with a criminal element and that you have been injured and that there has been some misuse, then you should not be limited and not have that additional requirement.

Mr. Chairman, this is an intelligent amendment to a bill that has been on a fast track so that we can all celebrate at the National Rifle Association convention.

Mr. FEENEY. Mr. Chairman, how much time remains?

The CHAIRMAN. The gentleman from Virginia (Mr. SCOTT) has 1½ minutes remaining. The gentleman from Florida (Mr. FEENEY) has 4 minutes remaining. The gentleman from Florida has the right to close.

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

Mr. SCOTT of Virginia. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Chairman, I rise to ask my colleague from Virginia a question.

Suppose there is a conviction in a case and then a civil lawsuit is filed which would be allowed, and then the conviction is reversed on appeal. What would happen under this bill under those circumstances?

Mr. SCOTT of Virginia. Mr. Chairman, will the gentleman yield?

Mr. WATT. I yield to the gentleman from Virginia.

Mr. SCOTT of Virginia. Mr. Chairman, I thank the gentleman for the question; and, frankly, Mr. Chairman, I do not know. You would have someone who has filed his lawsuit, gets a judgment. The underlying conviction is overturned. I do not know. Maybe the gentleman from Colorado can help answer the question. In my opening remarks I made a point that pending prosecution and all the appeals, if you start off with an acquittal, with a case thrown out and then reinstated on appeal, maybe after the statute of limitations. There is no other situation where you have to get a conviction before the civil lawsuit can go forward; and I would ask the gentleman from Colorado.

The CHAIRMAN. The Chair recognize the gentleman from Florida (Mr. FEENEY) unless the gentleman wants to close.

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

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

The CHAIRMAN. The gentleman is recognized for 30 seconds.

Mr. SCOTT of Virginia. Mr. Chairman, in the bill we have the action of a manufacturer who willingly and knowingly violates a State or Federal statute and can be sued. You do not have to have a conviction.

You have to have a conviction in this situation. The gentleman from North Carolina (Mr. WATT) has revealed a bazaar situation. Some people can bring a case and not bring a case depending upon whether their case was part of a plea bargain or not.

This is a major departure from any civil procedure, and if the gentleman can advise us if there is any other civil lawsuit that requires a conviction as a predicate rather than knowingly violated the statute, we would like to hear it.

Mr. Chairman, I hope we would adopt the amendment.

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

Mr. Chairman, I want to apologize to my colleague because they asked the gentleman from Colorado to respond, and while Colorado is a great sunshine State, I actually represent the Sunshine State of Florida.

Mr. SCOTT of Virginia. Mr. Chairman, will the gentleman yield?

Mr. FEENEY. I yield to the gentleman from Virginia.

Mr. SCOTT of Virginia. Mr. Chairman, I apologize to the gentleman from Florida (Mr. FEENEY).

Mr. FEENEY. Reclaiming my time, there is no offense taken. Colorado is a beautiful State, but please come visit the Sunshine State when you get a chance.

I will give you this answer, and that is, while it will take me some time to research the tens of thousands of Federal and State civil actions to see which ones are predicated on a criminal conviction, I am also not aware of any situation where a civil court without the protections of the Bill of Rights can find one guilty of a Federal criminal offense that carries a 10-year punishment. And I think that is the crux of what this amendment gets to.

Because, as you know, the Supreme Court has stated, quoting James Madison in the case of The New York Times v. Sullivan: ''Some degree of abuse is inseparable from the proper use of everything.''

That includes hammers, ice picks, steak knives, lawn mowers, other things that have been used as weapons. What the opponents of the bill suggest is that every manufacturer and every seller must be guilty of something simply because they are selling a product that is not only a legal product, but it is particularly and especially protected by the second amendment to the United States Constitution.

A violation of section 18 of the U.S. Code, section 927(h) is exactly what the amendment that the gentleman gets to. A conviction under that statute carriers up to a 10-year imprisonment and a fine potentially.

What the gentleman wants to do is to basically say that somebody can be found guilty of that Federal criminal statute in a civil court, basically declaring somebody a criminal even though they have never been in a criminal court. For example, they would be called a criminal as actually the gentlewoman just did and she said we are protecting criminals if we do not adopt this wonderful amendment.

Ultimately, what we are doing here is to say to an accused person they will be found guilty in a civil court of a crime even though they never had the rights afforded them by the Bill of Rights, including the right to an attorney, the right to face your accuser, the right to call witnesses, the right to due process, and the right to be proven guilty of a crime beyond a reasonable doubt.

Please protect innocent parties, and please protect the second amendment and oppose the amendment.

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

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

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

Mr. SCOTT of Virginia. Mr. Chairman, I demand a recorded vote.

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

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 108–64.

AMENDMENT NO. 3 OFFERED BY MS. LINDA T. SÁNCHEZ OF CALIFORNIA

Ms. LINDA T. SÁNCHEZ of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. Linda T. Sánchez of California:

In section 4(5)(A)—

(1) redesignate clauses (ii) through (v) as clauses (iii) through (vi), respectively; and

(2) insert after clause (i) the following:

''(ii) an action brought against a transferor convicted of a violation of paragraph (3) or (4) of section 922(d) of title 18, United States Code, or of a comparable or identical provision of State law, by a party directly harmed by conduct of which the transferee is convicted;''

In section 4(5)(B), strike ''(A)(ii)'' and insert ''(A)(iii)''.

The CHAIRMAN. Pursuant to House Resolution 181, the gentlewoman from California (Ms. LINDA T. SÁNCHEZ) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from California (Ms. LINDA T. SÁNCHEZ).

Ms. LINDA T. SÁNCHEZ of California. Mr. Chairman, I yield myself such time as I may consume.

(Ms. LINDA T. SÁNCHEZ of California asked and was given permission to revise and extend her remarks.)

Ms. LINDA T. SÁNCHEZ of California. Mr. Chairman, H.R. 1036, the Protection of Lawful Commerce and Arms Act, seeks to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms

or ammunition for damages resulting from the misuse of their product by others.

The bill makes certain exceptions, however, to allow lawsuits against gun manufacturers, sellers, distributors, and importers. For example, it allows a lawsuit to proceed in case of negligence per se or negligent entrustment. It also allows lawsuits for victims in certain cases where the gun seller or manufacturer knowingly or willingly broke State or Federal law.

My amendment would be one of the smaller exceptions to the ban on lawsuits. It would essentially do more than require gun sellers or manufacturers to obey the law that already exists.

□ 1330

Section 922 of title XVIII of the U.S. Code establishes that it is unlawful for any person to sell guns or ammunition to someone who uses or is addicted to illegal drugs or who has been adjudicated as a mental defective. Later on, the same section makes it illegal for drug users or abusers or persons with adjudicated mental problems to ship, possess or receive guns or ammunition that have been in interstate commerce.

This makes sense. Congress has decided that there are certain people who should not have access to firearms, and these are the two categories of people who are restricted.

Congress further decided that the responsibility for this restriction is on both the buyer and the seller. If the gun sellers and manufacturers are not checking to be sure that they do not sell guns to people with drug or mental problems, then how can we keep the guns out of their hands? That is why the U.S. Code specifically prohibits both the sale and the purchase.

I just want the gun sellers to do the proper background checks. If they do not and it turns out they sold weapons or ammunition to a person in one of those categories, then they should not have the benefit of immunity from the court system. As a matter of public policy, we should most definitely provide victims with an opportunity to take their case to court, and we should allow judges the opportunity to decide if what the gun seller did was a violation of the law.

Last fall, when there were suspicions that the Beltway sniper might have had a mental illness, the House rapidly passed a bill to enforce the already-existing law that requires the FBI to list any person who has been adjudicated as a mental defective on the National Instant Criminal Background Check system. It is important to note that the bill did not create this requirement; rather, it sought to provide incentive grants to encourage the use of it.

That bill unfortunately did not pass the Senate, but that does not change the fact that this requirement already exists. If we are intent on requiring that the information be listed in the system, and if we say that gun sellers must do background checks, then how can we go wrong by holding them liable if they fail to do the background check?

Having already mentioned some of my opposition to this bill, and having tried to correct one of the many, many problems with it, I would like to talk about the egregious manner the Majority has used in moving this bill through the House.

This is a fairly partisan bill, which went through a very partisan Committee, the Judiciary Committee. No hearings were held at Full Committee. Essentially, no markup occurred either. Technically, the Committee met and we started debate on what should have been 10–15 amendments. The first one was offered and withdrawn. Shortly after we began discussing the second one, offered by Mr. Watt, the Majority called the previous question. And with that, our so-called democratic debate on an important piece of legislation ended.

The Majority has since made claims that they cut off debate because no amendments were at the desk. This is patently untrue. As I said, and as the transcript from that markup shows, we were in the MIDDLE of the debate on an amendment when the previous question was called.

I realize that the Majority wouldn't have liked a lot of our amendments, in which case they would have had the freedom to vote against then. But to not even allow debate on a topic of such divergent opinions is a disgrace. We're talking about a bill that includes findings that have no basis in fact or law. A bill that makes sweeping changes to liability, thus cutting off legitimate victims' access to the court system. A bill that rewards certain shoddy gun dealers with the same immunity that it gives to honest manufacturers who have worked diligently to improve their products.

That appalling markup happened last Thursday. Now here we are today, less than a week later, debating the bill on the Floor. But one again, a true democratic effort has been thwarted, because the Majority has only permitted us five amendments. Five amendments. Again, I'm sure that the Majority didn't like all of the amendments we offered. But that doesn't mean they are non-germane. And it's no reason to cut off debate. If that's going to be the basis for how we run this body, then we should stop claiming to be a democracy.

And, frankly, the amendments allowed today don't include all of the "heavy" amendments we offered. Let's be honest—my amendment has a much smaller impact than some of the other ones offered today. I think it represents an important change, but I also think there were a whole host of other important changes that could have been made—had we had a full markup, or had the Rule been an open one.

I am shocked by the complete disregard to Majority has demonstrated for the democratic process. I urge my colleagues on both sides of the aisle to resist this kind of disintegration of our free speech and our democratic process. Otherwise, the democratic ideals our troops are fighting for in the Middle East may as well be meaningless.

I urge my colleagues to support this amendment.

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

The CHAIRMAN. Does the gentlewoman from Tennessee (Mrs. BLACKBURN) seek the time in opposition?

Mrs. BLACKBURN. Yes, Mr. Chairman.

The CHAIRMAN. The gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized for 10 minutes in opposition.

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

Mr. Chairman, I rise in support of the base bill and in opposition to the Sánchez amendment. The language in this amendment would allow lawsuits to be brought against gun manufacturers and dealers for damages that are caused by the criminal misuse of that product by a third party if the firearm transferor knows or has reasonable cause to believe that the recipient is an unlawful user of or addicted to any controlled substance or has been adjudicated as a mental defective or committed to a mental institution.

Making such a transfer to a drug addict or someone who has been declared mentally incompetent is already illegal under the Gun Control Act and the laws of many States. It is clearly covered by the existing language of this bill.

Those who support H.R. 1036 have no intention of preventing lawsuits against those convicted of criminal acts, and under the language of the bill, we do not need to list every possible violation for them to be held accountable.

What we do want to do is prevent junk lawsuits against the firearms industry. Many of these companies operate on narrow margins, and those who oppose the second amendment hope to use our legal system and the threat of costly lawsuits to bankrupt a legal industry. This is clearly wrong, and I would urge my colleagues to oppose this amendment and support passage of H.R. 1036.

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

Ms. LINDA T. SÁNCHEZ of California. Mr. Chairman, I yield myself such time as I may consume.

I do not understand how my colleagues on the other side of the aisle can say that this case is clearly set forth in the proposed legislation, because the negligence, number one, the negligence per se doctrine, does not exist in every State, and I believe it is the citizens of those States who deserve the kind of protections included in this amendment.

The other exception that is stated in this bill is for knowingly or willfully violating Federal or State law, and it requires a conviction, and that does not apply here either. That implication or that state of mind, that mens rea, requires a specific mens rea, whereas my amendment here only includes a reasonable cause to believe standard.

Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Mr. Chairman, allow me to thank the gentlewoman from California for a very thoughtful amendment that really seems not to be understood by the opponents of the amendment.

First of all, I think we should make it very clear that what is happening with H.R. 1036 is that right as we speak, Mr. Chairman, we are stopping dead in its tracks any lawsuit by any jurisdiction, local, State or civilian, against a manufacturer, distributors and dealers dealing with firearms. This is an outrage on its face. It makes absolutely no sense that we would begin to intrude into State's rights and individual petitioner rights that would disallow pending lawsuits.

That means that a law enforcement officer who brutally kills and/or injures him or his family, her or her family, cannot engage in a lawsuit. It means that this is, in fact, a pay-as-you-go legislation, and good amendments, of which I support all of the amendments that are on the floor today, are not taken seriously.

This amendment is a good amendment because it is required by law that a person not sell to addicted individuals. What this amendment says is, we do not have to have a conviction. It simply says, if these are addicted individuals and a person illegally sells to them, or people suffering with mental illness or have a mental health condition or in need of mental services, that they have a problem; and therefore, when I say problem, those gun sellers or manufacturers, that they, in fact, should be liable under the laws of this land.

This legislation says in an affronting way, insulting way, that a person does not have the ability to go into the courthouse. Besides the insult of the way this bill came to the floor of the House and the insult of the process, good amendments are on the floor that are not being accepted, and amendments that were in the Committee on Rules, amendments to protect children, amendments that dealt with assault weapons and amendments that dealt with law enforcement officers, were rejected.

I would simply ask my colleagues to overlook the fact that we have a convention of the National Rifle Association pending, and let us try to do what is good for America. Look at the Sánchez amendment and realize that it makes sense because it is existing law. A person cannot sell to addicted individuals; a person should not sell to people suffering from mental illness, and it is that person's responsibility to check. If, in fact, it reflects back on the gun seller and then the manufacturer, that is what should be decided in a court of law.

The ultimate affront, as I said, is the very fact that existing, pending lawsuits that are going on in our courts today, in State courts and Federal courts, will cease and desist because of this legislation. Can we think of a more unfair action in this Congress in light of the fact that we believe we live in a democracy? I cannot.

I would just simply say in closing, I hope the gentlewoman's amendment is accepted. I hope the Meehan amendment is accepted, the two Watt amendments are accepted. I wish they were, and of course, the Scott amendment, and I really hope our colleagues would vote against this legislation.

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

The claims have been made that the bill's requirement that a knowing violation of the statute occurs is unjust. The claim that it is too burdensome to require that a person knowingly violates the law before they can be said to meet the exceptions to the bill fails to understand the flexible nature of the requirement.

A typical jury instruction regarding what the requirement ''unknowing'' means states as follows: ''Knowledge may be proved by all of the facts and circumstances surrounding the case. You, the jury, may infer knowledge from a combination of suspicion and indifference to the truth. If you find that a person had a strong suspicion that things were not what they seemed or that someone had withheld some important facts, yet shut his eyes for fear of what he would learn, you may conclude that he acted knowingly.''

The knowing standard is clearly flexible enough to produce justice in our courts in all circumstances.

Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, I thank the gentlewoman from Tennessee for yielding to me.

I would say to the gentlewoman from Texas that I understand her feelings when she mentions she finds this bill an insult, and she sort of indicates it is perhaps because of what happened in the Committee on the Judiciary. She has mentioned that perhaps the rule, and she mentioned the NRA convention, but I still do not think that those kinds of statements necessarily apply and convince Members not to vote for this bill because, basically, H.R. 1036 already incorporates what the gentlewoman from California (Ms. LINDA T. SÁNCHEZ) is providing under her amendment.

I have to be honest. I think what she is saying is praiseworthy, but the amendment is not necessary because we already have in the bill the language that is needed.

We have used the words ''negligent entrustment,'' and this is a legal term, and that term is used in the bill. Because of the way it is used in the bill, it automatically covers what the gentlewoman from California (Ms. LINDA T. SÁNCHEZ) wants to put in her amendment as part of the bill, and I might read ''negligent entrustment'' just to clarify what the actual legal definition is, as defined.

It is ''supplying of a qualified product by a seller for use by another person when the seller knows or should know the person to whom the product is supplied is likely to use the product and, in fact, does use the product in a manner involving unreasonable risk of physical injury to the person and others.''

The bill already allows suits for negligent entrustment or negligence per se or where a manufacturer or seller knowingly and willfully violates a State or Federal statute applicable to the sale or marketing of the product and the violation has a proximate cause of the harm for which relief is sought.

In a nutshell, we have in H.R. 1036 all the necessary language to cover what the gentlewoman from California (Ms. LINDA T. SÁNCHEZ) is talking about. So I urge my colleagues not to support the Sánchez amendment. It is unnecessary because H.R. 1036 already holds liable anyone who violates any State or Federal statute.

The Sánchez amendment also eliminates a requirement that a violation of a Federal statute must actually cause an injury before liability can attach. So I urge my colleagues to vote no on the Sánchez amendment.

Ms. LINDA T. SÁNCHEZ of California. Mr. Chairman, I yield 30 seconds to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE. Mr. Chairman, I thank the distinguished gentlewoman for yielding to me.

Let me quickly just cite for the gentleman, and I will not pose it in terms of a question for him to respond, but under section 3, subsection (b), any pending litigation against gun manufacturers, distributors and dealers would be immediately dismissed under this enactment. It might include actions that would come under the gentlewoman's particular amendment, and so if her amendment would be included, it would mean that any pending action that was based upon firearms in the hands of those suffering from mental illness or those who are drug addicted would continue.

This gentleman wants those lawsuits to be extinguished and those injured to be denied their justice.

Ms. LINDA T. SÁNCHEZ of California. Mr. Chairman, I yield myself such time as I may consume.

I think it is important to clarify something that was stated by my colleagues on the other side of the aisle. They keep talking about negligent entrustment, but negligent entrustment liability only applies when someone knows that person is going to commit a crime. However, this amendment specifically speaks to a different type of mens rea. It speaks to the reasonable cause to believe standard. It does not require, as the current bill stands, the mens rea of knowingly or willfully, plus a conviction, in order to hold these distributors and manufacturers liable.

I think the purpose of this amendment is strictly as an incentive to make sure that sellers and manufacturers and dealers are actually doing the criminal background checks that the law already requires of them; and again, I am talking about having a reasonable cause to believe that somebody is either addicted to drugs or has been mentally adjudicated as incompetent.

I think that requiring a higher standard of proof in terms of the intent of the seller or the distributor, plus a conviction, denies legitimate plaintiffs the right to sue in civil court, and so I would urge my colleagues to please support this amendment.

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

Mrs. BLACKBURN. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, maybe I could just have a colloquy with the gentlewoman on her amendment.

Would my colleague not agree that the language dealing with negligent entrustment is not part of the bill, H.R. 1036?

Ms. LINDA T. SANCHEZ of California. Mr. Chairman, will the gentleman yield?

Mr. STEARNS. I yield to the gentlewoman from California.

Ms. LINDA T. SANCHEZ of California. Mr. Chairman, it is part of the bill. My understanding it is a definition in part of the bill.

Mr. STEARNS. Would the gentlewoman not agree that that term ''negligent entrustment'' is fully understood under tort law?

□ 1345

Ms. LINDA T. SANCHEZ of California. Mr. Chairman, if the gentleman will continue to yield, I would say no, I believe it is applied on a case-by-case basis under tort law.

Mr. STEARNS. But the consensus is, when we read the gentlewoman's amendment, in fact everything she has asked for is already included in our bill. So we think the amendment, as praiseworthy as it might be, in effect it is already being spoken to and clarified in our bill, so we just do not think the gentlewoman's amendment is necessary.

Can the gentlewoman define very clearly why the term ''negligent entrustment'' does not cover all that is necessary in tort law and why the gentlewoman's amendment would be needed with that already in existence?

Ms. LINDA T. SANCHEZ of California. Well, if the intention is to cover the incidence that I am talking about, of dealers or sellers or manufacturers who have reasonable cause to believe, why not state that intention clearly in the legislation?

My understanding is that the negligence per se definition section in the bill does not state those cases.

Mr. STEARNS. Well, reclaiming my time, Mr. Chairman, I disagree. Negligent entrustment, as I read the definition earlier, it is all laid out.

Ms. LINDA T. SANCHEZ of California. So we agree to disagree, in other words.

Mr. STEARNS. Reclaiming my time, Mr. Chairman, I urge a ''no'' vote on the Sanchez amendment.

Ms. LINDA T. SÁNCHEZ of California. Mr. Chairman, I yield myself the balance of my time. In closing, I just want to say that if we had had the opportunity to bring these amendments up in subcommittee and to discuss them at length, I think we probably could have come to some agreement in terms of what cases we chose to cover by this piece of legislation and which cases we did not.

However, we were not afforded that opportunity because the question was called and debate was cut off. Now we find ourselves here on the floor of the House debating amendments, a scant five, when we had 10 to 15 to offer in subcommittee. This, in essence, cuts off the democratic process, which in essence does not give us the chance to meaningfully consider the amendments as a way to improve this bill.

I urge that my colleagues vote ''yes'' on my amendment.

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

As we have heard from the discussion, the provisions that have been mentioned are covered. I would encourage my colleagues to vote ''no'' on this amendment.

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

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Ms. LINDA T. SÁNCHEZ).

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

Ms. LINDA T. SÁNCHEZ of California. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California (Ms. LINDA T. SÁNCHEZ) will be postponed.

It is now in order to consider amendment No. 4 printed in House Report 108–64.

AMENDMENT NO. 4 OFFERED BY MR. MEEHAN

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. MEEHAN:

In section 4(5)(A), strike clause (ii) and insert the following:

(ii) an action brought against a manufacturer, seller, or trade association for negligence;

In section 4(5)—

(1) strike ''(A) IN GENERAL.—'';

(2) strike subparagraph (B); and

(3) redesignate clauses (i) through (v) as subparagraphs (A) through (E), respectively; and

(4) move the matter preceding the provisions redesignated by paragraph (3) of this amendment, and each of such provisions, 2 ems to the left.

The CHAIRMAN. Pursuant to House Resolution 181, the gentleman from Massachusetts (Mr. MEEHAN) and a member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. MEEHAN).

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

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

Mr. MEEHAN. Mr. Chairman, I do not think any industry should be given blanket immunity for its negligence, especially when it results in the deaths of innocent people. My amendment would allow the victims of gun violence to recover damages from the manufacturers or sellers of firearms where their negligence allows guns to fall into the hands of criminals. It would ensure that manufacturers, distributors, and retailers are held responsible for their negligence just as every other industry and every other individual may be held responsible.

Now, without my amendment, the bill would essentially immunize manufacturers from lawsuits from victims of gun violence, and it would allow these victims to sue retailers only under exceedingly narrow circumstances. Even if my colleagues think strict liability or rather expansive legal theories should not be available in gun cases, should we not all be able to agree that a well-settled set of principles of negligence should apply to guns in the same way that they apply to virtually every other context under State common law?

As reported by the Committee on the Judiciary, the bill would bar suits against manufacturers entirely, and it would limit claims against retailers to theories based on negligent entrustment or negligence per se. The problem with negligent entrustment is that it would apply only where the person to whom the gun is supplied uses it in a manner involving an unreasonable risk or a physical injury to that person or to others. This means the retailers who negligently sells a gun to a straw purchaser would not be liable if the ultimate recipient uses the weapon to shoot a police officer, because straw purchasers transfer guns to criminals rather than using them themselves to commit the crime of violence themselves.

So what does that mean? It means this bill really does immunize the entire chain of suppliers, even when they have reason to know that the weapons they sell will end up in the hands of criminals. The problem with negligence per se is that some States do not even recognize that doctrine. And the ones that do oftentimes require plaintiffs to show that the retailer has violated a specific statute or regulation that is expressly designed to protect people from the misuse of guns. This means that if the seller has reason

to think a buyer may give the gun to a criminal but the sale complies with statutory formalities, like the background check, negligence per se would not apply. This is the reason why my amendment is essential.

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

The CHAIRMAN. Does the gentlewoman from Pennsylvania (Ms. HART) ask for time in opposition?

Ms. HART. I rise in opposition, Mr. Chairman.

The CHAIRMAN. The gentlewoman is recognized for 10 minutes.

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

Having lost the fight in Congress and in the States to deny the rights of law-abiding firearm owners and to prevent firearm ownership in general, the gun control lobby has pursued a novel path. They have begun to abuse the courts by filing frivolous lawsuits, which wastes time and money in attempts to ruin law-abiding manufacturers and dealers of lawful firearms.

In fact, the city of Boston has already voluntarily dismissed its lawsuit against the firearms industry, stating that during the litigation the city has learned that members of the firearm industry have a long-standing commitment to reducing firearm accidents and to reducing criminal misuse of firearms; and also stating that the city and the industry have now concluded that their common goals can be best achieved through mutual cooperation and communication rather than through litigation, which has been expensive to both industry and taxpayers, time consuming, and distracting in this time of national crisis. That is last year in Boston.

This bill would prevent such frivolous lawsuits while allowing suits for negligent entrustment and negligence per se, which are well defined in the bill. This amendment strikes at the specific negligence language and replaces it allowing any suit for general negligence, which is undefined in the amendment.

This amendment guts the bill, Mr. Chairman. It would leave it up to any judge across the Nation to make a decision whether or not to single-handedly conjure up any random, brand-new theory of negligence, a theory that could bankrupt our Nation's firearm industry, seriously harming our fundamental right to bear arms, and also creating thousands of new unemployed who formerly worked in the firearms industry.

It is a flawed amendment, Mr. Chairman; and it should be rejected.

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

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

Look, there is no need for a definition of what negligence is in this amendment because negligence has been established in case law all across this country in all 50 States. All 50 States have case law that determine what the standard of negligence is. This particular underlying bill tends to undermine the States' ability for people to go into court and be made whole that are victims of negligence under those individual State laws.

Now, it may well be great in Boston that they decided not to follow through with a suit because it was frivolous. And I believe that to the extent that frivolous suits are dismissed, even against the gun companies, that is a fine thing and that is the way it should work. But let me give an example of why my amendment is necessary.

Let us take for example the case of Ken McGuire and David Lemongello, two New Jersey police officers who were shot in the line of duty and at this moment in time are seriously injured. These officers have filed a civil action against a West Virginia pawnshop that had a clerk sell 12 guns in one cash transaction to a suspicious straw purchaser. Twelve guns, cash transaction, suspicious straw purchaser.

In fact, the deal was so suspicious that after the sale the pawnshop later called the ATF to report the sale. Sure enough, this gun trafficker sold the gun illegally to a known criminal who shot Officer McGuire and Officer Lemongello. None of the so-called ''exception to immunity'' confirmed by the committee's mark would prevent their suit from being dismissed under this bill.

West Virginia law does not even recognize negligence per se, and the sale apparently complied with all of the relevant statutory requirements, even though the pawnshop's employee obviously thought the transaction was extremely suspicious. Their case would fail under the so-called negligent entrustment exception because they negligently sold guns to the straw purchaser, not the user of the gun.

The exception for knowingly or willfully would not apply because the standard of willful intent is extremely difficult to meet, and the bill seems to suggest that liability arises only where the seller has actual knowledge that the buyer intends to use the gun to commit a crime.

So this is just one example of why this amendment is needed in a case that I do not think anyone in this body would want to see dismissed because of the underlying bill in this case.

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

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

The gentleman claims that the bill has too narrow an opportunity for a legitimate lawsuit to be heard. We have already heard from a court in his home State suggesting that the current situation is too wide open. The language in the amendment makes it probably about equal to what it is today. My question would be, What then do we do?

It is well settled that negligence per se is an accepted theory as well as negligent entrustment. It is clear that if a gun dealer sells a gun to someone who is a known criminal, that gun dealer would be liable under the bill. This amendment is, therefore, not necessary.

All of the frivolous lawsuits filed, however, have been under some type of general negligence theory. Many activists claim that manufacturers are negligent for not requiring extraordinarily burdensome and counterproductive schemes in addition to existing legal requirements. These activists may claim that any gun designed to suit the needs of gun buyers or the rules enacted by legislatures in our democracy, rather than their own policy preferences, is a sign of negligence. Some activists even claim that when the industry is successful in selling firearms in a specific region they are guilty of negligent oversupply and should reduce sales.

This bill is narrowly tailored to block these junk lawsuits while allowing legitimate causes of action, such as the gentleman described, to move forward. The Meehan amendment would unravel the logic of the bill and, therefore, take us back to square one where frivolous suits are out of hand.

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

Ms. HART. I yield to the gentleman from Massachusetts.

Mr. MEEHAN. Mr. Chairman, let me ask a question. What about the case of Ken McGuire and David Lemongello, two New Jersey police officers shot in the line of duty and seriously injured at this moment in time? They want to file a civil suit. Is that a frivolous case suit, and should they not have a right to go in a State court in New Jersey and have a judge hear the case and hear the facts of the case? And if the pawnshop is found guilty, should they not have a remedy in common law in New Jersey?

□ 1400

Ms. HART. If there is a theory under which the pawnshop is reasonably liable, yes. But just because there is injury does not mean that the seller of the firearm is liable. That is the theory that a lot of these frivolous suits are based on. There is no question that many people who file suits have legitimate injury. The question is, who is liable. In most of these cases, it is not the gun dealer that is liable.

Mr. MEEHAN. If the gentlewoman would continue to yield, what about this case? There is a pawnshop where somebody comes in and buys 12 guns, and they buy them all with cash and then go out and give them to known criminals. In fact, the person who sold the guns was so suspicious that they called the ATF and said, there was a guy in here who bought 12 guns, they gave me cash, and now they left.

Would the gentlewoman say that is more than a frivolous lawsuit?

Ms. HART. I would tell the gentleman, yes. In this country today, it is

required that there be background checks. It is required that those who purchase firearms use them properly. They are liable themselves if they do not use them properly, they are liable themselves if they sell them illegally, and the seller is liable if they sell them illegally.

Therefore, in the gentleman's case, there is no problem if they sell them legally.

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

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

I would suggest that Officers Ken McGuire and David Lemongello from New Jersey have a right to have their case heard, and their case should not be thrown out because of this underlying bill, which would take away their right to be heard because somehow this person who sold the guns illegally did not have a background check. In this instance, the person who sold them was suspicious and they called the ATF. Maybe that example is not good enough, so let me provide another example of a suit against a negligent gun manufacturer.

Let us consider the manufacturers that supply weapons to dealers who repeatedly sell the guns to straw buyers, and then directly to violent criminals.

Robert Ricker, a former gun industry insider, has alleged that it is common knowledge within the gun industry that certain sellers routinely engage in straw purchases. Ricker says manufacturers know who the problem dealers are because they supply the data to the ATF that they use to trace the guns that are used back to retailers. I have not heard Mr. Ricker testify, nor have I had access to any of the discovery in any of these cases, but I think that is exactly why we need to allow the suits to proceed, to get to the bottom line what information gun makers and distributors have about how their firearms wind up being used in crime.

Under this bill, no jury will ever test the credibility of Mr. Ricker's statements, and we may never find out what kind of manufacturer data is about that shows patterns of criminal activity associated with specific retailers. Let us at least give an opportunity for the victims of crime, for the people of this country to hear whether or not Mr. Ricker's statements are credible and stand up in a court of law where a person has a right to be heard.

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

Ms. HART. Mr. Chairman, I yield 2 minutes to the gentlewoman from Wyoming (Mrs. CUBIN).

(Mrs. CUBIN asked and was given permission to revise and extend her remarks.)

Mrs. CUBIN. Mr. Chairman, I rise today in opposition to this amendment and all of the other amendments which have been offered today on this bill, and I encourage Members to vote against the amendments and for the bill.

I am the mother of two sons. One time when they were young, little boys, the boys and I were alone at night and we had a burglar break into our house. The fear that caused me to find out that someone had been in my house, rifling through my house, really made me take a look at self-defense and my right to own and bear arms. I became a big advocate of that at that time.

I appreciate all of the scenarios the other side is throwing out about why we need this amendment, because I agree, there are too many deaths due to gunshot wounds in this country. Too many children are dying because they are getting ahold of weapons that were legally owned, but were not taken care of correctly and were not separated from the ammunition. That is happening, and that is a problem. But these folks have entirely the wrong answer.

We need a common-sense, balanced answer to treating problems like this, and it does not involve taking away our second amendment, our right to own and defend ourselves. We not only deserve to be defended from terrorists home and abroad, but we also deserve to be able to buy guns to defend ourselves in our own home.

My sons are 25 and 30. They are blond-haired and blue-eyed. One amendment today said we could not sell guns to anybody under drug treatment. So does that mean if you go into a black community, you cannot sell a gun to any black person, or does that mean because my——

Mr. WATT. Mr. Chairman, I demand that the words of the gentlewoman from Wyoming (Mrs. CUBIN) be taken down.

The CHAIRMAN pro tempore (Mr. ISAKSON). The gentlewoman from Wyoming will suspend and will be seated. The Clerk will report the words.

□ 1415

For what purpose does the gentlewoman from Wyoming rise?

Mrs. CUBIN. Mr. Chairman, I wanted to point out that I did not break any rulings of the House, but I also want to point out just as a fellow Member that I certainly would never say anything or even think anything that would offend my neighbors on the other side, and well, obviously it did happen. So I would like to apologize to my colleague for his sensitivities, but certainly I would never do that. So I would like to continue on with my remarks. But the next question I wanted to ask is, does that amendment mean——

The CHAIRMAN pro tempore. The gentlewoman will suspend. Did the Chair correctly understand the gentlewoman's statement to say that the gentlewoman would withdraw the words?

Mrs. CUBIN. No, I will not withdraw the words.

The CHAIRMAN pro tempore. Did the Chair understand the gentlewoman to say that the gentlewoman apologized if the words were of offense to any Member of the House?

Mrs. CUBIN. Yes. Yes, I did apologize if the words were offensive to anyone in the House. But I will not say I broke rules of the House. I did not. I apologized because as a person I want to do that.

The CHAIRMAN pro tempore. The gentlewoman will suspend.

The Chair would ask the gentleman from North Carolina (Mr. WATT), the gentlewoman has apologized to anyone in the House to whom her words would have been offensive, and the gentleman has asked those words to be taken down. Does the gentleman insist on his position, or does the gentleman withdraw his demand?

Mr. WATT. Mr. Chairman, I do not need the gentlewoman to apologize for my sensibilities. She needs to be apologizing for using words that are insulting to the entire African American race. And if that is what she is doing, then I gracefully accept her apology. But if she is saying that this is somehow because I am sensitive to those words, then I will not.

Mrs. CUBIN. Mr. Chairman, I do not withdraw my words.

The CHAIRMAN pro tempore. For both Members' edification and the Chair's, it is the understanding of the Chair that the gentlewoman from Wyoming (Mrs. CUBIN) did not ask unanimous consent to withdraw her words. The gentlewoman from Wyoming (Mrs. CUBIN) did apologize to any Member in the House to whom there was offense.

Mr. WATT. That is not what she said, Mr. Chairman.

The CHAIRMAN pro tempore. Does the gentleman insist the words be taken down?

Mr. WATT. Mr. Chairman, I do insist, yes.

The CHAIRMAN pro tempore. The Clerk will transcribe and report the words.

The Clerk read as follows:

My sons are 25 and 30, they are blonde haired and blue eyed. One amendment today said we could not sell guns to anybody under drug treatment. So does that mean that if you go into a black community, you cannot sell a gun to any black person or does that mean because my——

The CHAIRMAN pro tempore. The Committee will rise.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. ISAKSON, Chairman pro tempore of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 1036) to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others, certain words used in debate were objected to and on request were taken down and read at the

Clerk's desk, and he herewith reported the same to the House.

The SPEAKER pro tempore. The Clerk will report the words objected to in the Committee of the Whole House on the state of the Union.

The Clerk read as follows:

My sons are 25 and 30, they are blonde haired and blue eyed. One amendment today said we could not sell guns to anybody under drug treatment. So does that mean that if you go into a black community, you cannot sell a gun to any black person or does that mean because my——

The SPEAKER pro tempore. The Chair finds that the words are not unparliamentary under the rules and precedents of the House.

Mr. WATT. Mr. Speaker, I appeal the ruling of the Chair.

MOTION TO TABLE OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Speaker, I move to lay the appeal on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) to lay on the table the appeal of the ruling of the Chair.

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

RECORDED VOTE

Mr. WATT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 227, noes 195, answered ''present'' 1, not voting 11, as follows:

[Roll No. 119]

AYES—227

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Combest
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Obey
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—195

Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
DeLauro
Deutsch
Dicks
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

ANSWERED ''PRESENT''—1

Abercrombie

NOT VOTING—11

Boyd
Delahunt
Gephardt
Hefley
Houghton
Hyde
Lewis (GA)
Lucas (OK)
McCarthy (MO)
Ryun (KS)
Strickland

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). Members are reminded there are 2 minutes remaining on this vote.

□ 1453

Messrs. BISHOP of New York, CARSON of Oklahoma, and HALL changed their vote from ''aye'' to ''no.''

Mr. OXLEY changed his vote from ''no'' to ''aye.''

Mr. ABERCROMBIE changed his vote from ''no'' to ''present.''

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Committee will resume its sitting.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1036, with Mr. QUINN (Chairman pro tempore) in the Chair.

(Mrs. CUBIN asked and was given permission to speak out of order.)

STEREOTYPING IS ALWAYS WRONG

Mrs. CUBIN. Mr. Chairman, I do appreciate the Chair's ruling and the fact that it was upheld, but this is not something that I can just leave as it is, because I do not think that the situation that just occurred is good for the body, and it is not good for the individual people involved in it.

My words intended to state, and if I had been able to finish my sentence and my thought, they would have stated that I do not believe in stereotyping anyone, any time, ever, for anything. That is what I believe, and I believe that from the bottom of my heart. I do apologize, not just to the gentleman from North Carolina. I apologize to everyone who may have been hurt in any way or insulted because of my remarks. But I really intend only, only to make the point, and I will speak on this bill later, but to make the point that stereotyping is always wrong. It does not matter who it is; it is always a wrong thing to do.

I thank the Chairman, and I thank the gentleman for allowing me to have the time to address the body.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Massachusetts (Mr. MEEHAN), who has 2 minutes remaining.

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

Mr. Chairman, my amendment would not gut the underlying bill. It would still bar claims based on strict liability. Without my amendment, there is

no way to sue for negligence cases of straw purchases. Do not forget the case of Ken McGuire and David Lemongello, two New Jersey police officers who were shot in the line of duty and seriously injured. They filed a civil action in West Virginia because a pawnshop clerk sold 12 guns for cash to a straw purchaser. Those two police officers ought to have the right to have their case heard in court in West Virginia. This case would deny them, because the purchaser of the guns was a straw purchaser.

Ms. HART. Mr. Chairman, I wish to reserve the right to close.

Mr. MEEHAN. Mr. Chairman, I yield the remainder of my time to the gentleman from Rhode Island (Mr. LANGEVIN), a distinguished member of the Committee on Armed Services.

□ 1500

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

Mr. Chairman, I appreciate the efforts of the gentleman from Massachusetts (Mr. MEEHAN) to hold gun dealers and manufacturers truly accountable for negligence and strongly support his amendment.

Our Nation is familiar with cases of gun dealers who sell to criminals and claim ignorance about their intentions. Bullseye Shooter Supply, the Washington State gun dealer that was the source of the sniper rifle allegedly used by John Mohammed and John Lee Malvo in the D.C. sniper shootings, says it cannot account for that weapon, or 237 other guns in its inventory. We should be cracking down on deadbeat gun dealers, not exempting them from liability.

I have introduced legislation to improve enforcement and inspection of these facilities, and I thank the gentleman from Massachusetts (Mr. MEEHAN) for his support of that measure and for drawing attention to this matter with his amendment today.

I strongly urge my colleagues to support the Meehan amendment.

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

Mr. Chairman, the amendment is not helpful to the cause that the gentleman appears to be seeking to address. The amendment actually removes the cause of action for negligent entrustment, which means that someone who should have known has entrusted a firearm to someone who is going to do damage with it.

This bill protects the right to sue for that reason. This bill protects the right to sue for negligence, per se. This bill is simply addressing an issue that is very widespread in this Nation, that is, suits that are intended to bankrupt gun dealers, gun manufacturers; and therefore, put out of business small business people and out of work many people across the Nation who depend upon a very strong firearms industry and recreational use of firearms, safe and legal.

Mr. Chairman, there is a better way to deal with the issue of illegal use of firearms, which is what the gentleman has cited in his examples. There is a better way to control gun crimes. These lawsuits do not help. These lawsuits, in fact, will bankrupt the companies that need to pay legitimate lawsuits.

We need to enforce the many gun laws that are currently on the books. I am proud to support Project Safe Neighborhoods, a proven and commonsense way to combat gun violence. Project Safe Neighborhoods is operating in 94 locations across the country. It is a network of Federal, State, and local law enforcement officials working together to fight gun crime. The program works. Increases in prosecution, over 20 percent, occurred last year.

We must combat gun crimes by enforcing our gun laws, that is what works, not with ridiculous and frivolous lawsuits. H.R. 1036, as it is, precludes frivolous lawsuits; it protects the rights of America's law-abiding manufacturers, dealers, and owners of firearms. It makes sure those who use them illegally, who sell them illegally, who offer them to someone else illegally are taken care of through the courts.

What we do here, Mr. Chairman, is create a bill that will allow legitimate suits, curb frivolous suits, and allow recovery by those who really need it.

The CHAIRMAN pro tempore (Mr. QUINN). All time has expired.

The question is on the amendment offered by the gentleman from Massachusetts (Mr. MEEHAN).

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

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

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Massachusetts (Mr. MEEHAN) will be postponed.

It is now in order to consider amendment No. 5 printed in House Report 108–64.

AMENDMENT NO. 5 OFFERED BY MR. WATT

Mr. WATT. Mr. Chairman, I offer amendment No. 5.

The CHAIRMAN pro tempore. The Clerk will designate amendment No. 5.

The text of amendment No. 5 is as follows:

Amendment No. 5 offered by Mr. WATT:

In section 2(a)(2), strike '', distributors, dealers, and importers''.

In section 2(a)(3)—

(1) strike '', importation, possession, sale, and use''; and

(2) strike ''are'' and insert ''is''.

In section 2(a)(4), strike '', manufacture, marketing, distribution, importation, or sale to the public'' and insert ''and manufacture''.

In section 2(a)(5), strike ''an entire industry'' and insert ''firearm and ammunition manufacturers''.

In section 2(b)(1)—

(1) strike '', distributors, dealers, and importers''; and

(2) strike ''or unlawful''.

In section 2(b)(5), strike '', distributors, dealers, and importers of firearms or ammunition products, and trade associations,'' and insert ''of firearms or ammunition products''.

In section 4(1), strike '', and, as applied'' and all that follows and insert a period.

In section 4(5)(A)—

(1) strike ''(A) IN GENERAL.—'';

(2) strike ''or seller of a qualified product, or a trade association,'';

(3) strike ''or unlawful'';

(4) strike clauses (i) and (ii);

(5) in clause (iii)—

(A) strike ''or seller''; and

(B) strike ''sale or marketing'' and insert ''design or manufacture''; and

(6) redesignate and indent clauses (iii) through

(v) as subparagraphs (A) through (C), respectively.

In section 4(5), strike subparagraph (B).

In section 4, strike paragraphs (6) and (8) and redesignate paragraph (7) as paragraph (6).

The CHAIRMAN pro tempore. Pursuant to House Resolution 181, the gentleman from North Carolina (Mr. WATT) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. WATT).

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

Mr. Chairman, I would say to my colleagues that the effect of this amendment would be to limit the application of this bill to manufacturers only.

As I said during the brief debate that we had in the committee, the Committee on the Judiciary, on this bill, there are, in fact, some manufacturers who are attempting to address concerns that the public has about gun safety. Some of them are trying to develop safety locks. Some are trying to develop computerized techniques for ownership identification.

If there is a rationale for this bill, which I do not believe there is, the rationale would be to reward those manufacturers who are acting responsibly. Unfortunately, the effect of this bill will be to reward them and incentivize them to act irresponsibly. I think that is a very, very unfortunate consequence of this bill.

On the other hand, most of the outrageous stories that we hear about irresponsibility are not necessarily about the manufacturers of guns; they are about dealers and sellers who refuse to acknowledge anything other than their own profit motives. They want, when someone walks into their store, when somebody walks into their pawnshop, when somebody approaches them with some money, they want that money and they do not care what happens after that. We have heard example after example after example of that kind of irresponsibility on the part of dealers.

Now, it is unfortunate that this bill covers not only manufacturers, it covers dealers, sellers, importers, the whole range of providers that put these guns into the stream of commerce. If there is any rationale for the bill, it is for the manufacturers.

I do not think we ought to be excusing irresponsible dealers, such as the dealer who ignored the frequent disappearance of guns from his inventory. One of hundreds of missing guns, which were never reported missing despite having been prominently displayed in the store, ends up being used in the sniper attacks in Washington. This bill would immunize that dealer from liability. That is irresponsible.

Mr. Chairman, let us have a debate about those manufacturers who are being responsible. I applaud their activities. Perhaps we could make a reasonable argument that they should be immunized from liability because they are making a product that is legal. I have heard that argument. I do not subscribe to it, but at least it has some credibility to it. But when we start immunizing everybody in the stream of commerce regardless of how responsible or irresponsible they are, that is where I draw the line.

Mr. Chairman, I would encourage a ''yes'' vote on my amendment, which limits the impact of this bill to manufacturers only.

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

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

The CHAIRMAN pro tempore. The gentleman from Utah (Mr. CANNON) is recognized for 10 minutes.

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

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

Mr. Chairman, the Watt amendment strikes language throughout the bill protecting dealers and importers of firearms, as well as trade associations. Under the amendment of the gentleman from North Carolina (Mr. WATT), only firearms manufacturers would receive protection from lawsuits based on criminal misuse of their product by a third party. This amendment would gut the bill and the firearms industry.

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

Mr. WELDON of Florida. Mr. Chairman, I thank the gentleman for yielding time to me.

As one of the 250 cosponsors of H.R. 1036, the Protection of Lawful Commerce in Arms Act, I rise in strong support of this bill and against this amendment.

The right of law-abiding citizens to purchase and own firearms is guaranteed in the second amendment. Those behind these lawsuits have one aim, and that is to undermine the guarantee in the Bill of Rights.

As we speak, anti-second amendment organizations are shopping around for sympathetic judges who will be willing to rule that firearms manufacturers are liable for individuals using guns in the commission of crimes. While virtually every lawsuit brought against gun manufacturers has been thrown out of court, it is only a matter of time until a liberal judge, sympathetic to the anti-second amendment lobby, rules in their favor.

The aim of these suits is to tie up firearms manufacturers in court and raise the cost of firearms to those who purchase them legally. The only end result of these lawsuits would be a larger underground market in firearms.

Defenders in these lawsuits will say it is about justice for crime victims. The true impetus behind these lawsuits, however, is to bypass the Congress, the will of the American people, and to enact de facto gun control by using the courts.

Gun control advocates have come to realize that they have very little chance of moving their anti-second amendment agenda through Congress, so they have turned to excessive lawsuits and the courts. This legislation not only will not protect gun distributors who do not follow the strict laws regarding firearms; it will also not protect manufacturers that sell defective products. It merely protects firearms manufacturers who are abiding by the law from frivolous lawsuits designed to bankrupt legal, law-abiding gun manufacturers.

No one would think of holding GM responsible for an accident caused by a drunk driver, or Louisville Slugger responsible for someone using a baseball bat in the commission of a crime. So why should law-abiding firearms manufacturers be punished for criminals using their products illegally?

Mr. WATT. Mr. Chairman, I yield 2½ minutes to the gentleman from Illinois (Mr. RUSH).

Mr. RUSH. Mr. Chairman, I want to thank the gentleman for yielding time to me. I rise to support the Watt amendment and to oppose passage of the irresponsible and shameful underlying bill.

Mr. Chairman, I fully understand that many sponsors of this bill have progun constituents who have been unrelenting in their blind fight to preserve and to expand their ability to bear arms.

I can appreciate the willingness of any Representative to consider the interests of his or her constituents. But, Mr. Chairman, what I cannot appreciate is the willingness of some to support legislation that so maliciously attacks the will of my constituents to bring legitimate actions before their individual State courts.

What I cannot appreciate is the unwillingness of the majority to allow consideration of amendments at committee. It is appalling and shameful that a bill which may have such far-reaching consequences for so many did not enjoy the consideration that it deserves. And what I cannot appreciate is the emboldened eagerness of some Representatives to sponsor legislation that so clearly places the special interests of the gun lobby ahead of the vital interests of the American people.

Mr. Chairman, I am aware that the sponsors of this bill closed the so-called ''negligent entrustment'' loophole. But if this bill is passed, no supporter, and I repeat, no supporter should walk away believing that the tragedies committed and contemplated under the original bill will not happen under this one.

I would ask the Members of this body to consider the case of an Illinois gun dealer who should have known that 72 mostly identical guns that he sold to an unlicensed gun trafficker were not for personal use. One of those guns was used by Benjamin Smith, a white supremacist who drove through Chicago and Indiana, randomly shooting blacks and Jews, including former Northwestern University basketball coach Ricky Byrdsong.

Indeed, Mr. Speaker, if this bill passes, we in Congress will be no better than the unscrupulous and irresponsible gun dealer who turned a blind eye to the violence and mayhem that his actions ultimately caused.

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

Mr. Chairman, in response to the gentleman from Illinois (Mr. RUSH), who calls this bill irresponsible and shameful, let me just point out that a gun dealer who does wrong things is still going to be liable under this bill. A very large majority of Members of this body have already cosponsored the bill, just in refutation.

Mr. Chairman, I yield 1 minute to the gentlewoman from Wyoming (Mrs. CUBIN).

□ 1515

Mrs. CUBIN. Mr. Chairman, I would like to point out that the laws we have in existence today are very, very adequate to take care of all the situations that have been brought up by Members on the other side if they are enforced.

The changes that need to be made in this country are to do things like to fund drug treatment programs, to fund the war on drugs, to help single parents be able to find time to give guidance to their children, to have doctors not be afraid to ask their patients if they have guns in their house, and if they have guns in their house, how do they store them. They ask every other health care issue about patients.

We need to change our society, and we need to acknowledge that gun ownership is not an unhealthy thing, but what is unhealthy is not enforcing the laws that we have on the books right now; and the laws that we have are totally adequate.

I urge my fellow Members to reject this amendment and support this bill and protect our second amendment rights.

Mr. WATT. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Chairman, I would like to thank the gentleman from North Carolina (Mr. WATT) for yielding me time.

As I sat here on the floor today, the spirit and the greatness of great trial

judges and great trial lawyers have been disparaged by a claim that we are just seeking dollars on behalf of our constituents and our clients.

I would say I support the amendment of the gentleman from North Carolina (Mr. WATT) because it does, in fact, limit the responsibility against manufacturers of guns and those who have made steps to cure the dilemma or the difficulty or the dangerousness of guns. But I would suggest that if the laws are sufficient, then give trial judges and give trial lawyers the ability to bring their claims on behalf of their clients and let us proceed as we have done. I support the Watt amendment.

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

Mr. Chairman, in response to the gentlewoman from Ohio (Mrs. JONES), this is not about trial lawyers and their profits. That would come under the rubric maybe of asbestos where they are taking huge returns compared to the minor returns that the individuals are taking.

Mrs. JONES of Ohio. Mr. Chairman, will the gentleman yield?

Mr. CANNON. I yield to the gentlewoman from Ohio.

Mrs. JONES of Ohio. Mr. Chairman, I am only responding to the statement of another Member that disparaged the faith and loyalty of trial lawyers on the floor just before I got up.

Mr. CANNON. Reclaiming my time, this is not a bill that deals with that issue, let me point out for clarifications purposes, but it is about people who would destroy an industry using the thousand cuts of litigation.

Mr. John Coale, one of the personal injury lawyers suing the firearms industry, told The Washington Post: ''The legal fees alone are enough to bankrupt the industry.'' That is what is going on that we are trying to deal with here with this legislation.

Mr. Chairman, I yield 3¼ minutes to the gentleman from Florida (Mr. STEARNS), the author of the underlying bill.

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

Mr. STEARNS. Mr. Chairman, I thank my colleague from Utah (Mr. CANNON) for yielding me time.

Let me say to my colleagues that the grievances that you have perhaps with the way the rule was developed or the procedure is really not a reason to vote against this bill. And I rise against the Watt amendment.

Local dealers or distributors are often sued simply to prevent removal of a case to a Federal court. Should trade associations be sued under conspiracy theories of industry behavior? I mean, that would create a chilling effect on advocacy of their membership, their interests, their activity, which is clearly protected by the first amendment.

The Watt amendment would allow them to be sued, local dealers, trade association. So I think it is clear, the Watt amendment would actually hurt the bill.

Let me call your attention as we conclude this debate to my chart here which shows that 31 States have recognized the absurdity of these lawsuits which are no different from the ridiculous lawsuits we saw filed against many other cases including the food industry. The goal is to cease this attempt at regulation through lawsuits, and that is why these 31 State passed pretty much the same bill that we have here on the floor today.

The second chart I will show you examples where cases are dismissed. This is just one of many charts I could have up here, 30 or 40 cases. For example, in Bridgeport where 21 manufacturers and distributors and 12 dealers and three were sued for negligent distribution, deceptive advertising, defective design, nuisance, conspiracy and unjust enrichment, unjust enrichment. Now, they proceeded but when they got not too far along, they were dismissed. And the Supreme Court of Connecticut affirmed that.

So I would say to all my colleagues that the States have recognized this, and that is why there are 31 States that have supported the language in this bill.

Let me just read what the judge in the lawsuit against the firearm industry in the City of Bridgeport said. What has happened here, the people who are suing ''have envisioned the dawning of a new age of litigation.'' A new age of litigation, during which the gun industry, the liquor industry, the purveyors of junk food would follow the tobacco industry in reimbursing government expenditures. So taxpayers would have to pay at the local level, at the municipal level, at the State level to sue gun dealers, associations, gun manufacturers, all on the basis of unjust enrichment, deceptive advertising.

So I conclude, I believe this bill is responsible. Attempting to bankrupt a legal American industry through junk lawsuits is not. This bill protects legal actors while allowing suits to continue against those who break the law. It is a good balance, a fair bill; and I urge its passage.

The CHAIRMAN pro tempore (Mr. QUINN). The Chair would remind Members that the gentleman from North Carolina (Mr. WATT) has 2½ minutes remaining. The gentleman from Utah (Mr. CANNON) has 1¾ minutes remaining, and the gentleman from Utah reserves the right to close.

The Chair recognizes the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Chairman, I am prepared to close if the gentleman does not have other speakers.

The CHAIRMAN pro tempore. Does the gentleman from Utah (Mr. CANNON) have further speakers?

Mr. CANNON. Mr. Chairman, I have one further speaker, and then I will close.

Mr. Chairman, I yield 30 seconds to the gentlewoman from Colorado (Mrs. MUSGRAVE).

Mrs. MUSGRAVE. Mr. Chairman, I rise in opposition to this amendment.

This amendments paints all dealers with a very broad brush. In fact, every one of us knows that all retail gun sales are subject to a Federal criminal background check, either directly by the FBI or by a system that the individual States use. If a dealer violates any Federal or State law on gun sales, it loses its protection under this bill. If retailers are sued out of business, the protection for the manufacturers would be absolutely meaningless. This is a blatant attack on our second amendment rights and on our law-abiding citizens.

The CHAIRMAN pro tempore. The gentleman from North Carolina (Mr. WATT) has 2½ minutes remaining.

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

Mr. Chairman, let me say that if we want to protect dealers simply because they comply with the letter of the law, even though they know that they are making irresponsible decisions such as in the case of the officer, Officer Lemongello, who was shot by a gun that was sold by a dealer, they did follow all of the black letter of the law; but at the same time they knew that they were selling the guns not to the person who bought them, to the female person who bought the guns, but to the male person who was in there selecting the guns and identifying them. And they were so concerned that as soon as they walked out of the store they called ATF and said we have done something irresponsible, even though they had complied with the law.

Now, all we are trying to do is make dealers and everybody throughout the process be responsible. And if we want to immunize that kind of conduct, then, I mean, I guess you are going to vote for this bill. Because that is what it does. But I am telling you we are being irresponsible when we do that. And if we really want to reward people who are trying to deal with gun violence, then we cannot keep rewarding dealers who act irresponsibly knowing that they act irresponsibly, importers, sellers. Perhaps there is a rationale for protecting manufacturers who have demonstrated a willingness to try to act responsibly. Some of them are trying to do the trigger lock thing, trying to do computerized identification. I think this bill is going to set them back because basically once we pass this bill, they do not have any incentive to even continue to do that.

But if there is anybody who has a rationale, it perhaps is the manufacturers; and that is what this amendment would do, limit the effects of the bill to the manufacturers. I encourage my colleagues to support the amendment.

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

The CHAIRMAN pro tempore. The gentleman from Utah (Mr. CANNON) has 1¼ minutes remaining, and he has the right to close.

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

Mr. Chairman, I would like to point out we have heard much characterization of the dealer who sold the gun to the person who ended up getting the gun to the criminal who shot Officer Lemongello. Let me point out that if the characterization that has been overwrought and overstated by the opposition is correct, then there is a claim under the law that is not preempted by this bill for Mr. Lemongello to seek redress.

The fact is this bill does not take away the traditional common-law claims for negligent entrustment and violations of law. It only makes it clear that frivolous lawsuits cannot proceed erratically around the country.

Mr. Chairman, I would like to read two quotes to finish up. First of all, let me point out that the industry has been responsible.

When the city of Boston voluntarily dismissed its lawsuit against the firearms industry, they said, ''During litigation the city has learned that the members of the firearm industry have a long-standing commitment to reducing firearm accidents and reducing criminal misuse of firearms.'' And they go on and make further points.

So what is this bill all about? What is the litigation all about that we are trying to deal with in this bill. It is about what John Coale said: ''The legal fees alone are enough to bankrupt the industry.''

What we want to do is protect the industry in America. I urge the Members to vote against this amendment and other amendments and support the underlying bill.

Mr. HASTINGS of Florida. Mr. Chairman, this legislation is part of a gun industry effort to preempt cities and counties across the United States from exercising their legal right to reform dangerous gun industry practices. Worst yet, under the measure, any case pending at the time of enactment would be dismissed. I support the amendment proposed by Representative Watt because it will restore an individual plaintiff's ability to pursue all currently accepted product liability causes of action. Thus, existing gun victims will be allowed to exercise their right to a day in court. It will further the goals of this civilized society, which is based on the rule of law.

There are many examples—from the lawsuit brought because Ford Pintos were exploding to the toxic pollutant cases against Pacific Gas & Electric made famous in the movie ''Erin Brockovich''—that individuals can get justice in a courtroom from the reckless and irresponsible actions of gunmakers and dealers. But if H.R. 1036 is enacted into law without this amendment, cases such as these will immediately after enactment be thrown out of court.

The pending case filed by Pamela Grunow, a resident of Palm Beach County, would also be immediately dismissed. On May 26, 2000, 13-year-old student Nathaniel Brazil shot and killed his language arts teacher Barry Grunow at Lake Worth Middle School, in my district. Pamela Grunow is seeking to hold the distributor of the gun responsible for selling an unreasonably dangerous and defective product. My colleagues, we do not know better than the state governments legislating on this issue, or the judges listening to these lawsuits.

The Majority, encouraged by a forceful and wealthy industry, is pushing Congress to enact a disastrous bill to give gunmakers and dealers extraordinary shelter from liability suits. Without this amendment, gun victims will be harmed by the federal legislature. The Watt amendment will not fix the underlying bill, but will make it more responsible in the short term. I thank the Congressman from North Carolina for his efforts, and I encourage my colleagues to support this amendment.

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

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from North Carolina (Mr. WATT).

The amendment was rejected.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 2 by Mr. SCOTT of Virginia, amendment No. 3 by Ms. LINDA T. SÁNCHEZ of California, amendment No. 4 by Mr. MEEHAN of Massachusetts.

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

AMENDMENT NO. 2 OFFERED BY MR. SCOTT OF VIRGINIA

The CHAIRMAN pro tempore. The pending business is the request for a recorded vote on amendment No. 2 by the gentleman from Virginia (Mr. SCOTT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 148, noes 278, not voting 8, as follows:

[Roll No. 120]

AYES—148

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldwin
Ballance
Becerra
Berman
Bishop (NY)
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Case
Castle
Clay
Clyburn
Conyers
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gutierrez
Harman
Hastings (FL)
Hinojosa
Hoeffel
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kirk
Kleczka
Kucinich
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rangel
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—278

Aderholt
Akin
Alexander
Baca
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berkley
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Chabot
Chocola
Coble
Cole
Collins
Combest
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoekstra
Holden
Hooley (OR)
Hostettler
Hulshof
Hunter
Isakson
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
LaHood
Lampson
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher

Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Sanders
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—8

Berry
Boyd
Houghton
Hyde
Lucas (OK)
McCarthy (MO)
Peterson (PA)
Ryun (KS)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. QUINN) (during the vote). Members would be reminded they have 2 minutes in which to cast their votes.

□ 1548

Messrs. BARTLETT of Maryland, WELDON of Florida, REYNOLDS, BROWN of South Carolina, and BELL changed their vote from ''aye'' to ''no.''

Messrs. KLECZKA, THOMPSON of California, VISCLOSKY, and KIRK changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. QUINN). Pursuant to clause 6 of rule XVIII, the remainder of this series will all be conducted as 5-minute votes.

AMENDMENT NO. 3 OFFERED BY MS. LINDA T. SÁNCHEZ OF CALIFORNIA

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from California (Ms. LINDA T. SÁNCHEZ) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

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

A recorded vote was ordered.

The CHAIRMAN pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 134, noes 289, not voting 11, as follows:

[Roll No. 121]

AYES—134

Abercrombie
Ackerman
Allen
Andrews
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Bishop (NY)
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Case
Clay
Clyburn
Conyers
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
Deutsch
Dicks
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank (MA)
Gephardt
Grijalva
Gutierrez
Hastings (FL)
Hoeffel
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kucinich
Langevin
Lantos
Larson (CT)
Lee
Levin
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (NC)
Miller, George
Moran (VA)
Nadler
Napolitano
Neal (MA)
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Ramstad
Rangel
Rothman
Roybal-Allard
Ruppersberger
Rush
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Schakowsky
Schiff
Scott (VA)
Serrano
Shays
Sherman
Slaughter
Solis
Spratt
Stark
Tauscher
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—289

Aderholt
Akin
Alexander
Baca
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Combest
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLauro
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley (OR)
Hostettler
Hulshof
Hunter
Isakson
Issa
Istook
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Larsen (WA)
Latham
LaTourette
Leach
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (OH)
Ryan (WI)
Sanders
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—11

Boyd
Cooper
Houghton
Hyde
Lewis (CA)
Lewis (GA)
Lucas (OK)
McCarthy (MO)
Meeks (NY)
Peterson (PA)
Ryun (KS)

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members will be reminded there are 2 minutes remaining in this vote. Two minutes, please.

□ 1556

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Ms. DELAURO. Mr. Chairman, I inadvertently voted ''no'' on rollcall vote No. 121 today. I would like the RECORD to reflect that I intended to vote ''aye.''

AMENDMENT NO. 4 OFFERED BY MR. MEEHAN

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 4 offered by the gentleman from Massachusetts (Mr. MEEHAN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

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

A recorded vote was ordered.

The CHAIRMAN pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 144, noes 280, not voting 10, as follows:

[Roll No. 122]

AYES—144

Abercrombie
Ackerman
Allen
Andrews
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Bishop (NY)
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin

Carson (IN)
Case
Castle
Clay
Clyburn
Conyers
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Doggett
Doyle
Emanuel
Engel
Eshoo
Evans
Farr
Fattah
Filner
Frank (MA)
Frost
Gephardt
Gonzalez
Grijalva
Gutierrez
Gutknecht
Harman
Hastings (FL)
Hinchey
Hoeffel
Holt
Honda
Hooley (OR)
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kennedy (RI)
Kildee
Kilpatrick
King (NY)
Kleczka
Kucinich
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rangel
Rothman
Roybal-Allard
Rush
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Schakowsky
Schiff
Scott (VA)
Serrano
Shays
Sherman
Slaughter
Smith (WA)
Snyder
Stark
Tauscher
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—280

Akin
Alexander
Baca
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Chabot
Chocola
Coble
Cole
Collins
Combest
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Etheridge
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Hoyer
Hulshof
Hunter
Isakson
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Sanders
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—10

Aderholt
Boswell
Boyd
Houghton
Hyde
Lucas (OK)
McCarthy (MO)
Peterson (PA)
Ryun (KS)
Solis

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. QUINN) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1604

Mr. KELLER changed his vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. SENSENBRENNER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SIMPSON) having assumed the chair, Mr. QUINN, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1036) to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others, had come to no resolution thereon.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 4 o'clock and 5 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1708

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. GILCHREST) at 5 o'clock and 8 minutes p.m.

EXTENDING AVAILABILITY OF CONTINUING EXPENSES OF STANDING AND SELECT COMMITTEES OF HOUSE THROUGH MAY 9, 2003

Mr. NEY. Mr. Speaker, I ask unanimous consent for the immediate consideration of the resolution (H. Res. 185) extending the period of availability of amounts for continuing expenses of standing and select committees of the House through May 9, 2003.

The Clerk read the title of the resolution.

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

Mr. LARSON of Connecticut. Reserving the right to object, Mr. Speaker, we have no objection. We are in concurrence.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 185

Resolved, That House Resolution 163 (agreed to March 26, 2003) is amended by striking ''April 11, 2003'' and inserting ''May 9, 2003''.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROTECTION OF LAWFUL COMMERCE IN ARMS ACT

The SPEAKER pro tempore. Pursuant to House Resolution 181 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1036.

□ 1710

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1036) to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others, with Mr. BASS (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, amendment No. 4 printed in House Report 108–64 offered by the gentleman from Massachusetts (Mr. MEEHAN) had been disposed of.

No further amendment being in order, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GILCHREST) having assumed the chair, Mr. BASS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1036) to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others, pursuant to House Resolution 181, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

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

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

MOTION TO RECOMMIT OFFERED BY MR. WATT

Mr. WATT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. WATT. Mr. Speaker, I am, indeed.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. WATT of North Carolina moves to recommit the bill H.R. 1036 to the Committee on the Judiciary with instructions to report the same to the House forthwith with the following amendments:

In section 3—

(1) strike ''(a) IN GENERAL.—''; and

(2) strike subsection (b).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. WATT) is recognized for 5 minutes in support of his motion to recommit.

Mr. WATT. Mr. Speaker, the section that the motion to recommit would strike is section 3(b) of the bill, which reads as follows: ''A qualified civil liability action that is pending on the date of the enactment of this act shall be dismissed immediately by the court in which the action was brought or is currently pending.''

The effect of that language is to make this bill not only applicable to what happens from today forward or from the passage and enactment of the bill forward, but to make it have retrospective impact.

We estimate that there are upwards of 300 pending lawsuits in various stages throughout the country. Those lawsuits were filed by plaintiffs thinking that the state of the law was as it existed prior to this bill being enacted, if in fact it is. So the effect of the bill would be to an ex post facto law, which we think would make the bill unconstitutional; but even if it did not make it unconstitutional, would certainly make it unfair to people who have filed their lawsuits in court and, in some cases, have proceeded with trial.

Some of those cases are on appeal. This bill would require their dismissal, whether they are in discovery, whether they had just filed a complaint, whether they had gone through the trial process, or whether they are pending in the Court of Appeals. They may be pending in the United States Supreme Court. This bill would say those cases would have to be dismissed.

Mr. Speaker, I would submit that neither the committee, the Committee on the Judiciary, nor this House has done any evaluation of those pending lawsuits.

□ 1715

There have been no hearings about what they entail. We do know that one of them that would be involved involves a police officer by the name of Lemongello who testified at the hearing that we had on this bill, and his lawsuit would be one of those that would be dismissed.

The facts of his case indicate that he was the victim of a gun shot by an individual, who a dealer sold the gun to a female companion of that individual, knowing full well that the gun was not to be used by that female companion. And as soon as they got out the door with the gun, they were so suspicious of what was going on, they had immediately called the ATF about that.

We think that the sniper case that is pending would be in jeopardy of being dismissed by this lawsuit by this bill if this amendment or motion to recommit is not adopted. And even my colleagues last year when this bill was being advanced through the House, upon recognizing what was going on in our community with the sniper incidents, said we are not going to consider this bill at this time. But here we are a year later saying that we are going to pass a bill that could eliminate potential civil liability on the part of the dealer, who should have known that the gun that was out there which they were not keeping accurate track of in their inventory, should have known that that gun was being distributed and sold, and that case would probably be dismissed.

There are a number of other instances where cases would be dismissed if this bill goes forward in its current form. It is unseemly that this House would pass a bill that would have retroactive effect. It is one thing to say, okay, today, starting today we are putting you on notice that this is the law from this point forward. It is entirely another thing to say to people who have filed their lawsuits that the law is one thing that we are going to change and make this bill retroactive to you. I ask for my colleagues to support the motion to recommit.

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the motion.

Mr. Speaker, the motion to recommit guts the entire bill by preventing the dismissal of pending lawsuits. Much of the harm this bill addresses is caused by pending lawsuits.

The Supreme Court has held that Congress can require that pending lawsuits can be dismissed if it is pursuant to a national economic policy. A bill that aims to save the national firearms industry from bankruptcy due to pending lawsuits is an enactment pursuant to a national economic policy. Certainly saving an industry from bankruptcy that is essential to preserving a constitutionally protected right to bear arms under Congress's Commerce Clause authority is constitutional. If this motion to recommit passes, all that would happen is that hundreds of additional cases would be filed right before the date of enactment. This motion to recommit would therefore make the current situation much worse and further endanger all of our fundamental rights to bear arms. I urge a ''no'' vote on the motion to recommit.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore (Mr. GILCHREST). The question is on the motion to recommit.

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

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

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

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, this will be a 15-minute vote on the motion to recommit, and it will be followed by a 5-minute vote on final passage and by 5-minute votes on the motions to suspend the rules and adopt House Resolution 170 and House Resolution 149, which were debated yesterday.

The vote was taken by electronic device, and there were—yeas 140, nays 282, not voting 12, as follows:

[Roll No. 123]

YEAS—140

Abercrombie	Brady (PA)	Crowley
Ackerman	Brown (OH)	Cummings
Allen	Brown, Corrine	Davis (CA)
Andrews	Capps	Davis (FL)
Baldwin	Capuano	DeGette
Ballance	Cardin	Delahunt
Becerra	Carson (IN)	DeLauro
Berkley	Case	Deutsch
Berman	Clay	Dicks
Bishop (NY)	Clyburn	Doggett
Blumenauer	Conyers	Doyle

Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Grijalva
Gutierrez
Hastings (FL)
Hoeffel
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kucinich
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Obey
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Price (NC)
Rangel
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Slaughter
Solis
Spratt
Stark
Tauscher
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—282

Aderholt
Akin
Alexander
Baca
Bachus
Baird
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Castle
Chabot
Chocola
Coble
Collins
Combest
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Isakson
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Sanders
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—12

Baker
Boyd
Cole
Davis (IL)
Gephardt
Houghton
Hyde
Lucas (OK)
McCarthy (MO)
Pascrell
Platts
Ryun (KS)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GILCHREST) (during the vote). There are 2 minutes remaining in this vote.

□ 1739

Mrs. NORTHUP and Messrs. RADANOVICH, SHAYS, GILLMOR, and LATOURETTE changed their vote from ''yea'' to ''nay.''

Mr. MEEKS of New York changed his vote from ''nay'' to ''yea.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. COLE. Mr. Speaker, on rollcall No. 123, I was unavoidably detained. Had I been present, I would have voted ''nay.''

Mr. PLATTS. Mr. Speaker, on rollcall No. 123, I was unavoidably detained. Had I been present, I would have voted ''nay.''

The SPEAKER pro tempore. The question is on the passage of the bill.

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

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

The yeas and nays were ordered.

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

The vote was taken by electronic device, and there were—yeas 285, nays 140, not voting 9, as follows:

[Roll No. 124]

YEAS—285

Aderholt
Akin
Alexander
Baca
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Chabot
Chocola
Coble
Cole
Collins
Combest
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Etheridge
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Isakson
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (OH)
Ryan (WI)
Sanders
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—140

Abercrombie
Ackerman
Allen
Andrews
Baldwin
Ballance
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Case
Castle
Clay
Clyburn

Conyers
Crowley
Cummings
Davis (CA)
Davis (FL)
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Doggett
Doyle
Emanuel
Engel
Eshoo
Evans
Farr
Fattah
Filner
Frank (MA)
Frost
Gonzalez
Grijalva
Gutierrez
Harman
Hastings (FL)
Hinchey
Hoeffel
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kucinich
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Price (NC)
Rothman
Roybal-Allard
Ruppersberger
Rush
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Schakowsky
Schiff
Scott (VA)
Serrano
Shays
Sherman
Slaughter
Snyder
Solis
Stark
Tauscher
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—9

Boyd
Davis (IL)
Gephardt
Houghton
Hyde
Lucas (OK)
McCarthy (MO)
Rangel
Ryun (KS)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes left in this vote.

□ 1748

Ms. HARMAN changed her vote from ''yea'' to ''nay.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Ms. CORRINE BROWN of Florida. Mr. Speaker, on rollcall vote No. 124 I voted ''yea,'' and I am a definite ''nay.''

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GILCHREST). 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:

House Resolution 170, by the yeas and nays; and

House Resolution 149, by the yeas and nays.

RECOGNIZING THE 40TH ANNIVERSARY OF THE SINKING OF THE U.S.S. THRESHER

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, House Resolution 170.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Hampshire (Mr. BRADLEY) that the House suspend the rules and agree to the resolution, House Resolution 170, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 423, nays 0, not voting 11, as follows:

[Roll No. 125]

YEAS—423

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
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
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
Dingell
Doggett
Dooley (CA)
Doolittle
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
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
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
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
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
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
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
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
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)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
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)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—11

Boyd
Gephardt
Houghton
Hyde
Lipinski
Lucas (OK)
Matsui
McCarthy (MO)
Petri
Ryun (KS)
Taylor (NC)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes left in this vote.

□ 1755

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.

EXPRESSING THE CONDOLENCES OF THE HOUSE OF REPRESENTATIVES IN RESPONSE TO THE ASSASSINATION OF PRIME MINSTER ZORAN DJINDJIC OF SERBIA

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, House Resolution 149.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nebraska (Mr. BEREUTER) that the House suspend the rules and agree to the resolution, House Resolution 149, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 425, nays 1, not voting 8, as follows:

[Roll No. 126]

YEAS—425

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
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
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
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
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
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
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)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
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
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
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)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
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)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—8

Boyd
Feeney
Gephardt
Houghton
Hyde
Lucas (OK)
McCarthy (MO)
Ryun (KS)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GILCHREST) (during the vote). Members are advised 2 minutes remain to vote.

□ 1803

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.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair announces that he 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.

And record votes on postponed questions will be taken tomorrow.

ARMED FORCES TAX FAIRNESS ACT OF 2003

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1664) to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes.

The Clerk read as follows:

H.R. 1664

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

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the ''Armed Forces Tax Fairness Act of 2003''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. SPECIAL RULE FOR MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE IN DETERMINING EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Subsection (d) of section 121 of the Internal Revenue Code of 1986 (relating to exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

''(10) MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE.—

''(A) IN GENERAL.—At the election of an individual with respect to a property, the running of the 5-year period referred to in subsections (a) and (c)(1)(B) and paragraph (7) of this subsection with respect to such property shall be suspended during any period that such individual or such individual's spouse is serving on qualified official extended duty as a member of the uniformed services or of the Foreign Service.

''(B) MAXIMUM PERIOD OF SUSPENSION.—Such 5-year period shall not be extended more than 5 years by reason of subparagraph (A).

''(C) QUALIFIED OFFICIAL EXTENDED DUTY.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified official extended duty' means any extended duty while serving at a duty station which is at least 150 miles from such property or while residing under Government orders in Government quarters.

''(ii) UNIFORMED SERVICES.—The term 'uniformed services' has the meaning given such term by section 101(a)(5) of title 10, United States Code, as in effect on the date of the enactment of this paragraph.

''(iii) FOREIGN SERVICE.—The term 'member of the Foreign Service' has the meaning given the term 'member of the Service' by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980, as in effect on the date of the enactment of this paragraph.

''(iv) EXTENDED DUTY.—The term 'extended duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 180 days or for an indefinite period.

''(D) SPECIAL RULES RELATING TO ELECTION.—

''(i) ELECTION LIMITED TO 1 PROPERTY AT A TIME.—An election under subparagraph (A) with respect to any property may not be made if such an election is in effect with respect to any other property.

''(ii) REVOCATION OF ELECTION.—An election under subparagraph (A) may be revoked at any time.''.

(b) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendment made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 3. RESTORATION OF FULL EXCLUSION FROM GROSS INCOME OF DEATH GRATUITY PAYMENT.

(a) IN GENERAL.—Paragraph (3) of section 134(b) (relating to qualified military benefit) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR DEATH GRATUITY ADJUSTMENTS MADE BY LAW.—Subparagraph (A) shall not apply to any adjustment to the amount of death gratuity payable under chapter 75 of title 10, United States Code, which is pursuant to a provision of law enacted before December 31, 1991.''.

(b) CONFORMING AMENDMENT.—Section 134(b)(3)(A) is amended by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to deaths occurring after September 10, 2001.

SEC. 4. EXCLUSION FOR AMOUNTS RECEIVED UNDER DEPARTMENT OF DEFENSE HOMEOWNERS ASSISTANCE PROGRAM.

(a) IN GENERAL.—Subsection (a) of section 132 (relating to certain fringe benefits) is amended by striking ''or'' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting '', or'' and by adding at the end the following new paragraph:

''(8) qualified military base realignment and closure fringe.''.

(b) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.—Section 132 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.—

''(1) IN GENERAL.—For purposes of this section, the term 'qualified military base realignment and closure fringe' means 1 or more payments under the authority of section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) (as in effect on the date of the enactment of this subsection).

''(2) LIMITATION.—With respect to any property, such term shall not include any payment referred to in paragraph (1) to the extent that the sum of all such payments related to such property exceeds the amount described in clause (1) of subsection (c) of such section (as in effect on such date).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 5. EXPANSION OF COMBAT ZONE FILING RULES TO CONTINGENCY OPERATIONS.

(a) IN GENERAL.—Subsection (a) of section 7508 (relating to time for performing certain acts postponed by reason of service in combat zone) is amended—

(1) by inserting ''or when deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) or which became such a contingency operation by operation of law'' after ''section 112'',

(2) by inserting in the first sentence ''or at any time during the period of such contingency operation'' after ''for purposes of such section'',

(3) by inserting ''or operation'' after ''such an area'', and

(4) by inserting ''or operation'' after ''such area''.

(b) CONFORMING AMENDMENTS.—

(1) Section 7508(d) is amended by inserting ''or contingency operation'' after ''area''.

(2) The heading for section 7508 is amended by inserting ''**OR CONTINGENCY OPERATION**'' after ''**COMBAT ZONE**''.

(3) The item relating to section 7508 in the table of sections for chapter 77 is amended by inserting ''or contingency operation'' after ''combat zone''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any period for performing an act which has not expired before the date of the enactment of this Act.

SEC. 6. MODIFICATION OF MEMBERSHIP REQUIREMENT FOR EXEMPTION FROM TAX FOR CERTAIN VETERANS' ORGANIZATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 501(c)(19) (relating to list of exempt organizations) is amended by striking ''or widowers'' and inserting '', widowers, ancestors, or lineal descendants''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 7. CLARIFICATION OF THE TREATMENT OF CERTAIN DEPENDENT CARE ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Subsection (b) of section 134 (defining qualified military benefit) is amended by adding at the end the following new paragraph:

''(4) CLARIFICATION OF CERTAIN BENEFITS.—For purposes of paragraph (1), such term includes any dependent care assistance program (as in effect on the date of the enactment of this paragraph) for any individual described in paragraph (1)(A).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 134(b)(3)(A) (as amended by section 102) is further amended by inserting ''and paragraph (4)'' after ''subparagraphs (B) and (C)''.

(2) Section 3121(a)(18) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(3) Section 3306(b)(13) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(4) Section 3401(a)(18) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 8. CLARIFICATION RELATING TO EXCEPTION FROM ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS, ETC., ON ACCOUNT OF ATTENDANCE AT MILITARY ACADEMY.

(a) IN GENERAL.—Subparagraph (B) of section 530(d)(4) (relating to exceptions from additional tax for distributions not used for educational purposes) is amended by striking ''or'' at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

''(iv) made on account of the attendance of the designated beneficiary at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy, to the extent that the amount of the payment or distribution does not exceed the costs of advanced education (as defined by section 2005(e)(3) of title 10, United States Code, as in effect on the date of the enactment of this section) attributable to such attendance, or''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect for taxable years beginning after December 31, 2002.

SEC. 9. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT TRAVEL EXPENSES OF NATIONAL GUARD AND RESERVE MEMBERS.

(a) DEDUCTION ALLOWED.—Section 162 (relating to certain trade or business expenses) is amended by redesignating subsection (p) as subsection (q) and inserting after subsection (o) the following new subsection:

''(p) TREATMENT OF EXPENSES OF MEMBERS OF RESERVE COMPONENT OF ARMED FORCES OF THE UNITED STATES.—For purposes of subsection (a)(2), in the case of an individual who performs services as a member of a reserve component of the Armed Forces of the United States at any time during the taxable year, such individual shall be deemed to be away from home in the pursuit of a trade or business for any period during which such individual is away from home in connection with such services.''.

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ELECTS TO ITEMIZE.—Paragraph (2) of section 62(a) (relating to certain trade and business deductions of employees) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN EXPENSES OF MEMBERS OF RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—The deductions allowed by section 162 which consist of expenses, determined at a rate not in excess of the rates for travel expenses (including per diem in lieu of subsistence) authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, and not in excess of $1,500, paid or incurred by the taxpayer in connection with the performance of services by such taxpayer as a member of a reserve component of the Armed Forces of the United States for any period during which such individual is more than 100 miles away from home in connection with such services.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.

SEC. 10. TAX RELIEF AND ASSISTANCE FOR FAMILIES OF ASTRONAUTS WHO LOSE THEIR LIVES ON A SPACE MISSION.

(a) INCOME TAX RELIEF.—

(1) IN GENERAL.—Subsection (d) of section 692 (relating to income taxes of members of Armed Forces and victims of certain terrorist attacks on death) is amended by adding at the end the following new paragraph:

''(5) RELIEF WITH RESPECT TO ASTRONAUTS.—The provisions of this subsection shall apply to any astronaut whose death occurs while on a space mission, except that paragraph (3)(B) shall be applied by using the date of the death of the astronaut rather than September 11, 2001.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 5(b)(1) is amended by inserting '', astronauts,'' after ''Forces''.

(B) Section 6013(f)(2)(B) is amended by inserting '', astronauts,'' after ''Forces''.

(3) CLERICAL AMENDMENTS.—

(A) The heading of section 692 is amended by inserting ''**, ASTRONAUTS,**'' after ''**FORCES**''.

(B) The item relating to section 692 in the table of sections for part II of subchapter J of chapter 1 is amended by inserting '', astronauts,'' after ''Forces''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to any astronaut whose death occurs after December 31, 2002.

(b) DEATH BENEFIT RELIEF.—

(1) IN GENERAL.—Subsection (i) of section 101 (relating to certain death benefits) is amended by adding at the end the following new paragraph:

''(4) RELIEF WITH RESPECT TO ASTRONAUTS.—The provisions of this subsection shall apply to any astronaut whose death occurs while on a space mission.''.

(2) CLERICAL AMENDMENT.—The heading for subsection (i) of section 101 is amended by inserting ''OR ASTRONAUTS'' after ''VICTIMS''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid after December 31, 2002, with respect to deaths occurring after such date.

(c) ESTATE TAX RELIEF.—

(1) IN GENERAL.—Subsection (b) of section 2201 (defining qualified decedent) is amended by striking ''and'' at the end of paragraph (1)(B), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) any astronaut whose death occurs while on a space mission.''.

(2) CLERICAL AMENDMENTS.—

(A) The heading of section 2201 is amended by inserting ''**, DEATHS OF ASTRONAUTS,**'' after ''**FORCES**''.

(B) The item relating to section 2201 in the table of sections for subchapter C of chapter 11 is amended by inserting '', deaths of astronauts,'' after ''Forces''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to estates of decedents dying after December 31, 2002.

SEC. 11. PROTECTION OF SOCIAL SECURITY.

The amounts transferred to any trust fund under title II of the Social Security Act shall be determined as if this Act (other than this section) had not been enacted.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. THOMAS) and the gentleman from Maryland (Mr. CARDIN) each will control 20 minutes.

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

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

Mr. Speaker, I am a firm believer that no bill should pass this House until it is ready. I am prepared to tell the House this bill is more than ready. It passed twice last year, and the Senate failed to act. As recently as March 20 of this year, the bill, in its current form save a technical correction, passed as H.R. 1307. That vote was 422–0.

H.R. 1664 is in its current form virtually, as I said, except for technical correction, in the same form as H.R. 1307. There are two modifications that we are adding to this bill based upon discussions with the Senate so that the good and worthy purposes contained in this bill which no one has challenged can go to the President for his long-overdue signature.

The two provisions which the Chair believes, if added to this bill, will initiate a process in the Senate which will move the bill immediately to the floor of the Senate; and this version which passes the House, when it passes, will move through the Senate without the need for a conference. The two provisions that we are adding is that in the special rule provided for military personnel to determine if they have met the 24 months out of 5-year residency to trigger the capital gain exclusion on a home sale, would be extended to members of the foreign service.

Secondly, the underlying benefits of the bill, the income and estate tax relief provisions that were provided, for example, for the victims of terrorism in the Tax Relief Act of 2002, would be extended to astronauts who lose their lives during a space mission; and, of course, that would apply to those astronauts who unfortunately lost their lives during the recent Columbia Shuttle disaster.

Adding those two provisions, which I do not believe are controversial, to the underlying bill means we can finally, and long overdue, provide these benefits. It means that the history of this bill will be that the House and the Senate agree, and the President is prepared to sign.

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

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

Mr. Speaker, I must admit I am somewhat baffled by the comments of my distinguished chairman. If it is in the interest of this body to enact legislation quickly, then we should just take the Senate bill and ratify the Senate bill and send it to the President, and we can get it signed. It seems to me that is the easiest way for us to work this out for our military.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. CARDIN. I yield to the gentleman from California.

Mr. THOMAS. If the Senate bill were not flawed in several different ways, the suggestion the gentleman makes would be acceptable. I think it is evidence that even the Senate recognizes some fundamental problems when they are willing to accept a bill that we are going to send over, rather than going to a conference.

Mr. CARDIN. Mr. Speaker, I appreciate the gentleman's comments, but the differences here in substance between what we will be voting on and what the other body has voted on is that the Senate provided unlimited exclusions for death benefits payable to our military, and the legislation before us is less generous.

The House bill provides less generous eligibility rules for capital gains relief, and the Senate bill provided unlimited deductions for travel expenses of our National Guard members and Reservists, yet the legislation before us imposes a $1,500 cap on those deductions.

I do not know the logic of us limiting the reasonable expenses of our National Guard members, particularly when they have been called upon in this most recent conflict. It seems to me that those changes in every case work against our military, and I am surprised that we are not ratifying the Senate's bill.

But the most important difference is that the Senate included a provision to stop tax avoidance by those who have renounced their citizenship in this country, and the legislation before us today does not include that provision. I would suggest that is probably the major reason why we are acting on yet another version of this bill, which is extremely important for us to pass.

I agree with the chairman on that point, but it seems to me that we are now faced with the option of providing less benefits than we should to our military and losing an opportunity to close a major loophole in our Tax Code for those who renounce their citizenship, still taking advantage of U.S. tax law.

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

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

Mr. Speaker, I have to tell Members I think we have come full circle. One of the reasons there was so much, I assume, angst on the other side of the aisle was that at one time the bill contained extraneous material. Now the gentleman is complaining that I am not accepting the Senate version of the bill which contains, oh, my goodness, extraneous material. The gentleman knows well that the, quote/unquote, extraneous material has been contained in another bill which is moving on the Senate side and which will become law is a far more appropriate vehicle than this particular measure.

In addition to that, the extraneous material that the gentlemen insists that we agree to, coming from the Senate, is not the solution on the individual expatriation that our own Joint Committee on Taxation recommends is the most appropriate solution.

Mr. CARDIN. Mr. Speaker, will the gentleman yield?

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

Mr. CARDIN. Mr. Speaker, I do not think that it is ever extraneous to try to offset the cost of the bill, and that is the reason this provision was put in, so we do not add to the deficit.

Mr. THOMAS. Mr. Speaker, I must tell the gentleman that offsetting costs with extraneous material is one thing; accepting a solution which our committee that we utilize to recommend

appropriate changes does not believe is the appropriate exchange is another.

The gentleman also pointed out two differences between the House and the Senate bill, and it is true. I understand the gentleman and where his party is coming from. They do not see a problem with absolute, open-ended, unlimited ability to write off expenses. That is just very, very typical.

What we have accepted, by the Senate, are reasonable and appropriate limits. Whenever the phrase ''reasonable and appropriate'' is used, the counterargument always seems to be unlimited. The Senate thinks it is appropriate to accept a reasonable and appropriate, and so do we.

Mr. Speaker, I ask unanimous consent to yield the balance of my time to the gentleman from Texas (Mr. SAM JOHNSON) and that he may control that time.

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

There was no objection.

□ 1815

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

Let me first point out to my distinguished chairman that business people have no limit in the Tax Code as to what they can take on their travel expenses, and yet we are telling our National Guard that there is going to be a limit as to how much they can take on their taxes for travel expenses.

Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. MCDERMOTT), a distinguished member of our committee.

Mr. MCDERMOTT. Mr. Speaker, I thank the gentleman from Maryland (Mr. CARDIN) for yielding me this time.

It is really an honor to have a part in another example of the Republican tax follies. This bill could have been passed weeks and weeks and weeks ago. As we celebrate and are grateful for the fact that the war seems to be winding down in Iraq, the people who have been over there, we have been trying to do this for them for about, I do not know, 3 or 4 or 5 months. First the bill got over in the committee, and we had to add on fishing tackle and a whole bunch of other stuff, and that did not work out here. So it had to go back and come back on a rule, and now it has gone over to the Senate. They have more generous provisions. There is just no question about it. And they also added this provision that would make it a little bit more difficult for people who want to avoid taxes to leave this country, to give up their citizenship. At a time when this country ought to be thinking about sacrifice because we have asked men and women to sacrifice their lives for us, we have people leaving this country saying I do not like this country. I have made a whole bunch of money here, but I do not want to pay any taxes; so I am leaving. And we let them get out of paying taxes for that.

What kind of statement is that to our troops overseas that this Congress will not close the loophole that lets somebody drop their citizenship in order to avoid their taxes? If that is not folly at a time when our deficit is $400 billion this year and going up and we expect the young men and women who are over in Iraq to sacrifice for us but we will sacrifice in terms of taxation even on people who are giving up their citizenship, there is something really weird about this bill. And I certainly know that everybody is going to vote for it.

What is also strange is they say we are going to give the tax benefit to the soldiers and those people, the Marines and whatnot, give it to the State Department; but when we offered an amendment in the House committee for people in the Peace Corps who are out there risking themselves for the United States, they say no. No, not them.

Let us talk about people who are doing a service to this country, which is what this is all about; and yet finally we come out here and of course it is almost the day we pay our taxes. So every year for the last 8 years we have always had the April 15 tax follies, and this is act one and will be followed by act two, which we will get to in a few minutes. But this is a bill that we should have accepted the other body's construction. It is more generous, and it closes an egregious tax loophole.

Mr. CARDIN. Mr. Speaker, I yield back the balance of my time.

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

I would like to say that I too rise in strong support of the Armed Forces Tax Fairness Act of 2003, and today's bill goes to great lengths to help our brave military men and women and their families despite what has been said out there.

I had the distinct honor of serving my country in the Air Force for about 29 years. So my family and I know something about military life. And my wife, Shirley, told me that one her worst moments was when the military chaplain pulled up in front of the house after I was shot down in Vietnam, and her heart just stopped. We never know what they are going to say, but we know it is not going to be good.

I imagine the unspeakable horror of despair and utmost despair of a family who just lost a loved one in the military, only to be followed up by a visit from the taxman. That is just wrong. So this bill fixes that. Let us change it and pass it today.

This bill permits the entire amount of the death benefit gratuity to be tax free. Let us eliminate the unfair, immoral tax on the death benefit a serviceman's survivor receives from the Armed Forces. It is the least we can do. These families have given the ultimate sacrifice for our country. We do not need to take any more from them.

On a more positive note, I would like to thank all those who helped eliminate the penalty on military academy students and their families when it comes to withdrawing funds from a 529 education savings account. The Miesses of Plano brought that to my attention. Now the Plebe, the Zoomie, and the Middy will all have the same benefit of being able to take out money tax free like an athlete on a scholarship.

This is a good bill. This bill is a shining example of democracy at its best, in my opinion. It helps our military now, and they need it; and they are doing a great job.

Mrs. JONES of Ohio. Mr. Speaker, I rise to recognize the passage of S. 351, the United States Senate version of H.R. 1307, as well as what is presented before us at this hour. The new House bill for the Armed Forces Tax Fairness Act of 2003, and the Senate amendment to H.R. 1307, contained several identical provisions. Those identical provisions include exclusion for amounts received under the Defense Homeowners Assistance Program. Expansion of combat zone filing rules, modification of membership requirements for veterans organizations, clarification of treatment of dependent care benefits, treatment of service academy appointments for certain tax benefits, and tax relief for the families of the *Columbia* space shuttle astronauts.

The new House bill provides smaller tax benefits for the military. Both bills provide an exclusion from gross income for death benefits. However, the House bill would tax increased death benefits to the extent that they were the result of legislation enacted after December 31, 1991. The Senate bill does not have that restriction.

Both bills provide more liberal treatment for gain on sale of principal residence by members of the military and foreign service. However, the Senate bill provides the benefits for a longer period. A 10-year extension rather than a 5-year extension.

Both bills provide an above the line deduction for overnight travel expenses of National Guard and reserve members. However, the House bill limits the deduction to $1,500 per year, whereas the Senate bill provides no dollar limit on the deduction.

The Senate bill contains a provision suspending tax-exempt status for terrorist organizations. The House bill contains no such provision.

Furthermore, the cost of the Senate bill is offset, with the largest offset being a provision preventing tax avoidance by individuals renouncing their citizenship in this country. For military death benefits, under current law, a $6,000 death gratuity is paid to the survivors of members of the Armed Forces killed in the line of duty. This death benefit was increased from $3,000 to $6,000 in 1991 during the Persian Gulf War. Prior to the increase, the entire benefit was tax-free; however, because the Tax Code was not changed to reflect the 1991 increase, only the first $3,000 is currently exempt from Federal tax.

Let us—Republicans and Democrats—work to pass a measure that we all can find common ground. Our U.S. Senators have found a way to pass an effective measure for the Armed Forces Tax Fairness Act, let us do the same.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to express my support of H.R.

1664, the Armed Forces Tax Fairness Act of 2003. It has been long overdue that we provide real relief to the men and women who serve in our armed forces. Many of the members of the military are minorities, and this bill will help many in my own 18th Congressional District in Houston. More than 200,000 troops are now being employed to the Persian Gulf. In Houston, many soldiers have been called upon to serve on the front lines.

This bill includes tax benefits for the families of astronauts who die in the line of duty, including those of the space shuttle *Columbia.* It provides National Guard and reservists with a tax deduction of up to $1,500 for transportation, meals and lodging to attend required meetings. This bill also makes tax-free the full $6,000 death gratuity paid to survivors of members of the armed forces killed in the line of duty. The measure also exempts from taxable income amounts received under the Department of Defense's Homeowners Assistance Program, which provides payments to certain employees and members of the armed forces to offset the adverse effects on housing values resulting from military base realignment or closure.

The bill also provides National Guard and reserve members as ''above-the-line'' tax deduction, that is, taken directly from gross income before any itemized or standard deductions for overnight transportation, meals and lodging expenses for member who travel more than 100 miles from home to attend National Guard and Reserve meetings. Under this bill, a member could deduct up to $1,500 in connection with their service.

I am pleased that this bill waives income tax liability for the year of death and the year prior to death for astronauts who die in the line of duty.

Under current law, the time for filing tax returns, paying taxes and other Internal Revenue Service requirements is generally suspended for anyone serving in a combat zone during the period of combatant activities. This bill applies the suspension of tax-filing rules to person deployed outside the United States away from their permanent duty station while participating in an operation designated by the Defense secretary as a ''contingency operation'' or that becomes a contingency operation. This is defined as a military operation designated by the Defense secretary as one in which members of the armed forces are, or may become, involved in military actions, operations or hostilities against an enemy of the United States. This provision will help our armed forces serving in Iraq.

This legislation provides tax relief to the members of our military. Our soldiers are on frontlines, and now as the war with Iraq continues, we are calling upon these men and women to make even greater sacrifices. This bill represents a compromise between the House and Senate versions in order to avoid a conference. I support this legislation to provide immediate tax relief to the members of our armed forces and our veterans.

Studies have shown pay rates in the military consistently lag behind comparable jobs in the private sector. I believe that this legislation would help military families as they struggle like so many to pay basic expenses.

The provisions in this legislation would provide tax breaks on home sales, travel expenses, and death benefits. We have ample tax benefits for corporations, it is time to help our officers and enlisted soldiers in the armed forces.

Now more than ever, it's important to support America's top-notch armed forces. I've always believed that in order for Americans to enjoy the freedom that characterizes our country, and for Texans to be able to fully enjoy the natural beauty and resources of our state, it is crucial for the citizens of the nation and our state to feel safe.

To achieve this goal, it's vital that we keep America's armed forces strong. Throughout the years, I've fought for funding to constantly improve the quality of defense-related activities in my state of Texas.

The importance of national defense is increasing every day, and I will continue to support our armed forces—they are the young men and women on the front lines who are called to sacrifice for this great nation and to preserve our Constitutional protections and liberties.

I urge my colleagues to support this bill. Thank you.

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

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentleman from California (Mr. THOMAS) that the House suspend the rules and pass the bill, H.R. 1664.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF CONGRESS REGARDING REFORM OF INTERNAL REVENUE CODE

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 141) expressing the sense of the Congress that the Internal Revenue Code of 1986 should be fundamentally reformed to be fairer, simpler, and less costly and to encourage economic growth, individual liberty, and investment in American jobs.

The Clerk read as follows:

H. CON. RES. 141

Whereas the Internal Revenue Code of 1986 is overly complex, and imposes significant burdens on individuals, businesses, and the economy;

Whereas the complexity of the Internal Revenue Code of 1986 makes the Code extremely difficult and costly to administer and to comply with;

Whereas recent reports estimate that 1 in 4 Americans are out of compliance with the Code and that the Internal Revenue Service provides the wrong answer nearly half the time through its telephone information program;

Whereas in 2001 the Internal Revenue Service spent $8,900,000,000 to administer the current system while American taxpayers spent an estimated $135,000,000,000 and 3,000,000,000 hours, more than a full day for each return, to comply;

Whereas the Code imposes multiple layers of taxation and hides the true cost of taxes in the price of goods and service;

Whereas the Code penalizes investment, discourages the flow of capital into our domestic economy, drives businesses to consider moving investment and jobs to foreign locations, and disadvantages domestically produced goods and services in international markets;

Whereas the Code disincentivizes work, savings, and investment by individuals and families;

Whereas the Code is riddled with decades of loopholes, special interest exemptions, and contradictions which make the Code confusing, costly, and unfair;

Whereas the Department of the Treasury estimates that approximately $70,000,000,000 in taxable income remains untaxed in offshore accounts;

Whereas on April 13, 2000, the House of Representatives passed, by a vote of 229 yeas and 187 nays, House Resolution 4199, calling for replacement of the Internal Revenue Code not later than December 31, 2004; and

Whereas the most recent Economic Report of the President states that ''the current tax system also causes households and businesses to rearrange their affairs in a number of ways that make poor use of economic resources, leading to substantial economic waste and, ultimately, reducing real incomes'': Now, therefore, be it

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

(1) encourages and supports a national debate on fundamental reform of the Internal Revenue Code of 1986;

(2) agrees with the most recent Economic Report of the President which identifies reducing complexity, improving economic incentives, and achieving fairness, as key objectives of fundamentally reforming such Code; and

(3) as part of this national debate, will begin a series of hearings to examine the case for, and the possible options for, fundamental reform of such Code.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. THOMAS) and the gentleman from Washington (Mr. MCDERMOTT) each will control 20 minutes.

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

Mr. THOMAS. Mr. Speaker, I yield my time to the gentleman from Georgia (Mr. KINGSTON), sponsor of the concurrent resolution, and ask unanimous consent that the gentleman from Georgia control the balance of the time.

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

There was no objection.

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

I rise today as millions of Americans are spending billions of dollars and countless hours trying to comply with the monster we call the IRS code. We all know it is that time of year when we should have done what we promised last year, that we would even do it in mid-January; but somehow all the stuff that we need did not come in the mail, the dividend accounts and all the data that we need, and we know we are supposed to put it together, but we just do not do it. So we postpone it. And now here we are almost on April 15, that dreaded day on the American calendar that we all have to pay our income tax, and we just cannot stand it.

So all over the country right now people who would rather be doing other

things are trying to figure out how much do I owe my favorite Uncle Sam. And they are sitting around trying to fill out these forms, and they cannot do it, and so many times they have to go to an accountant or a lawyer to get opinions, and it is even said often when one goes to two or three different accountants or lawyers and give them their tax information, usually they will come up with a different number which one needs to pay. So that is confusion even on the experts' part.

But in 2001 the American taxpayer spent over $135 billion just trying to comply. I want Members of Congress to think for a minute what would we do if we had another $135 billion in the budget that we could use for education or for Medicare, for health care, for the war effort, for rebuilding Iraq or Afghanistan or so many other things. The irony is it is certainly not our money. It is the taxpayers' money, and we would not even be entitled to that money. It would be $135 billion in the economy that consumers would control; but, instead, it is, in fact, a hidden tax because if I have to spend $200 or $300 on an accountant figuring out what I owe Uncle Sam, then that $200 or $300 is a mandatory payment of taxes.

We spend over 3 billion hours filling out form. That is 1 full day for every single tax return. I was giving a speech the other week to a leadership Georgia group about volunteerism and was proud to report that there are something like 94 million Americans who volunteer 4 hours a week, and it is worth millions and millions of dollars and billions of dollars to the economy if we figure it at $14 an hour. But the reality is these 3 billion hours do not help children. They do not help dropouts. They do not help confused pregnant teenagers. They do not help senior citizens and all the other groups who could use some volunteer labor. It just goes to Uncle Sam. The IRS itself spent $10 billion just trying to enforce this very complicated system.

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

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

This is, as I said, the second act in the Republican tax follies. This is the one that is the longest-playing act in this town. They have been talking about tax simplification since they took over. Since 1997 to today, they have added 293 Tax Code provisions that required 515 rule changes, that everybody has to understand they have added 2 hours to filling out their tax form every year. By 2010 there are going to be 35 million people who are going to have to figure their tax twice because of the alternative minimum tax. So these are the people who say we want tax simplification, and they come out here every year and add more complexity to this whole business.

I read this resolution. It says one out of four taxpayers are not in compliance with the tax laws. The facts are that wage earners, the ordinary citizens of this country, 98 percent of their income is reported and 85 percent are in complete compliance with the law. The former IRS Commissioner, Mr. Rossotti, said in his departure speech, the most serious noncompliance areas are promoters of tax schemes of all varieties, the misuse of devices such as trusts and offshore accounts to hide or improperly reduce income.

The average guy working in an automobile plant is not setting up a trust, does not have any money invested offshore. He is not using abusive corporate tax structures. He is not underreporting, as high-income people do, and the accumulation of failure to file and pay a large amount of employment taxes, these are the people who are not in compliance with the law. The average taxpayer has been waiting for that taxpayers' bill of rights they have been promising them. And of course the Republicans fell to fight among themselves upon that issue; so they could not even bring that out here. They have been promising it for weeks and weeks and weeks, and it ought to come out. April 15 is almost here. But, no, they are going to bring this foolishness out here.

This reminds me of that story of the Methodist minister who was sick and they had a board of deacons meeting come together and they had a long discussion about what they should do about the minister's illness. Finally, by a vote of four to three with 25 abstentions, they voted to write a letter to the minister urging him to get well. This is a get-well letter to the tax structure from the people who make it complicated.

Why do you not stop putting this nonsense out here? We have had Speaker and Committee on Ways and Means chairman after Speaker and Committee on Ways and Means chairman talk about the fact that we are going to have a simpler tax structure. I remember Mr. Armey, we are going to pull it up by the roots. You have never put a single bill out here. Eight years of talking and sending these letters urging the tax structure to get well. Come on, guys. Let us stop this nonsense.

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

□ 1830

Mr. KINGSTON. Mr. Speaker, in the spirit of what my friend from Washington had requested, I yield such time as he may consume to the gentleman from Georgia (Mr. LINDER), to explain a solution to the problems of the onerous Tax Code.

Mr. LINDER. Mr. Speaker, there is simply no doubt that what we are talking about is follies, but the follies are a 45,000-page Tax Code. The Internal Revenue Code has made criminals of us all, and it is time for it to go away.

There is a bill replacing the current code, H.R. 25, that would abolish the entire IRS and all the Internal Revenue Code and replace it with a simple, straightforward retail sales tax.

We have spent $22 million in the last 7 years with economic and market research, and a study out of Harvard says, Dale Jorgenson, who was at the time the head of the Economics Department at Harvard, concluded that, on average, 22 percent of what you pay for at retail is embedded costs to the current code, which is to say you pay every company that has touched that product, their payroll taxes, their income taxes and their accountants and attorneys to avoid the taxes.

It has been estimated that in 2001 Americans spent $250 billion just complying with the code, and that was only the estimate of the man-hours it would take to fill out the paperwork. That did not include the tens or maybe hundreds of billions of dollars that corporate America spent just calculating the tax implications of a business decision. And in 2001, after spending a couple of hundred billion dollars complying with the code, corporate America sent in to the government $187 billion. This is not an efficient system for gathering revenues.

We need to start with a truth: There is not a mechanism for a business to pay a bill other than through price. The only way to pay the light bill, the labor bill and the tax bill is through price, and your customers pay it; and the only taxpayers in the world are consumers, who actually consume the product and all the embedded costs therein.

So if we have a price system that has a tax component that is 22 percent of the price system, we ought to fix it. If you abolish the code and replace it with an embedded 23 percent, your cost of living goes up 1 percent, but you get to keep your whole check. Nothing is taken out for payroll taxes or income taxes, and every American becomes a volunteer taxpayer, paying taxes when they choose, as much as they choose, by how they choose to spend.

We also have a provision in the bill that would rebate to every household, rich or poor, we are not going to know how rich they are, we are not going to have that number; it would rebate to every household a check at the beginning of every month sufficient to rebate the entire tax consequences of spending up to the poverty line. For a household of one, that is $9,500 a year. For a household of six, it is about $30,000 a year, which is to say, a household of six could spend $30,000 with no tax costs at all.

If you get the tax component out of the price system, you increase the purchasing power of everyone at or below the poverty line by 22 percent.

What will happen to our economy? We have studies that say the exports go up 26 percent in the first year. We have studies that say capital spending goes up 78 percent in the first year. We know a study taken from 1945 to 1995 shows that real take-home wages increases in exact correspondence with

increases in capital spending, because it makes them more productive and they get to take home the money.

When Bill Archer was here and chairing the Committee on Ways and Means, he had cited many times a study done by Princeton Econometrics of 500 European and Japanese international firms, and the question was asked to their leadership, what would you do in your long-term planning if America eliminated all taxes on capital and labor and taxed only personal consumption? Eighty percent said they would build their next plant in the United States. Twenty percent said they would relocate to the United States.

We have been bickering about companies relocating their mailboxes overseas to save taxes. Some years ago we complained about rich people moving to Ireland and giving up their citizenship. Those people would be flocking to our shores. We would have a problem finding workers for all the manufacturing jobs.

It is time for us to take a hard look at what we have created. The tax we have today is the flat tax on incomes, 90 years later. It started out at a single rate on the upper 2 percent, and look what it has become.

We ought not worry about punishing people who are successful. They are going to spend more money and they are going to pay their share. The single biggest reason people escape the Tax Code is bankruptcies, and quite frankly, they can still bankrupt. But if they buy a loaf of bread, they are going to pay for their share of government.

We do not know how large the underground economy is. We simply do not know. But if you want to see it, go to your regional banker any Friday afternoon at 4 o'clock and watch the contractor come out and pay off his subs in cash, and every banker in America will come out and shake his head and agree with that.

This simplified, voluntary tax system would raise the same revenues as the current system, but more important than anything else, it would make every taxpayer a voluntary taxpayer, and it would give every American in a free society the privilege of anonymity. No one should know as much about us as we know about the American citizens. No one should know that.

So this is not pie in the sky. There is a proposal that would replace the current system. It has been looked at by economists all over the country. It has been looked at by people in the last administration favorably and in the current administration favorably, and we just need to take the huge step to make it happen.

To those who are concerned about who pays, the rich or poor, let me say that the bill that is going to come due on the young working generation is the payroll tax. It is going to eat up working America, and this fixes that. It removes the payroll tax and collects the money out of the sales tax. It saves Social Security in 13 years by doubling the revenues to those categories by just doubling the size of the economy.

Last, let me say to my liberal friends, this is a tax on accumulated wealth. You ought to love this. Because if you paid taxes on the money you earned and you paid taxes on the capital gains when you sold the business and you paid taxes on the interest you earned, we are going to tax you one more time when you spend it.

Last, to those who have accumulated wealth, it is simply this: You are already paying this. It is just hidden. You are already paying this tax. Let us make it honest. Let us have a tax system that is fair, that is understandable, that is voluntary, that is neutral between industries, neutral between businesses and neutral at the border. The fair tax does it, and this is a great opportunity to talk about it.

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

Mr. Speaker, before I yield to my colleague from Massachusetts, I would point out that the gentleman from Georgia has introduced a bill called the Fair Tax Act. We submitted it to the Joint Committee on Taxation, that is a joint House and Senate committee, everybody agrees that it is balanced, Democrats and Republicans and all that sort of thing, and they came up with the fact that this flat tax that we are talking about here, the rate would have to be at 59.5 percent.

That means if you buy a Coke, suddenly the Coke is $1.60. If you buy a hamburger and it is $2, you are going to have to pay $3.20 for that hamburger. This goes onto health care, this goes onto pharmaceuticals, it goes onto everything, not just things you just choose; that is, everything you buy, you have to pay 60 percent taxes.

Mr. LINDER. Mr. Speaker, will the gentleman yield?

Mr. MCDERMOTT. I yield to the gentleman from Georgia.

Mr. LINDER. Mr. Speaker, would the gentleman admit that the Joint Tax Committee made presumptions and assumptions that the bill would not pass as written, and so they changed it to the way they thought it would pass and changed the numbers entirely?

Mr. MCDERMOTT. Mr. Speaker, reclaiming my time, no, I would not admit that at all. This is the letter they put out, and they are standing by this.

Mr. LINDER. They also presumed the bill would not pass as written.

Mr. MCDERMOTT. Mr. Speaker, reclaiming my time, I know, you fired the lady that wrote this. You got rid of her. So I know that that is probably why you got rid of her.

Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. NEAL).

Mr. NEAL of Massachusetts. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I do not know if this is more this evening about amnesia or cranking out a press release for April 15. When you listen to these folks, they talk about changing the Tax Code. They have now been in charge since 1994. We are no closer to changing the Tax Code today than we were in 1994. But we were told we were going to pull the Tax Code up by its roots, we were going to drive a stake into the heart of the Tax Code, we were all going to a long funeral procession for the Tax Code.

Well, this resolution today is like their commitment to term limits: You hope that the public is not watching, and you change your position on the issue.

We have an opportunity to do something real about the Tax Code, and we could do it tomorrow, and everybody on the other side knows it, because I share their late-stated interest in closing tax loopholes.

I filed a bill last year that would close the most egregious tax loophole that confronts the American people, and that is for those U.S. corporations who claim their headquarters are really in Bermuda so they can avoid paying U.S. income taxes.

Well, my bill has languished for a whole year despite the fact we have had 186 signatures last year on a discharge petition, 125 bipartisan signatures this year on the bill, and they do not seem to think that there is any speed with which they can act.

Let me give a few names tonight. Here are some of the corporate expatriates who are taking advantage of the Bermuda loophole: Tyco, they avoid paying $400 million a year in U.S. taxes; Ingersoll-Rand, $40 million a year in U.S. taxes, and by the way, walk outside and see the machinery that says Ingersoll-Rand on it, where they win contracts with the Federal Government while our troops are overseas in Iraq, and they will not pay their fair share of income taxes while they win these contracts; Cooper Industries, $55 million a year in U.S. taxes they avoid. How about Weatherford, $40 million a year in U.S. taxes?

The Joint Tax Committee scored my proposal. We save $4 billion over 10 years if they would enact an opportunity to close the Bermuda tax loophole.

We hear the majority tonight that is concerned about a code that is riddled with decades of loopholes, but we cannot close this one?

We are going to vote tomorrow on an energy bill which cleverly includes a protection for a loophole. I mentioned earlier there are many who exploit this $4 billion loophole, but in fact, tomorrow, in that energy bill, they are going to grandfather a whole element that is left, and they think they are doing it in the disguise of tax reform.

The Treasury Department estimates that $70 billion a year in taxable income remains untaxed in offshore accounts. Sound familiar? Of course, this is what I and 125 Members of this body think we should be addressing. But instead we get a meaningless resolution

and a bill to cement the loophole into law on the same day. Oddly enough, one of those expatriates, by the way, and listen to this one, listen to this one, they currently hold a $50 million contract with the IRS to help the IRS collect taxes from the rest of us.

Mr. Speaker, the American taxpayer deserves better. There is no reason on Earth why that Bermuda tax bill is not on this floor in front of the American people for an up-or-down vote.

I would suggest this to you tonight: If they put that bill on the floor, there will be a rampage to get to the well to vote for this measure, and there will be at least 300 votes in this House if the Republican leadership would let the bill come up.

Close the Bermuda tax loophole.

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

Mr. Speaker, I just want to say, if we could get rid of the current Tax Code, we could get all those companies back.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. DELAY), the distinguished majority leader.

Mr. DELAY. Mr. Speaker, I might say to the gentleman from Massachusetts, that he is making our case for us. The reason that all these companies are leaving our shores is because the Internal Revenue Code is unfair, it is incomprehensible, it is broken, and it needs to be fixed.

□ 1845

Since 1955, the text of the Internal Revenue Code has increased 472 percent to nearly 1 million words. The Code costs almost $9 billion for the IRS to administer, and it costs Americans more than 5 billion hours and $244 billion just to comply with it.

For some perspective, let us consider those numbers amount to 2.7 million people or five full congressional districts working full-time just to fill out the paperwork for the IRS. It taxes income when it is earned, spent, invested, and even after death when it is left to loved ones. All of these factors slow down our economy, wasting the valuable time of the American people.

In short, our Tax Code is a giant, ugly mess that only a jumble of lawyers, politicians, bureaucrats, and committees could love.

We need a tax system that is fair and supportive of American workers and one that does not penalize people for working hard and saving for their family's future.

We have taken important steps with the tax bills we have passed over the past 2 years, or over the past 8 years. We can take another this year by passing the President's proposal, including an end to the unfair double taxation of dividends.

This commonsense move would simplify the law and bring us closer to reforming the Tax Code once and for all, and I look forward to working with my colleagues to finish the job.

I just want to thank the gentleman from Georgia for introducing this resolution, and I urge my colleagues to support it.

Mr. MCDERMOTT. Mr. Speaker, I yield 2 minutes to the gentlewoman from Cleveland, Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I would like to thank the gentleman for yielding me this time, and I thank him for the opportunity to be heard on this issue.

Mr. Speaker, today in our hearing before the Committee on Ways and Means, one of the speakers said, Well, what are you talking about? The Congress is the board of directors. If the Congress wanted to change the law, the Congress could do so. In fact, he said, we could change the health care issues; we could change the Medicare programs. So I am asking the question, Why, if we are the board of directors, are we ''expressing the sense of Congress'' instead of doing the job of Congress and making a change?

Mr. Speaker, I am clear that my constituents would say to me, keep the ''sense,'' meaning S-E-N-S-E, and give me a prescription drug benefit for senior citizens. Keep the ''sense'' and fund No Child Left Behind. Keep the ''sense'' and improve our economy. Keep the ''sense'' and maybe all the money that we are talking about that is collected by the IRS could, in fact, pay for the war in Iraq, pay for the fact that there are seniors out there who need a prescription drug benefit, pay for the fact that their children, the best investment we can make in this country that will pay for generations and generations and generations, we ought to do that.

I want to respond just on one thing. I have been a vocal advocate for not allowing the dividend tax cut, and the reason I have been an advocate is because the dividend tax cut will have a significant impact on low-income housing. And while we are talking about low-income housing, keep the ''sense'' and build enough housing so people can, in fact, have a safe place to live in a decent neighborhood with their families.

Mr. KINGSTON. Mr. Speaker, it is my proud opportunity to introduce the gentleman from Indiana (Mr. CHOCOLA), and I yield 2 minutes to him. He is one of our distinguished freshman Members.

Mr. CHOCOLA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I came to Congress from the business world; and I would like to share briefly a real life experience, a real life story on the implications of our Tax Code. The smartest person I ever met in my business career was a man named Gerry Shivers. Gerry Shivers is an accountant. He works for a big accounting firm in New York, and every time our business ever even thought about entering into a transaction of any kind, we would have to call Gerry Shivers up on the phone and ask him, how do we comply with the more than 17,000 pages in our Internal Revenue Code. Every time we called him, it cost us thousands and thousands of dollars. Instead of paying those thousands of dollars to Gerry Shivers, we could have been investing in new equipment, we could have been investing in research and development, we could have been investing in our markets, and we could have been creating jobs.

So, Mr. Speaker, it is time that we give Gerry Shivers a new job. It is time that this very intelligent man has a more productive life in our economy. It is time to simplify the Tax Code that no one truly can understand and comprehend, and it is time to put the billions and billions of dollars we spend every year on these costs to building our economy and creating jobs.

Mr. MCDERMOTT. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Speaker, I was just down here because the next bill is one I am managing dealing with Cyprus and international relations; but in a former life, I headed the second largest tax agency in the country, and that is why I thank the gentleman from Washington for yielding me this time this evening.

This resolution calls for a fundamental review of our tax system; but no speaker has mentioned the most unfair, egregious, and unproductive tax of all, and that is the debt tax. Tomorrow, we will bring to this floor a budget resolution which will put us on target and may even be honest enough to express this in exact numbers, to tell us that we are on target for an $11 trillion Federal debt. Imagine the effect that has on our economy. Imagine the effect that has on interest rates and on what our children will be paying one way or another. Surely we should close the Bermuda loophole.

But what concerned me most was when the majority leader himself came down here and addressed the issue of those U.S. corporations that want to contract and do business with our Federal Government while renting a hotel room in the Cayman Islands and claiming to live there. He came here to justify and protect and court and woo those tax trader corporations back to the United States with a plan; and that plan, as the gentleman, I believe from Washington, pointed out is to tell working people that when they buy a $1 can of cola, they should pay an extra 60 cents so that the corporations do not have to pay anything so that they can come back from the Cayman Islands. I welcome in depth congressional hearings on such proposals.

Mr. KINGSTON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Mr. Speaker, I thank the gentleman from Georgia for yielding me this time.

Mr. Speaker, Albert Einstein once said, ''The hardest thing in the world to understand is the income tax.'' If we look at today's Tax Code, it is easy to

see his genius. The cost of the current income tax system in both time and dollars is just too high.

Consider this: each year Americans spend 6.1 billion hours preparing their tax forms, and businesses spend 800 million hours complying with the Tax Code. In 2001 alone, Americans lost $183 billion in opportunity costs which were calculated at $30 an hour. Those are costs that people spend working on taxes instead of working on money-producing activities for themselves.

Two-thirds of Americans think the income tax system is too complex. We need a simpler system for all Americans to understand. Taxpayer phone calls to the IRS help line doubled during the 1990s from 56 million to 111 million, even though the number of taxpayers only grew by 12 percent.

The Federal tax rules are over 45,000 pages in length, which is double the number of pages since the 1970s, including the full Tax Code, the IRS rules and regulations, and tax court rulings. The average taxpayer spends over $1,800 per household in compliance costs. In other words, that taxpayer must work 6 days per year just to pay for the cost of preparing his or her taxes for that year.

Valuable resources are being lost to taxes, resources that could be used for productive, job-creating economic behavior, or for spending time with our families. As my colleagues can see, the costs imposed by our tax system are just too high.

Today I rise in support of H. Con. Res. 141 and strongly urge my colleagues to join in a national debate about the problems of our current tax system and the need for fundamental reform.

Mr. MCDERMOTT. Mr. Speaker, I yield myself such time as I may consume just to finish up.

We have a tax structure, and we are all going to vote for this foolishness; and I would suggest to the Clerk of the House that you not throw these resolutions away, because you can just bring them out again next year. We will be back here at the same old place with the same old tired rhetoric. They will not have done anything more about this issue than they have this year. So I think we could at least save a little money by not reprinting this kind of nonsense.

We passed a tax bill last spring; and I do not remember the exact figure, but something like 75 percent of the benefit went to people who make more than $100,000 in this country. Now, if that is a fair tax structure, I will be darned. I mean, I have to relearn the meaning of fairness. The whole idea of a tax structure is to pay on one's ability to pay.

Ideas like the gentleman from Georgia (Mr. LINDER), who comes out here with a sales tax, the idea being that we will put a sales tax on everybody and that will be fair. Of course, ordinary people have to buy food and clothes and medicine and gasoline and a whole bunch of things; they do not have any choice whatsoever. So they have to pay the tax. Rich people, well, of course, they have to buy food and gas and medical care and whatnot; but all of the rest of the money they earn, they do not pay any taxes under that kind of a structure. That is not fair. Everybody knows it. That is why we can never bring that thing out here seriously and debate it on the floor. You would get eaten alive in the press when the American people figured out what you are talking about.

I know what my colleagues are doing today; they are really laying the groundwork for their press releases. We will all leave in a couple of days and you all have to have your April 15 press release: ''I voted to change the unfair tax structure. I was working in Washington all last week trying to change the unfair tax structure that is burdening my constituents'' and other silliness that will be in the papers.

This is not going to do anything, everybody knows it will not do anything, and it is not going to make anybody do anything. We are just sending another letter to the minister telling him to get well.

I see the gentleman from Wisconsin (Mr. RYAN) is here. He has a great chart that is too small for anybody to read, but we are going to put it up anyway; and we will go through with this so we can get out of here. So I want the gentleman to have his press releases. Are the gentleman's press releases related to that?

Mr. RYAN of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. MCDERMOTT. I yield to the gentleman from Wisconsin.

Mr. RYAN of Wisconsin. Mr. Speaker, I will explain the chart so the gentleman from Washington can understand it. Even if he cannot see it, I will explain it all to him.

Mr. MCDERMOTT. Mr. Speaker, I thank the gentleman. I appreciate that. Explain it to my mother who is watching this, will you? Because she really wants to understand how this fair tax structure, when she is living on Social Security, why she has to pay a 60 percent sales tax, because I have no idea. For all of the people living on Social Security, if the gentleman from Georgia (Mr. LINDER) succeeded, they would get a 60 percent flat tax on everything they bought. It is so nonsensical, I do not know how my colleagues can stand out here with a straight face and offer it up here.

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

□ 1900

Mr. KINGSTON. Mr. Speaker, I yield 3⅙ minutes to the gentleman from Wisconsin (Mr. RYAN) so he can explain these charts.

Mr. RYAN of Wisconsin. Mr. Speaker, I thank the gentleman for yielding time to me. Mr. Speaker, these are not sales tax charts, by the way, I say to the gentleman from Washington. Let me explain what these charts do in a second.

We are here to talk about tax reform. We are here to talk about, can we have a better way of raising revenue for the government without doing so much harm and damage to our economy, to the daily lives of individuals and to the businesses and job creation in this economy.

There is an issue that is also important, not only to mention the fact that our Tax Code consumes so many hours of preparation, wastes so many trees, and the fact that it is just so large; but it also inhibits our competitiveness globally. Where we work on the Committee on Ways and Means, we are experiencing this on a day-to-day basis.

But the point that I want to make here today, the reason we need to reform our Tax Code is not just to make it easier for people to keep more of the money they earn, but to make it simpler, to make our Tax Code less punitive.

Let us take it for a fact, the Tax Code punishes all the qualities that make America great. It penalizes us if we get married, it penalizes us if we want to have kids, it penalizes us if we have a small business, it penalizes us if we save, it penalizes us if we invest, it penalizes us the more we work and the more successful we become. These are things we should not be penalizing in this country; we should be rewarding those things in America.

Where it really is arrogant is in the fact that we are losing jobs to foreign trade every day in this country. When we look at our Tax Code, and this is what this chart goes to, if we look at the effective top central and local corporate rate, meaning how much do we tax businesses in this country, if we look at the entire industrialized world from Ireland on up to Japan and every other industrialized nation in the world, the United States has tax rates on business income that are higher than any other industrialized country in the world except for Japan. Japan is in their second decade of recession.

If we take a look at just the tax rates on capital, and what I mean when I say ''capital'', that is investment, that is plant and equipment, that is expansion of businesses, that is capital. When we take a look at the tax rates on capital such as the tax rates on dividends, that tax rate is the second highest in the world except for Japan, again, a country that is in its second decade of recession.

So when we sit here and tax capital, when we sit here and tax our businesses at not 20 percent, not 15 percent, but at an effective tax rate of over 35 percent in America, we are taxing jobs overseas.

More importantly, what is also harmful with our Tax Code is, unlike our industrial competitors, we tax our income on a worldwide basis. Not only do we have the second highest tax rates in the world, we tax all worldwide income made by U.S. companies at that higher

rate. If you are an American company making money in Ireland, a country with a corporate tax rate of 17 percent, you are going to end up paying that U.S. tax rate of 35 percent, whereas it will be much less for France or England.

Mr. Speaker, we are losing jobs because we tax our companies and businesses more than anybody else does. We tax them overseas. What happens? Foreign companies are taking over U.S. companies, pushing income and jobs overseas.

We need to lower our tax rates, we need to fix our Tax Code and make it more efficient so we can keep jobs here at home.

Mr. MCDERMOTT. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. BASS). The gentleman from Washington (Mr. MCDERMOTT) is recognized for 3½ minutes.

Mr. MCDERMOTT. Mr. Speaker, I appreciate the erudite lecture on the tax structure of the gentleman from Wisconsin (Mr. RYAN). I know he sits on the Committee on Ways and Means, and he knows we have not had a single hearing on any kind of tax reform bill the whole time he has been on the committee.

It is good to come out here and send these letters to the Congress. I do not know who this Congress is. When we send the sense of the Congress, where do these go? Do these go to the leadership or somewhere, or up in the air, or over to the Senate?

Mr. RYAN of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. MCDERMOTT. I yield to the gentleman from Wisconsin.

Mr. RYAN of Wisconsin. Mr. Speaker, I would tell the gentleman, we have had hearings in the Committee on Ways and Means. We have had hearings in the Subcommittee on Select Revenue Measures on tax reform ideas.

Mr. MCDERMOTT. I would ask the gentleman, Mr. Speaker, when are they going to bring something to the full committee? I do not sit on that subcommittee.

Mr. RYAN of Wisconsin. Well, in the subcommittee we had a lot of hearings.

Mr. MCDERMOTT. Mr. Speaker, I take back my time. I appreciate the gentleman's point.

The last tax we had last year, the one they have been running their elections on, the Urban Institute says that if your income is between $30,000 and $40,000, that is the average income in this country, the tax cut was $339. Households with over $1 million get an average tax cut of $90,000. Sixty-eight percent of households in this country get a tax cut of less than $500.

If you are a typical elderly family with an income between $20,000 and $30,000, you get 89 bucks. That is an unfair tax structure. They made it worse. If they have their way with this $700 billion nonsense that they are trying to push in this session, they will make it even worse, because they will saddle our kids with debt and give all the money to people on the top.

Now, I agree, this is a great thing. I wish we could get somebody, when we send this sense of the Congress, it would actually get to somebody who could actually do something, maybe the Speaker's office, maybe the majority leader's office. Mr. Armey used to talk about it, but he never brought a bill here. Maybe the new majority leader would bring us out something we could vote on. It would be real nice to have a debate on an actual piece of legislation, so we could understand what it was really going to do.

Mr. Speaker, I urge all my Members to vote for this, because we all want a more fair tax structure.

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

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

Mr. Speaker, I want to say to my friend, the gentleman from Washington (Mr. MCDERMOTT), whose mother is watching him tonight, that she knows her own son. However, the IRS would define ''child'' five different ways under the current code. I know she is with us and appreciates the gentleman's ''yes'' vote.

This bill supports this hearing, this bill supports that debate. It is my hope that we can get those of us who may or may not be on the right committee to introduce our bills.

I am hoping that the Democrat Party will introduce a bill. To my knowledge, and I have been up here 10 years, I have never seen the Democrat Party introduce tax simplification. We have gotten a lot of criticism. I would like to see some of their solutions. Maybe we can do some bipartisan things together.

The criticism about the length of this debate is valid, but we have spent a lot of time preserving Social Security and Medicare and reforming education. These things do, unfortunately, take decades to accomplish. Welfare reform, which we passed in 1996, actually was debated for 30 years before we actually got reform on it.

I do not want this to be 30 years, Mr. Speaker. I am hoping that Members of Congress can use this resolution as a vehicle to encourage debate within this body, within this town, within the other body, within the executive branch, to bring the tax simplification debate forward.

I ask Members to put their ideas on the table, whatever it is, Democrat Party, Republican Party, Independents, flat tax, sales tax, simplifying the current code. Let us do something, because what we have right now is not working.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. KINGSTON) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 141.

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. KINGSTON. 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.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 151, PROSECUTORIAL REMEDIES AND TOOLS AGAINST THE EXPLOITATION OF CHILDREN TODAY ACT OF 2003

Mrs. MYRICK (during consideration of H. Con. Res. 141), from the Committee on Rules, submitted a privileged report (Rept. No. 108–68) on the resolution (H. Res. 188) waiving points of order against the conference report to accompany the Senate bill (S. 151) to amend title 18, United States Code, with respect to the sexual exploitation of children, which was referred to the House Calendar and ordered to be printed.

EXPRESSING SUPPORT FOR RENEWED EFFORT TO FIND PEACEFUL, JUST, AND LASTING SETTLEMENT TO CYPRUS PROBLEM

Mr. BEREUTER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 165) expressing support for a renewed effort to find a peaceful, just, and lasting settlement to the Cyprus problem, as amended.

The Clerk read as follows:

H. RES. 165

Whereas the United States believed there existed a historic opportunity to bring a peaceful, just, and lasting settlement to the Cyprus problem, which would have benefited all Greek and Turkish Cypriots, as well as the wider region;

Whereas a resolution of the Cyprus problem remains consistent with American values of promoting stability, freedom, and democracy in the world;

Whereas a resolution of the Cyprus problem is in the strategic interests of the United States, given the important location of Cyprus at the crossroads of Europe, Africa, and Asia;

Whereas the United States strongly supports the efforts of the United Nations Secretary General, and his Special Advisor through his good offices mission, to achieve a comprehensive settlement with respect to Cyprus in full consideration with relevant United Nations Security Council resolutions and international treaties;

Whereas a just and lasting resolution of the Cyprus problem, in full consideration of United Nations Security Council resolutions and international treaties, will safeguard the security and fundamental rights of all Greek and Turkish Cypriots;

Whereas the United Nations Secretary General, Kofi Annan, on November 11, 2002, submitted a proposal for the comprehensive settlement of the Cyprus problem, referred to as the ''Basis for an Agreement on a Comprehensive Settlement of the Cyprus problem'', which he revised on December 10, 2002, and again on February 26, 2003;

Whereas negotiations between the Greek and Turkish Cypriot leaders, which had been ongoing, were encouraged to be intensified in order that full agreement could be reached by February 28, 2003, in conformity with the timetable proposed by the United Nations Secretary General in his proposals;

Whereas United Nations Secretary General Koffi Annan again on February 26, 2003, gave the Greek and Turkish Cypriot leaders, and the guarantor powers, the United Kingdom, Greece and Turkey, a second revision of his plan in order to accommodate input from both sides;

Whereas the revised plan was the result of exhaustive efforts by the United Nations and would have lead to a peaceful, just and lasting settlement of the longstanding division of Cyprus;

Whereas the Secretary General on February 28, 2003, at the conclusion of a visit to Turkey, Greece, and Cyprus, invited the Greek and Turkish Cypriot leaders to meet with him at The Hague on March 10, 2003, the purpose of the meeting being to sign a commitment to submit the plan to approval in separate, simultaneous referenda on March 30, 2003, in order to achieve a comprehensive settlement of the Cyprus problem, and the guarantor powers were also invited to attend the meeting and to sign the commitment;

Whereas both the Greek and Turkish Cypriot leaders did attend the meeting at The Hague with the Secretary General but the Secretary General's plan failed when Turkish Cypriot Leader, Denktash, rejected both the comprehensive settlement and the referendum proposal;

Whereas the United States Government expressed its deep disappointment that the Secretary General's efforts to bring his plan for a comprehensive settlement to referenda by Greek and Turkish Cypriots was rejected; and

Whereas despite this unfortunate setback, the United States remains committed to seeking a just and durable settlement to the Cyprus problem: Now, therefore, be it:

Resolved, That the House of Representatives—

(1) expresses its appreciation for the efforts of the United Nations Secretary General to seek a peaceful, just, and lasting settlement of the Cyprus problem for the benefit of the Greek and Turkish Cypriots and the region;

(2) expresses its strong disappointment that the Secretary General's efforts to bring his plan for a comprehensive settlement to a referenda by the Greek and Turkish Cypriots has been rejected;

(3) expresses its very strong regret that Turkish Cypriot leader, Mr. Denktash, rejected the comprehensive settlement offered by the Secretary General and, by refusing to offer the settlement proposal to referenda, denied the Turkish Cypriot community the opportunity to determine their own future;

(4) remains committed, despite the recent setback, to giving any assistance necessary for finding a just and durable settlement for the Cyprus problem and urges the maximum effort by the United States Government and others to redouble their efforts to seek a just and lasting settlement to the Cyprus problem;

(5) encourages both Greek and Turkish Cypriot leaders to renew their efforts to find a settlement to the Cyprus problem on the basis of the Secretary General's framework for a comprehensive settlement;

(6) urges the Governments of Turkey and Greece to do everything possible to support the search for a settlement, including actions by the Government of Turkey helping to persuade the Turkish Cypriot leader to reach an agreement which would reunite the island and which would serve the interests of both Greek and Turkish Cypriots; and

(7) encourages both sides, upon completion of a comprehensive settlement, to consider putting such an agreement to referenda, if necessary, in order that the will of the Greek and Turkish Cypriots can be democratically expressed.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nebraska (Mr. BEREUTER) and the gentleman from California (Mr. SHERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Nebraska (Mr. BEREUTER).

GENERAL LEAVE

Mr. BEREUTER. Mr. 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 resolution under consideration.

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

There was no objection.

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

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

Mr. BEREUTER. Mr. Speaker, I rise in support of House Resolution 165, a resolution offered by this Member regarding the political situation in Cyprus. The Subcommittee on Europe adopted this measure unanimously last week, because an historic moment in the history of Cyprus was about to be lost if the momentum which had been building over the past 2 years to bring about a resolution of the Cyprus problem was allowed to slip away.

I want to express my appreciation to the ranking member on the Subcommittee on Europe, the gentleman from Florida (Mr. WEXLER), for his support on this issue and his willingness to see this resolution move forward. I believe the resolution represents an important statement by the House on the need for a solution for the Cyprus problem.

I also want to express my appreciation to the chairman of the committee, the gentleman from Illinois (Mr. HYDE), and the ranking Democrat, the gentleman from California (Mr. LANTOS), for their help in moving this legislation to the floor; and to the gentleman from California (Mr. SHERMAN) for managing the legislation tonight.

I also want to particularly acknowledge the work of our distinguished colleague, the gentleman from Florida (Mr. BILIRAKIS), who has long been a leader in keeping this House informed of the situation in Cyprus and the status of the peace process.

It is interesting and very salutary, I think, that we have as supporters of this resolution, indeed, as cosponsors of the resolution, some of the Members that are strongest in support of Greece and are strongest in support of Turkey.

House Resolution 165 commends the United Nations Secretary General, Kofi Annan, for his tireless efforts to seek a resolution to the Cyprus problem, a problem which has been on the agenda of the Security Council for almost 40 years. In fact, it is the oldest item continuously on the Secretary General's peacemaking agenda.

In addition, this resolution expresses the disappointment of the House that the recent United Nations plan for a comprehensive settlement of the Cyprus problem could not be agreed to by the two Cypriot sides, despite the effort of many and, in particular, the United Nations Secretary General.

Referenda put before both Greek Cypriots and Turkish Cypriots would be approved to create a confederation to bring peace and unity to Cyprus, if only they were given that opportunity.

In a report that the Security Council issued on Saturday on the Secretary General's effort to achieve a comprehensive settlement of the Cyprus problem, U.N. Secretary General Kofi Annan made it clear that ''a unique set of circumstances, including the membership of Cyprus in the European Union, offering a framework of incentives to reach a settlement, as well as deadlines within which to reach it'' was emerging and that the potential existed to make a true impact on peace.

Finally, the resolution urges both the Greek and Turkish Cypriots to quickly resume negotiations to resolve this problem. It expresses the view of the House of Representatives that we want and appreciate continued efforts by Greece and Turkey to maximize their influence to prevent this opportunity to bring peace and economic prosperity to the entire Cypriot community from being lost.

The resolution urges the United Nations and the Bush administration to redouble their efforts to encourage the talks to begin again in order to seek a solution.

Mr. Speaker, since 1974, the island of Cyprus has been politically divided in what has been often a bitter and violent dispute. Consequently and regrettably, the people of Cyprus have been culturally and socially isolated from each other by a heavily fortified green line in what today represents something akin to the Berlin Wall of the last century.

This Member has personally walked that green line through Nicosia on two occasions. The commander of one of the four national peacekeeping forces, the British commander, told this Member that in his capacity, he has men in his unit whose fathers have served in that unit at that location.

For the past 29 years, various attempts and numerous proposals have been put forward to bring Greek and Turkish Cypriots together to resolve what has become known as ''the Cyprus problem.''

None of these attempts to bring about reconciliation has been so close to achieving success than the effort which is before us now has had as an opportunity during this past 5 months. Last November, with the entry of a divided Cyprus into the European Union

looming, U.N. Secretary General Kofi Annan proposed a comprehensive framework for a just and lasting settlement of the Cyprus problem. His plan was hailed as a positive attempt to resolve the problem.

In presenting his framework, the Secretary General asked Greek and Turkish Cypriot leaders to accept the plan by February 28. When neither side resolved their differences with the proposal by the end of the February, the Secretary General asked the two leaders to meet him in The Hague on March 10 and to sign an agreement that would put the framework to simultaneous referenda on the island.

On March 10 both the Greek and Turkish Cypriot leaders did meet with Annan in The Hague. However, we learned with great disappointment that the Secretary General's framework was rejected when the Turkish Cypriot leader announced he could not accept the settlement plan, and would not agree to put the referenda to the Turkish Cypriots.

This decision was disappointing because informal polls indicated that a majority of Turkish Cypriots were prepared to support the plan and bring the longstanding division and suffering of the island to an end.

Despite our uncertainty over the future of the island, last week, as our subcommittee prepared to adopt this resolution, we were informed that several measures were being initiated by the various parties which seemed to us to be very positive.

The first was the announcement by Turkish Prime Minister Erdogan that he would bring a new effort to unite the Greek and Turkish Cypriot areas of Cyprus forward.

□ 1915

The second was the announcement that Turkish Foreign Minister Gul would travel to Northern Cypress to discuss the peace process with Turkish Cypriot leaders and then would travel to Belgrade to meet with Greek leaders to discuss how to resume the peace negotiations. Both of these announcements were very welcome, and this Member commends the Turkish leadership for their willingness to address the issue.

A third announcement was that the Turkish Cypriot leader, Denktash, had sent a letter to the Cypriot President, Mr. Papadopoulos, suggesting several measures which the Turkish leader was offering as a way to begin rebuilding confidence between the two sides in advance of resuming the negotiation.

Mr. Speaker, this Member felt that the gestures may have been positive because one of the biggest obstacles which had plagued the peace process for all these years has been the lack of confidence and trust on both sides. Unfortunately and very quickly, we saw just how much distrust actually does exist today on that island because some people thought there was a hidden agenda, and maybe there was, but I hope that was not the case.

Whatever the real motivation of the proposal, a little bit of trust and confidence is something both sides could use right now. This Member wonders what is wrong with lifting current restrictions on crossborder trade, tourism, education and culture exchanges, even if for only 1 day a week just as a way for both sides to see if they really are prepared to live as a united island. This Member also wonders why some of the measures could not be agreed to outside of a more comprehensive agreement based upon the U.N. peace plan.

Mr. Speaker, in just 12 days the Government of Cypress will sign the accession papers paving the way for the southern part of the island to enter the European Union. The economic benefits of this membership to the southern half of the island will be significant. On the other hand, it would be a terribly damaging blow to the potential economic prospects for the Turkish Cypriots. The current differences between the income levels of the two communities would continue to widen dramatically.

Now is the time for both sides to put aside their past differences and to make a serious commitment to resolve this problem of a divided Cypress. We are never going to have a better opportunity.

As Secretary General Kofi Annan has stated, his settlement proposal is still on the table; and I believe resumption of the negotiations should continue to use the Secretary General's plan as a basis for an agreement.

Mr. Speaker, the people of Cypress have endured 29 years of separation. They are ready, it is clear, to see and support referenda. Therefore, it is a sincere hope of this Member that the leaders of both sides will return to the negotiating table and resolve this important problem so that next year, in 2004, we will be celebrating the first anniversary of a united Cypress and not the 30th anniversary of a divided one.

Mr. Speaker, this Member urges Members of the House to speak with one strong voice in support of a resolution on the Cypress problem and thus urges support for the resolution.

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

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

Mr. Speaker, I rise in strong support of House Resolution 165.

Mr. Speaker, let me first provide some background. On July 20, 1974, thousands of Turkish troops invaded and occupied 37 percent of the island, which since that time has been separated by a green line, actually a line of barbwire, analogized by the gentleman from Nebraska (Mr. BEREUTER) to the Berlin Wall. They created the Northern Republic of Cypress in 1975 and, indeed, recognized only by Ankara. Nicosia today is the only divided capital in the world.

Today Turkey maintains 35,000 troops in Northern Cypress and that area is one of the most highly militarized areas of the world, according to former U.N. Secretary General Boutros Boutros Ghali.

Eighty thousand Turkish settlers were installed after that invasion and occupy properties forcibly vacated by Greek Cypriot refugees, people who had lived there for generations. And now we have 200,000 refugees and over 1,600 people missing since that long-ago invasion, including five American citizens. In Northern Cypress there are a few Greek Cypriots. They are, in effect, locked into enclaves. They are denied basic human rights such as freedom of movement, access to education, religious freedom, or political rights.

The deterioration of the situation in northern Cypress must be contrasted to the prosperity of the southern part of that island ruled by the official government of the Republic of Cypress. That government has done so well that they have met the EU's strict standards for administration and will soon be admitted. Those standards include tough limits on the amounts of public debt, limits that, after this budget resolution comes to the floor tomorrow, the United States will not be able to meet. The economic hardship on the northern part of the island and the competition with settlers from Turkey has caused the exodus of the majority of the Turkish Cypriot population.

On September 30, 2002, the EU's enlargement commissioner stated that Cypress complies with all political and economic conditions for membership and that the government-controlled areas of Cypress enjoy an atmosphere of economic prosperity and political freedom, allowing its people to enjoy one of the highest standards of living in the world.

Cypress will become a member of the EU in a few weeks, and the Cypriot government will sign an accession agreement and formally join, I believe, on April 16 of this year.

The recent failure of the U.N.'s peace talks must be blamed on Turkish Cypriot leader Rauf Denktash. The U.N. plan offered a wide range of autonomy, a weak central government, a demilitarized Cypriot state, and a continuing, if greatly reduced, Turkish and Greek presence to guarantee the safety of the respective communities. But Denktash was not willing to put this plan to a referendum. Notwithstanding the fact that his own people, the Turkish Cypriots would have overwhelmingly supported this plan, a great opportunity was lost.

Mr. Speaker, I fully endorse this resolution and in later comments would want to detail its terms.

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

Mr. BEREUTER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Florida (Mr. BILIRAKIS), who I would say is among the House's most outstanding experts on Cypress.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman from Nebraska

(Mr. BEREUTER) for writing this bill and for yielding me time.

I also rise in strong support of H. Res. 165, a bill which expresses support for a renewed effort to find a peaceful and lasting settlement to the Cypress problem by declaring appreciation for the efforts of Kofi Annan, the United Nations' Secretary General.

Mr. Speaker, the U.N. peace process, which is strongly supported by the United States and the entire international community, has sought to reunite Cypress as a single, sovereign bicommunal federation.

With Cypress poised to join the European Union in May 2004, Secretary General Annan chose to get personally involved in bringing the two sides together, asking the two community leaders to put the U.N. plan before their people in a referendum. President Papadopoulos of Cypress said he was prepared to do so. Unfortunately, Mr. Denktash, the Turkish Cypriot leader, was not prepared to agree to put the plan to a referendum.

It is a shame that the Secretary General's personal diplomacy was met by this kind of flat-out rejection. The bill expresses strong disappointment that the Turkish Cypriot leader, Mr. Denktash, rejected the comprehensive settlement offered by Secretary General Annan, thereby denying the Turkish Cypriot people the opportunity to determine their own future.

This legislation also indicates that we in the House of Representatives remain committed to giving any assistance needed to find a just and durable settlement for the Cypress problem.

H. Res. 165 urges the United States Government and others to redouble their efforts to seek a fair solution to the Cypress problem. And finally, H. Res. 165 urges the governments, the governments of Turkey and Greece to do everything possible to support the search for a settlement, including actions by the Government of Turkey, helping to persuade Mr. Denktash to reach an agreement which would reunite the island.

Mr. Speaker, again I want to thank the gentleman from Nebraska (Mr. BEREUTER) for his commitment and perseverance in resolving the 29-year-old problem in Cypress, and I urge my colleagues to support the legislation.

Mr. SHERMAN. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. PALLONE), a gentleman who has been a leader on issues of foreign policy and human rights.

Mr. PALLONE. Mr. Speaker, I want to thank my colleague from California (Mr. SHERMAN) for those kind remarks.

Mr. Speaker, as an original co-sponsor of House Resolution 165, I come to the floor this afternoon to voice my strong support for the gentleman from Nebraska's (Mr. BEREUTER) resolution calling for a renewed effort to find a peaceful and lasting settlement to the Cypress problem. Tomorrow the U.N. Security Council is expected to adopt a resolution on the Cypress peace process. This follows the issuance of a report last Saturday by Secretary General Kofi Annan on the reasons behind last month's breakdown of U.N.-sponsored negotiations. While it remains to be seen what the council will do, the Secretary General was clear in his report regarding reasons for the breakdown. Mr. Annan's report blamed Turkish Cypriot Leader Raul Denktash and Turkey for the failure of the Secretary General's plan to reunify this divided island.

Mr. Speaker, despite the lack of a settlement, Cypress's European Union ascension is going forward. Next Wednesday, April 15, is the date of the signing ceremony of the ascension treaty in Athens. The Republic of Cypress will join with nine other nations in signing the treaty. Sadly, however, the residents of the Turkish-occupied areas will be left out, due to the obstinate Mr. Denktash and his short-sighted supporters in Ankara.

Mr. Speaker, I am encouraged that the statements coming out of the State Department have expressed regard over Mr. Denktash's refusal to let the Turkish Cypriots vote on a referendum. I would be further encouraged if the administration put the necessary pressure on Turkey to be part of the solution and not just part of the problem. Mr. Annan stressed that ''my plan is still on the table,'' and I am sure that the Security Council will suggest that we go forward with the U.N. plan. But Mr. Denktash and the Government of Turkey must understand that there are costs for walking away from the table and benefits to be derived if they cooperate with the U.N. process.

I still believe that the U.S. and this administration can do a lot more to put pressure on Turkey to go ahead with the U.N. plan and try to come to some sort of settlement. I am hopeful and I know that this resolution will help in that regard, and that is why we should all support it.

Mr. SHERMAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WATSON), a distinguished former ambassador who is also a congressional Representative.

Ms. WATSON. Mr. Speaker, a crucial opportunity was missed this spring to bring peace to Cypress. Almost 3 decades of illegal occupation have kept the Cypriot nation divided and its people, both Greek and Turkish Cypriots, in a dangerous limbo. Cypress has a rich tradition as the crossroads of trade and culture in the Eastern Mediterranean. Yet, in spite of history and geography, those living in the occupied zone have been isolated from the rest of the world for close to 30 years because of the intransigence of their leaders. While unoccupied Cypress has fared better, the fact of the division of Cypress still leaves fear, doubt, and uncertainty in the minds of all Cypriots.

This month Cypress will join the European Union. This act is a testament to the will and the industry of the Cypriot people, building an economy which is the envy of many of its neighbors. But the celebration of the EU membership will be bittersweet for many Cypriots, knowing that their country will not join the EU as a whole, but still as a nation illegally divided.

□ 1930

This fact was not inevitable. The Cypriot people, both Greek and Turkish, have repeatedly demonstrated their desire to end the division of their nation and integrate themselves into modern Europe, but the old men that hold power in northern Cyprus refuse to free their people to join the 21st century. The Secretary General, as my colleagues know, of the United Nations, Kofi Annan, who worked tirelessly to bring peace to Cyprus, left no doubt this week as to who was to blame for the failure of the talks.

Rauf Denktash, the self-styled head of the Cypriot separatists, refused to negotiate in good faith to resolve this 30-year-old dispute. In fact, Denktash went so far as to refuse to put a Cyprus peace agreement to his people in a referendum. His refusal is likely because he knows full well that even the Turkish Cypriots he purports to represent would embrace peace if given the opportunity.

Mr. Speaker, it is time to end this illegal and artificial division of the Cypriot nation, and I urge my colleagues to support this resolution, and I urge the President to apply renewed energy to convince the Turkish Government that ending its occupation of Cyprus and supporting peace there could be the most crucial thing Turkey could do to right a wrong.

Mr. SHERMAN. Mr. Speaker, it is my pleasure to yield 2½ minutes to the gentlewoman from New York (Mrs. MALONEY) who has shown her dedication to human rights and impressed us all with her expertise on Hellenic issues.

Mrs. MALONEY. Mr. Speaker, I rise in support of H.R. 165 and thank my friends and colleagues, the gentleman from Nebraska (Mr. BEREUTER) and the gentleman from California (Mr. SHERMAN), for their work on this important resolution.

However, I do have some reservations. As Democratic cochair of the Hellenic Caucus, along with my Republican colleague, the gentleman from Florida (Mr. BILIRAKIS), we have been working with the U.N. and the State Department on the reunification of Cyprus, which has been divided since 1974. The peaceful, lasting and just settlement of Cyprus has been a priority of the United Nations and the caucus.

The Republic of Cyprus will sign the EU treaty in Athens on April 16. We had all hoped a united Cyprus would enter the European Union. Unfortunately, the latest round of talks ended without an agreement. According to the report of the United Nations Secretary General, Kofi Annan, released on April 7, and I would like to put his testimony into the record, ''In the case

of the failure of this latest effort, I believe that Mr. Denktash, the Turkish Cypriot leader, bears prime responsibility.''

Despite my concerns and disappointment, I appreciate the comments of President Papadopoulos, who has stated that the Greek Cypriot side will ''continue the efforts for reaching a solution to the Cyprus question both before and after Cyprus joins the EU.''

I am pleased that this resolution addresses these issues and appreciate the work the subcommittee has done.

One area that concerns me about this amended resolution is that it has deleted references to the people of Cyprus and, instead, only refers to Greek and Turkish Cypriots. There are Armenians, Maronites and Latins in addition to Greek and Turkish Cypriots, living in Cyprus. I believe the new references that identify only Greek Cypriots and Turkish Cypriots is inaccurate and works to divide the people of Cyprus into two main groups. For this reason, the use of the term ''people of Cyprus'' is much more preferable and accurate, reflecting the unity of the country and the people.

Again, I thank the gentleman from California (Mr. SHERMAN) and the gentleman from Nebraska (Mr. BEREUTER) for their work on this very important resolution. I am hopeful that there will be new initiatives and new opportunities to work toward solving the problem as all sides will benefit. I am hopeful that even between now and April 16 there is an opportunity for them to get back on board, and I am hopeful that Cyprus will go to the EU as a united country.

I appreciate very much the gentleman from Nebraska's (Mr. BEREUTER) leadership. He has really worked to bring both sides together. It has been very helpful. I appreciate it very much.

Mr. SHERMAN. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. HOLT), my favorite rocket scientist.

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

Mr. HOLT. Mr. Speaker, I thank my friend from California for yielding to me, and I rise in support of H. Res. 165 to draw this Chamber's attention to this opportunity that is not yet lost in Cyprus.

Cyprus has suffered from ethnic strife among the people of Cyprus, and I thank my colleague, the gentlewoman from New York, for using that phrasing, among the people of Cyprus for decades and has been physically divided since Turkish armed forces invaded and occupied the northern third of the island in 1974 after a Greek-led coup.

There have been efforts by the Greek Cypriots over the last year. There have been encouraging words from Turkey. Turkey's new ruling party suggested a change in Turkish policy toward Cyprus, but no agreement has been reached. Tens of thousands of Cypriots have taken to the streets in recent months, particularly in the Turkish areas, in support of this settlement, but Denktash ultimately imperiled the recent round of talks by refusing to take the plan directly to the Turkish Cypriot people for a referendum. As a result, Secretary General Annan has ended official U.N. efforts to broker a settlement.

This is a severe disappointment to me, to my Greek and my Turkish American constituents in New Jersey, and to all the people of Cyprus, but we must not accept the end of this latest round of talks as the end of the road. Peace rarely comes easily.

Peace in Cyprus is still possible, and as Cyprus prepares to enter the European Union, let us do our part to get the peace process back on track.

I commend the gentleman from Nebraska (Mr. BEREUTER). His resolution would help. Let us pass it promptly.

Mr. SHERMAN. Mr. Speaker, I yield myself so much time as I may consume.

Mr. Speaker, this is an important resolution. It expresses our support for a peaceful, just and lasting resolution of the Cyprus problem. I would like to take this opportunity to thank the gentleman from Nebraska (Mr. BEREUTER), the chairman, for sponsoring this resolution and to commend the gentleman from Florida (Mr. WEXLER), the ranking Democratic member, for his leadership on foreign policy issues. I am pleased to be an original cosponsor of the resolution.

I fully endorse the sentiment expressed in this resolution that Greek Cypriot and Turkish Cypriot parties should renew their efforts to find a settlement to the Cyprus problem on the basis of the U.N. Secretary General's framework for a comprehensive settlement, notwithstanding the lamentable failure of the most recent round of diplomacy.

It is also important that this body reaffirm its own commitment to giving any necessary assistance to help achieve a just and durable settlement of the Cyprus problem, and that is, again, called for by this resolution.

In particular, this resolution expresses the Congress' very strong regret that Turkish Cypriot leader Mr. Denktash rejected the comprehensive settlement offered by the Secretary General and denied the Turkish Cypriots the opportunity to determine their own future, because he refused to offer the settlement proposal as a referendum. I urge the parties to return to the table at the earliest possible time and to complete negotiations on the Secretary General's plan.

Mr. Speaker, the U.S. has a clear and direct interest in solving the Cyprus problem. Its resolution would offer peace and prosperity to all of the peoples of Cyprus and would bring lasting stability to Greek-Turkish relations on NATO's southern flank.

It is, therefore, vital, Mr. Speaker, that this body go on record uncompromisingly in support of this resolution.

Mr. Speaker, I see that I have no other requests for time, and I yield back the balance of my time.

Mr. BEREUTER. Mr. Speaker, I yield myself the remaining amount of time.

Mr. Speaker, I thank the gentleman for his concluding comments, and all of these speakers this evening have had a very positive outlook on the opportunity, a rare opportunity, for us to really bring peace and unity to the island of Cyprus.

This is an opportunity we cannot avoid trying our best on. This is an opportunity with a maximum amount of leverage. I urge, therefore, my colleagues to support the resolution.

Mr. CROWLEY. Mr. Speaker, I rise today in strong support of House Resolution 165. This resolution is directed at renewed endeavors to find a peaceful, just, and durable solution to the Cyprus conflict. With the failure of the recent UN-brokered peace negotiations and with Cyprus going to join the EU, a solution to the problem is more needed than ever.

The Eastern Mediterranean is a region of vital U.S. interests. Endeavors to promote greater stability in the area by bringing the two conflicting parties together, must thus remain high on our agenda. In fact, stability in this region serves to advance many key policy objectives.

I thus wish to applaud the tireless efforts of the Secretary General of the United Nations to have prudently worked out an acceptable peace plan for both the Greek Cypriots and the Turkish Cypriots. Kofi Annan crafted a compromise plan that sought to reunite Cyprus as a single bicommunal federation. The plan would have satisfied both communities. The plan also enjoyed broad bipartisan support in the U.S. and was strongly supported by the wider international community. I therefore commend the Cypriot President Tapas Papadopolous who was eager to finally solve this long-lasting dispute. He accepted the UN proposal and was willing to submit the plan to a separate referendum last month. Immediately after the failure of the negotiations, Papadopolous further stated that the Greek Cypriot side will continue its endeavors for reaching a solution to the Cypriot issue within the UN framework.

Parallel, I voice my disappointment at the Turkish Cypriot leader Rauf Denktash's decision not to accept the UN proposal and his ultimate rejection of the peace deal. This is an unacceptable situation and hurts everyone involved: the Turkish and Greek Cypriot communities, the United Nations, the U.S., the EU and Turkey's own desire to become a EU member, now is the time to act. Indeed, the Turkish intransigence hurts first and foremost Turkey and the Turkish Cypriots themselves. The failure of the unification endeavors complicates Ankara's own efforts to join the EU. The European Commission warned Turkey after the breakdown of the talks that the Greek Cypriot part of the island is going to join the EU in May 2004 with or without the Turkish Cypriots. But without an agreement on the Cyprus issue, Turkey will be in a position of not recognizing a member of the European Union.

Public demonstrations by the Turkish-Cypriot opposition in favor of the peace plan further explicitly show who will be the major losers of the failed negotiations: the Turkish Cypriots who will not enjoy the benefits of EU membership.

The United States will remain committed to finding a just and permanent solution to the Cyprus issue. This solution must be achieved within the UN framework. The Turkish Cypriot leader must thus clearly show his willingness to constructively work with the United Nations and to settle for a compromise, a fair compromise like the one that was just presented to him.

Yet, a permanent solution that involves compromise, tolerance, and understanding is not merely achieved via multilateral institutions or intergovernmental interactions, however crucial they are. More than ever, confidence-building measures to re-integrate the two communities on the island are crucial, and the U.S. must continue to support these biocommunal initiatives.

A constructive dialogue between the Greek and the Cypriot leader under the UN auspices as well as reintegration efforts between the two communities represent the best and the only way to settle the Cyprus conflict.

Mr. WEXLER. Mr. Speaker, I share the hopes of Mr. Bereuter for a peaceful, just and lasting settlement to the long-standing Cyprus issue.

Like many of my colleagues, I was disappointed that a comprehensive agreement to support the United Nation's proposal was not reached in March.

We must not allow the recent setback to get in the way of future negotiations and a lasting settlement of this issue. I hope that both Greek and Turkish Cypriot leaders will renew their commitment to bridge the divide that separates their people.

In this vein, I was very pleased to hear that Turkish Cypriot leader Mr. Denktas has taken positive steps to initiate a new process of dialogue and consultation. Last week, in a detailed letter to Greek Cypriot Leader Papadopoulos, Mr. Dentkas proposed lifting all overseas trade, transport, travel and cultural activities from or to both parts of Cyprus. He also expressed his willingness to meet with Mr. Papadopoulos to discuss the core issues of a comprehensive settlement.

It is my understanding that Mr. Denktas' proposal was not accepted by the Greek Cypriots. I agree with the Greek Cypriot sentiment that talks should be concluded under the U.N. framework. However, I am hopeful that Mr. Denktas' letter can be a catalyst to restart dialogue and to achieve a comprehensive settlement.

As for Turkey's role, which I know has been criticized by some in Washington and Europe, I am optimistic that Prime Minister Erdogan and his government are truly committed to a fair settlement on the issue. Mr. Erdogan has offered to bring Turkish and Greek Cypriots together ''with the three guarantor countries, Turkey, Greece and Britain.'' Furthermore, Mr. Erdogan and Foreign Minister Gul will be attending a Balkans summit in Belgrade this week, where they will meet with Greek leaders to discuss steps to resolve the Cyprus issue.

Mr. Speaker, it is going to take an even greater commitment from the United States and the international community to a achieve lasting settlement of the Cyprus issue. I believe the debate we are engaged in today is a clear signal that Congress will remain firmly engaged on this issue, and that we are serious about achieving a comprehensive settlement that benefits both Greek and Turkish Cypriots as well as the entire region.

Ms. ROS-LEHTINEN. Mr. Speaker, today I want to thank Mr. BEREUTER for his leadership in introducing H. Con. Res. 165, expressing support for a renewed effort to find a peaceful, just, and lasting settlement to the Cyprus problem, and I want to take this opportunity to voice my strong support for this resolution.

In today's uncertain world, where conflict and instability abound, one such long-standing dispute was quietly moving toward a resolution.

However, while the world has been focused on Iraq and deadlines on the Hussein regime came and went, another deadline, one vitally important to a resolution to the conflict on Cyprus, passed with little fanfare.

The stakes in Cyprus are high, and while the United States is rightly focusing on more pressing foreign policy problems like the war on terrorism, the war in Iraq and other issues in the Middle East, we should also devote attention to bringing an end to this conflict.

The outcome of a peaceful resolution to the division of Cyprus will have a significant impact on Turkey and Greece, two key NATO players whose antagonistic relationship has too often roiled the alliance.

It would benefit U.S. interests in the eastern Mediterranean, would strengthen NATO by improving relations between our two key allies, and defuse an ongoing regional arms race.

Just as they are standing shoulder-to-shoulder with the United States in the war against terror, so too must they play a constructive role in resolving this longstanding dispute.

The European Commission clearly and unequivocally has linked Turkey's ambitions to join the EU to a solution to the conflict. Turkey is eager to join the EU, and the Turks of Cyprus, isolated and living in poverty, look forward to sharing the benefits of EU membership. One only has to look to the massive rallies recently held by Turkish Cypriots in support of a resolution.

Just today, the Greek and Turkish Prime Ministers met in Belgrade and agreed on the need to reach a solution to the political problem in Cyprus. The moment of truth is at hand, and time is running short. The two communities should play an important role in the efforts toward a solution and move their leadership to the negotiating table.

They must show genuine commitment to forge an agreement on the terms of reunification. As the President of the Republic of Cyprus recently stated: ''Non-solution is not a solution. It is not even the conclusion of the Cyprus problem. On the contrary, it will mean the beginning of new dangers and new problems. The eventual solution to the Cyprus problem will be a compromise. . . .''

However, ''If the solution is not functional it cannot be viable. If it is not viable it will not be permanent.'' A solution cannot include the possibility of the permanence of division. After nearly 30 years, it is time for the bitter division of Cyprus to come to an end. It is time for a peaceful, just, and lasting settlement to the Cyprus problem. I am confident my colleagues share this hope and I ask them to vote for this resolution.

Mr. BEREUTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentleman from Nebraska (Mr. BEREUTER) that the House suspend the rules and agree to the resolution, H. Res. 165, 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. SHERMAN. 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.

RECOGNIZING 100TH ANNIVERSARY OF LABORERS' INTERNATIONAL UNION OF NORTH AMERICA

Mr. LOBIONDO. Mr. Speaker, I ask unanimous consent that the Committee on Education and the Workforce be discharged from further consideration of the resolution (H. Res. 186) recognizing the 100th anniversary of the founding of the Laborers' International Union of North America and congratulating the members and officers of the Laborers' International Union of North America for the Union's many achievements, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

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

Mr. GEORGE MILLER of California. Mr. Speaker, reserving the right to object, I do not intend to object, and I yield to the gentleman to explain his request.

Mr. LOBIONDO. Mr. Speaker, will the gentleman yield?

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

Mr. LOBIONDO. Mr. Speaker, I rise tonight to offer, with the gentleman from California (Mr. GEORGE MILLER), a resolution honoring the 100th anniversary of the Laborers' International Union of North America and to congratulate their members on the union's many achievements over this century.

On April 13, 1903, laborers from across America rose to the challenge set forth by American Federation of Labor President Samuel Gompers to come to Washington and to meet and form a union to represent their interests. Made up of hardworking immigrants and minorities focused on construction work, these workers formed the Laborers' Union, and for 100 years, this union has helped build America into the strong Nation that it is today.

The union also pioneered equal treatment on the job for all workers, regardless of race, established union-led training and career development centers, and fought hard to improve worker safety.

In 1965, the Laborers' Union officially changed its name to the Laborers' International Union of North America to show a growing diversification from construction into health care, food service, shipbuilding, mail handling, as well as local, State and government service.

While the name of the union has changed, the spirit and dedication of those laborers 100 years ago has neither changed nor diminished, but instead has grown into a mighty work force for a better America. I wish the hard-working men and women a very much deserved happy 100th birthday, and I encourage them to keep up their impressive work well into the future.

Mr. GEORGE MILLER of California. Mr. Speaker, continuing under my reservation, I want to join the gentleman in supporting this resolution congratulating the Laborers' International Union for the 100th anniversary of the founding of this union.

Our resolution cites the grand history of this union from its beginning, when Samuel Gompers, the first president of the American Federation of Labor, challenged laborers across the country to coordinate their activities into one cohesive unit; and in response, 25 delegates from over 17 cities, representing 8,000 laborers, met in Washington, D.C., on April 13 in 1903.

From that date to this date, again the laborers meet in this city under the leadership of Mr. Terry O'Sullivan, their current president, to deal with the issues confronted by this union.

This is a union, if we look across the American landscape, that has simply built America. The laborers were there first on most construction projects, be they public or private projects. It is a grand union that has undergone many reiterations in the past and represented many different kinds of workers, but most of us know today it is the hard-working members of the Laborers' International Union; and I want to extend my congratulations. And I also want to recognize the work of their director of legislative affairs, Don Kaniewski, who does such outstanding work on Capitol Hill on behalf of the Laborers' Union.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 186

Whereas Samuel Gompers, the first president of the American Federation of Labor, challenged laborers across the country to coordinate their activities into one cohesive unit, and in response 25 delegates from 17 cities—representing more than 8,000 laborers—met in Washington, D.C. on April 13, 1903;

Whereas after four days of meetings these representatives formed the ''International Hod Carriers' and Building Laborers' Union of America'' (Laborers' Union);

Whereas the Laborers' Union was started and built by immigrants and minorities, and today immigrants and minorities continue to be the fastest growing segment of the Union's membership;

Whereas, in 1920, the Laborers' Union backed efforts by African-Americans to win equal treatment in other United States labor unions;

Whereas by the late 1920s a boom in construction caused the Laborers' Union membership rolls to approach 100,000, and during this period the merger and addition of three other unions—the International Compressed Air and Foundation Workers Union; the Tunnel and Subway Constructors International Union; and the International Union of Pavers, Rammermen, Flag Layers, Bridge and Curb Setters and Sheet Asphalt Pavers—further added to the Laborers' Union's size;

Whereas the members of the Laborers' Union provided crucial support to the National defense effort during World War II, and during the post-World War II industrial boom the Laborers' Union began organizing nonconstruction workers in the labor force;

Whereas, in 1950, the Laborers' Union built their own training center in Kansas City, opening an era of high-quality training to help workers advance in their jobs and careers by providing more opportunities for them and their families;

Whereas, in 1955, the Laborers' Union affiliated itself with the AFL–CIO Industrial Union Department in order to effectively represent the 60,000 laborers working under the jurisdiction of the Industrial Union Department;

Whereas, in 1965, the Laborers' Union officially changed its name to the ''Laborers' International Union of North America'' (LIUNA) to better reflect the continual expansion of the union beyond the construction field;

Whereas, during the 1960s, LIUNA successfully organized municipal, State, and university employees, and in 1968 added the 20,000 Mail Handlers Union to their ranks;

Whereas, in 1970, intensive lobbying by LIUNA and other unions resulted in the creation of the Occupational Safety and Health Administration;

Whereas more than 3,000 LIUNA members worked round-the-clock to clean up the site of the September 11, 2001, terrorist attacks on New York City, completing the clean-up three months ahead of schedule and under budget;

Whereas LIUNA currently consists of approximately 800,000 members in more than 650 locals;

Whereas LIUNA has long played a vital role in building the United States by constructing highways, bridges, tunnels, subways, dams, power plants, factories, office buildings, schools, churches, hospitals, and apartment buildings and houses;

Whereas LIUNA members work in a variety of fields such as local, State, and Federal government service, health care, mail handling, custodial services, shipbuilding, food service, and hazardous waste removal;

Whereas LIUNA is one of the most innovative unions in the labor movement, with 69 state-of-the-art training centers across North America, and is among the most successful unions at organizing within the labor movement;

Whereas LIUNA is an extraordinary union whose leadership works hard to protect its members' health and safety, to provide laborers a strong voice in the workplace and extensive skill training designed to empower members to reach their full potential, and perhaps most important, to ensure the dignity, respect, and security of laborers in the workplace; and

Whereas LIUNA's efforts are deserving of our attention and admiration: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes the 100th anniversary of the founding of the Laborers' International Union of North America and acknowledges the tremendous contributions LIUNA has made to the structural development and building of the United States and to the well-being of countless laborers;

(2) congratulates the members and officers of the Laborers' International Union of North America for LIUNA's many achievements and the strength of its membership; and

(3) looks forward to the continuation of LIUNA's efforts and believes that LIUNA will have an even greater impact in the 21st century and beyond, enhancing the standard of the living and work environments for future laborers.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LOBIONDO. 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. 186.

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

There was no objection.

□ 1945

CONGRATULATING SYRACUSE UNIVERSITY MEN'S BASKETBALL TEAM FOR WINNING 2003 NCAA DIVISION I MEN'S BASKETBALL NATIONAL CHAMPIONSHIP

Mr. WALSH. Mr. Speaker, I ask unanimous consent that the Committee on Education and the Workforce be discharged from further consideration of the concurrent resolution (H. Con. Res. 142) congratulating the Syracuse University men's basketball team for winning the 2003 NCAA Division I men's basketball national championship, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

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

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 142

Whereas on Monday, April 7, 2003, the Syracuse University Orangemen men's basketball team won its first Division I national basketball championship;

Whereas Syracuse University won the championship game by defeating the University of Kansas Jayhawks 81–78;

Whereas the Syracuse University team was led by freshman Carmelo Anthony, who was voted the Most Outstanding Player of the Final Four, and received outstanding effort and support from Gerry McNamara, Billy Edelin, Kueth Duany, Hakim Warrick, Craig Forth, Jeremy McNeil, and Josh Pace;

Whereas the roster of the Syracuse University team also included Tyrone Albright, Josh Brooks, Xzavier Gaines, Matt Gorman, Gary Hall, Ronneil Herron, and Andrew Kouwe;

Whereas Head Coach Jim Boeheim has coached at Syracuse University for 27 years and been involved with the Syracuse University men's basketball team for more than half his life;

Whereas Coach Boeheim had previously coached in two national championship games, including a heartbreaking loss in 1987;

Whereas Coach Boeheim and his coaching staff, including Associate Head Coach Bernie Fine and Assistant Head Coaches Mike Hopkins and Troy Weaver, deserve much credit for the outstanding determination and accomplishments of their young team; and

Whereas the students, alumni, faculty, and supporters of Syracuse University are to be congratulated for their commitment and pride in their national champion men's basketball team : Now, therefore, be it

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

(1) congratulates the Syracuse University men's basketball team for winning the 2003 NCAA Division I men's basketball national championship;

(2) recognizes the achievements of all the team's players, coaches, and support staff and invites them to the United States Capitol Building to be honored;

(3) requests that the President recognize the achievements of the Syracuse University men's basketball team and invite them to the White House for an appropriate ceremony honoring a national championship team; and

(4) directs the Clerk of the House of Representatives to make available enrolled copies of this resolution to Syracuse University for appropriate display and to transmit an enrolled copy of this resolution to each coach and member of the 2003 NCAA Division I men's basketball national championship team.

The SPEAKER pro tempore. The gentleman from New York (Mr. WALSH) is recognized for 1 hour.

Mr. WALSH. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Brooklyn, New York (Mr. TOWNS); pending which I yield myself such time as I may consume.

Mr. Speaker, I rise today to honor Syracuse University's Orangemen. Monday night, our university laid claim to the school's first Division I men's basketball national championship after defeating the University of Kansas 81 to 78 in a heck of a game. In addition to the players and coaching staff, many deserve recognition, including school administrators, faculty, staff, alumni, students, and one of the most loyal fan bases in collegiate athletics.

Mr. Speaker, as you may know, Syracuse has been to the Final Four before. Monday night's championship game proved for Head Coach Jim Boeheim that the third time is the charm as his team came full circle to defeat the national powerhouse of Kansas in the Louisiana Superdome, avenging a heartbreaking loss in 1987 to Indiana in the same facility. Preparing for a championship match-up against a senior-led Kansas team is not easy, and Coach Boeheim deserves much of the credit for his young team's outstanding determination and accomplishment. His team got back on defense and slowed down the Jayhawks' ferocious fast break.

Knowing Coach Boeheim personally, as I do, I would like to congratulate him sincerely today from the House floor. He is Syracuse basketball. Coaching his alma mater for 27 years, and being part of Syracuse basketball for more than half of his life, this championship is deserved not only for all of Syracuse's supporters and community but certainly for the coach himself. Also deserving praise this afternoon is Assistant Coach Bernie Fine, who has been with Jim Boeheim for many, many years and the rest of the fine Syracuse coaching staff.

Syracuse's championship team was led by Final Four Most Outstanding Player, Freshman Carmelo Anthony, and with outstanding support from Gerry McNamara; another freshman, Bill Edelin; Kueth Duany, a senior; Hakim Warrick, a sophomore; Craig Forth, a sophomore; Jeremy McNeil and Josh Pace. This young team demonstrated poise, presence, and pride in their performance throughout the tournament and all season long.

This was really a fine year for this team, a very interesting team with great team chemistry. The first game of the year they lost to Memphis in the NIT preseason tournament. It was the only loss they had in the first 2 months of the season. It was a young team that jelled very, very quickly, led by Freshman Gerry McNamara, Carmelo Anthony, who many believe is perhaps the best basketball player in the country, certainly the best freshman. But it was the chemistry of the team that was really outstanding.

Mr. Speaker, I would like to single out a couple of the individuals who did not get a lot of credit during the year, but I think they deserve it. One is Bill Edelin, who is a young man who came to Syracuse University, made a mistake, and instead of getting negative and sour, he took his medicine. He was suspended from the team. And when he finally did come back, he missed the first 12 games of the year, but he contributed immediately when he came back. He stayed positive, he stayed focused, and he did a remarkable job.

The other is Josh Pace, a young player, a greatly talented player who did not get a lot of playing time, but he stayed positive, he stayed focused, he practiced hard, played his role; and when tournament time came, he lit it up. He played great basketball.

This team won all the tough road games this year. They beat Michigan State at Michigan State, which is pretty tough to do. That was an elite 18. They beat Notre Dame at Notre Dame, a Sweet 16 team. And they beat Georgetown at Georgetown, and they were an NIT finalist. In fact, the only team to beat Syracuse in the last 2 months of the year was Connecticut, another Sweet 16 team. Very, very solid team.

This was an interesting tournament, in that for Syracuse they had to play all of the great teams out of the Big 12 out west, arguably the best conference in the Nation this year. During the regular season, Syracuse played Missouri at Syracuse and defeated them. A very good Missouri team, a well-coached team, talented team. In the tournament, in the second game, they played Oklahoma State, one of the top teams in the Nation, certainly one of the top teams in the Big 12, and defeated them rather easily. The last three games of the tournament they beat three of the best five teams in the Nation and the three top teams in the Big 12, Oklahoma, Texas, and finally Kansas.

This was a remarkable run through the tournament. They made us proud. Everybody in our community is excited. It is a small community. Syracuse is a city of about 150,000 people. It is sort of like Green Bay winning the Super Bowl. We have long winters, we have hardy souls who brave those cold days to go out, we have great fans, and we have very spirited and talented athletes. We are very proud of them. This is a great accomplishment for them and a great accomplishment for our community.

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

Mr. TOWNS. Mr. Speaker, I yield myself such time as I may consume, and I also rise to honor the Syracuse Orangemen on winning the first-ever NCAA men's basketball championship title.

I had Syracuse in the championship bracket, and I am proud to say that I was on board on the bus before they left Syracuse. I felt that they would be able to do it. I did not wait until they got to Bourbon Street. I felt they would be able to do it.

I must admit that in 1996, I think it was, they were in the Meadowlands and they were playing Kentucky, and of course we thought that Syracuse would be able to be successful that night. Kentucky ended up winning, and Syracuse ended up finishing second. But Coach Boeheim did not give up. He stayed with it. He continued to recruit and bring in great athletes; and, Mr. Speaker, I applaud the efforts of these young men and coaches and wish them much success.

As I think about the Syracuse team, I am reminded of a team that Coach Cal Irvin coached, because he reminds me so much of Coach Boeheim in terms of his commitment and dedication to his athletes and to winning. Of course, he had some great players. As Syracuse had Carmelo Anthony, Cal Irvin had Al Attles. And of course when I look at the character and the attitude of the players, I think about Carmelo Anthony and also the attitude of Al Attles.

And then I look at the other players on the team that Cal Irvin had during those days: a guy by the name of Herb Gray, another guy by the name of Joe Howell, Hank Marshall, Charlie Harrison, Hugh Evans, Gerry Powell, and the list goes on. And then I look at the Syracuse roster and I look at each player and I can sort of compare them

with those players that Cal Irvin had back in those days, and they were outstanding players.

Let me just say that I think that Syracuse can be extremely proud of their accomplishments. I know that Coach Boeheim is proud. I met him many, many years ago. I was introduced to him by a gentleman by the name of Al Wooten, who was a football player at Syracuse. He introduced me to Coach Boeheim and said that Coach Boeheim was a person that had a winning spirit and of course had a winning attitude. And of course after 27 years he has demonstrated that. Because most people would not wait around for 27 years, but he did, and I think that he needs to be applauded for that. Today, with the competition being what it is, it is not easy to win a national championship. But winning a national championship with quality players, with people that have character, I think that is the key.

So I would say to Syracuse and to the basketball team, you were able to win on the basketball court, now all you have to do is win in the classroom. And I am certain that as a result of that, you will do well in life.

I know someone mentioned earlier, my friend, the gentleman from New York (Mr. WALSH), that Carmelo Anthony was probably the best freshman in the country. I would like to say that he is the best basketball player in the country, bar none. There is no doubt in my mind. To watch him and to realize he is a freshman and being able to do the kinds of things he did, there is no doubt in my mind that he is the best basketball player in the NCAA today. There is no question about it.

I think the thing I really like about him is his character. He is a man who really is going to go places because he has the right attitude. I think more young people need to have that kind of attitude today. If they had that kind of attitude, I think a lot more of them would be much more successful. So I salute Carmelo Anthony for demonstrating to other young people in the world that you can have the proper attitude and still be good at what you do.

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

Mr. WALSH. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. BOEHLERT), my next-door neighbor from Utica and a Syracuse University graduate.

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

Mr. BOEHLERT. Mr. Speaker, I thank the gentleman for yielding me this time.

Who would have thunk it? The Syracuse Orangemen, not even rated in all the preseason polls, are national champions. And they provided a thrill a minute as they made the journey from being out of sight and out of mind to number one.

Ever since its first season, the Syracuse University's men's basketball team has been winners. In its inaugural season, Syracuse held opponents to a combined 51 total points and went on to a winning record. That inaugural year was 1900, and the record was two wins and one loss; 103 years and 1,462 wins later, the Syracuse basketball team has reached the promised land: NCAA national champs.

Head Coach Jim Boeheim has 653 of those wins over 27 seasons. That kind of record and longevity says something about this superior coach and decent human being. He is a winner; no one can dispute that. As Casey Stengel would say, ''You can look it up.'' But most of all he is a teacher, a man with a proven ability to transform raw talent into skilled practitioners of the game. He does it with his measured and methodical and patient and persistent approach. Yes, he is a winner, but that is a team endeavor. More than that, he is an inspired and inspiring teacher. And we all know that is a solo act. And that is what produces champions.

Further, he is the embodiment of an upstate New Yorker. He has remained loyal to his school and loyal to his community. For 27 years, he and Syracuse have been synonymous. That loyalty and longevity, combined with hard work, have paid off big time, not just for Jim Boeheim and not just for Syracuse University, but for all who love the game and watch with admiration and respect when the underrecognized and underappreciated come out on top. They got to that lofty position the old-fashioned way: they earned it.

Congratulations, Coach Boeheim and Syracuse University. Pardon our pride, but so many of us are bleeding Syracuse orange; and we are all, in the phrasing of that colorful commentator Dick Vitale, 'cuse crazy.

Mr. TOWNS. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. HINCHEY), who is a great Syracuse fan and his district goes almost to Syracuse, New York.

Mr. HINCHEY. Mr. Speaker, I thank my friend, the gentleman from New York (Mr. TOWNS), for yielding me this time; and I also want to express my appreciation to my good friend and colleague, the gentleman from New York (Mr. WALSH), for bringing this resolution to the floor this evening so that we can have an opportunity to congratulate this wonderful basketball team.

We all recognize and admire the very justified pride that our colleague, the gentleman from New York (Mr. WALSH), feels in this basketball team from the university that bears the name of his hometown. But all of us in New York share in that pride as well. Syracuse University is not a very large school, by some of the national standards; but it is a university in which we all share a great deal of pride.

□ 2000

It is a university that is known for its academic achievements and for its athletic prowess, and that athletic prowess was demonstrated earlier this week, as anyone who knows basketball and loves the game of basketball recognized as being one of the best basketball games that any of us have ever seen. It was played by two teams, each of which had great talent, and they played with all their heart, each one wanting to win.

But it was the mighty Men of Orange from Syracuse University who emerged the victor, and tonight we share in their achievement and in their pride and we take this opportunity, along with their Congressman, to offer our deep congratulations for this terrific effort.

Mr. WALSH. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. QUINN), a fine former basketball player from Siena University.

Mr. QUINN. Mr. Speaker, I want to begin by not only commending the Orangemen of Syracuse on their terrific win this past week, but also to thank the gentleman from New York (Mr. WALSH) who is probably, beyond all people, more proud of his city of Syracuse and the university for not only what they do on the athletic field, but also academically, than any other person around.

My district is probably as close to Syracuse as the district of the gentleman from New York (Mr. TOWNS) in the Bronx, but that does not make us any less proud of what Syracuse accomplished on their basketball team when they beat Kansas Monday night. They played the entire tournament showing the youth and their opponents, as they played them, that the notion that seniors win championships is incorrect.

Led by super-freshmen Carmelo Anthony, Jerry McNamara and others, they allowed Syracuse and Coach Boeheim, after 27 years, his shining moment as a national champion in the NCAA.

I have had to listen in my office to two Syracuse grads, Mike Tetuan and Katy Carter, all year long about how often they are going to win; and I thought that this win by Syracuse would put all of that to rest, and I would not have to hear the comparisons of that other super-college power in Upstate New York, Siena College. However, on the opposite side, what this win has done is not quieted them down; that is all I hear from these two staffers now, that their young team will be back again and again.

We hope that they are back because, down the road, we are hoping that this win and this kind of enthusiasm moves down the Thruway to Buffalo for our NFL Bills this coming season, and we can bring the NFL championship back to our great city.

Syracuse, the Salt City, like Buffalo, which I represent, are sometimes known for two things: snow and snow. Some people ask, Why would young men and women go to Syracuse to play basketball? And as Steve Thompson, a former Syracuse basketball player

liked to say, ''It never snows in the Carrier Dome.''

For many years, I have said that Coach Boeheim is probably the best recruiter in the United States to get great players to Syracuse, New York, inside that dome on a Saturday afternoon, where I have been many times, sometimes with the gentleman from New York (Mr. WALSH), where Coach Boeheim has 30,000 people on a Saturday and takes down those Big East opponents, people outside the conference, and comes home a winner.

The answer why people would want to go to Syracuse to play basketball is more simple than ever now, because Syracuse is the 2003 National Champion, headed by the longest-tenured coach in the NCAA, Jim Boeheim, and supported by alumni and fans everywhere, including Buffalo and western New York. We believe what Jim believes in, that Syracuse is where basketball ended this year, and it is where it will start next year.

I am proud to add the voice of all of our friends and neighbors in western New York to the voice of the gentleman from New York (Mr. WALSH) as a proud New Yorker, and say congratulations to the team, the staff and university, and most importantly, to Coach Boeheim for a job well done.

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

Mr. Speaker, let me say that basically a lot of my friends in particular thought that Syracuse was going to lose. After watching Kansas destroy Marquette, they felt if Kansas could destroy Marquette that way, Syracuse has no chance. But they did not realize that Coach Boeheim was able to make adjustments and basically shut down the fast break for the first half because of the fact that he was able to get back, and he stressed it with his team. So as a result of making adjustments, he proved one thing, that he is one of the greatest coaches in the country today.

I think that any time a coach can make those kinds of adjustments and shut down a fast break like Kansas had, that shows that they know what they are doing.

I would like to salute Coach Boeheim for his outstanding leadership and the fact that he was able to make the adjustment and show that coaching is very, very important. I want to salute him for that, and also to say to him, in terms of his players, it is always good if you have players that will respect you and will follow your lead, as his players did. It was very obvious that they listened to him and made adjustments, and as a result, they were successful. I would like to salute him for that.

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

Mr. WALSH. Mr. Speaker, I have no further requests for time, and I reserve the right to close.

Mr. TOWNS. Mr. Speaker, I yield myself 2 minutes.

I really feel that the Syracuse team was an outstanding team, and it shows what can be done when you work real hard.

I was just comparing Coach Boeheim with Coach Cal Irvin, who coached North Carolina A&T University for many, many years, how he always stressed working hard. When I look at the results of the Syracuse team and I look at the results of the North Carolina A&T team from many, many years ago, I can see the similarities between the two teams, the coaches as well as the players. I think that today means more than anything else.

Al Attles is one of the finest individuals I have ever met, and they tell me, and from what I have seen and heard, that Carmelo Anthony is the same kind of individual. When I look at the outstanding players he had, going right down the roster, I think this is what it is all about today, having players that have character, having players that understand how important it is to follow rules and regulations.

I am hoping that all of the young people in America were able to look at them and see in terms of the type of attitude that they demonstrated in this play that night as they won the championship. They won it with pride. They were proud. They were not people who were always arguing with the referees and arguing with each other. I think when teams work together, it shows what they can accomplish.

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

Mr. WALSH. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I would like to thank all of my colleagues from all across the State who came here this evening to enjoy this pleasurable event. It has been a little time to gloat perhaps, certainly enjoy and bask in the glow of victory.

New York State from time to time has these upstate-downstate differences. Clearly there is no difference here. We have Brooklyn and Hudson Valley and Buffalo and Utica, Syracuse; all of the way across the State, people have been very supportive. The East Regional Tournament was in Albany, and they turned Albany orange. It has been a great run for our school team.

This is a championship season. It is something that not everyone gets to enjoy.

I had a daughter who played on a State championship soccer team in high school, and there is a special feeling that comes from that, not just for the players and the coaches, but for the community, for the people who watched them and suffered their losses and bit their fingernails and turned their knuckles white when they had close calls. This really unified our town.

Syracuse has had this basketball tradition for over 100 years, but we have never gotten to the national championship and won it. We have been there. We lost to Indiana back in 1987, a last-second shot by Keith Smart. Everybody in Syracuse knows where they were when Keith Smart made that shot. It was a defining moment. But to have this team go back to the Superdome and to see that last-second shot by the Kansas player, Lee, from the same spot that Keith Smart let that shot go from, it just shows there is justice in this world.

The team chemistry was terrific. These young people did not know how good they were, but they found out. The country had no idea how good they were, but the country found out. Their egos did not get in the way. They played team basketball. The coach had them playing together beautifully, and everyone up home is enjoying it.

I wanted to come before the House and take the privilege that I have to share that moment. My family is tied up inextricably with Syracuse. My father was the mayor of Syracuse. He was a Member of Congress from Syracuse. I am second generation. I am from Syracuse.

Somebody said a long time ago that victory has a thousand fathers, loss is an orphan. There are thousands of fathers and mothers and brothers and sisters who are enjoying the heck out of this week. I hope they continue to enjoy it for a long time to come. We may never get a championship season again. We may get one next year, or in 15 or 20 years. The fact is, we have one now; let us enjoy it and thank God for it.

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

The SPEAKER pro tempore (Mr. BURGESS). Without objection, the previous question is ordered on the concurrent resolution.

There was no objection.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WALSH. Mr. 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. 142.

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

There was no objection.

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.

SUPPORTING AMERICAN PARITY ACT

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

GENERAL LEAVE

Mr. EMANUEL. 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 gentleman from Illinois?

There was no objection.

Mr. EMANUEL. Mr. Speaker, tomorrow I will introduce the American Parity Act which provides for American families, just as the supplemental appropriations which we approved last week provides for Iraqi families. It is simple, straightforward and fair. I already have 16 original cosponsors on the legislation.

Last week in the supplemental we provided $1.7 billion for the reconstruction of Iraq. All we are asking for today is the same for America. The same goals that we establish for Iraq, we establish for American families here at home. I have gone and looked at some of the plans that the administration has for Iraq, post this war.

In Iraq, we are planning 20,000 units of housing to be reconstructed. Yet in the budget approved by this body, we have only 5,000 units of housing planned for America: 20,000 for Iraq and 5,000 for America. Under education, there will be 4 million Iraqi children guaranteed early childhood education. Yet in the budget approved by this body for American families, we are cutting 28,000 children from Head Start.

□ 2015

Twelve thousand and five hundred schools will be deprived of basic books and supplies; yet in America teachers have to take out of their wages the dollars to buy supplies for their kids. Twenty-five thousand schools will be reconstructed in Iraq; in America the budget provides not a single dollar for modernizing American schools, and 40 educational programs here in America have been zeroed out by the administration's budget.

Under the area of healthcare for Iraq, let us look at the agenda for Iraq's healthcare. Thirteen million Iraqis, half the Iraqi population, will be given universal healthcare. In America we have 50 million uninsured, not a single dollar dedicated to the working uninsured in America. Every major city in Iraq will get a hospital. We will have 100 percent maternity coverage for the Iraqi women; yet we are cutting $100 billion from Medicaid where one out of three children are covered at birth. That is in the healthcare area.

Under infrastructure, 3,000 miles of roads for Iraq; yet we are cutting $6 billion from our Highway Construction Budget and Trust Fund. We have enough money to build a road from New York to California as it relates to Iraq; yet we are cutting our investment here in America. In the area of other infrastructure, there will be complete reconstruction, the only deep-water port in Iraq. In America our Corps of Engineers' budget will be cut by 10 percent under the administration's budget and under the budget passed by this Congress.

I support the reconstruction in Iraq. I think it is the right thing to do given what we have done there, what we need to do, the future we have to promise the Iraqi people; yet that should not come at the expense of the dreams of America's families.

This lays out every proposal that exists for Iraq versus what the budget the President and the Republican Congress proposed for America. I do not believe that the way we greet our soldiers when they come home is a smaller American dream, one that does not invest in healthcare, one that does not invest in America's schools, one that does not invest in America's roads, one that does not invest in America's housing.

In the last 3 years, the last 2 years, America has shed 2.5 million jobs, over 1 million manufacturing jobs. Four million more Americans have gone without healthcare who used to have healthcare. Nearly $1 trillion worth of corporate assets have been foreclosed on, and 2 million Americans have gone from the middle class to poverty. That has been the economic agenda and the economic record of this administration. As Ronald Reagan used to say, facts are stubborn things, and those are our facts.

In my view maybe what we should do for Iraq is to cut their capital gains tax and see if they can grow their way out of this problem. If cutting taxes are so great for America, why do not we use that as the economic program for Iraq and bring all those investments home to America? Since it seems to be that the agenda and the strategy for Iraq is to invest in its schools, invest in its roads, invest in its housing, and invest in its healthcare which will give Iraqi families a better future than the past and in America we are going to get tax cuts on capital gains and tax cuts dedicated to the wealthy, why do we not give Iraq the tax cuts and get all these investments back here at home since it is supposed to be a promising future for the Iraqi people?

Again, I want to be clear. I am going to support the reconstruction of Iraq, but I will not support the two budgets, the supplemental and the budget the President has laid down for America, one that offers a brighter future for the Iraqi people than it does for the American people. Either America will be brought up to Iraq's standard or Iraq will come down to America's standard.

Ms. DELAURO. Mr. Speaker, I would like to thank my colleague, Congressmen EMANUEL for his leadership on this important issue.

I think all of us can agree on the urgency with which we need to provide funding for both the war in Iraq and the humanitarian needs of the Iraqi people. It is absolutely essential that Congress and the Administration provide our soldiers with the resources they need to see the Iraqi conflict through to its conclusion.

Equally indispensable is the United States' responsibility to play a key role in providing the funding necessary to the rebuilding of Iraq once the war is over. The goals outlined in President Bush's recently released reconstruction plan for Iraq—paying for Iraqis' health care services, education, transportation, and housing for millions of people—these are noble goals that will need to be met as soon as the last shot is fired.

But no less urgent are the needs we are facing today, right here at home. These are difficult times. More and more Americans are out of work—their families without health insurance. Many of our public schools are literally falling down. And we have homeland security and other serious infrastructure needs that we can no longer afford to ignore.

That is why Congressman EMANUEL's bill is so important. The American Parity Amendment would increase funding for urgent needs right here at home by $1.7 billion. We are talking about critical investments in education, in first responders and health care. Investments in transportation and water infrastructure, in social services for seniors, and housing for low-income Americans—all of them crucial to rebuilding our country and revitalizing our economy.

What we are saying today is that it is important that we win the war and rebuild Iraq, but at a time when so many Americans are struggling, America is in need of a little post-war reconstruction, too.

Since passage of the President's tax bill two years ago, two and a half million more Americans have lost their jobs, with the number of Americans without health insurance rising by four million. A trillion dollars worth of corporate assets have been foreclosed on, and two million Americans have moved from the middle class into poverty.

And so in this legislation, states and localities would be eligible for funding according to their level of unemployment and how high it is compared to the national average, in addition to factors such as how long that state's unemployment rate has been that high, how large the state's population and what the average income is. This bill is designed to target the most vulnerable regions in the nation so that the funding is put to its best possible use.

Those localities are also under great pressure to meet their increasing homeland security needs. Cities and towns have already spent more than $3 billion on homeland security improvements since September 11. But with states experiencing their worst fiscal crisis since World War II, it is altogether unlikely that these localities can count on their states to assist them with meeting these needs.

In fact, two weeks ago I met with first responders in my district to talk about their problems. Fire chiefs, police chiefs, and mayors, they all agreed on one thing—they are desperate for funding to upgrade equipment and to train volunteers on how to use that new equipment. The $4.25 billion in homeland security funding in the supplemental this body passed last week is a good first step, but we need to do more, which is why this legislation is so sorely needed. It will get funds into the hands of the first responders who need them.

I am proud that we will take the lead in rebuilding Iraq, but like so many Americans, I think it is time that we rebuild America, too. We want our troops who are bravely serving our country abroad to come home to a revitalized economy—to an America that is stronger and more prepared to meet the many challenges before us.

None of us are under any illusions about the magnitude of those challenges. But we owe it to our troops and their families to be equally as realistic about the challenges that we face right here at home. Again, I would like to thank my colleague for his leadership on these issues.

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

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

ORDER OF BUSINESS

Mrs. MUSGRAVE. Mr. Speaker, I ask unanimous consent to take my special order at this time.

The SPEAKER pro tempore. Is there objection to the gentlewoman from Colorado?

There was no objection.

HONORING RANDY REHN

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

Mrs. MUSGRAVE. Mr. Speaker, this week I had to do the hardest thing that I have done since I have been in Congress. In our offices, in the rooms that we go into even for our hearings, the images of the war are on the TV. We have seen them now day after day. But this week those images became very personal to me. I received word that one of my constituents, Randy Rehn, from Longmont, Colorado, a young man serving his country in Iraq, lost his life. When I got the news, I wanted to call Randy's family and offer my sympathy. And when Randy's mother answered the phone, I got a lump in my throat that would not go away. I have a son about that age, and I thought of what his mother was feeling at that time, and as I talked to her, she told me that just 2 short years ago she lost Randy's father to cancer and so she was facing this crisis without him, but she said she was very thankful that her other children were there with her and were supporting her.

When we think about these losses, this war becomes very real to us. As I talked on to Randy's mother, she told me that he had a little daughter who is less than 1 year old. And tonight I would like to speak to little Megan, and I would like to say some things to her that will mean something to her when she is older and she can read this and she can understand. I would like to say to little Megan tonight, the precious little girl that will have to grow up without her father, that your daddy was serving his country and he was doing what needed to be done for little children just like you, Megan.

I want Megan to know that her dad is a hero. I want her to know that he was doing a job that was extremely hard to do, and he was doing it willingly, and I am sure he was well aware that there were sacrifices to be made. So tonight, Megan, I want to say to you that your daddy laid down his life for others, especially little children like you.

The Scripture says that our God will be a Father to the fatherless, and I just pray a special blessing on your little life, Megan, that God will bless you and your family, and I want you to always remember that your daddy was a hero and we love our soldiers who serve this country, who lay down their lives.

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

(Ms. DELAURO addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

THE AMERICAN PARITY ACT

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

Mr. MCGOVERN. Mr. Speaker, I am pleased to rise to join the gentleman from Illinois (Mr. EMANUEL) and my other colleagues to talk about some of the choices that we now face in this country as illustrated by this chart. I know that all of us were pleased to see the reaction by the people of Baghdad today as the regime of Saddam Hussein crumbles. I know that all of us are so proud of the men and women of our Armed Forces who have conducted themselves with courage and character. And while it is certainly true that many difficult and dangerous days may lie ahead, it is important that as a Congress and as a country, we now begin to think about the future.

We have made a promise to the people of Iraq that we will not abandon them, that the United States will continue to provide security and help them to rebuild their country. We must and we will fulfill those promises. But, Mr. Speaker, what about the promises made to the American people? After all, American soldiers are fighting this war and the American taxpayers are funding it. Does it not make sense that the American people should not be forgotten in all of this?

Last week this Congress approved $1.7 billion to fund the rebuilding of Iraq from schools to roads and bridges to hospitals to clean water, $1.7 billion. Meanwhile, in the Republican budget for 2004, the American people are being shortchanged. While Iraq will receive hospitals, maternity care, and access to health services, not one new dollar is spent on 42 million uninsured Americans. While Iraq will have nearly 3,000 miles of their major roads repaired, the Republicans cut the American Transportation budget by $6 billion. And perhaps most outrageously, while we pay to rebuild or renovate 25,000 Iraqi schools, the Republican budget contains not one dime for school construction or modernization in the United States. Indeed, Mr. Speaker, we do not even have a school construction and modernization program in this country. The Republicans keep voting it down. Meanwhile, here in the Alice in Wonderland House of Representatives, the Republicans are insisting, insisting, on keeping their $750 billion tax giveaway to the wealthiest Americans. Tax cuts for the wealthy while our deficit is exploding, while veterans' benefits are slashed, while millions of Americans lose their jobs, while States are facing their worst fiscal crises since World War II, while millions of seniors struggle to pay for their prescription drugs, while local communities across the country are laying off police officers and teachers and firefighters.

Mr. Speaker, the priorities of the majority leadership of this House are just wrong. I am pleased to be an original co-sponsor of the gentleman from Illinois' (Mr. EMANUEL) bill, the American Parity Act, which attempts to restore some balance to our budgetary process, and I believe that this bill is a better expression of the priorities of the people I represent in Massachusetts. Indeed, I think it is a better expression of the priorities of the majority of people in this country.

It is important for us to live up to our promises to help the Iraqi people. America must be a Nation that keeps its word, and we will, as this chart points out, and as we voted last week by approving the supplemental appropriations billing. For example, also, as co-chair of the Congressional Hunger Center, I am especially concerned that the necessary food and other humanitarian assistance gets to the Iraqi people who need it as quickly as possible, and we need to be there to make sure that that happens. We must rebuild Iraq, but we must rebuild America as well, and I will continue to work with my colleagues on both sides of the aisle to make sure we do that.

Mr. Speaker, we can do much better for the people of this country than the Republican budget puts forward. Our people in this country deserve the same attention to the issues of education, healthcare, infrastructure, transportation that we are giving to the people of Iraq. Again, we support rebuilding Iraq. We support keeping our promises, but we are also insisting that we keep our promises to the American people.

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

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

ORDER OF BUSINESS

Mr. RYAN of Ohio. Mr. Speaker, I ask unanimous consent to take my special order at this time.

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

There was no objection.

IN SUPPORT OF THE AMERICAN PARITY ACT

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

Mr. RYAN of Ohio. Mr. Speaker, I rise today in support of the American Parity Act sponsored by the gentleman from Illinois (Mr. EMANUEL), and I would like to thank him for his leadership on this particular piece of legislation and also thank the gentleman from Massachusetts (Mr. MCGOVERN) for articulating such a fine point that none of us here believe that we should somehow rob the Iraqi people from the taste of democracy or from the taste of a free society. But the argument that we are trying to make tonight is that we want this to happen. We want healthcare for the Iraqi people. We want infrastructure. We want schools. We want them to read and experience all the best that the democracies have to offer around the world. But we cannot do this, we should not do this, and forget along the way the priorities of the United States of America and the citizens that we have here.

I want to share with the American people here tonight a study that was recently done by Goldman Sachs, not exactly a liberal think tank. They said, and this is their forecast, if the President's proposed new tax cuts are enacted, a Medicare prescription drug benefit approved, the alternative minimum tax adjusted, and appropriations grow modestly, the deficits over the next 10 years will total $4.2 trillion. And that is if the Social Security surplus is included. If it is not included, the deficit would be $6.7 trillion.

The gentleman from Illinois (Mr. EMANUEL) suggested maybe we offer this tax cut to the people of Iraq and allow them to grow their economy, but the problem with the tax cuts and having normal priorities is that the burdens with the baby boom generation needing support in their later years, the children and grandchildren of the citizens of this country's payroll tax will be 33 percent, 33 percent payroll taxes for their children and grandchildren, long-term deficits. We will not be investing in alternative energy sources. We are going to raise the interest rates. We are going to raise the interest payments. We are going to tie our hands with the international problems that we need to be committed to. We are not fully funding IDEA where the disabled children in this country are not getting the full 40 percent that was promised, and worse yet, we are cutting veterans' benefits by $28 billion. So we are sending our soldiers out, asking them to achieve these goals, and when they come back, they are going to have $28 billion less in services and healthcare benefits that will be a smaller and more diminished American dream for our soldiers when they return back to this country.

Mr. Speaker, this is a question of priorities. This is the wealthiest country on the planet.

□ 2030

This is the freest society on the planet. If we want to create democracy in Iraq, we will. If we want the young school children to have 12,500 more schools, enroll 4 million more children, rebuild or renovate 3,000 schools, we will, because we have the power and the ingenuity and the spirit to make it happen. But we should not do it at the expense of the people and the children of this country, the veterans of this country, the seniors of this country, the disabled children in this country.

This is eerily similar to the administration of 1990 and 1991, where we have completely taken our eye off the domestic ball and we keep it on foreign policy at the expense of the American people. And we are over there because we believe in the Iraqi people. We believe that when the sweet taste of democracy touches their lips, that they will respond in kind.

But let me just say this in closing, Mr. Speaker, that maybe if we were making the investments in this country and gave the faith and the devotion to the people of this country, like we have for the citizens of Iraq, maybe one day the citizens of the United States of America will be up cheering in the streets, saying yes, our government is responding to the needs of the people of this country.

The SPEAKER pro tempore (Mr. BURGESS). Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

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

REMEMBERING THE ARMENIAN GENOCIDE

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

Mr. PALLONE. Mr. Speaker, April 24 will mark the 88th anniversary of the beginning of the Armenian Genocide. On April 24, 1915, 250 Armenian intellectuals and political leaders were arrested and later executed as the rulers of the Ottoman Empire implemented their plan to eradicate their Armenian subjects. This action against the Armenian community's elite marked the beginning of one of the most horrendous events in the history of humankind.

Two weeks from now, Armenians will gather worldwide to remember their martyrs and survivors and to seek universal affirmation of this crime against humanity. Because we are out of session this year on April 24, I would like to comment on the Armenian Genocide tonight. I do so to honor the memory of those innocent victims killed for only one reason, because they were Armenian.

One and a half million men and women, young and old, able-bodied or not, were driven from their ancestral homeland and brutally massacred.

Mr. Speaker, this week over 160 Members of the House of Representatives, including myself, will send a letter to President Bush asking that he fulfill his campaign promise and use the word ''genocide'' in his annual April 24th address. He fell short of that promise last year, but with this strong showing of Congressional support it is my hope that he will do the memory of the victims of the Armenian Genocide justice in this year's address.

In addition, Mr. Speaker, tomorrow, more than 60 of my colleagues will join the gentleman from California (Mr. RADANOVICH), the gentleman from California (Mr. SCHIFF), the gentleman from Michigan (Mr. KNOLLENBERG) and myself in introducing a resolution on the issue of genocide. This resolution reaffirms the support of the ratification of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987.

This resolution is an extremely important and timely measure, in my opinion. It not only speaks to the immeasurable wrongs done to the Armenian people, but also to the Jewish people during the Holocaust and the genocides in Rwanda and Cambodia. In the last two years, we have all seen example after example of the disregard for human life. This resolution would reaffirm that Congress recognizes the horrors of the last century, and strives to prevent further genocides through vigilant education.

Mr. Speaker, the message of the broad, bipartisan support of the letter to the President and the legislation is clear: Turkey must recognize the genocide of its past and accept that Armenia is an integral and necessary sovereign neighbor. It must drop the illegal blockade against Armenia and establish full and normal diplomatic and economic relations. Reconciliation with its past and normalization of relations with Armenia is the only way for Turkey to step out of the dark shadows of its history of genocide. The entire western world, which Turkey so desires to be part of, demands it.

Mr. Speaker, let me say in conclusion, as we embark on a new century,

we must make sure that we have learned the lessons of humankind's capacity for brutality, and combat this with truth about the past, compassion for our common man, and a refusal to let these crimes against humanity be repeated.

We must remember and learn from tragic events the tragic events that befell the Armenians. That is the only way we can be certain that this horrific event, which almost destroyed one of the oldest cultures on the planet, does not happen again.

Mr. WEINER. Mr. Speaker, between 300 and 1,000 people were killed in attacks on more than a dozen villages in northeastern Congo last week. According to witnesses on the ground, the coordinated attacks started with a whistle blow and lasted between five and eight hours. UN and International Red Cross observers say that they have witnessed the results of the killing, 20 mass graves.

Mass killings such as this have become a regular occurrence in the Congo Civil War, which killed more than 50,000 last year. Yesterday, up to one thousand people were killed in the span of a few hours, yet these stories don't even make the front page of the papers here in the States.

How many people have to die before we will take action? How many lives need to be shattered before we will stand up and say, ''Enough!'' How many more massacres can we sit by and watch before we will realize our mistakes?

The United States' failure as a world leader in human rights is demonstrated in our lack of will to stop massacres that have occurred in places like Congo, Kosova, Rwanda, Iraq, and many others. But it is also seen in our denial of those massacres that we know have taken place.

Every year since I was elected to Congress, I have joined my colleagues in the House of Representative to hold this annual vigil commemorating the Armenian Genocide for a simple reason, because there are those out there who deny that it ever occurred.

Eighty-eight years ago, on April 24, 1915, the government of the Ottoman-Turkish Empire rounded up approximately 600 leaders and intellectuals of the Armenian community and executed them. This was the beginning of the mass slaughter of 1.5 million Armenians at the hands of the Ottoman-Turkish Empire.

We know this happened, and we know how many people were killed and we know how it was done and by whom. Yet the official U.S. government position on this atrocity is that it was not a genocide, that there was no deliberate attempt by the Ottoman Turks to wipe-out the Armenian population.

We here on the floor today know better. And we know that by denying the truth surrounding this tragic chapter of history, we are only providing cover for the next genocide to begin.

The events in Africa last week provide yet another chilling example: If we fail to act, these types of terrible crimes will persist.

Eighty-eight years of denials are enough. We in Congress need to pass an Armenian Genocide Resolution and put to rest this campaign to deny the Armenian genocide. I urge all my colleagues in the House to join with me under the leadership of our Armenian Caucus co-chairs, Joe Knollenberg and Frank Pallone, and cosponsor a resolution to finally put this denial to an end.

Mr. BILIRAKIS. Mr. Speaker, I rise today to join my colleagues in commemorating one of the most appalling violations of human rights in all of modern history—the eighty-eighth anniversary of the Armenian genocide. I want to commend my colleagues Representatives JOE KNOLLENBERG and FRANK PALLONE, the co-chairs of the Congressional Caucus on Armenian Issues, for once again sponsoring this special order.

Each year, we join the world in the commemoration of the Armenian genocide because the tragedy of lost lives through ethnic cleansing must not be forgotten. By remembering the bloodshed and atrocities committed against the Armenian people, we hope to prevent similar tragedies from occurring in the future.

On April 24, 1915, 300 Armenian leaders, scholars, and professionals were gathered, deported, and killed in Constantinople. Later that day, 5,000 more Armenians were butchered in their homes and on the streets of the city. By 1923, two million men, women, and children had been murdered and another 500,000 Armenian survivors were homeless and exiled. The Armenian genocide was the first of the twentieth century, but unfortunately as we all know, it was not the last.

Talat Pasha, one of the Ottoman rulers, stated that the regime's goal was to ''thoroughly liquidate its internal foes, the indigenous Christian.'' The regime called the mass murder a mass relocation, masking its horrendous acts from the rest of the world. The Ottoman Empire was fully aware that the possibility of foreign intervention was minimal considering the world was preoccupied with World War I at the time.

However, the massacre was immediately denounced by representatives from Britain, France, Russia, and the United States. Even Germany and Austria, allies of the Ottoman Empire in the first World War, condemned the Empire's heinous acts.

Henry Morgenthau, U.S. Ambassador to Constantinople at the time, vividly documented the massacre of 1.5 million Armenians with the statement, ''I am confident that the whole history of the human race contains no such horrible episode as this. The great massacres and persecutions of the past seem almost insignificant when compared to the sufferings of the Armenian race in 1915.''

Winston Churchill used the word ''holocaust'' to describe the Armenian massacres when he said that, ''in 1915 the Turkish government began and ruthlessly carried out the infamous general massacre and deportation of Armenians in Asia minor . . . [the Turks were] massacring uncounted thousands of helpless Armenians—men, women, and children together; whole districts blotted out in one administrative holocaust—these were beyond human redress.''

The orchestrated extermination of people is contrary to the values the United States espouses. We are a nation which strictly adheres to the affirmation of human rights everywhere. No one can erase a horrendous historical fact by ignoring what so many witnessed and survived.

Recognition and acceptance of misdeeds are necessary steps toward its extinction. Without acceptance, there is no remorse, and without remorse, there is no catharsis and pardon. We all want to forget these horrific tragedies in our history and bury them in the past. However, it is only through the painful process of acknowledging and remembering that we can prevent similar iniquity in the future.

The survivors of the Armenian genocide and their descendants have made great contributions to every country in which they have settled, including the United States where they have made their mark in business, the professions and our cultural life.

In closing, I would like to ask that we all take a moment to reflect upon the hardships endured by the Armenians, and acknowledge that in the face of adversity, the Armenian people have persevered. Today, we commemorate the memories of those who lost their lives in the genocide, as well as the resilience of those who survived.

Mr. CROWLEY. Mr. Speaker, April 24—two weeks from today—will mark the 88th anniversary of the Armenian Genocide, when the government of Turkey systematically massacred 1.5 million Armenians and exile over one million more. This unanswered event set a historical precedent that has allowed governments to continue to commit crimes against humanity without remorse or punishment. While we are fighting a war in Iraq, I believe that now is the time for our government to formally recognize the Armenian Genocide and to send a strong message to the world that crimes against humanity will not be tolerated. That is why I am proud to be an original cosponsor of the Congressional Genocide Resolution, which is scheduled to be introduced tomorrow morning. This resolution commemorates the 15th anniversary of the U.S. implementation of the Genocide Convention and includes the events of the Armenian Genocide, Cambodia, Rwanda, and the Jewish Holocaust as examples of crimes against humanity that should never be forgotten.

Additionally, I have also joined over 150 other members of Congress in signing a letter to President Bush urging him to properly recognize the Armenian Genocide.

As a member of the International Relations Committee, and representing a district with a large Armenian-American community, I believe that the United States must continue to help the government in Yerevan to guarantee its security, develop its economy and infrastructure, strengthen its parliamentary process and advance democratic elections.

My district includes a large Armenian-American community, especially in Sunnyside, Woodside and Jackson Heights, Queens and I have listened to their needs and concerns many times. I have worked tirelessly to promote the interests of Armenia and the Armenian-American community.

I have worked closely with Aram Sarafian of the Armenian National Committee of New York. Aram is an officer in the US Army, who has served in Afghanistan during Operation Enduring Freedom and is now serving in Iraq—a mission to both liberate the people of that nation as well as stop the government massacres against its own people. Conversations with him on the situation in Armenia, their recent past and the current situation in Iraq have many parallels.

That is why I have urged the Congress to reject proposed cuts in Armenia's bilateral foreign assistance aid, which totaled $90 million last year. By maintaining previous foreign assistance levels, Armenia can offset the devastating effects of the Turkish and Azerbaijani blockades and help to continue its political and

economic transition. The costs of these blockades are estimated by the World Bank at up to $700 million a year, essentially a third of Armenia's entire economy. I believe that, by maintaining assistance levels, an economically viable Armenia will be a catalyst for stability and development in a strategically important region of the world.

I am also a cosponsor of extending Permanent Trade Relations to Armenia, now that it has joined the World Trade Organization. This measure permanently waives the Jackson-Vanik provision of requiring the President to deny normal trade relations to those countries that restricted free emigration. Armenia has had free emigration for over a decade and successive Presidents have waived the Jackson-Vanik restrictions. It is time to make this waiver permanent.

As a close ally and reliable friend, the United States has an obligation to the Armenian people to help them address the challenges of the future—from nation-building, and enhancing regional security to reconstructing critical economic infrastructure. I will continue to work tirelessly to promote the interests of the Armenian-American community, from recognizing the past to building a strong and stable future.

Mr. McNULTY. Mr. Speaker, I join today with many of my colleagues in remembering the victims of the Armenian Genocide. April 24 will be the 88th anniversary of this human tragedy.

From 1915 to 1923, the world witnessed the first genocide of the 20th century. This was clearly one of the world's greatest tragedies—the deliberate and systematic Ottoman annihilation of 1.5 million Armenian men, women, and children.

Furthermore, another 500,000 refugees fled and escaped to various points around the world—effectively eliminating the Armenian population of the Ottoman Empire.

From these ashes arose hope and promise in 1991—and I was blessed to see it. I was one of the four international observers from the United States Congress to monitor Armenia's independence referendum. I went to the communities in the northern part of Armenia, and I watched in awe as 95 percent of the people over the age of 18 went out and voted.

The Armenian people had been denied freedom for so many years and, clearly, they were very excited about this new opportunity. Almost no one stayed home. They were all out in the streets going to the polling places. I watched in amazement as people stood in line for hours to get into these small polling places and vote.

Then, after they voted, the other interesting thing was that they did not go home. They had brought covered dishes with them, and all of these polling places had little banquets afterward to celebrate what had just happened.

What a great thrill it was to join them the next day in the streets of Yerevan when they were celebrating their great victory. Ninety-eight percent of the people who voted cast their ballots in favor of independence. It was a wonderful experience to be there with them when they danced and sang and shouted, ''Ketse azat ankakh Hayastan''—long live free and independent Armenia! That should be the cry of freedom-loving people everywhere.

Ms. SOLIS. Mr. Speaker, I rise today as a member of the Congressional Caucus on Armenian Issues to affirm the existence of the Armenian Genocide and urge our nation's leaders to do the same.

Beginning in 1915 and throughout the First World War, the Armenian people of the Ottoman Empire were systemic targets of deportation, expropriation, abduction, torture, massacre, and genocide.

The existence of genocide—the organized and systematic killing of a people based on their racial or cultural affiliation—is a terrible reflection of humanity and must be confronted and condemned.

April 24 is commemorated as the initiation of the Armenian Genocide that took the lives of one and a half million Armenian men, women, and children.

It was on April 24, 1915, that over 200 Armenian community leaders were brutally arrested, imprisoned, and executed.

As we approach the 88th anniversary of the Armenian Genocide, it is time that the United States of America recognizes this dishonorable part of history.

More than one million people of Armenian descent live in the United States.

We must recognize and honor their personal histories, as well as our collective world history.

Our children need to learn the truth—that during World War I this world experienced the Armenian Genocide, genocide is wrong, and it is wrong to deny the occurrence of any genocide.

Our nation must serve as the example of acknowledging and condemning such horrific actions.

I urge my colleagues and this administration to do the right thing and join me in affirming the existence of the Armenian Genocide.

Mr. FERGUSON. Mr. Speaker, I join my colleagues today to remember a horrific atrocity in history—the Armenian Genocide. April 24 is recognized as the anniversary date of the genocide, when Armenian intellectuals and professionals in Constantinople were rounded up and deported or killed.

From 1915 to 1923, 1.5 million Armenians were killed and countless others suffered as a result of the systematic and deliberate campaign of genocide by the rulers of the Ottoman Empire. Half a million Armenians, who escaped death, were deported to the Middle East. Some were fortunate enough to escape to the United States.

Mr. Speaker, I am thankful that more than a million Armenians managed to escape the genocide and establish a new life here in the United States. In my Seventh District of New Jersey, I am proud to represent a number of Armenian Americans. They have enriched every aspect of New Jersey life, from science to commerce and the arts.

Our statements today are intended to preserve the memory of the Armenian loss and to honor those descendants who have overcome the atrocities that took their grandparents, children and friends. We mark this anniversary each year to remind our nation and teach future generations about the horrors of genocide and oppression endured by the Armenian people. We must commit ourselves to ensuring that America remains a beacon of tolerance, openness and diversity.

Mr. Speaker, I commend the commitment of Armenian Americans who continue to strive for world recognition of one of the greatest atrocities of the 20th century.

Mr. DOOLEY. Mr. Speaker, I rise today to join my colleagues in remembrance of the Armenian Genocide.

This terrible human tragedy must not be forgotten. Like the Holocaust, the Armenian Genocide stands as a tragic example of the human suffering that results from hatred and intolerance.

The Ottoman Turkish Empire between 1915 and 1923 massacred one and a half million Armenian people. More than 500,000 Armenians were exiled from a homeland that their ancestors had occupied for more than 3,000 years. A race of people was nearly eliminated.

It would be an even greater tragedy to forget that the Armenian Genocide ever happened. To not recognize the horror of such events almost assures their repetition in the future. Adolf Hitler, in preparing his genocide plans for the Jews, predicted that no one would remember the atrocities he was about to unleash. After all, he asked, ''Who remembers the Armenians?''

Our statements today are intended to preserve the memory of the Armenian loss, and to remind the world that the Turkish government—to this day—refuses to acknowledge the Armenian Genocide. The truth of this tragedy can never and should never be denied.

And we must also be mindful of the current suffering of the Armenian, where the Armenian people are still immersed in tragedy and violence. The unrest between Armenia and Azerbaijan continues in Nagorno-Karabakh. Thousands of innocent people have already perished in this dispute, and many more have been displaced and are homeless.

In the face of this difficult situation we have an opportunity for reconciliation. Now is the time for Armenia and its neighbors to come together and work toward building relationships that will assure lasting peace.

Meanwhile, in America, the Armenian-American community continues to thrive and to provide assistance and solidarity to its countrymen and women abroad. The Armenian-American community is bound together by strong generational and family ties, an enduring work ethic and a proud sense of ethnic heritage. Today we recall the tragedy of their past, not to replace blame, but to answer a fundamental question, ''Who remembers the Armenians?''

Our commemoration of the Armenian Genocide speaks directly to that, and I answer, we do.

Mr. WAXMAN. Mr. Speaker, today we solemnly commemorate the 88th anniversary of the Armenian Genocide, in remembrance of the Ottoman government's campaign of devastation and destruction against its Armenian population.

We commemorate this somber anniversary to honor the memory of the victims of the Armenian Genocide, and pay tribute to the survivors who rebuilt their lives. We join together to renew our conviction to fight the sources of bigotry, intolerance, and historical revisionism that have tried to distort and diminish Armenian suffering.

Over the course of 8 years, beginning in 1915, Armenian communities were terrorized and systematically destroyed. One and a half million men, women, and children were murdered and nearly one million other were deported.

If the world had cried out at the bloodshed of Armenians, it may not have been silent during the Holocaust. The road from Armenia to Auschwitz was direct. Only by shedding light on this dark chapter of history, can we vow once more that genocide will never again go unnoticed or unmourned.

Mr. MCGOVERN. Mr. Speaker, today Members of this House have come to the floor to remember and commemorate the 88th anniversary of the Armenian Genocide.

On April 24, 1915, hundreds of Armenian religious, political and intellectual leaders were rounded up, exiled and eventually murdered by Turkish order in remote areas of Anatolia. Over the next 8 years, hundreds of thousands of Armenian men, women and children perished at the hands of the Ottomans.

By recognizing and commemorating the Armenian Genocide each year, this House helps ensure that the lessons of this terrible crime against humanity are not forgotten, cannot be denied, and hopefully, might help prevent future genocide of other peoples.

The single greatest obstacle to the official recognition of the Armenian Genocide is the Republic of Turkey. In spite of overwhelming evidence documenting the Genocide—most of it housed at the United States Archives—modern-day Turkey continues to pursue a campaign to deny and to ultimately erase from world history the 1.5 million victims of Ottoman Turkey's deliberate massacres and deportations of the Armenian people between 1915 and 1923.

Successive Turkish governments have also deliberately destroyed the immense cultural heritage of Armenians in Turkey, carrying out a systematic campaign to erase evidence of the historic Armenian presence in Eastern Anatolia.

Since 1982, successive U.S. Administrations, reluctant to offend Turkey, have in effect supported the Turkish government's revisionist campaign and opposed passage of the Congressional Armenian Genocide Resolution. These Administrations have objected to the use of the word ''genocide'' to describe the systemic destruction of the Armenian people.

Rather than supporting Turkey's denials, I hope that President Bush will officially recognize the Armenian Genocide and encourage Turkey to come to terms with its past. Rather than creating tension in the region, I believe such actions would decrease the tension and suspicions that have long inhibited cooperation in that region.

Thirty-one of our states, including my own Massachusetts, have recognized the Armenian Genocide.

I want to thank the co-chairs of the Congressional Caucus on Armenian Issues, Representatives KNOLLENBERG and PALLONE, for their outstanding work to ensure that we never forget those who perished and those who survived the Armenian Genocide. In their names and memory, we must demand recognition.

Armenian-Americans are deeply engaged in many issues, nationally, internationally and in their local communities. In prize-winning film and books, the Armenian Genocide has been portrayed and widely-discussed. Coordinated campaigns to provide U.S. economic and trade assistance to Armenia are moving forward.

This year is also an important year for many Armenian-Americans who live in Worcester, Massachusetts. Beginning last October and extending through October 2003, the Church of the Savior is celebrating its 50th Anniversary. In addition, Holy Trinity Armenian Apostolic Church on Grove Street continues to provide celebrating Armenian cultural and the contribution of the Armenian-American community.

Mr. Speaker, it is past time for the United States to recognize officially the Armenian Genocide. There can be no justice without the truth. In the name of all humanity, let it happen now.

Mr. BERMAN. Mr. Speaker, this month marks the 88th anniversary of the beginning of the Armenian Genocide. I rise today to commemorate this terrible chapter in human history, and to help ensure that it will never be forgotten.

April 24, 1915, the Turkish government began to arrest Armenian community and political leaders. Many were executed without ever being charged with crimes. Then the government deported most Armenians from Turkish Armenia, ordering that they resettle in what is now Syria. Many deportees never reached that destination.

From 1915 to 1918, more than a million Armenians died of starvation or disease on long marches, or were massacred outright by Turkish forces. From 1918 to 1923, Armenians continued to suffer at the hands of the Turkish military, which eventually removed all remaining Armenians from Turkey.

The U.S. Ambassador in Constantinople at the time, Henry Morgenthau, stated ''I am confident that the whole history of the human race contains no such horrible episode as this. The great massacres and persecutions of the past seem almost insignificant when compared to the sufferings of the Armenian race in 1915.''

We mark this anniversary of the start of the Armenian Genocide because this tragedy for the Armenian people was a tragedy for all humanity. It is our duty to remember, to speak out and to teach future generations about the horrors of genocide and the oppression and terrible suffering endured by the Armenian people.

We hope the day will soon come when it is not just the survivors who honor the dead but also when those whose ancestors perpetrated the horrors acknowledge their terrible responsibility and commemorate as well the memory of genocide's victims.

Sadly, we cannot say humanity has progressed to the point where genocide has become unthinkable. The ''killing fields'' of Cambodia, the Iraqi regime's gassing of the Kurds, mass ethnic killings in Bosnia and Rwanda, and ''ethnic cleansing'' in Kosovo remain recent memories. We must renew our commitment never to remain indifferent in the face of such assaults on innocent human beings.

We also remember this day because it is a time for us to celebrate the contribution of the Armenian community in America—including hundreds of thousands in California—to the richness of our character and culture. The strength they have displayed in overcoming tragedy to flourish in this country is an example for all of us. Their success is moving testimony to the truth that tyranny and evil cannot extinguish the vitality of the human spirit.

The United States has an ongoing opportunity to contribute to a true memorial to the past by strengthening Armenia's democracy. Through trade and aid, we can support the efforts of the Armenian people to construct an open political and economic system.

Adolf Hitler, the architect of the Nazi Holocaust, once remarked ''Who remembers the Armenians?'' The answer is, we do. And we will continue to remember the victims of the 1915–23 genocide because, in the words of the philosopher George Santayana, ''Those who cannot remember the past are condemned to repeat it.''

Mr. COSTELLO. Mr. Speaker, I rise today to pay tribute to the victims of one of history's most terrible tragedies, the Armenian Genocide.

On April 24, 1915, 300 Armenian leaders, intellectuals, and professionals were rounded up in Constantinople, deported, and killed. From 1915 through 1923, Armenians that lived under Ottoman rule were systematically deprived of their property, freedom, and dignity. In addition, one and a half million Armenians had been massacred and 500,000 more had been deported. The Armenian community saw its culture devasted and its people dispersed. This date is remembered and commemorated each year by the Armenian community.

In my district, there is a significant population of Armenian survivors and their families that showed heroic courage and a will to survive in the face of devastating obstacles and adversities. These survivors are an important window into the past and an invaluable part of our society. With faith and courage, generations of Armenians have overcome great suffering and proudly preserved their culture, traditions, and religion. It is through their unforgettable tragedy that we are able to share in their history and strong heritage. The history of the Armenian Genocide must never be forgotten.

Mr. Speaker, genocide is the most potent of all crimes against humanity because it is an effort to systematically wipe out a people and a culture as well as individual lives. Denying that genocide took place when there are recorded accounts of barbarity and ethnic violence is an injustice. Instead, we must ensure the lessons of the Armenian genocide are properly understood and acknowledged by paying tribute to the Armenian community on this solemn occasion. I am pleased my colleagues and I have this opportunity to ensure this legacy is remembered.

Mr. VISCLOSKY. Mr. Speaker, I rise today in solemn memorial to the estimated 1.5 million men, women, and children who lost their lives during the Armenian Genocide. As in the past, I am pleased to join so many distinguished House colleagues on both sides of the aisle in ensuring that the horrors wrought upon the Armenian people are never repeated.

On April 24, 1915, over 200 religious, political, and intellectual leaders of the Armenian community were brutally executed by the Turkish government in Istanbul. Over the course of the next 8 years, this war of ethnic genocide against the Armenian community in the Ottoman Empire took the lives of over half the world's Armenian population.

Sadly, there are some people who still deny the very existence of this period which saw the institutionalized slaughter of the Armenian people and dismantling of Armenian culture. To those who would question these events, I point to the numerous reports contained in the U.S. National Archives detailing the process that systematically decimated the Armenian population of the Ottoman Empire. However, old records are too easily forgotten—and dismissed. That is why we come together every year at this time: to remember in words what some may wish to file away in archives. This genocide did take place, and these lives were taken. That memory must keep us forever vigilant in our efforts to prevent these atrocities from ever happening again.

I am proud to note that Armenian immigrants found, in the United States, a country where their culture could take root and thrive. Most Armenians in America are children or grandchildren of the survivors, although there are still survivors amongst us. In my district in Northwest Indiana, a vibrant Armenian-American community has developed and strong ties to Armenia continue to flourish. My predecessor in the House, the late Adam Benjamin, was of Armenian heritage, and his distinguished service in the House serves as an example to the entire Northwest Indiana community. Over the years, members of the Armenian-American community throughout the United States have contributed millions of dollars and countless hours of their time to various Armenian causes. Of particular note are Mrs. Vicki Hovanessian and her husband, Dr. Raffy Hovanessian, residents of Indiana's First Congressional District, who have continually worked to improve the quality of life in Armenia, as well as in Northwest Indiana. Three other Armenian-American families in my congressional district, Dr. Aram and Seta Semerdjian, Heratch and Sonya Doumanian, and Ara and Rosy Yeretsian, have also contributed greatly toward charitable works in the United States and Armenia. Their efforts, together with hundreds of other members of the Armenian-American community, have helped to finance several important projects in Armenia, including the construction of new schools, a mammography clinic, and a crucial roadway connecting Armenia to Nagorno Karabagh.

In the House, I have tried to assist the efforts of my Armenian-American constituency by continually supporting foreign aid to Armenia. This past year, with my support, Armenia received $93 million in U.S. aid to assist economic and military development. In addition I am once again joining with several of my colleagues in signing a letter to President Bush urging him to honor his pledge to recognize the Armenian Genocide.

The Armenian people have a long and proud history. In the fourth century, they became the first nation to embrace Christianity. During World War I, the Ottoman Empire was ruled by an organization known as the Young Turk Committee, which allied with Germany. Amid fighting in the Ottoman Empire's eastern Anatolian provinces, the historic heartland of the Christian Armenians, Ottoman authorities ordered the deportation and execution of all Armenians in the region. By the end of 1923, virtually the entire Armenian population of Anatolia and western Armenia had either been killed or deported.

While it is important to keep the lessons of history in mind, we must also remain committed to protecting Armenia from new and more hostile aggressors. In the last decade, thousands of lives have been lost and more than a million people displaced in the struggle between Armenia and Azerbaijan over Nagorno-Karabagh. Even now, as we rise to commemorate the accomplishments of the Armenian people and mourn the tragedies they have suffered, Azerbaijan, Turkey, and other countries continue to engage in a debilitating blockage of this free nation.

Consistently, I have testified before Foreign Operations Appropriations Subcommittee on the important issue of bringing peace to a troubled area of the world. I continued my support for maintaining of level funding for the Southern Caucasus region of the Independent States (IS), and of Armenia in particular. I also stressed the critical importance of revisiting Section 907 of the Freedom Support Act that restricts U.S. aid for Azerbaijan as a result of their blockade. However, I commend my colleagues on the Foreign Operations Appropriations Subcommittee for striking the appropriate balance last year regarding Section 907 of the Freedom Support Act, which will now allow Azerbaijan to do their part in the war against international terrorism. Unfortunately, Armenia is now entering its fourteenth year of a blockage and I must request that the Congress review the waiver of Section 907 on a yearly basis. The flow of food, fuel, and medicine continues to be hindered by the blockade, creating a humanitarian crisis in Armenia.

Mr. Speaker, I would like to thank my colleagues, Representatives JOE KNOLLENBERG and FRANK PALLONE, for organizing this special order to commemorate the 88th Anniversary of the Armenian genocide. Their efforts will not only help bring needed attention to this tragic period in world history, but also serve to remind us of our duty to protect basic human rights and freedoms around the world.

GENERAL LEAVE

Mr. PALLONE. Mr. 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 subject of my special order tonight, the Armenian Genocide.

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

There was no objection.

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

(Ms. LEE addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

(Ms. ROS-LEHTINEN addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

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

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

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

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

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

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

RECOGNIZING THE ARMENIAN GENOCIDE

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

Mr. SCHIFF. Mr. Speaker, 88 years ago, Armenian teachers, clergy, businessmen, writers and doctors were rounded up and killed. The events of April 24, 1915, set the stage for the first genocide of the 20th century, the extermination of more than 1.5 million Armenian men, women and children at the hands of the Ottoman Empire.

With one of the largest Armenian expatriate communities in the world, April 24 has become an integral part of America's history—but debate over the genocide is still an annual and bitter conflict.

Even though modern-day Turkey was established in 1923 out of the ashes of the Ottoman Empire and was not the actual perpetrator of genocide, it spends millions of dollars each year to fight recognition of the Genocide. Despite this well-funded effort, there is no serious academic dispute about the Armenian Genocide. Our own National Archives houses diplomatic dispatches that vividly describe the systematic destruction of an entire people.

News accounts from the American press also provide a trove of primary source evidence. Headlines, such as the following from the New York Times, describe the horrors: ''Armenian Officials Murdered by Turks,'' ''Appeal to Turkey to Stop Massacres,'' ''Tales of Armenian Horrors Confirmed,'' ''Wholesale Massacres of Armenians by Turks,'' ''Armenians Are Sent To Perish in Desert,'' ''Turks Depopulate Towns of Armenia,'' ''Million Armenians Killed or In Exile,'' and ''The death of Armenia.''

When the Armenian Genocide occurred, the heinous crime had no name. In denouncing what he was witness to, our own U.S. Ambassador Henry Morgenthau chose the words ''race murder'' to describe the atrocities. Raphael Lemkin, an International law scholar, ultimately coined the term genocide in 1944.

As a Polish attorney, Lemkin was appalled by the Turkish atrocities against the Armenians and tried to get European statesmen to criminalize the destruction of ethnic and religious groups. He was dismissed as an alarmist. Years later, when Hitler invaded Poland, Lemkin lost 49 family members in the Holocaust.

Landing as a refugee on American shores, Lemkin resolved to devise a word to convey the evil under way. In 1944, while working for the U.S. war department, he invented the term ''genocide''—citing the Armenian case as an example.

In 1948, in the shadow of the Holocaust, the international community responded to Nazi Germany's methodically orchestrated acts of genocide by approving the Convention on the Prevention and Punishment of the Crime of Genocide. The Convention confirms that genocide is a crime under international law and defines genocide as actions committed with the intent to destroy a national, ethnic, racial or religious group.

The United States, under President Harry Truman, was the first nation to sign the Convention. In 1988, President Ronald Reagan

signed an Act that implemented the Convention and criminalized genocide under U.S. law—putting the United States on record as being strongly opposed to the heinous crime of genocide. This year marks the 15th anniversary of the signing of that convention.

I will soon introduce a resolution, along with my colleague Mr. RADANOVICH and several other Members of Congress, that recognizes this important step taken by the United States 15 years ago, to ensure that the lessons of the Holocaust, the Armenian Genocide, and the genocides in Cambodia and Rwanda, among others, will not be forgotten.

Euphemisms, vague terminology or calls for more discussions are just some of the dodges used to avoid Turkish discomfort with its Ottoman past. There is nothing to discuss, there is nothing to discover, there is nothing to be gained by denial—but there is much to be lost.

Let us not minimize the deliberate murder of 1.5 million Armenians. Let us not equivocate. Let us not temporize. Let us instead pay homage to the memory of those innocent victims and honor the courage of the survivors. Let us call genocide, genocide.

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

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

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

(Ms. CARSON of Indiana addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

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

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

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

(Ms. CORRINE BROWN of Florida addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

(Ms. JACKSON-LEE of Texas addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

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

(Mr. WEXLER 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 Connecticut (Mr. LARSON) is recognized for 5 minutes.

(Mr. LARSON 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 Massachusetts (Mr. DELAHUNT) is recognized for 5 minutes.

(Mr. DELAHUNT 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 Maine (Mr. ALLEN) is recognized for 5 minutes.

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

DEFICITS, THE DEBT AND FISCAL RESPONSIBILITY

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

Mr. SMITH of Washington. Mr. Speaker, I appreciate the opportunity to come and address the Chamber this evening. I want to talk about deficits, the debt and fiscal responsibility.

There was a time in this country when those issues were very, very important. It dominated public debate in this country in the 1980s and well into the 1990s as we saw our deficit on a yearly basis explode and the overall debt go up to levels that started to concern people. There was a constant battle to try to figure out how to get that debt under control and get our budget balanced on a yearly basis.

In recent years, that debate has drifted away. Part of that makes sense. After 9/11, with the slowdown in the economy, with the war in Iraq, there is no question that it makes a certain amount of sense to run short-term deficits in at this point. In emergency situations, that is what you do.

My concern and the concern of the New Democrats, which I represent and work with, is that far from simply saying, well, for the time being we are not going to pay as much attention to deficits, it has gotten to the point in Congress and with the White House where it seems like they do not care about them at all, they do not care what the numbers are and they do not think they are important, and that is a very, very dangerous policy and one that we must correct.

So this evening I want to talk about, first of all, putting it back into context and letting folks know where the deficit is at, where the debt is at. In recent years we have not focused on it that much, and I think people have totally forgoten what those numbers are. It is important to be aware of what those numbers are.

The second issue is to remind folks that the deficit and the debt matter. We have heard some truly bizarre talk here in recent months, coming primarily from conservatives, conservatives who just a few short years ago were arguing that we ought to have a constitutional amendment to balance the budget, we ought to require that it be balanced, never have it be an option to run a yearly deficit. Those same people are now saying deficits probably do not really matter that much.

I think they were probably wrong in both, requiring a constitutional amendment and now in saying that the deficits do not matter. Deficits do matter. Now, there are times when you should probably go ahead and run one because of an emergency situation, so a constitutional amendment to balance the budget would unduly restrict our Federal Government. But to go from that to saying that they just do not matter at all is ridiculous. So what I want to start out with is showing where the numbers are at and just how bad things have gotten.

First of all, as we head toward fiscal year 2003 coming to a close in October, the projections are now that that deficit, when you add in the supplemental for the war that is going to pass this week in Congress, that deficit will approach $400 billion, just for the one year. That is a higher dollar figure deficit than our Nation has ever seen, by a comfortable margin. I think the highest deficit we had, even during the really bad times of the early 1990s, was $290 billion.

When you look long term at the 10 year picture, that is where it gets even bleaker. That is what we are talking about this week with the budget resolution that the House and Senate are trying to reach agreement on.

The budget resolution, in theory, is a 10 year blueprint for where we want our budget to go. That blueprint right now has us going in debt, in debt to a level never before imagined.

So I have a chart here that shows this and where we are going. This is from the Goldman Sachs study that the gentleman from Ohio (Mr. RYAN) mentioned earlier. It starts off by showing what the official CBO projection is. The official CBO projection is that over the course of the next 10 years, we will have an $890 billion surplus.

So basically they are assuming, despite the existing $400 billion deficit that we are going to run this year, in the out years, as we get further down, we will have sufficient surpluses to make that up and get us up to this very happy figure of an $891 billion surplus. The problem is that there are a lot of

assumptions in that number that simply will not come to pass, and those assumptions are laid out in the Goldman Sachs analysis.

First of all, economic growth has been far slower than CBO expected. If that economic growth hits modest levels over the course of the next 10 years, instead of the overly optimistic projections from CBO, that knocks over $1 trillion off of this $891 billion figure.

In addition, will $891 billion does not take into account the emergency supplemental, which, of course, we are going to pass, probably sometime in the next 48 hours, and that will be somewhere in the neighborhood of $80 billion, which, again, comes out of that figure.

Now, it is also worth noting that this $80 billion figure may not turn out to be the total cost of the war in Iraq. As the gentleman from Illinois (Mr. EMANUEL) and others were talking about earlier, there are big plans to spend even more money on the rebuilding of Iraq, which may well need to be done, but that will drive this figure up even further.

Finally, we have a little thing called the alternative minimum tax, or at least finally on this top set. The alternative minimum tax is something that is going to have to be fixed. It was set up a while ago, and it is incredibly complicated, but the bottom line is in the next few years, if we do not change the alternative minimum tax, middle-class taxpayers are going to have to start paying it. It is going to get down to the point where your average middle-class taxpayer will not be able to take the deductions that they are used to taking and they will be hit with this tax. Well, to fix that, it would cost $500 billion over that 10 year period. So for these three things, the adjustments bring us down below the $891 billion figure and put us into deficit.

Then we have a series of other issues. If you assume the president's tax cut, that is another $509 billion, plus making the 2001 tax cut permanent, which is part of the President's proposal as well, is another $624.

Then in defense, CBO does not assume a significant increase in defense spending. The President's budget does. Given where we are at right now in the world, it seems that the President is right, we are going to increase spending on defense. If we increase that modestly, that is another $536 billion more than CBO projected.

Non-defense discretionary, one of the assumptions in the President's budget that helps make it look more fiscally responsible than it is is the assumption that somehow we are just going to dramatically cut all non-defense discretionary spending.

Well, historically that has not happened. This is what happened during the time of the Gramm-Rudman-Hollings proposals. These proposals would come out in the early eighties and say over the course of the next 6 or 7 years we are going to make these cuts, and then, inevitably, they would never happen and the numbers would be higher than expected.

So even assuming a modest growth, 2 percent, which is less than what inflation would probably be over that period, or at least inflation plus population growth, even assuming a 2 percent modest growth, you lose another $350 billion.

Lastly, we have the oft-talked about issue of a prescription drug benefit. I do not think there is a significant politician, House, Senate, Democrat, Republican, White House, who has not said we should not do a prescription drug benefit. Well, if we do, it is going to cost something. The figure Goldman Sachs picked on was $600 billion. That may be $400 billion or $500 billion, it may be more than this.

□ 2045

But whatever it is, if we do a prescription drug benefit, that is another thing that CBO did not count on.

Lastly, once we add up all of these additional expenses, they drive up the debt, and when we drive up the debt, we drive up the debt service. It is just like when you owe more money on a credit card, your minimum payment gets higher and your interest payments get higher. Those interest payments are projected to be $878 billion. So when we add all of this up, what we come up with is instead of a $891 billion surplus over those 10 years, you wind up with a $4.2 trillion deficit over the course of those 10 years. I now know what this $777 billion figure is. This is counting the 891. So basically, if we add all of these up, that reduces this down to a negative 777, and then we add it all the way up and get 4.2.

As the gentleman from Wisconsin (Mr. RYAN) pointed out when he spoke earlier, even this figure is a little optimistic, because this counts Social Security surpluses against it. If we take those Social Security surpluses out, put them aside, as we should do, because that money is going to be needed to pay for Social Security as the baby boom generation starts to retire, this figure gets over $6 trillion. Right now, in the entire history of the country, we have ran up a debt of around $6 trillion. If we go forward along the path that the President and the majority in Congress is proposing, we will equal that in the next 10 years. Another $6 trillion in debt will be lumped upon us.

So it is important to keep these figures in mind, even if it is not at the top of the agenda right now, as folks are distracted, understandably so, by the war in Iraq and other issues. These figures need to be put into our minds and we need to remember, this is where we are headed, towards another $6 trillion in debt over the course of the next 10 years, with very modest assumptions. This does not even have any emergencies. It seems like every year we have an emergency within the farm community and we have to fund that. Who knows where the next natural disaster might hit or where the next military conflict might come up that would change all of these numbers dramatically.

The bottom line is, the numbers show us heading into long-term, structural deficits and huge debt.

Which brings us to the next argument and that is the one that the conservatives have been throwing out there recently that oh, come on, deficits do not really matter. It is not really that big of a deal. The economy can move forward and everything is fine. One of their favorite arguments is that deficits do not, in fact, drive up interest rates. Because consistently, one of the arguments against running deficits and in favor of fiscal responsibility is that it is good for the economy. The basic argument is, if the government has a balanced budget, interest rates will stay low because the government will not be out there gobbling up all of that excess cash and driving up interest rates.

Well, conservatives look at a couple of historical figures. They have gone back to the 1970s when, in fact, interest rates were very high and deficits were not, and then they have gone to the late 1980s and early 1990s when deficits were high and interest rates really were not and they said, see, one thing does not really have to do with the other.

First of all, deficits and how they effect interest rates happens over a long period of time. It is not immediate. And it simply defies economic wisdom to say that the amount of money that the Federal Government is gobbling up has no impact whatsoever on what that money is going to cost. That is what interest rates are: the cost of money. So it just does not make any sense that it will not drive up interest rates. But beyond that, even if it did not drive up interest rates, if we run deficits year after year, the bottom line is, sooner or later, we run out of money. Sooner or later, the only thing the Federal Government is going to be able to do is pay this number down here, pay interest on the debt. Sort of like you get so far in debt, all you can do is make the minimum payment on your credit card, and as that number goes up, spending for everything else, for every other priority in this country must go down.

If we run these types of numbers, 10, 15 years from now, the generations that follow us, the Congresses that follow us will have no money whatsoever to meet the needs of their day, and there will be needs. As we look around the country now, we can see many, many crushing needs. In education, the IDEA, the Individuals With Disabilities in Education Act, has been underfunded by tens of billions of dollars for years. Transportation. We have huge infrastructure needs in this country. Back to education. School construction. It is estimated that we have somewhere in the neighborhood of a $300 billion need for school construction. We will not meet that. Health

care. Access to health care is in crisis. In my State, reimbursement rates for Medicare and Medicaid are so low that providers are frequently not accepting Medicare and Medicaid patients and they have got nowhere to go.

The bottom line is there are needs that require funding. There are needs now, and there will be needs in the future. And if we continue to run up deficits like this, blow the debt through the ceiling, blow the debt payments through the ceiling, we will have no money to address those needs, our infrastructure will collapse, and the economic impact will be devastating.

Bottom line: fiscal responsibility matters. If we drive home no other point in this hour this evening talking about fiscal responsibility and deficits, I hope it is that. Let us not get carried away with other issues and forget that fundamental point: balanced budgets and fiscal responsibility matter, and they are good for this country, and we should fight as hard as possible to see that those policies are enacted, that we get the budget balanced, that we put ourselves on a long term path towards fiscal responsibility. That will help this country grow economically and will help us be in a position to meet our needs for the future. The budget resolution that is coming out this week in the House and the Senate will not come close to being fiscally responsible. We need to make sure that we get that under control.

I am pleased this evening to be joined by a couple of my colleagues who wish to discuss this issue. We have my fellow cochair of the New Democratic Coalition, the gentleman from Wisconsin (Mr. KIND), and I yield to him.

Mr. KIND. Mr. Speaker, I thank the gentleman from Washington State, my friend, for taking a little bit of time this evening to discuss one of the paramount issues facing the United States Congress tonight, and that is the budget resolution and trying to put together the frameworks of the budget for the next fiscal year and for the next 10 years.

This is important. At a time when our young men and women in uniform are fighting so well and so bravely in Iraq and our thoughts and prayers are obviously with them tonight, the Nation's business, nevertheless, continues here. And even though most of the media and most of the attention has been rightly focused on the military campaign in Iraq, this debate that is coming up later this week and which will be with us for many weeks to come is very crucial, because it is about fiscal responsibility and the long-term economic outlook for our Nation.

As the gentleman indicated, we happen to be privileged to be cochairs of the New Democratic Coalition. It is a large group on the democratic side of pro-growth, moderate and centrist Democrats believing in making crucial investments for growth opportunities in our Nation and in the people so we can expand the boundaries of opportunity for all of our citizens, so they can be full participants in the global economy and in the new economy that is before us.

We also work very hard in maintaining fiscal discipline in our decisions. Something that was very much on people's minds in the mid 1990s when the gentleman and I got elected for the first time to the United States Congress, a lot of the talk and a lot of the concern on both sides of the aisle then was really about budget deficits and what we need to do, working together and as a Nation to reign that in, to start making sound fiscal choices in order to set up future generations for success. The gentleman may recall as well as I do that at that time, during the early and mid 1990s, when we were first running for office, there was an almost uniform consensus, even on the other side, decrying the fact that there were large budget deficits, claiming that that was horrific and that it stifled economic growth, and there was by and large bipartisan consensus with that viewpoint which was proven through the track record of the previous decade.

Back then, when they pursued large spending increases, mainly in the defense area, but also coupled with huge tax relief, it led to unprecedented budget deficits which exploded the national debt. It quadrupled our national debt during the 12 years in the 1980s and the first couple of years of the 1990s, and everyone found that astounding. Now, what we are hearing from the other side is deficits do not matter. In fact, it is not just the leadership in Congress that has been saying that, but it has been the leadership on Pennsylvania Avenue coming out of the White House trying to claim to the American people that deficits somehow, some way, magically do not matter anymore in regards to economic performance.

Well, that belies the history and the performance of our economy. As the gentleman indicated tonight and as I firmly believe, deficits do matter, while it may be understandable that in the short term, in the time of an economic slowdown and military action in Iraq, we may have to run some short-term budget deficits in light of these new challenges.

What is most disturbing about the Republican budget resolution that will come up later this week is they have no long term plan to reverse the situation. What is being projected right now by their own Office of Management and Budget and their own Congressional Budget Office are deficits for as long as the eye can see. Over $300 billion, the largest in our Nation's history, for the next fiscal year alone, and that does not even include the emergency supplemental request that the President just sent to Congress in order to give the troops the resources they need. That will be another $80 billion plus that will be on top of the $300 billion of deficits. So we will be very quickly and very fast approaching over $400 billion in deficits for the next fiscal year alone.

Why is this important? It is important because it is happening at exactly the worst moment in our Nation's history, when we have an aging population, when we have 80 million of the so-called baby boomers rapidly approaching their retirement age and about to begin entry into the Social Security and Medicare system, and at the time when we should be trying to practice fiscal discipline and get the Nation on sound fiscal footing in anticipation of that demographic time bomb going off and protecting the monies in the Social Security and Medicare trust funds, anticipating this aging retirement boom that is rapidly approaching. Just the opposite is being proposed on the other side. In fact, they are proposing large tax cuts on top of the ones that already passed in 2001, and they are going to pay for that, in part, by taking all of the money out of the same Social Security and Medicare trust funds that virtually everyone in this chamber just 2 years ago are on record as saying that we will not do. It is very disturbing that this is going on and there is very little attention being paid to that.

But they are also planning on doing it on the backs of some very important people in our Nation, not least of which are our current veterans. It is astounding to me that in their zeal in order to protect the President's proposed tax cuts that they are doing it by masking the true enormity of the budget deficit, but also trying to balance the budget on the backs of some of the most vulnerable and some of those who we owe promises to, such as veterans' health care services, including service-related disability health care. In their budget resolution that was before us just a couple of weeks ago, they were proposing about $16 billion worth of cuts with veterans' health care services, which is astounding when we think of the military campaign and the incredible devotion and sacrifice that so many young men and women in uniform are making on behalf of our Nation in the country of Iraq today.

But it is not just us who discovered what was going on, it was all the veterans' organizations throughout the country that quickly recognized what they were trying to pull and submitted letters to Speaker HASTERT and to the gentleman from Ohio (Chairman NUSSLE), the chairman of the Committee on the Budget. Let me just quote from a few of the letters that were submitted, one from the Commander of the Disabled American Veterans in which he stated in his letter, and I quote, ''Has Congress no shame? Is there no honor left in the hallowed halls of our government that you choose to dishonor the sacrifices of our Nation's heroes and rob our programs, health care and disability compensation, to pay for tax cuts for the wealthy?''

Here is a letter from the Commander of the Paralyzed Veterans of America

in which he stated, ''We do not consider payments to war-disabled veterans, pensions for the poorest disabled veterans, and GI Bill benefits for soldiers returning from Afghanistan to be fraud, waste, and abuse.''

And one from the American Legion: ''This budget defies common sense. There must be a better way to provide tax relief to the American people than to balance the budget on the backs of disabled veterans.''

We owe the veterans nothing; they earned it. And here in their attempt to try to protect these huge tax cuts leading to unprecedented budget deficits, setting up future Congresses and future generations of Americans for failure because of the fiscal mess that is being created, they are going to try to bring forward later this week a budget resolution that calls for exactly that.

□ 2100

Before I turn back to my friend, the gentleman from Washington, I will draw attention to a very important article that appeared in the New York Times today. It is called ''No New Tax Cuts.'' It was written by some very famous people here in Washington and throughout the country that have spent a good deal of their public careers focusing on budgetary issues. It is a bipartisan group who are highly esteemed and well respected, even here in this Congress, made up of former Senator Bob Kerry; former Senator Sam Nunn; Pete Peterson, one of the co-chairs of the Concord Coalition; former Secretary of the Treasury Robert Rubin; former Senator from New Hampshire Warren Rudman; and also former Federal Reserve chairman Paul Volcker.

They are warning the Congress in a letter in the New York Times today about the fiscal course that we are about to embark upon if these large tax cuts go through in light of the current projections.

Let me just quote briefly from the article that they coauthored; all of whom, by the way, are members of the Concord Coalition. This is a nonpartisan group that does focus on Federal budgetary policy.

In their article they state, and I quote, ''Our children and grandchildren are facing unthinkable payroll tax burdens that could go as high as 33 percent to pay for these promised benefits.'' They are referring to Social Security and Medicare. ''It is neither fiscally nor morally responsible to give ourselves tax cuts and leave future generations with an even higher tax burden.''

I know my colleague, the gentleman from Washington (Mr. SMITH), has a vested interest in it because he has a young child himself. I am the father of two little boys who are only 4 and 6. The last thing that either one of us wanted to do when we came to this Congress 6 years ago was to leave a huge legacy of debt for our children to have to wrestle with.

If the programs are important enough today to authorize them and to call for them, then this generation of Americans should have the moral responsibility to figure out a way of paying for them, rather than borrowing and spending, borrowing and spending, and accumulating this huge national debt.

In conclusion, Mr. Speaker, again, these authors of the article do feel that deficits matter. In their concluding paragraph they state why. I quote again: ''Congress cannot simply conclude that deficits don't matter. Over the long term, deficits matter a great deal. They lower future economic growth by reducing the level of national savings that can be devoted to productive investments. They raise interest rates higher than they would be otherwise. They raise interest payments on the national debt. They reduce the fiscal flexibility to deal with unexpected developments. If we forget these economic consequences, we risk creating an insupportable tax burden for the next generation.''

That, I think, summarizes the very challenge that we face this week, and it is not too late. We can still get together in a bipartisan fashion and come together at the kitchen table like any family would do, dealing with family finances and figuring out what decisions we need to make so we do not pass a tremendous burden on to the children of our family. That is really what is at stake.

Budgets are all about priorities, and hopefully this Congress will wake up and realize that our children's future should be one of the first priorities that we keep in mind. Let us pass a sensible, fiscally responsible budget that we can, years from now, look back on and say, yes, we had to make some tough decisions, but they were the right decisions under the right circumstances, and our children are the primary beneficiaries as a consequence.

Again, I thank my friend, the gentleman from Washington, for the leadership he has shown on this very issue and for trying to secure a little time in order to talk about this, which is very important, even in light of the current military campaign in Iraq.

Again, we wish the troops there our best. They are constantly in our thoughts and prayers, along with their families and their loved ones. We all, I think, agree that we hope to see a very quick and successful and safe conclusion to the military campaign in Iraq.

Mr. SMITH of Washington. Mr. Speaker, I thank the gentleman for his comments.

I just want to follow up on how this is the exact wrong time to run up deficits because of the baby boom generation and their coming retirement.

I think there might be a tendency to say, we have heard this doom and gloom before. In the late eighties, early nineties, we had huge deficits, big debt, and people said we could never get out from under it. Lo and behold, by the late 1990s we were actually running surpluses.

We were fortunate. We had a booming economy. A high-tech economy took off, productivity went up, and we were able to do that. There may be a tendency to think, see, the problem can be fixed.

We are in a much different situation now, as the gentleman said. We are going to reach the point in the early part of probably about 2014, 2015, when those Social Security surpluses that we have all grown used to, having huge surpluses in Social Security in order to offset debts in the other part of the budget, they are going to be gone. We are not going to have that money to rely on.

What is more, the other part of the budget is going to now have to start covering the deficits in Social Security and in Medicare. So with the baby boom generation retiring, we are not going to be so fortunate this time.

Mr. KIND. Will the gentleman yield on that point?

Mr. SMITH of Washington. Absolutely.

Mr. KIND. I think one of the crucial differences between now and what occurred during the 1980s with the economic policies that were pursued was that we had the decade of the 1990s to reverse course, and fortunately we did. With the Clinton administration and the tough budgetary decisions that they had to make in 1993, it set the Nation back on a course of declining deficits through the nineties; and then actually a few years when we were running real budget surpluses, which led to the protection of the Social Security and Medicare trust fund and a downloading of the national debt, thereby reducing the interest burden on that national debt.

It was an incredible economic dynamic made by past Congresses making tough decisions in order to reverse course of the huge budget deficits that were created during the 1980s and the first part of the 1990s. Unfortunately, we do not have the luxury of time anymore. We are rapidly running out of time with the boomers' retirement just around the corner.

That is why it is all the more important that we do not waste this opportunity with the budget resolution that may be before us later this week; and that we get together, again in a bipartisan fashion and with the President at the table, as well, to figure out what we need to do to reverse course with these truly frightening budget scenarios looking at $400 billion-plus deficits for many, many years, which will only hurt long-term economic growth by driving up long-term interest rates because of the squeeze on the available capital that is available in the marketplace.

So time is of the essence. This really is not an academic debate. We can punt for the next year or a couple of years down the line, but these are decisions that I feel have to be made right now. Someone has to stand up and talk

about this. I am glad the gentleman decided to take some time tonight to do it.

Mr. SMITH of Washington. Mr. Speaker, I thank the gentleman for his help.

Mr. Speaker, I yield to the gentleman from Washington (Mr. INSLEE), a proud member of the baby boom generation that is soon to bankrupt us, although I will not hold him entirely responsible.

Mr. INSLEE. Mr. Speaker, I am happy to join my colleagues here this afternoon to speak against this new Republican policy of eternal deficits. I am happy to speak against it because I think it represents sort of a ''three-strikes-and-you-are-out'' economic policy which really will doom America for quite a long period of time for three separate reasons.

Before I talk about those reasons, I want to note that this probably, as far as I can tell, is the biggest political flip-flop in the last couple of millenia of American history. That may be perhaps a little bit of an overstatement.

But as I recall the proud traditions of the Republican Party under Eisenhower, Rockefeller, and many good Republicans who preached the gospel in every political church in America that deficits clearly were a mark of evil, they fought for years against deficits. They came here and they sought constitutional balanced budget amendments, which they are still seeking.

Now, after decades of propounding this basic bedrock principle, their answer is, never mind, we were just kidding. Now that they have decided that tax cuts for Ken Lay at Enron are more important than a balanced budget, they have decided that their decades of fundamental economic beliefs and theories were just a bunch of hokum.

They were right then, but they are wrong now. They are wrong for three reasons.

Number one: The Federal deficit that is now attempted to be foisted on the American people by this Republican majority is the biggest contribution to waste, fraud and abuse in the U.S. Government that is possible. It is waste, fraud and abuse because the biggest number of items of clear waste, fraud and abuse in the Federal Government is the interest paid by American taxpayers to service the Federal debt.

That waste, fraud and abuse is an enormous number. It is close to the defense budget of the United States. For every $100 that American taxpayers pay in taxes, $14 goes to pay interest on the Federal debt that has been accumulated over the years of multiple generations and multiple Congresses. So $14 of every $100 every taxpayer pays does not buy a single soldier, it does not buy a single police officer, it does not get a single pharmaceutical prescription drug benefit; it goes right down the rat hole. This $14 figure out of every $100 will grow if the Republican budgets of longtime fixed deficits that will grow over the next decade prevail in these Chambers.

That would be a sad day, because frankly, a lot of my friends in the Republican Party have also been quite vocal and eloquent about the need to end waste, fraud and abuse in government. Now, by their own budgets, they seek to increase the money of taxpayers going down that rat hole of paying interest on the Federal debt.

Mr. Speaker, I cannot understand what Republican would take cheer from knowing they are going to waste more of the taxpayers' money to go down this black hole, but they certainly are. The reason they are is that they have decided it is more important to them, apparently, and of course I do not know this for sure, but the only assessment one could make is they have given greater priority to tax cuts rather than a balanced budget.

The second reason, perhaps not as important as the last reason, but important nonetheless, this deficit is a dead weight around the United States' economy. I listened to Mr. Greenspan tell us that these deficits have the potential of increasing interest rates. Once the economy starts to rebound, once it starts to come back, he told us that we face the prospect of interest rates going up and choking off the eventual recovery.

I do not think it is just his testimony that is persuasive to me; it is listening to the financial people that I represent, my constituents.

I was on the ferry boat the other day and talking to a fellow that sells municipal bonds. We were talking about the fact that they have had a lot of municipal refinancing going on, besides homeowners, with the current low interest rates.

But he was concerned, as a lot of people are in various sectors of the economy, that once we start to get out of this shadow and start picking up, that as soon as we start to get some growth in the economy, boom, interest rates go up because the Federal deficit continues to fuel that fire, and we are back into recession.

This is like taking a big anchor and tying it to the leg of the U.S. economy, and it is a Republican anchor. It is a sorry thing to see that my colleagues on the other side have decided to embrace these deficits that they know, because of their own economic theory, are a drag on the economy.

It is interesting, I believe the new assistant Secretary of the Treasury just a couple of years ago wrote a book, a textbook, saying how interest rates can go up as a result of these deficits, and now he has had this great epiphany. He has heard this voice from the heavens telling him, well, I must have been wrong. I guess tax cuts are more important, and he is working for the Bush administration. We know it is wrong, but it can cause enormous havoc in the economy.

Perhaps, the other reason I have come to speak on the tax cut, economic models can come or go. We have different viewpoints. Economists feel different about what the theories are, the economic models.

The one thing all Americans ought to agree on is the value of protecting our children. We are three fathers here tonight talking. We know all fathers and mothers care about their kids. The one value all of us ought to hold, Republican and Democrat alike, east and west, north and south, tall and short, is do not put a burden on our children.

This is a moral issue much deeper than any particular economic theory. I think we all ought to share it. It is a very sad day when the majority party has decided to break that moral bond to our kids to put this indebtedness on them.

Just one more comment and then I will close. The thing that is extraordinarily sad about this is that this is not a surprise. Our short-term deficits are in part due to war and recession. Part of the deficit on the short-term basis is clearly the war and the recession. However, we know these are intentionally inflicted, conscious, premeditated deficits. They are going to be here for decades because we know we are getting older and the baby boomers are going to retire.

This is a premeditated moral and economic crime. I am speaking against it. I am pleased that some of the Senators in the other Chamber have stood up on a vote of courage and have prevented some of these tax cuts going through. I hope they can continue some of that profile in courage, and we can get a budget that does not break the bank and our children's backs.

Mr. SMITH of Washington. Mr. Speaker, I thank the gentleman.

I just want to close by saying, it does not have to be this way. There is absolutely no reason our Nation cannot put us on a fiscally responsible path in the next 10 years.

□ 2115

Now, I will be honest. I do not believe we can balance the budget this year. We have too many pulls upon us between the economy and the war and various other concerns, but over the 10-year period of time we could quite easily put together a budget that is balanced.

I think the reasons we have not gotten there is because politics over the course of the last 20 years, certainly over the course of the last five or ten, in an accelerating fashion has become more and more about promises. And at the end of the day that is why I feel that the Republicans, and in some cases some Democrats, have tried to argue the deficit does not matter because the deficit is inconvenient. When you are out on the stump trying to get elected, people wants tax cuts and they want spending programs. Fiscal responsibility in the short term does not put any money in anybody's pocket and it is a hard thing to be in favor of.

You want to promise things. You want to promise a prescription drug benefit. You want to promise a big tax

cut. You want to promise more money for the military or more money for education or more money for veterans. And those promises add up to far more than we could ever possibly deliver. And as those promises add up, we dig ourselves a deeper and deeper hole so that when we actually get back to Congress or in the White House and we have to make the decisions that are necessary to move our country forward, we have that huge stack of promises coming up behind us that we do not think that we can get out from under.

Mr. Speaker, I guess I will close on a bipartisan note. While it is certainly true to say that the Republicans right now are behaving in a very fiscally irresponsible manner, they have turned on a dime from a rich history of fiscal responsibility for political reasons, it is fair to say that Democrats have not always been fiscally responsible either. In many cases they have supported more programs than our government can support. It is a bipartisan problem but it can also be fixed in a bipartisan manner. There are Republicans and there are many Democrats who believe in balanced budgets and fiscal responsibility. As a group, we need to rise up and make sure that our voices are heard and our policies get enacted. We can not afford to have deficits for as far as the eye can see. We certainly cannot afford to have $4 trillion in deficits racked up over the course of the next 10 years.

If we do, future generations will be dealing with a mess of a size this country has not seen. Fiscal responsibility matters. Let us always remember that and pledge to work on it.

Mr. Speaker, before I am done I want to recognize the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Speaker, I thank my friend for yielding to me before we yield back the remainder of our time. I think the gentleman has touched upon a very important point and we need to just restate it. And that is the essence of budgeting is all about decision making, but it should also be about taking responsibility for what is taking place today. And the easiest thing for a politician to be able to say to people back home or to run on the campaign is, You can have it all. You can have all these programs that you care about. We can fight this war in Iraq and do the rebuilding, and you can have large tax cuts on top of it and you can have it all.

But you cannot because decisions have to be made. And if you pursue that type of economic policy, if you pursue that type of political message, what you leave the American people then are these massive budget deficits because the current generation of Americans are not stepping forward and taking responsibility for the decisions that are being made today. And what this, in essence, constitutes then is taxation without representation because it will be our children and it will be our grandchildren that will have to be the ones to clean up the fiscal mess that is being created today. And it is not fair to them because they too often are the neglected voices, the future of this country, when, in order to sell a certain type of philosophy or economic policy, you try convincing the American people that they can have it all. They can have this huge increase in defense spending that we are seeing right now and they can have a large tax cut at the same time which was exactly the same economic policy that was pursued in the 1980's and first part of the 1990's.

It has been said that what we are debating today is deja voodoo economics all over again. And I believe that because this is history repeating itself. Where we saw with the decisions made in the early 1980's led to a quadrupling of the national debt and the detrimental economic effect it had on our Nation, and now we are back in that same type of scenario. And it is not too late. And hopefully we will be able to engage in a bipartisan conversation in this Congress and get the President and his people back involved in this. And let us come up with a long term plan recognizing the short term demands on the Treasury that we currently have, the obligations to fight international terrorism, to do Iraq right, not only winning the war but winning the peace. But let us also have a long term plan in order to set up future Congresses and our kids for a chance to succeed with this aging population which we all know is going to happen and which everyone does not really want to talk too much about. But this is the time for us to make these decisions, not when we have 80 million Americans suddenly retiring and entering these very important programs. I thank the gentleman for yielding to me.

Mr. SMITH of Washington. The gentleman's remarks reminded me of a line from the President's State of the Union speech this year. Very early on in his speech he said that the paramount goal of his was that we shall not pass our problems and our challenges on to future Congresses. Now, I think what the President was alluding to at that point was Saddam Hussein and Iraq; and I happen to agree with him on that for one. I think it was bold and courageous to step up and address that problem and not pass it on to future Congresses.

But I could not help but be struck by the irony of a line saying, We shall not pass our problems on to future Congresses. If you think about it basically what he was saying was but we shall pass on the bill. That is not responsible. When you run up deficits like this, that the very definition of passing your problems on to future Congresses. It is irresponsible, unworkable, and not in the best interest of the future of this country. I am absolutely convinced we can do better, that we can put together a fiscally responsible budget that best prepares us for the future and allows future economic growth.

I want to thank my colleagues again who came out to speak with me tonight on this issue. This is not the last time we will be talking about it. Fiscal responsibility is a never-ending job.

UGANDA AND THE MILLENNIUM CHALLENGE ACCOUNT

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

Mr. JEFFERSON. Mr. Speaker, I am pleased that Congress is advancing the Millennium Challenge Account or the MCA, a bold initiative supporting economic growth and self-sufficiency in the world's poorest nations. I applaud MCA's focus on reforming poor nations that have demonstrated achievement in ruling justly, investing in people, and encouraging economic freedom. MCA should have a special emphasis on sub-Saharan Africa, the poorest region of the world with over 290 million people living on less than one dollar per day.

Several countries in sub-Saharan Africa are successfully addressing some of the most critical developmental challenges of our century, HIV/AIDS, poverty eradication, political reform and economic liberalization.

As our Nation prepares to launch MCA and make this important contribution to human and economic development, we can draw inspiration from countries such Uganda. Uganda progress demonstrates that the developmental challenges confronting Africa are immense but not insurmountable.

Uganda was recognized by the World Bank/IMF as the first IDA or International Development Association country to adopt a comprehensive and participatory national strategy to eradicate poverty. As a result, Uganda's poverty rate dropped from 56 percent to 35 percent over the past 10 years. During this same period, Uganda has maintained a growth rate of over 6.5 percent. Uganda is leading the developing world in addressing its HIV/AIDS rate and its infection rate which fell from 30 percent 10 years ago to less than 7 percent today.

Over the last 12 years primary school enrollment in Uganda increased from 40 percent to 99 percent. This transformation helped Uganda to further distinguish itself as the first country to qualify for the World Bank's Heavily Indebted Poor Country debt relief initiative or HIPC.

Uganda's success is attributed to strong leadership and the government's establishment of broad-based public-private partnerships in health care, education, and economic development in rural communities and municipalities throughout the Nation.

The number of registered nongovernmental organizations and faith-based

groups working with local government administrators has more than doubled over the past 5 years. Uganda's successful development model also includes empowering women in government, in civil society and in enterprise development. The number of women in the governments rose from 22 percent to 45 percent in 4 years and a woman now serves as Vice President of Uganda.

Mr. Speaker, Uganda's record of achievement reflects good governance. President Museveni and his team have successfully transformed a war-torn and ethically divided country into one with strong democratic institutions. Uganda held successive elections in 1996 and 2001 that were certified as free and fair by national and international bodies. Additionally, the government has made the issue of multi-party system a transparent debate with the referendum in 2000 that was also certified as free and fair by the international community.

Voter turnout in Uganda is also admirable with the vast majority of eligible voters consistently turning out to vote. Uganda is now engaged in a national process to further refine its flourishing democracy.

While corruption continues to challenge Uganda, the government is making strides with the adoption of an aggressive anti-corruption strategy through the independent Office of the Inspector General. In partnership with the World Bank, Uganda instituted reforms to broaden the enforcement authority of the IGG and strengthen its ability to fight corruption. Public officials in Uganda must now among other things declare their wealth upon taking office and throughout the process of their holding office.

Mr. Speaker, Uganda's record speaks for itself. The Millennium Challenge Account should build on the African Growth and Opportunity Act. It should strengthen the capacity of progressive poor nations, such as Uganda, to realize further gains as they proceed on the arduous but promising path of reform and development.

AN ENERGY POLICY FOR AMERICA

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

GENERAL LEAVE

Mr. CANNON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this special order.

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

There was no objection.

Mr. CANNON. Mr. Speaker, it is a great time, as we come together to speak tonight, things are going well, thank heavens, in Iraq and I think we will actually see a time and place in modern times when a country as strong as America is willing to go in and secure the freedom for other people. And so this is a time of great faith in America but it is also a time of problems. And, in fact, in Iraq in particular we see one of the side effects of that war has been a significant increase in the cost of oil and gas and energy for the people of America. So tonight 2 or 3 of us who are members of the Western Caucus would like to talk about energy policy in America and the need to pass the energy bill later this week.

A couple of things are important as we do that. In the first place, we need to protect the environment. That is essential. In the second place, we need to have a secure source of energy, and that needs to be largely domestic. And, finally, we need to have a reasonable price for ourselves and for future generations.

A little bit later I am going to talk about oil or gas exploration and development in America. I would like now to introduce a couple of my colleagues. I will start with the gentleman from Utah (Mr. BISHOP) who will take a couple of minutes to talk about some of the big ideas here.

Mr. BISHOP of Utah. Mr. Speaker, I thank my senior colleague from Utah.

Mr. Speaker, when we entered this body a couple of months ago I was a high school teacher. And I have to admit it is somewhat difficult trying to raise 5 kids on a high school teacher's salary. One of the things that was most significant, most difficult, was always dealing with those essential energy costs that were coming to us, the higher utility rates, increased gas, always seeming at the whim of foreign changes that took place, and always without a comprehensive energy policy that this country vitally needs.

Those costs were ever escalating. And it does not take a rocket scientist to figure out, if you would just look at the chart we have here and follow the green line which is simply gasoline prices or gasoline production versus the red line which is prices. And you simply know as the green line goes down, prices go up. Now the inverse would also be true. If we could increase the supply, the cost would also go down.

There are those who claim that there is no way we can possibly increase our energy source without totally destroying our environment. Mr. Speaker, I have to reject that failed philosophy of the past. It is possible for us to secure our environment. We all want to drink clean water, to breathe clean air, to secure the land. But we can secure our environment by relying on modern technology to also provide us with the energy source we need and a domestic energy source that we desperately need. And we can do so not by dealing with foreign powers, but on land that we presently own and control.

In a minute, Mr. Speaker, I think one of my colleagues will go into detail about the Arctic National Wildlife Refuge which has potential that is there on land that was put aside for that very purpose. A common sense approach for providing for our energy needs could be easily accomplished.

□ 2130

If we do nothing as a country, my bill worsens, my situation becomes more desperate. We can easily balance our political policy needs for energy with good environmentalism both for today and for tomorrow by simply putting politics aside and simply doing what is right to provide for my family, as well as for millions of people on a fixed income who need a stable and predictable domestic energy source, and if we reject what modern technology can do to provide that and provide for our environmental needs, we are moving this country's policy back 20 years.

Mr. CANNON. Mr. Speaker, would the gentleman answer a question?

Mr. BISHOP of Utah. Of course, I would.

Mr. CANNON. As I look at this chart, the green line is not oil production in America. That green line is oil production that has come through the trans-Alaska pipeline. So this is essentially the Alaskan oil that has come into America, and yet even that relatively small portion of the oil we bring into America from Alaska through that pipeline has had a dramatic effect on the price of oil elsewhere, and that is because I think the markets are so tight that small fluctuations in our resources make a huge difference in that price. Is that what that chart is saying?

Mr. BISHOP of Utah. Mr. Speaker, the gentleman from Utah is absolutely correct, and it clearly illustrates the potential we have to make life better for Americans if we just use what we have in a common-sense approach to a domestic energy policy.

Mr. CANNON. When people talk about the ANWR producing only a tiny fraction of the energy we need, what we are really saying is that a small fraction of the energy has a huge influence on the price we pay at the pump?

Mr. BISHOP of Utah. Mr. Speaker, the gentleman from Utah (Mr. CANNON), once again, is absolutely correct. It has a huge impact, and that small fraction is estimated somewhere in the neighborhood between 5 and 16 billion, with a B, barrels of recoverable oil.

Mr. CANNON. We have a chart later on that shows the various countries that produce oil that we bring into America and shows that that production in the new ANWR would actually be the second or third largest amount of oil we bring into America from any part of the world; is that not correct?

Mr. BISHOP of Utah. It would be exactly right. It would make a major impact on the domestic future and stability of energy sources in America.

Mr. CANNON. Mr. Speaker, if I got this right from the chart there, we add ANWR to the system and bring that oil into America and prices, instead of

spiking like the gentleman's red line shows there, prices tend to plummet like they have done as we have brought that oil from Alaska into the American market earlier?

Mr. BISHOP of Utah. As I said, it does not take a rocket scientist to realize that is the way of protecting the future economic and energy needs of this country.

Mr. CANNON. Mr. Speaker, I thank the gentleman for his comments.

Mr. RENZI. Mr. Speaker, will the gentleman yield?

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

Mr. RENZI. Mr. Speaker, I was fortunate this weekend to visit the Arctic National Wildlife Refuge, ANWR, with the gentleman from California (Mr. POMBO) and several Republican congressmen as well as our Democratic colleague, the gentlewoman from Guam (Mr. BORDALLO).

We began our visit by visiting the pristine environment in the southern Alaskan town of Valdez. Valdez is located at the southern end of the pipeline where wildlife and sea otters and clean crisp air and the oil shipping business co-exist in harmony.

This is not rhetoric from some Congressman who has never set foot on the site. This is firsthand knowledge seen with my own eyes that we can truly balance our energy needs and our desire to protect the environment without disturbing the ecosystem.

While in Valdez, we discussed suggested inferences that oil is seeping out of the pipelines and ruining the environment in great volumes. Let me say as a witness on the record that no such claims exist. In fact, if so much as a spoonful of oil or even brake fluid spills, an action report is filed, and there has been no such seepage at this site.

We toured the engine rooms and the facilities of the oil transfer stations, and we found the conditions to be spotless and clean. The new technology and equipment used for transporting oil, the professional mindsets of the employees and the operations of the energy development company have become so advanced that together they now serve as a guardian of the magnificent environment of Prince William Sound and the southern Alaskan town of Valdez.

We then flew from Valdez in the southern part of Alaska to the ANWR area, what they call the coastal plain, and we flew to the small Eskimo village of Kaktovik. It was almost 20 degrees below zero, and we were met there by over 200 people who turned out at their local community center for our field hearing. Everyone in attendance, except for a handful of non-Eskimos and one resident, was in favor of responsible energy development in their surrounding environment and on their lands.

We met with the elders who were represented by an 81-year-old man by the name of George Atookchook. He described for us how life was very harsh growing up. He grew up in an igloo where they would gather driftwood on the beaches before school, and they would make fire out of this driftwood, and they would burn whale oil for heat. This whale oil would fill the room with deadly smoke, and this deadly smoke led to a generation of Eskimos, particularly his father's generation, who lived on average only until their late forties.

During our hearing, the community leaders of Kaktovik taunted the extreme environmentalists. Let me quote the mayor of the north slope borough who said, We do not want to go back to our igloos, as some people want to see us. We want to grow by opening up ANWR.

The only people who live in or around ANWR want oil development. They believe, and I quote my 81-year-old friend, ''that man was put on this earth to use the land,'' to draw from its resources and to benefit.

The Americans out there listening tonight need to know that while the homelands of the people of Kaktovik have been returned, the extreme environmentalists will not allow them to use their natural resources that are beneath their feet.

While we fight to liberate Iraq from a brutal dictator, each passing day we become more dependent on foreign Middle East oil, and all the while, we have American oil located on the north slope of Alaska in an area inhabited by a wonderfully strong, native people who want to help us fulfill the energy needs of our Nation by using American oil in their backyard.

The people of Kaktovik told us that they need the economic gains that will help their people live longer, healthier lives, economic benefits to build classrooms where they can teach their little ones their native languages, to build museums to display their traditions and cultural heritage.

Mr. Chairman, domestic oil production also means more jobs for native American Eskimos and the entire Alaskan economy. New advancements in arctic frontier technology allows us to explore and develop oil with the highest environmental safeguards.

Within this energy bill, section 3 of H.R. 39 requires the Secretary to ensure, ''that oil and gas exploration, development, and production activities on the North Slope result in no significant adverse effect on fish and wildlife, their habitat, their sustaining resources and the environment.'' This highest standard of environmental protection is reiterated many times throughout this energy bill in H.R. 39.

Let us give the Eskimo village of Kaktovik what they want. Pass the energy bill. Return not just their land but the natural resources that are desperately needed to secure their future and ours.

Mr. CANNON. Mr. Speaker, I say to the gentleman from Arizona (Mr. RENZI), everybody I have talked to who has ever visited the area has had pretty much the same response. I have not been up there. I understand it is a phenomenal visit, and it helps to understand exactly what we are doing and why this is a reasonable bill, especially when we put it in the context of the people that are there locally.

Mr. RENZI. Well said. One of the comments that was made to us was really how there have been a few people that have made it as far north as Anchorage, Alaska, but no one has taken the time to go all the way up to the arctic circle in the northernmost point of Alaska, the northernmost point of the United States of America, and hold a field hearing in a small Eskimo village.

These people, the Inupiat Eskimos, they are a very proud and strong people, and they are tired of telling Americans, telling politicians in Washington, telling eastern environmentalists what they want, only to have Congress not do their will. We are dealing with native American lands where they cannot even drill their own oil to sustain themselves. They cannot even go after it. We stop them.

We need to open up these lands. My colleague knows the issue well. It is well said.

Mr. CANNON. Mr. Speaker, I appreciate the gentleman's comments. I talked to many, many people about this, and to a man or woman on either the Democratic or Republican side, to the degree they have been there, their views are radically different from what they were before they were there. I think the gentleman expressed it very well.

I know the gentleman from Utah (Mr. BISHOP) also had some comments for the gentleman.

Mr. BISHOP of Utah. Mr. Speaker, I noticed on the chart there that the gentleman has the current Alaskan pipeline that is there. How far is that from the area we would be moving into to provide this new domestic security?

Mr. RENZI. I thank the gentleman from Utah for his question.

Americans invested their tax dollars in building a pipeline that runs almost 800 miles from the coastal plain in Prudhoe Bay all the way down to Valdez, millions and billions of dollars, jobs and the economy back in the 1970s when I graduated from high school. Many of my classmates went and worked on the pipeline. Some stayed because of the magnificent beauty of Alaska.

What we learned is that this pipeline at its highest production was producing about 2 million gallons or a little bit more. During the first Gulf War, under President Bush, we increased that to a little bit over 2 million because the production had fallen off to about 1.5 million barrels a day.

Right now, even though we are at war with Iraq, at maximum production we are only getting 1 million gallons a day, and that is because the reserves at Prudhoe Bay have fallen off, and yet to

answer the gentleman's question, 74 miles is all we need to go with a little step. All we have to do is build off of the existing pipeline in order to reach ANWR, and of that 74 miles, 30-some odd miles has already been completed. So we are talking about 30 or 40 miles of more pipeline that we need in order to use a billion dollar pipeline that is already in existence.

Mr. BISHOP of Utah. Mr. Speaker, I ask this one final question. With the risk of being somewhat of a leading question, I think the gentleman very eloquently stated the position of the people who are there. I guess I would, once again, want to try and somehow if the gentleman could reiterate in his own mind that one of the problems we have had with our failed philosophy in the past that has produced so many problems is trying to have a Washington solution, one size fitting all.

Is the gentleman comfortable that the locals who know and understand the land, who know and love that environment, is the gentleman comfortable that they are positive that this is the appropriate thing that they want in their particular area and they know how to control it?

Mr. RENZI. Mr. Speaker, I thank the gentleman for the question.

We asked several of the city council members, current city council members, we asked several of the mayors from a local area, we asked the president of the student body of the high school, we asked all the villagers who were at the hearing, over 200 of them, what is the majority opinion, what do they feel. They said that, overwhelmingly, the people of this native American Eskimo village very much want to open it up.

The reason is because in the beginning, when the drilling was being done at Prudhoe Bay, there was a fear. They were unsure what kind of neighbors the oil companies would be. Since that time, technology and equipment and the good, hard work of all kinds of Americans, including their own people, who work on this pipeline have proven over the years that this is a worthy investment, and they are worthy of their trust. So these oil companies have been good neighbors, and they know that that will continue with some of the finest new technologies and some of the finest advancements in arctic technology and equipment to pull that oil out of the subsurface terrain.

What they know is they have good neighbors in the oil companies. What we do not know is how much oil really is under there, whether it be 6 billion gallons, whether it be 15 billion or even more. What we do know, though, is that our Nation needs it as a bridge to take us from our current dependency on oil to this new generation of alternative fuels.

We cannot just go to alternative fuels. That is so expensive right now, to think we are going to jump to the fuel cell or we are going to jump to hydrogen today. We need time to develop that technology, and the bridge from today until that day is that we use our American oil and not be so dependent on foreign oil.

Mr. BISHOP of Utah. Mr. Speaker, I thank my friend from the neighboring State of Arizona for his insight into what the people of that particular region actually feel and think about this area they know and love so well.

Mr. CANNON. In just a moment we are going to yield again to the gentleman from Utah (Mr. BISHOP) to sort of explore what the meaning of the size of the disturbance is here.

Let me just say to the gentleman from Arizona (Mr. RENZI) that his discussion about alternative fuel is important. We actually have a chart here that shows at the highest expectation of alternative fuels, it does not get us very far in the foreseeable future, but in addition to that, let me just say that I firmly believe that people who are local have an understanding of what their environment is, and they have a terrific interest in maintaining it.

We have had this problem in Utah where we have ranchers who care enormously for the land, and we have had outsiders who said, No more moo in 1992, trying to get rid of all cattle grazing in 1992, for instance.

□ 2145

And it turns out we find now that the cattle grazing is remarkably important for the health of the land. So locals have a tendency, since they are responsible for it, since they interact with it, they are more reliable in how they operate and work on their lands.

Mr. Speaker, I now wish to yield to the gentleman from Utah (Mr. BISHOP).

Mr. BISHOP of Utah. Mr. Speaker, I thank the gentleman one more time, and if I could reiterate what the gentleman from Arizona started by just pointing out that this entire refuge is about the size of South Carolina. The only area we are talking about is the area in green, which from the beginning was set aside for the purpose of oil exploration. That was part of the common sense approach we had when we preserved this land.

The only part we are talking about, as he so brilliantly put it, and the closeness of the original pipeline, is this small little red dot. That is the entire area. If we view the second shot, we can see that that small dot is only about 2,000 acres. That is the footprint, which is smaller than Dulles Airport, which services Washington, D.C. The amount of area we are talking about is less than what is Dulles Airport compared to the size of the State of South Carolina.

And as the gentleman from Arizona said, this could be a significant find in giving us domestic security with the domestic source of energy we need. And as we see by this particular chart, the amount of oil that is recoverable in the ANWR area is second only to what we receive from Saudi Arabia. If we want to eventually solve problems in the future and have some kind of independence with a domestic source of energy, this is a significant piece of the puzzle.

Mr. CANNON. Reclaiming my time for a moment, Mr. Speaker. Everybody in America knows we are struggling. We are paying a lot higher prices for our gas. That really bugs me personally.

If we go over there four or five points, and if the camera will focus on that chart, we see the red piece there. That is the amount of oil that we get from Iraq, and that looks to me like it is less than a third of the amount of oil that we would get daily from this new area in ANWR. Am I reading that correctly?

Mr. BISHOP of Utah. The gentleman is correct. Iraq plays almost an insignificant role in the energy sources for the United States. But the other countries that we have here, Saudi Arabia, Canada, Mexico, and especially Venezuela, they are key elements in our foreign policy dependency. When changes take place there, when problems develop in those countries, we receive the brunt of it with higher costs for utilities, higher costs for gasoline.

Mr. CANNON. If I have what the gentleman is saying, and again focusing the camera on that chart, ANWR produces almost as much gas or oil as Saudi Arabia does. The next largest importer of gas or oil to the United States is Canada, and that would be about the same amount we would bring in from ANWR. And then the next largest exporter of oil and gas to America would be Mexico, and that is a little less than the amount of gas that we would bring down from ANWR if we did that drilling. And then the next largest supplier, which is significantly less than what we would get out of ANWR, is Venezuela.

Now, of course, part of our problems today, and I should not blame this all on the war in Iraq, because Venezuela has had its problems in recent times, but we can replace virtually any one of those suppliers with just the oil we get out of ANWR.

And when we get to the next step, we drop way down on that chart, to the point where Nigeria is only giving us a quarter, or a third of the oil that we would get from ANWR.

So ANWR represents a pretty huge step in energy independence in America. Is that what I am seeing here?

Mr. BISHOP of Utah. The gentleman is correct. And these are once again what we assume to be the average daily oil productions in these areas.

The gentleman is correct in pointing out how much we receive from Canada. If my colleagues would simply note what the Canadians are doing in providing that oil is simply the area on the other side of this region that we want. That is the production lines that they are having. They understand the purpose of it. And the Canadians are able to use modern technology to produce the oil and not to spoil the environment. It does not have to be one

or the other, where we either have the energy source or we have the environment. We can have them both. We have the technology to make it possible to protect our environment and protect a domestic energy source at the same time.

Mr. RENZI. If the gentleman will yield, he makes a great point about the environment. I think in our argument we need to point out some of the truths about the environment. Seeing that I was there 3 days ago, I would like to describe for my colleagues exactly what is there. And I would like to use the words from a letter that I received while there during the hearing.

First of all, the environment when I was there was about 20 below. And we are dealing for miles and miles, as far as the eye can see, with a vast, sheer flow and flat surface. This is not mountains and streams and brooks and riparian areas. This is not sensitive areas where the musk oxen are hiding out of the wind, as we have seen on some of the environmental videos. This is a flat, frozen area.

Let me take the words from Herman Aishanna. He is a whaling captain and serves on the Kaktovik City Council. He is the former Mayor of Kaktovik. These are his words, not mine. ''For any who think they can make this rich and fully peopled country of the Kaktovik into a wilderness, they should be aware not only that we the living are here, but also that the spirits of our people since the time immemorial are here. No matter how blind, no matter what anyone wants to call it, this country is hardly a wilderness and it will never be a wilderness. This country has a people and today you are looking right at them.''

Now, he gave us this letter as a welcoming letter but also as a warning. He does not want to be locked out by some sort of environmentally imposed wilderness status, particularly given the sheer vast areas that his people inhabit, the habitat of his people. Now, this man is a leader in his community, and he very much has reached a point, and again and I would like to reiterate, where he is tired of going to hearings time and time again all the way down in Anchorage, Alaska, traveling down there with his people. He says, ''We know that they do not listen because they do things we told them not to do. We know they do not listen to us because we see them telling people how we feel about this, and they get it all wrong.''

Again, a good leader in his community frustrated with the idea that we would create a wilderness area at ANWR, lock his people out from using the snowmobile machines, lock out the ability to use the airplanes for hunting, lock it up and set it away without him being able and his people being able to go into the lands and draw out the natural resources.

Mr. CANNON. I could not help thinking, while the gentleman was talking, that the former mayor sounds like a very articulate, thoughtful guy. And if he figures out people in Washington do not listen to him, he is probably pretty smart too.

But as I listened to what the gentleman was saying, I call to mind an article that was printed about a year ago in the Atlanta Monthly which challenges the notion that the people in the Americas were savages when Columbus arrived. In fact, frankly it was suggested that the populations of Native Americans were much higher. And one of the points the article makes is that the Amazon jungle, which has very, very limited soil, is actually an artifact of man. In other words, we had millions of people living in that area and they created the jungle as people who were taking charge and being aware of their environment.

It seems to me that many of the environmentalists are actually racists. They think that they have got the ideas and that man should not be involved and that we should go back to the way the Native Americans were when we got here, ignoring the possibility that there may have been 100 times as many Native Americans in the Americas when Columbus arrived. The article suggested that the antibody systems of the Indians in America were so similar that diseases came in and decimated them, nearly knocked out 98 percent of the people in the Americas. So, naturally, they did not seem to have the kinds of cultural achievements that were apparent, say for instance from the 2 million acres of terrace lands in Peru.

But it occurs to me that people who assume that they, the Native Americans, did it all wrong or did something else other than what we are doing is a pretty narrow and racist view of those folks. And it seems to me that we are doing exactly the same thing when we decide in Washington, we who have never been to that area and have never talked to those people, that we know best for them what should happen in that area and on land that they love and that they feel a kindred spirit for or feel close to because of their ancestors and the spirits of their ancestors who have been there prior to them.

That is a pretty important point the gentleman is making.

Mr. RENZI. The gentleman is so correct. One of the points that came up during our hearing was that the impact that the good Eskimo people have made on the land is an impact that they desire. There is a philosophy that they have that the earth was given to them as a gift; that the earth was given to them to use and draw out the resources.

So the day that the generations long ago showed up on that coastal plain, the first day they killed the first whale, they believed the creator gave that to them to feed them, to clothe them. That first day they made an impact, and to this day they impact the environment. They want to be able to control their own destiny. They want to work with a sound environmental policy with an energy company who has been a proven neighbor to them in order for them to gain the benefits of the earth.

It is really a beautiful holistic approach to the land.

Mr. CANNON. Mr. Speaker, it sounds sort of like what we in America might call a stewardship.

Mr. RENZI. It is very similar to our stewardships.

Mr. CANNON. Since the gentleman was just there, let me ask him a couple more questions. In the first place, my understanding is that where we have had the transAlaska pipeline, and where we have drilled, the caribou herds have increased significantly; is that correct?

Mr. RENZI. There was discussion during our hearing that the caribou herd actually uses the pipeline structure as a wind sheer or as a warming element to help them in their mating process.

Mr. CANNON. Warm mating is always better than cold mating, I suspect.

Mr. RENZI. I agree. But in essence there are two caribou herds. There are a lot of people who talk about the porcupine caribou herd, whose numbers are about stable; and then there is the coastal plain caribou herd, whose numbers have grown exponentially over the years. So all the research and science shows that there has been no significant impact on the caribou herds and, in essence, the caribou have grown in population.

Mr. CANNON. Let me ask one other question, because the gentleman has been there recently, and he said it was 20 degrees below zero.

My understanding is you drill in the wintertime there. You create an ice sheet and then drill down through that sheet, so that when you finish drilling and have the equipment gone, when the springtime comes the ice sheet melts and it is like it was never there in the first place. And, in addition, you only have a little bit of a box that protrudes where the oil goes through.

Mr. RENZI. That is correct. One of the arguments that we are hearing is that the old oil technology, that old dark industry of the past, is going to ruin the environment. And it is a falsehood to think that new technology and lessons learned from the past are not going to be used. The language requires, absolutely requires that the newest and best technology of our oil industry, the American oil industry, be used at ANWR.

The gentleman from Utah talked about the ice roads. What we are going to do when we go into ANWR, if we are allowed to drill, if we are allowed to remove those resources and provide for the energy needs of our country, we will build a frozen sheet of ice, many feet thick, in order for the tractors and the vehicles to move in on. So that when in the springtime the ice melts, there will be no impact to the tundra.

Absolutely none other than the small areas where the oil is actually extracted.

But that small impact has got to be weighed in balance, in a rational balance, with the needs of this Nation and the security of this Nation.

Mr. CANNON. Well, I thank the gentleman, Mr. Speaker, and I think the gentleman from Utah is now going to shift to some charts that actually gives us a sense of the proportions that are involved. Does the gentleman have the chart that shows Alaska as part of the United States? Because if I could ask the gentleman a few questions.

Alaska appears to me to be about a third of the land mass of the United States. And then we have that little yellow area up there that represents ANWR essentially.

Mr. BISHOP of Utah. That is ANWR, yes.

Mr. CANNON. Does the gentleman have the chart that shows what portion of ANWR we would have drilling in?

Mr. BISHOP of Utah. Yes.

Mr. CANNON. And if we could focus the camera on that, we would appreciate it.

So we have all of Alaska, representing about a third of the land mass of the United States. We have ANWR, which represents the little green peace, which expanded out indicates what is ANWR and then what would be the coastal plain. That coastal plain is tiny in comparison to Alaska, and the gentleman is actually touching that dot there, if the camera is focusing there at the top of his finger, a little tiny dot which represents the ANWR footprint, and down below there is a little square that represents about 2,000 acres.

That is how much land we are going to disturb; is that about right?

Mr. RENZI. That is correct.

□ 2200

We flew over the entire area, and the plane ride itself took just a matter of minutes, and we were in a prop.

Mr. CANNON. And that was for the coastal plane?

Mr. RENZI. That was for the coastal plane, the entire strip in the north.

Mr. CANNON. If I am reading this chart correctly, we have Dulles Airport, and I am not sure we understand what is going on in Alaska, but most Members of Congress know Dulles Airport, and that is a total of 13,000 acres. So ANWR is less than a sixth. The area that would be disturbed in ANWR for drilling is less than a sixth of the size of Dulles Airport. It is all right for us to have an airport and mess up 13,000 acres of trees, but we cannot let the people of Alaska or the people in the coastal area have a couple thousand acres that would develop jobs and energy for America that would displace 4 times over our dependence of oil on Iraq. That seems to me to be a no-brainer.

Mr. BISHOP of Utah. Mr. Speaker, in reading the letter of the mayor, it clearly illustrated what we sadly lack here in Congress, a common sense solution balancing the needs of the future and today with the heritage that is already there. They know it, they understand it. Using technology, they are ready to move forward if we just allow them the tools to do it, and they all can win. It does not have to be a lose/lose situation. It is a win/win. They understand that, and we need to gain that same insight.

Mr. CANNON. Mr. Speaker, I yield to the gentleman from Pennsylvania (Mr. PETERSON), and then I will speak about oil and gas and we will conclude at that point.

Mr. PETERSON of Pennsylvania. Mr. Speaker, I thank the gentleman for yielding.

I come from Pennsylvania where the first oil well was drilled. I live 5 miles from Drake's well. When we discovered oil in Pennsylvania, it changed the world. The whole industrial world as we know it today came about when oil became one of our energy sources. Since then, many energy sources have been added.

What do we need? Do we need ANWR, you bet. Do we need to open a lot of the west and other parts of this country that are locked up to oil and gas drilling, you bet. I am going to try to explain why. When we look at the consumption figures for the world, 39 percent of the energy used in the world is oil. And of our oil, 60 percent of that comes from unstable, unfriendly countries. That is certainly not a good position for a country like the United States to be in.

Mr. Speaker, 23 percent of our energy in the world comes from natural gas, and 23 percent of the energy that fuels the world comes from coal. Now when we add those three items together, that means 85 percent of the energy consumed in the world is fossil fuel. That is an alarming figure when we think about it. Eight percent of the energy consumed in the world is nuclear. Now we are up to 93 percent of our energy. That leaves 7 percent renewables. I support renewables every way we can support them. We need to do more hydro, we need to do more wood and biomass, ethanol, and wind solar. But when we look at the figures a little further, hydro is 3.2 percent so now we are at 96.2 percent of the world's energy. And when we add wood and biomass, we are now at 99.4 percent of the energy in the world.

I have been in so many hearings where people say if we would just stop holding back wind and solar, they would solve our problems. Wind and solar collectively is 6–10ths of 1 percent of the energy of the world. Am I for wind and solar, you bet. A company in my district has just developed some technical engineering that will help wind be far more efficient because it will automatically position the wind turbines so they face the wind properly. As the wind changes, they change. It adds to their efficiency. I am very proud of them for that. But the problem with wind is that it is only really available in a few parts of the world. Often those areas are far from transmission lines, and the wind only blows 38 percent of the time. The rest of the time we have to have a redundant source to take the place of the wind that is not blowing.

Mr. RENZI. Mr. Speaker, when I grew up in Arizona, so many people were talking about wind as being the next technology. So many people were implying that the wind energy that we receive would be cost efficient. Now I am hearing they want us to take down the windmills because it ruins the view shed.

Mr. PETERSON of Pennsylvania. The volume of wind turbines needed to supply a State like Pennsylvania would cover half of New England. The other part is that is not where the wind blows. In Pennsylvania they have found two places, up in the north central part of the State in my district and in the south central part of Pennsylvania. There are two areas where the wind is the best, and they have developed a wind farm at one and are talking about a wind farm at the other. Where the wind blows best in the far reaches of Texas where there are no transmission lines to get it out.

With solar, there are only a few places in the country where solar is regular, and there is no solar power at night, and the few parts of the country that have the majority of the solar available are in places where there are no transmission lines. If we double wind and solar in a 5-year period, we would be 1.2 percent of the energy needs of the world.

Mr. CANNON. Mr. Speaker, Members can see on this chart that we have the biggest amount of use of energy being petroleum. Natural gas is second; coal third; nuclear, unless we do something significant there, and I remind Members of the fact that we have dozens of nuclear reactors on battle ships, on aircraft carriers and on submarines that have been operating for 30 or 40 more years without an accident, and they have been run by 18 year olds. We know a lot about nuclear, and we are going to have to come back and consider that.

To the gentleman's point on hydropower, we have dammed all of the rivers that we are going to be able to dam. We will not have alternative power from hydropower. What we see is even if we doubled what we are anticipating, it would be irrelevant. We are not going to be able to do much with the huge increases in demand that we have in the future based on renewables. This is a graphic form to show what the gentleman is showing.

Mr. PETERSON of Pennsylvania. Mr. Speaker, what we need for the sake of our economy is we need reliable supplies of all energies, and we need to prevent spikes. The spikes from 2 years ago started us back into a recession. The spikes this winter are going to

slow down our economy further. The one energy that is the greatest concern right now is natural gas. Many years ago in the last administration there was a decision made that coal was out and gas was in for electric generation. I personally am not a big fan of gas for electric generation. We used it for peaking power because I believe it has been the main source of home heating, commercial, and the main source for our industry, and it should be the main source for bus fleets and truck fleets in our city areas where we need clean air. The easiest conversion away from petroleum is natural gas for our transportation fleet. In my view, that would be a better use.

But what has happened in this country in just a few years, natural gas, not generally used for power generation for making electricity, now the gas being used in this country, 13 percent of the gas is for power generation; 14 percent of the gas fuels all of commercial in this country. So power generation has caught up with commercial in a 5 or 6-year period, and every day they are hooking up new power generation plants, and the rig counts in this country to produce the gas are not there. It is interesting, and I have a map here. I wish I had a blow-up of it. The dark blue on the map is where the energy is locked up.

Mr. CANNON. Mr. Speaker, if the camera will focus, this is it.

Mr. PETERSON of Pennsylvania. Around the Great Lakes, this Congress voted not to allow slant drilling under the Great Lakes, yet we are buying gas and oil from Canada who is drilling under our Great Lakes and selling us the product. It does not make much sense. But if natural gas is the new fuel for electricity and we want to keep it reasonable for home heating and we want to keep it reasonable for commerce and reasonable for our manufacturing and industries, we have got to have a greater supply of it. We cannot import natural gas.

A lot of people think we import natural gas from Mexico. Actually we buy some from them, but we sell more than we buy, so we are actually an exporter to Mexico. We do buy considerable natural gas from Canada, but about 86 percent of our natural gas that we use in this country comes from America, and our source and supply is dwindling because we as a Congress have locked most of those spots up, and some that are not on there, saying we cannot drill there.

Mr. CANNON. Mr. Speaker, this map shows that. We have some pretty significant reserves off the coast of California, the West Coast, and off the East Coast. But the yellow or orange sticker underneath here points out that 100 percent off the coast on either side of the map are tied up. We cannot tap that.

We have a pretty sizable reserve down in the Gulf of Mexico, but 56 percent of that is off limits, we cannot tap that. There are other areas, and I will point out the gentleman is correct, there is a great deal of gas under the Great Lakes where we are not now drilling and have prohibited ourselves from drilling, and so that leaves the bulk of the gas that we are going to use to heat homes. And somebody said 95 percent of our new generating capacity is gas, and it is gas because people say it is clean and we can get away with it environmentally. But where is the gas going to come from? Texas, which is a big producer of oil and gas, is building just gas generators. They are not going to export any gas in the future because they are going to run their own generators in Texas with that gas.

Unless we take that 40 percent locked up now and make that available and make the rest reasonably available in the near mountain west, we are not going to have gas to heat our homes and to generate this huge amount of new power that we are going to be generating with gas-run turbines in America.

Mr. PETERSON of Pennsylvania. Mr. Speaker, in my district there are a number of caverns that are used to store gas for the New England area and the northeast. There are huge salt caverns that we pump the gas into in the summertime. The underground gas reserves in America are the lowest they have ever been historically. The concern is that with the amount of gas that we are using ongoing now to generate electricity, there is not going to be enough to fill them this summer. Last September we had the biggest, the largest amount of gas we ever had in this country. By late November, we had those reserves almost all used because we had an early winter and a cold winter all up and down the East Coast, and so we used more gas than usual.

The problem is right now the average gas price is somewhere between 5 and 5.50 a thousand. We were used to in this country $2 and $3 gas. It was $3 during the peak season in the winter, $2 in the summer when they would fill the reserves. We are now looking at filling reserves at $5 gas if we had it to put there, or $6 gas. When we raise the cost of doing business that much, double energy prices and more than double for large businesses that use a lot of gas, we will put them out of business.

Mr. CANNON. My understanding is that we have actually quadrupled.

Mr. PETERSON of Pennsylvania. It was at 19 at one point.

Mr. CANNON. Just in the last month we have been up to 19, so that reflects a lack of reserve. The gentleman said the reserves are at the lowest level ever. Reserves are a function of what we know is there.

Mr. PETERSON of Pennsylvania. No, the reserves I am speaking about are the caverns where we store storage gas. Not reserves. There are a lot of reserves in this country, but a lot of them are under those orange areas where we cannot drill.

Mr. CANNON. Reserves are a function of what we learn through science, and so reserves of oil and gas have gone up dramatically. We know that we had oil and gas in the ground at different places, and we did not have the technology to get it out, and so we did not count that as a recoverable reserve. We now have technologies that will get a lot more of that out, so our recoverable reserves have gone up on that basis, and also on the basis that we have explored more so we have found new reserves. So we have a couple of dynamics there.

But those reserves are discounted by what we can reasonably legally get to. I suspect, in fact, we are at an all-time low, as reflected in the high price of oil and gas, with the reserves that we have access to today not because we have limited them or we have not discovered more, but because we have taken those reserves that we have and we have legally limited access to those reserves.

□ 2215

Mr. PETERSON of Pennsylvania. That is correct. And if we do not up the drilling in this country, because we are only importing a small part from Canada, and then we import 4 or 5 percent of liquid natural gas, but we only have two places, one in Louisiana and I think one in New Jersey, where ships with liquid natural gas can come here. They liquefy it in other countries, bring it here and then put it back into gas form in the pipelines, and it is used, whether in our homes or commercially or business.

So we do not really have the options of importing gas like we do oil. You have to have a pipeline, and the only place the potential is up through Canada to ANWR. Now, ANWR is a huge gas supply. The ANWR field has tremendous volumes, but it is going to cost a lot of money and it is going to take years to build a pipeline to get that gas down to us.

But the problem we face in this country I do not think a lot of people are looking at. I have been watching it for 3 years as we started hooking up power generation plants. You can talk about an 18, 20, 24 inch high pressure gas line sucking gas out of our system. That heats a lot of homes.

This year we had very high home heating prices. Next winter they are going to be much higher, because there is really no solution to the problem. Everybody all of a sudden is panicking because the gas supply is much lower than they ever anticipated, and since global warming sort of left us out this winter and we have cold weather in April in Washington, we are using gas at an unprecedented rate now, so they are still drawing out of the underground storage, and there is going to be nothing in storage, and if we fill, we are going to be filling at very high prices, which are now $5 to $6 dollars a thousand.

Mr. CANNON. I would say to the gentlemen we have about 10 minutes left in this hour. It has gone quickly. I think which had some interesting information here. I would like to talk for

about 3 minutes about the situation with oil and gas and other energy resources with some charts, and then I would like to let everyone take a couple of minutes to make some final comments.

If I can put these back up, if the camera would focus on those charts, we looked at this, and just let me briefly reiterate, we are going to use a lot more oil and gas and other energy. Some of those are limited. There are no more rivers that we are going to go hydropower on. In fact, we are going to get rid of some of the dams I think over time that we are using for hydropower. The non-hydro renewables, even if you quadrupled the amount of growth we are dealing with here, are not going to be significant in the next 20 or so years.

Nuclear could do something new and different, it could be very helpful in this process, but we are going to have to come to understand nuclear and the safety of nuclear.

Now, if you look at this chart, there are a couple of things that are really interesting about it. In the first place, you note in the seventies and early eighties, we actually had a decline in energy or oil usage. That happened for a lot of reasons. We had a slight recession back then. We also got cars more efficient. But, most importantly of all, we had businesses that had an incentive to be more efficient. So in virtually all areas you had a little bit of improvement in efficiency there.

Then we have gone up, if you see the line in the middle that shows the year 2000, essentially the present, we have gone from that nadir back up a little bit. While that energy has increased, let me just point out that our economy has almost doubled, so we have had a huge increase in output in our economy with a relatively small increase in energy.

But we have gotten a lot of those efficiencies out, and maybe we'll have more in future, but we now have a pretty good idea where we are going to go as the economy continues to grow and we have more demand for energy.

If we can focus on that chart, this is just the energy we use for the generation of power. So you note that the major source of power is from coal. The second major, historically, has been nuclear, which is now level. But you can see that green line of natural gas just spiking up. That is going to spike up because in America we have decided to use natural gas because it is easier to permit new generating facilities with gas than with coal, although we expect more coal generation over time. So we are going to have a big increase in natural gas for electricity generation.

But if you look at the chart, this chart now, this chart is about what percentage of homes are heated with various sources of energy. When you have got a little bit of blue in here developed by electricity, you see that is fairly constant over time. That is also generated increasingly by natural gas. But the vast majority of American homes are going to be heated by gas.

Owning a home is good. We just had a study that was released this last week that indicated the way kids do better in school is by living in a home with their families, as opposed to an apartment or other circumstances. The American dream is to own a home. We are going to heat our homes with natural gas. We need natural gas to do that.

That gets us back to our last chart. The bulk of the gas we are going to be using in America in the future is going to be in the inter-mountain west, and to get that gas we have to drill and we have to change the legal structure that allows us to drill there.

Mr. BISHOP of Utah. Mr. Speaker, if the gentleman will yield, we need obviously a comprehensive energy policy. Fortunately, we are going to have the opportunity very soon on this floor to vote on a common sense approach that provides balance by using local ideas and technology to provide for our energy needs as well as protect our environment.

But the question I have, especially if you go back to the chart that you just placed down there on the ground which shows where the future is, if we turn our back on this comprehensive energy policy, if we do not provide this kind of balance, looking at how homes are being heated right now, what is the future for my kids? What is going to be their future as they go out and try to develop their own homes, if we do not do something with the comprehensive energy policy now?

Mr. CANNON. They are either going to be cold, and we know what happens to caribou when they are not warm. If you recall earlier, the gentleman from Arizona (Mr. RENZI) pointed out that the heat from the pipeline has increased the number significantly. Or they are going to be paying an arm and leg for heat in their homes. And that is, I do not think, an acceptable alternative.

I yield to the gentleman from Arizona (Mr. RENZI).

Mr. RENZI. I will be quick. I would like my last statement to go back and reiterate what I saw during the last 3 days when I was up there in ANWR. I would like to go back and let the American people know what the people in Kaktovik really want. I spoke about my 81-year-old elder friend, the whaling captain. I spoke about the mayors and city councilmen.

Let me speak about a young woman named Morgan who is the student body president of the high school, who wrote a letter. She started off by thanking us for coming to her village.

She said, ''Personally I think that ANWR should be opened, because I think that we as a community would benefit greatly from it.''

She says, ''I support the decision that we, the Kaktovik people, need to be involved, because it is us who knows best, us who knows best how to use the land. It is also important that other people from around the country, as well as yourselves in Congress, know that we are a community that uses the land around us for everyday purposes, that we care just as much about what happens and only want to see the best.''

Finally, here it is: ''It is our responsibility to look out for what is in the best interests of our community, rather than a person who is trying to take it over and not make it ours.''

What Morgan is talking about is the idea that rather than work together and solve the energy needs of America by environmentally sound methods, extracting the oil and the energy from ANWR, that we would pass a bill, a different bill than our energy bill, that would create a wilderness area, would lock out the people of Kaktovik, would lock it out for their food and resource needs, as well as the needs and the oil that lies underneath their very feet.

I thank the gentleman for the time tonight and the ability to communicate the needs of the Kaktovik people to the American people tonight.

Mr. CANNON. I thank the gentleman, and the gentleman from Utah (Mr. BISHOP). We appreciate their contributions tonight. As members of the Western Caucus, we thank them for being here.

I yield the last couple of minutes to the gentleman from Pennsylvania (Mr. PETERSON) to wrap up for the evening.

Mr. PETERSON of Pennsylvania. Mr. Speaker, I think it is very vital that we pass an energy bill in this Congress and pass one that is meaningful. We must continue to improve efficiency and conservation of our energy use. I think in electricity we need to veer away from natural gas and go back to clean coal and nuclear for the interim, because if we continue to use natural gas as we are, we are going to threaten home heating. Gas should be saved for affordable home heating, commercial, industrial, and should be used for mass transit in our cities, which would help clean air there.

Oil should be replaced in transportation as quick as we can, whether it is hydrogen fuel cells, the new cars that use multi-fuels or whatever, because we only have 2.5 percent of the world's oil and basically our transportation is funded with oil, and we do not have a long term source of oil.

We need reliable supplies of all energy sources to prevent the price spikes. Why do I say that? Every time we have energy spikes in our country, we have a downturn in our economy and millions of Americans lose their jobs. Seventy percent of our economy is commerce, and when you take money out of home heating budgets, if home heating prices double, when transportation prices for driving our cars spike at the same time, all of that spending comes out of commerce. People do not go and shop, people do not go and spend money, because they have already paid it to their energy sources.

It is vital for the business future of this country, for the home heating efficiency of this country, for an economy that is reliable, we need reliable supplies of all kinds of energy. It will not be easy. We are going to have to do a lot of things differently than we are today. We will have to change a lot of our priorities. It is vital to the future of this country.

If there is one thing in my view that threatens the economic future of America, it is the lack of reliable, affordable energy prices that our businesses and our homes and people can use to fuel their homes and our businesses. Without that, our economy will be very difficult.

ENERGY CHALLENGES FACING AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Washington (Mr. INSLEE) is recognized for one-half the time remaining until midnight, or approximately 40 minutes.

Mr. INSLEE. Mr. Speaker, I have come to the floor tonight to talk about the energy challenges facing America and the opportunities that we now have before America and to advise the House that this afternoon, along with support of about 40 Members of the U.S. House, I introduced an amendment to the underlying energy bill which could be on the floor tomorrow that would give America a new Apollo Energy Project that would give America an energy program that is befitting the boldness and can-do spirit of this country. I will come back, in a moment, to explain why it is called the Apollo Energy Project.

Before I do, I thought I should address what the challenges are to America and our energy world. They are three. They are really quite obvious, and I think that they are well understood by Americans and accepted by Americans on a consensus basis.

Challenge number one: Our Nation has an addiction.

We are addicted to oil from the Mideast. We are addicted to oil from one of the most turbulent, incendiary, dangerous parts of the planet in the last couple of centuries. This addiction, in all administrations, Democrat and Republican, has resulted in a foreign policy not to the security interests of America and not to the interests of spreading democracy in the Middle East.

Americans understand that, both in their head and in their gut, because they know that the policies, for instance, in Majlis, in the Saudi Arabian Royal House, is they have refused to cooperate fully in the war on terrorism and in fact have allowed certain elements in their society to support terrorism without cracking down on it. Americans understand that the reason for that is because of our addiction to Middle Eastern oil, and they realize that our foreign policy has been tainted, has been poisoned, by this addiction. And Americans understand that breaking that addiction perhaps is job number one for an energy policy of America. That is the first challenge.

The second challenge is to deal with the phenomena of global warming. Americans now have come to understand overwhelmingly that when we place into the atmosphere pollutants from our burning of fossil fuels, by necessity these pollutants have caused a huge proliferation of global gas emissions to increase the rate of these gasses that warm the planet and the atmosphere.

Americans know if we are going to continue to burn fossil fuels without using new technologies to trap these pollutants, we are going to continue to increase the increase of carbon dioxide and methane and other global warming gasses in the atmosphere. Americans know if we do that, that these gasses are sort of like a blanket, they trap infrared radiation escaping the Earth and will be warming the planet for the next century.

Americans are concerned when they see what has happened as a result of global warming already. They know that in Glacier National Park, where we had 150 glaciers about 100 years ago, we now have 50, and we are projected to have no glaciers, no glaciers, in Glacier National Park in the next century if trends continue. We will have to rename it ''Puddle Natural Park'' I suppose.

Americans have seen the melting of the polar ice caps, the reduction by 10 percent in breadth and 40 percent in depth of the arctic ice cap; the melting of tundra in Alaska, where dead Indians are popping up out of graveyards because the tundra has melted.

□ 2230

We have seen the extraordinary increase in dangerous weather in the continental United States that is associated or could be associated with this phenomenon. We know that we have a responsibility to our children to stop our proliferation and contribution of these global warming gases and that we can do so. That is the second challenge.

The third challenge is an economic one, and the challenge is that we know that technologies always are continuing to grow, and we know that because of this challenge in the Mideast with oil and because of global warming, people are going to want new technologies for new sources of energy. The problem is that we have kind of a gap, we have a technology gap, because we are losing jobs right now in the new energy technologies to Germany for solar, as Germany now is the leading solar manufacturer of solar chips; to Japan with hybrid vehicles, as Japan is now leading us in the production of fuel-efficient vehicles; and to Denmark, a small European country that now is leading the world in the production of wind turbines, and these are jobs that belong right here in the United States, not to be lost to our economic competitors. We have a job loss phenomenon because we do not have an energy policy that is forward-thinking. We have an energy policy that looks backwards.

Well, today, Mr. Speaker, we offered an amendment for a new, bold, visionary energy policy, and we call it the New Apollo Energy Project. We did that, inspired by a former member of the U.S. Congress who, on May 9, 1951, walked down this aisle right here and he walked up to the platform and addressed a joint session of the U.S. Congress of the United States. That night, John F. Kennedy challenged America to go to the moon within 10 years and bring that man back safely to earth. At the time, he challenged America to exercise its can-do spirit. People thought that was a little bit nuts, to send, at the time they were thinking of a man, to the moon and bring him back within 10 years. That idea stunned people at the precursor of NASA thinking, how the heck are we going to do that?

But John Kennedy knew something about the character of America. He knew that when Americans recognized a challenge and were rallied to a cause, they could produce like no culture in human history, and this American culture responded with technological innovations which led the world in using our can-do spirit to create new devices, new software, new computers, new rockets, new navigational systems, new satellites that were unheard of before John Kennedy asked America to accept that challenge.

That is exactly the type of challenge which we need to give to America tomorrow when we adopt an energy policy.

Mr. Speaker, the reason I have, along with my colleagues, offered this New Apollo Energy Project is because unfortunately, the underlying bill that we seek to amend is timid, it is slow, it is too little, it is too late, and it is a package deserving of some country less than America, because it fails to cut the mustard in dealing with the 3 fundamental challenges of energy that this country is facing.

Number 1, it fails to give America any hope whatsoever to break that addiction to middle eastern oil. Second, it fails to give America any hope that it is going to deal successfully with this challenge of global warming. Third, it fails to give America any hope that we are going to bring those jobs back to America that now are going across the waters to countries that recognize, are recognizing these new potentially job-creating economies.

So we have introduced this New Apollo Energy Project to introduce those 3 challenges.

I want to discuss the difference between this proposal, which we would be proposing at this moment by Democratic Members of the House, and we hope that Republicans will join us tomorrow or the next day when this bill

is voted on; I would like to talk about the differences between the New Apollo Energy Project and what I believe must be characterized as a timid, half-measure project that is in the underlying bill.

The first thing that our New Apollo Energy Project will give America are goals. I guess it has been said by other folks, if you do not know where you are going, you will probably get there. We need to have goals like Kennedy set for us in 1961, because unless we set those goals, we will surely muddle along and not make significant progress.

So what we have done in this bill with this amendment, which will be on the floor tomorrow, we hope, we have set some goals for America and we have set these goals so that they are both ambitious and reasonably achievable. And we have set these goals by looking at the existing technology, looking at what we have today, looking at the scientists and the scientific evaluations that seemingly may be possible in the future. Let me address some of those goals.

Number 1, we have set a goal that by the year 2010, America will adopt, and the President will help implement through very flexible means at his discretion or her discretion, the goal of reducing Americans' dependence on oil in our total energy package by 600,000 barrels of oil a day by 2010 and a little over 2 million barrels a day by 2015. Now, why do we pick those numbers? We do so out of an acute recognition of the costs of our addiction to Middle Eastern oil. The first figure of 2010, if we reach this target, which I believe is imminently achievable through ways I will talk about in a moment, we will replace the amount of oil that will be produced by Iraq. If we meet this goal by 2015, we will eliminate the need for the oil produced by Saudi Arabia, essentially the largest producer in the world.

Now, why is this important? It is important because right now, we already are depending on 55 percent of our oil coming from foreign sources, and that is expected to rise over 60 percent by the end of the decade. Half of that comes from the Mideast. That is the addiction we have to break.

So we have set this realistic goal, and if we look at the Department of Energy assessments, we will see that this is a realistic goal.

The second goal. We have set forth a goal for America, which again is a reasonable and achievable one, to reduce our contributions to global warming gases that we put out from burning fossil fuel by the year 2010 to essentially 1990 levels, of what we were putting out in 1990.

Now, that is less ambitious than the Kyoto Treaty. It is less ambitious that most other civilized nations have agreed to in the Kyoto Treaty. But we have sought to have a goal that every single Member of this House ought to be able to embrace. If folks do not like the Kyoto Treaty, then they ought to agree with us to set some goal, and we have put on the table the goal, the democratic folks who have been working on this bill, and I hope my Republican colleagues will rise to the challenge and embrace this goal for America. Because if they do not, they are dooming our kids to a place that is different than we knew when we grew up.

We are telling our kids that they can just accept 2 to 8 degree increases of global mean temperatures over the next decade. We can expect them to see the increase of infectious diseases move north: Malaria, encephalitis, Dengue Fever. We can expect to see droughts in the western United States, somewhat similar to what we have experienced in the last 2 or 3 years. We can expect to see a lessening of the snow pack in the Cascade Mountains, which can reduce the ability to irrigate our fields in eastern Washington. We can expect to have an America that is not the kind that we had when we were children. We need to set this goal.

Third, we would set a goal of creating 1 million new jobs in these new infant industries which can be so beneficial in helping America reach their economic potential. Wind turbines, solar, clean coal, thermal incline facilities using the thermal temperatures in the oceans, energy efficiency systems, efficient cars. All of these, a whole basket full of new jobs for Americans that ought to be here rather than Denmark, Japan, and Germany. So we intend to set those goals and we have done so.

The second feature of our plan. We know that this is an ambitious challenge. Let me tell my colleagues how ambitious it is. Three weeks ago, or 2 weeks ago, an article came out in Science Magazine that suggested that by the end of this century, if we were to expect to hold the rate of global warming to about 2 degrees over the next century, to just limit it to that amount, not stop it, but limit it to that amount, we would have to have somewhere between three-quarters and 100 percent of our energy produced by nonCO2-emitting industries. That is a big challenge. Now, it is over a century, but it is still a big challenge. So this is an ambitious undertaking that we have to face for a variety of reasons.

So in doing that, we need to embrace a whole host of solutions. There are no silver bullets to our energy policy. But we have to be bold and visionary and break the habits of our old ways and our old industries, at times, in order to reach these goals of more self reliance in energy.

So let me talk about some of the ways we propose doing it. First, let me say we want to address new sources of energy and we want to address old sources of energy. Let me address the new ones just first briefly, because they are things that are not yet seen, just like in the 1890s, the internal combustion motor was only a tiny part of our total energy consumption, our production. And if we looked at charts, we would say, well, is the internal combustion engine going to mean much to America? At the turn of the century, it was only a few percentage points of our production, but it changed us dramatically. The same can be said, I believe, of the new emerging technologies that can help produce energy. Wind energy and wind turbines.

Mr. Speaker, wind turbines now are economically competitive with electricity produced by other means. We are building the North America's largest wind turbine farm in southeastern Washington, enough to supply energy for thousands of homes at a competitive price. And the Department of Energy studies have shown that the potential for wind energy, assuming that this becomes economically productive, as much as in the Midwest alone could potentially generate enough electricity for United States consumption needs. Now, those prices are becoming competitive, particularly with the modest tax breaks that the industry now takes advantage of.

This is happening around the world. When I was in Denmark a couple years ago, I saw them producing 15 percent of all of their electricity with wind turbines, some of these 300 foot-long blades that are outside on the ocean, outside of Copenhagen. They intend to have 50 percent of their electric produced by wind power by the end of the decade, and they are going to reach that. We have that alternative to do also, if we will give this industry some of the modest help to get off the floor and get into the mass-scale production that we need. I look forward to that day.

Solar power. Solar power at this moment is not economically competitive at this moment, except in certain circumstances. But the facts have shown that every time we increase the rate of production of solar units, the price can get cut by as much as half, and we believe, by ramping up, by obtaining the scales of economy of production of these solar units, we believe they have a realistic possibility of being economically productive by the end of the decade, if, if Uncle Sam will pull its head out of the sand on this issue and help this emerging technology along.

Now, there are just a couple of new technologies, but let me talk about some of the old. Coal. Coal right now, we have enormous supplies of coal in this country as a domestic fuel supply, but a problem with it is that at the moment, it contributes enormous pollutants in the form of carbon dioxide, which is one of the global warming gases that we have that are so problematic for the future climate of the world.

□ 2245

The question arises, why do we not just trap the carbon dioxide? Let us trap it. The fancy word for that is sequestration. We in our bill have put research and development dollars in to study the opportunity of trapping or

doing carbon dioxide sequestration and perhaps injecting it back into deep mines or potentially the ocean, although there are environmental challenges there, to try to be able to use coal without marring the atmosphere.

There are some real challenges to doing that technologically; but given the enormous challenge we have over the next century, it seems to me that it is an appropriate expenditure of research dollars to see if we can make progress in that regard.

One of the simple things to say about energy is that the best way to produce energy is to use it efficiently. I believe a very significant portion of our solution to our energy needs, although not talked about, although not quite as romantic as wind, solar, or various other fusion technologies and the like, it is going to be a very significant part of our savings, and that is to use energy efficiently.

Let me tell Members how important that is. Look at Seattle, Washington. I come from Seattle, and represent the north Seattle area. Seattle, Washington realized it was going to start to have an energy crunch in the mid-1990s. The folks in Seattle, instead of just rushing out and producing more CO_2 emissions, they decided to see what they could do to use energy efficiently.

They adopted some very commonsense measures in Seattle to have incentives for better building code standards, to have incentives to use energy-saving lighting, to have incentives to use energy in a more efficient way for advertising, for instance; very simple things.

The city of Seattle saved enough energy, enough electricity, to heat and light 58,000 homes in about 3 to 4 years; 58,000 homes in a city of 1,000,000 or thereabouts. That is an amazing statistic, doing something that did not change anyone's lifestyle in a deleterious manner. Everyone enjoyed the same lifestyle. Before the bubble burst, Seattle was a pretty chic place to live, and I still think it is a great spot, without any degradation of our lifestyle.

In our bill, we have called for a number of measures, essentially, to get efficiencies on how we use energy.

Look at our transportation sector. In transportation, we did some very far-sighted things in the 1970s. We adopted measures to raise the fuel economy of our fleet of vehicles, and it was successful. We raised it almost 10 miles a gallon, probably 8 miles a gallon or the like, in our fleets of vehicles.

Then, in the 1980s, that stopped. That rate of progress that America was making came to an absolute halt. It is interesting, because if we had simply continued to increase the rate of improvement of mileage in the cars we were driving through the 1980s and 1990s, we would have replaced all of the oil we buy from Saudi Arabia today.

Just think of the opportunity we lost in not continuing those efficiency increases. Now we have to start again on the road to efficiency increases, and in our bill we have not proposed a specific efficiency standard, what is called the CAFE standard, the Corporate Average Fuel Economy standard; but we have created a goal that would give the President a flexible tool in one manner or another to save 600,000 barrels a day by the end of the decade, and that is a realistic goal. Heaven help us if we cannot use our brains enough to increase the efficiency of our transportation sector.

Since the 1980s, when America stopped because Congress stopped improving the fuel efficiency of our vehicles, since that time virtually the entire computer and Internet industries have developed, the biomedical industry has just essentially been created from scratch, and we have had these tremendous technological advances, but the cars we are driving get less mileage today than they did in 1984. That is simply wrong.

The Republican approach has not offered, in this bill, any solution to that failure; we have. I am hoping some of my Republican colleagues will join us in fixing that problem.

Let me address the hydrogen economy, if I can. Many of us were pleased to see the President in his State of the Union at least mention the possibility or the prospects of developing hydrogen-fueled vehicles. Many of us believe that is a bright future for the country to develop a fuel cell-driven car; but it is a ways off, of course, to develop the technologies, particularly for the infrastructure to fuel those cars.

Unfortunately, upon reflection, we found that the President's and my colleagues', the Republicans' plan, has this enormous loophole, this bridge between here and the future that is simply down. That is the bridge between us and the production of hydrogen; because we could have everybody in America have a hydrogen-fueled car in our garages, but it does not do us any good if we do not have any hydrogen. The President totally failed to give us a way to produce hydrogen. The Republican bill tomorrow gives us a total failure of a way to produce hydrogen.

What we found was this President's allusion to hydrogen was really a failed allusion of an energy policy. I regret to have to say that, because it is a biological fact hydrogen does not grow on trees; it has to be produced. It has to be produced through electrolysis of removing it from water molecules. We have to use electricity to do that. We have to have some way to generate the electricity, or it has to be stripped off from a fossil-based fuel system in some process which also takes energy.

So the fact of the matter is, although a hydrogen car is a good idea and the research to produce it is a good idea, we have to grab the bull by the horns and figure out how to produce hydrogen. The Republican Party is not telling us how to do that. We will offer proposals in our bill, in the New Apollo Energy Project, how to do it.

The reason we will do that, do all of these things, relies on a fundamental character belief in the ''can do'' spirit of America. If you believe in this new Apollo project, you are an optimist; if you do not, perhaps you are a pessimist.

We are optimists because we believe in the ''can do'' spirit of this country. When we roll up our sleeves, we get it done technologically, but we do not if the U.S. Congress sits here in the posture of an ostrich with the head in the sand and our tailfeathers in the wind, rather than the American eagle. That is the posture we want the U.S. Congress to take, of the eagle with a can do spirit.

Some of my colleagues earlier this evening were talking about one of the provisions in the Republican bill would purport to solve this problem by drilling in our Arctic wildlife refuge that was established as a wildlife refuge by Dwight David Eisenhower way back when. It was established to be a wildlife refuge. It has been one ever since.

I think that there are several comments I have to make, because I know a little bit about this. I was up in the Arctic wildlife refuge the summer before last. Just to give Members who have not been there a brief description of it, I have been to Yellowstone, I have been to Glacier National Park, and my parents used to work in Mount Rainier National Park in Washington State. I have been to the bayous of Louisiana and I have been to a lot of beautiful places in this country, but I can warrant in the 4 days I was camped on the banks of the Achelik River right next to the area they want to turn into an oil production facility, it is one of, if not the most, spectacularly biologically dynamic beautiful places in America.

The wildlife is spectacular like no place I have ever been, and for 24 hours a day, because the sun is up 23, 24 hours a day, there are birds singing, there are grizzly bears walking, there is caribou snorting going right through your camp. That place is the most spectacularly exciting place I have ever been, just to be.

For Members to come here and describe it as some sort of wasteland that we should toss aside like a piece of sort of litter from the American political structure is just wrong. It is a beautiful, beautiful place, and it is a special place. That is why a good Republican environmentalist, Dwight David Eisenhower, set it aside for future generations as a wildlife refuge.

A couple of things about this. Number one, although we know increasing production domestically is an element of this, and we have in our bill proposed increasing domestic production of oil in some of our wells, we have some tax incentives to improve the efficiency and productivity of what are called marginal or stripper wells that are now in marginal production domestically in the United States. We have a variety of things to do to help technologically to increase the oil production

from wells in the continental United States now.

But the sad fact is, we cannot rely simply on oil production as an only or major source of solving this problem. The reason is that while we consume 25 percent of the world's oil, there is only 3 percent of the world's oil reserves in the continental United States. We use 25 percent, but we only have 3 percent of the world's reserves.

The Creator did not put enough dead dinosaurs under America to solve this problem simply by oil production. That is why we cannot rely on the Arctic, which is only about somewhere between 6 months' and a year's worth of production, and which would not be on line for 10 to 12 years, in any event.

There are two pieces of this puzzle that my friends across the aisles left out. Number one, they talk about this, that they will only put a 10,000-acre imprint or footprint on this beautiful area. I have been to Prudhoe Bay, and I can tell the Members that it looks more like New Jersey than it does Yellowstone National Park. We do not need that in the Arctic wilderness refuge.

They say it is only 10,000 acres on this, what they call the imprint where the industrial sector would meet the tundra. The problem is, everything is built in Alaska on stilts, and the only thing they count in that 10,000 acres is where the stilts touch the ground. It is sort of like measuring how much your furniture in your office covers your office by where the little corner of your desk leg touches the tile. That is a gross distortion. This place is going to look like an industrial production plant if this wildlife refuge is destroyed by making it into an oil facility.

I realize that not a lot of Americans are going to see the Arctic wilderness, wildlife refuge. It is very remote. But I think a lot of people think of this sort of like the Mona Lisa. A lot of Americans will not see it, and maybe it is only like putting a little small mustache on the Mona Lisa to put this 10,000 acre industrial plant; but it is a mustache, nonetheless, and it would not look good on the Mona Lisa, and it is not going to look good on the Arctic National Wildlife Refuge.

The best argument I heard about that is from a young environmentalist constituent of mine from Bainbridge Island, Washington, his name is Sam Zuckerman. Mr. Zuckerman told me that in his view, we ought to leave it for the kids and our grandkids. I think Mr. Zuckerman is right, that we should do so. I think that is the American sentiment.

I also may note that the people who live in the area are divided on this issue. The native Americans who live in the Arctic village who depend on the caribou herds, which potentially could be threatened by this development, are adamantly opposed to this. But we ought to know this, this refuge belongs to all Americans, not to any one of us. All Americans should have something to say on this. All Americans ought to have the opportunity to give this spectacular place to their children and to their grandchildren.

With that, Mr. Speaker, in conclusion, I just hope that in the next day or two while we are talking about energy in this Chamber that our effort to have this new Apollo energy project will be joined by some of our Republican colleagues.

We ask for their assistance in passing this, because America needs something more than half measures. We cannot break our addiction to oil with baby steps. We cannot solve the global warming problem with baby steps. We cannot grow the U.S. economy by these half measures that are now proposed in the Republican bill.

□ 2300

It is time to embrace and use the American talent for technological innovation. And it is time for the U.S. Congress to recognize both the challenge and the promise of what America can do when it comes to developing these new technologies.

There is a group in Lake Union, Washington called MagnaDrive, some former people from Boeing run it, and they have developed an electric motor coupling device which can increase the efficiency of an electric motor of about 30 percent. A fellow came up with this technology literally in his garage from Port Angeles, Washington, and now they are selling this to various building companies for their air conditioning systems to improve their electric efficiency.

We are going to solve this problem by 10,000 new inventions like that, by asking Americans in their garages, in their large corporate research and development facilities, to bring us into the next century. So I hope tomorrow or the next day we will indeed adopt this new Apollo energy project to give us, not an energy program for the last century, but one for the next century that is befitting the can-do talents of the American people.

UPDATING THE WAR WITH IRAQ

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Pennsylvania (Mr. WELDON) is recognized for 60 minutes or until the hour of midnight, whichever comes first.

Mr. WELDON of Pennsylvania. Mr. Speaker, I thank you for recognizing me, and I will not take the full hour, but I rise this evening to discuss and put on the record some concerns about the current war and about where we are going and some problems that we will face in the future, and I hope to lay these comments on the record so that our colleagues can use them for the basis of discussion and perhaps action over the next several weeks and the rest of this session.

First of all, Mr. Speaker, what we saw today on our national television around the world is a complete vindication of the efforts of our President, our Secretary of Defense, our Secretary of State, the National Security Advisor, and most importantly our military. We heard nothing but shrill rhetoric coming out of this city, and in some cases coming out of this body, from those who said that military action was not justified and that it would not be successful.

Now, granted we have not completed this action, Mr. Speaker, but here we are 3 weeks after the actual military conflict as begun and we now have secured a major portion of Iraq and the capital city of Bagdad. Saddam Hussein is on the run. He either has been killed or he is hiding like a coward and is looking for a way out, perhaps in the neighboring country of Syria.

But, Mr. Speaker, through all of this our military has performed in an absolutely astounding manner. The brave men and women of America who went over to serve have done an absolutely fantastic job. Our hearts and our sympathies go out to those family members of those brave Americans and British troops who paid the ultimate price and to those hundreds who have been injured and have received casualties because of this conflict.

But in the end, Mr. Speaker, the plan established by our Pentagon leaders was a valid plan, is a valid plan, and, in fact, has accomplished not only what we could have in our wildest dreams imagined and expected, but it has even surpassed our expectations in the success, in the efforts to secure the oil fields, to open the port facilities, to prevent missiles from being lobbed into Israel and Jordan and Kuwait which we knew the Iraqis wanted to do, to show the people of Iraq in all the cities that we are there not to dominate or take over their country but rather to liberate them and eventually turn the country back to them so they can elect their own leaders in free and fair elections.

Mr. Speaker, as well as things are going we must also look to where we are going to the future. And I mention that because we need to continue to pursue several other issues. The first of which is the request to convene a war crimes tribunal, not just to hold Saddam Hussein accountable but to hold the leaders of his regime accountable.

Several weeks ago, Mr. Speaker, I introduced legislation which has received scores of Members who have co-sponsored it to create such a war crimes tribunal. Yesterday, Senators SPECTER and BAYH and I announced the reintroduction of a concurrent resolution between the House and the Senate that calls for this war crimes tribunal. We hope to have this legislation passed both bodies within a matter of weeks. And the legislation specifically focuses not just on the well-documented war crimes of Saddam Hussein himself, but also of those leaders in his entourage and those military leaders and those military police and thug leaders who

have increased the amount of atrocities they have committed on the innocent Iraqi people, our POW's and our troops over the past 3 weeks.

Mr. Speaker, I am talking of people like Tariq Aziz. Tariq Aziz has been invisible over the past several days. I met the man over a decade ago when we had the attack on the USS *Stark*. I know him. And I want our colleagues to go on record as saying that, Tariq Aziz, you will be held accountable. You will not be able to walk away from this conflict because you publicly on international TV supported the types of activities that were used in direct violation of the Geneva Convention that resulted in the deaths of Americans POW's. And, Tariq Aziz, wherever you are, you will pay the ultimate price if it takes us the rest of our lifetime to track you down and put you in the proper attitude of a criminal court, much like we are trying Milosovic right now in the Hague.

Mr. Speaker, it is important that this war crimes resolution be brought up on the floor of this body and the other body to send a clear and unequivocal signal to the leadership of what is left of Saddam's regime that they will be held accountable for what they have done and for what they continue to do. The best thing these leaders of a former regime in Iraq can do is to lay down their arms, turn over our POW's, blend into society and admit, in fact, that Saddam's regime was oppressive and out of control. And if they do that and if they do not commit war crimes, then, in fact, they will not be held accountable under this action. But we will pursue those people who have, in fact, committed war crimes. And, in fact, we have asked our military and our allies to document, along with the Iraqi people, to document dates, times, places, so that in the end justice will prevail for the years and years of human rights abuses that Saddam Hussein and his regime have perpetrated on innocent people. And especially in recent times on our POW's and our soldiers who were sucked into situations where people were pretending to be coming forward in a gesture of surrendering, hiding behind the garb of civilians only to inflict serious wounds and killings on our troops. All of which is unacceptable under the international rules of conflict. So, Mr. Speaker, this is an item that I would hope all of our colleagues would support.

Mr. Speaker, I also want to address the cost of this conflict. As the vice chairman of our Committee on Armed Services and the chairman the Subcommittee on Tactical Air and Land Forces which oversees the bulk of our procurement dollars for the military, we are facing a crisis. We have used significant amounts of ammunition in this conflict. We have tested the machines and equipment from helicopters, to tactical aviation units, to our ships, to our ground combat vehicles. There is need for repair, upgrades, improvements and replacements of this equipment.

Now, granted, Mr. Speaker, the emergency supplemental that President Bush asked for that has passed this institution will go a long way to meet those immediate shortfalls that have to be taken care of; but, Mr. Speaker, we are beginning, when we return from this two week period, to mark up our defense authorization bill for fiscal year 2004. And, Mr. Speaker, we have serious problems. We are going to have an extremely difficult time in meeting the kinds of resources challenges that will allow us to motivate an increase in our ship building program, to continue to purchase those unmanned aerial vehicles, to move forward in our tactical fighter programs, the FA–18, the joint strike fighter and the F–22, as well as continue to pursue missile defenses like the PAC–3 that was so successful in this conflict, or THAD or our international missile defense capabilities.

To do all of those things is going to require us to be extremely prudent in how we spend the Defense Department dollar. And I want to send out a signal to our colleagues that many have come forward and ask for specific add-ons in our defense bill this year. In fact, within the jurisdiction of my subcommittee alone, Mr. Speaker, I have received requests from our colleagues on both sides of the aisle that total $14 billion above what the President has asked for. Now, in the past we have been able to meet the needs of many of our colleagues as long as, in fact, their priorities have been requested and are supported by the military services.

□ 2310

Our policy has been and will be in this new markup process in May that we will not be able to even consider requests for add-ons where the military services have not, in fact, indicated their support. To plus up that kind of funding would, in fact, be a gross disservice to the men and women serving our country.

To our colleagues I say, during the next several weeks and months, we are going to have to make some difficult decisions about which priorities we, in fact, can fund.

It is also going to provide, Mr. Speaker, a unique opportunity for us. I think there are some ways that we can, to some extent, revolutionize some aspects of our defense spending and free up some money that can help us meet the shortfalls caused by the war.

Within a period of several weeks, Mr. Speaker, I will be coming out with a new initiative that I have discussed with my colleagues in this body on a number of occasions, but I hope it receives strong bipartisan support that will unleash the power of the private sector to privatize much of our military base housing around the country.

Currently, and what has been the practice in the past, Mr. Speaker, is that we use taxpayer dollars to fund the construction of new family housing and barracks units for our troops. These construction projects are extremely expensive, very inefficient and oftentimes, because we do not have the funding to maintain them, within a matter of a few short years, these housing units become extremely costly to operate and, in fact, have serious problems.

The private sector, which for years has been developing university housing for our university campuses and other types of private sector funding, have come forward and told us as they have shown to both the Army, the Marine Corps and the other services, that they can take the needs that we have in housing, and using private funding that they secure from private sector lending institutions, they can finance the actual construction of brand new family housing units and barracks units on any base throughout this Nation.

In taking this approach, it negates the need for the Federal Government and our Defense Department to put the funding up front to build these homes. In fact, the private sector will come in, design the homes, family housing, barracks units, to the specifications of our military, will abide by contracts such as those that have been developed especially by the United States Army and allow us to build state-of-the-art housing units with all of the amenities that are even much more improved over what exists today, as well as providing infrastructure in the form of water piping, sewer system, playgrounds, swimming pools and community centers, and do it all within the cost of what we are currently spending in terms of housing allowance for our troops.

By taking a bold initiative, Mr. Speaker, as I will present and offer over the next several weeks, we can, in fact, put into place a multibillion dollar 5-year housing renewal program for our troops. This multibillion dollar program, which could see as much as $20- to $50 billion of new housing, is a real shot in the arm for our local economies, provides brand new state-of-the-art housing for military bases around the country, totally funded with private dollars.

By doing that, giving the upgraded housing to our troops so that we can maintain and increase the quality of life for their families and for these troops that will be coming home from Iraq, by taking those actions, we can then reduce the military construction budget where we spend between $2.5 to $3 billion every year. That money then, Mr. Speaker, can be channelled into those program shortfalls that we are going to have to meet this year because of the Iraqi war.

In addition, Mr. Speaker, we are going to have to be prepared in this body to support the President in aggressively asking our allies, those that especially did not provide troops in that 50-Nation coalition, to put money on the table to help us defray some of the costs of this conflict.

In addition, Mr. Speaker, the revenues realized from the sale of Iraqi oil also should be used, especially to help

in the beginning of the rebuilding of Iraq and the stabilization of Iraq's infrastructure and their economy, and that should begin immediately by using the frozen assets that President Bush and the administration have frozen over the past several years.

Mr. Speaker, we talk about reconstruction of Iraq. We need to understand the activities in rebuilding Iraq, while led by the U.S. and Great Britain, and I fully support that process, must also involve the Nations of the world. I think it would be extremely shortsighted for us, as much as many of us have very serious reservations about allowing those Nations that were not a part of our coalition benefit, I think it would be a serious mistake for us if we did not allow the U.N. to play a constructive role.

First of all, Mr. Speaker, Nations of the world, along with the U.S., have frozen over $6 billion of Iraqi funds that are currently being held in banks around the world. That money cannot be accessed unless all the Nations of the world are a part of a coalition with us. So I encourage the administration, as Secretary Powell and as the President has stated, to work together with the U.N.

Make no mistake about it, Mr. Speaker, I think the U.S. and Great Britain and Australia should play the lead role, and I think our companies and our consulting contractors should have an edge over those other contractors and Nations that did not see fit to support the liberation of the Iraqi people.

Let me talk about the three most prominent Nations that did not support us in this effort, Mr. Speaker, the first being Germany. Some would say that we should not allow Germany, France and Russia to play any type of role in a post-Iraqi renewal. I think we have to look at this very carefully Mr. Speaker.

In the case of Germany, she has been a long-time ally of ours, and if we look and listen to the leaders of the German military, if we listen to much of the mainstream political leadership coming out of that Nation, it is very supportive of the U.S. and our position. My own feeling is that our problem with Germany resulted from a regime that today is very unpopular in that Nation, and I think the feeling towards Germany should be focused on the leadership of that Nation as opposed to the German people. They continue to house significant amounts of our troops and our military bases in Germany, and their military continues to play a very close working relationship with our troops.

Hopefully, Germany will deal with its own leadership problems internally, and hopefully, the German government will, in fact, take action separate from the words and actions of Mr. Schroeder that will allow Germany to again become a solid partner of ours.

In the case of France, Mr. Speaker, I would say perhaps it is a different story. France has also been a long-term ally of ours, and I have been a long-term friend of both the Germans and the French. In fact, I was to have received the highest award that France offers for homeland security in traveling over there in March which I refused to do because of my concerns for the comments of both their foreign minister and President Jacques Chirac.

My concern with France is much deeper than it is with Germany, Mr. Speaker, because it is not just one person. It is, in fact, a pervasive attitude among the leadership of France that the U.S. was inherently wrong in our effort and that we should be condemned really by the Nations of the world for the actions that we took in regard to Iraq.

As I wrote to President Chirac and President Schroeder one month ago or several weeks ago when this conflict started, I cannot understand how they could be more hypocritical.

Mr. Speaker, I would remind our colleagues that it was only 4 years ago that Jacques Chirac was pounding on America's door, begging and imploring us to send our troops into harm's way in Yugoslavia. It was the same Jacques Chirac who recently said that America should be condemned for taking military action without U.N. support. It was the same Jacques Chirac who 4 years ago convinced our President at that time, along with the German leadership, that we should use America's sons and daughters, through NATO, the first time NATO had ever been used since NATO is a defensive organization, a collective organization of countries that pledge to defend each other, the first time in the history of NATO that it was used in an offensive mode to attack a sovereign non-NATO Nation. Because of Jacques Chirac and because of the German leadership and our own President, in fact, we sent more troops than either Germany or France. We invaded a sovereign country to remove a leader because of his human rights violations.

Mr. Speaker, all of us, including myself, acknowledge that Milosevic is a war criminal, and he is justifiably being tried in The Hague for his crimes, but Mr. Speaker, as we all know, when that conflict started, we did not want Russia involved. In fact, the only way we ended that conflict after our aerial bombing campaign did not dislodge Milosevic was to convince the Russians to come back in and as a part of the G–8 process help us negotiate a framework to get Milosevic out of power.

In the end, Russia was a key ally, but if we remember just 4 years ago, it was the same Jacques Chirac who was telling America we cannot go to the U.N. to get Security Council support for the action against Milosevic because Russia will veto any Security Council resolution. So the same Jacques Chirac, who was today condemning America for not getting a U.N. resolution of support, is the same man who 4 years ago convinced America not to go to the U.N. but to invade Yugoslavia in a NATO-led mission to remove a leader of another Nation.

Mr. Speaker, I really have a problem with France. I think France has made some very fundamental blunders in its relationship with the U.S. that are not going to be easily healed. I do not want to create rifts between Europe and America, but Mr. Speaker, the continued arrogance of Jacques Chirac and the French, as we now look to rebuild Iraq, is mind boggling to me, and I think the French people have to understand this is not some parting feeling that we have that will go away quickly.

□ 2320

The feelings of the comments, of the actions taken by the leadership of the French Government, to me, are despicable, and France is going to have to eventually answer for the actions and the lack of support they have taken. And, most importantly, for the absolute hypocrisy of the French Government 4 years ago in sucking us into a conflict with our troops without going to the U.N. and then now saying that we should not have used our military to remove the worst human rights abuser on the face of the earth since Adolf Hitler and Joseph Stalin.

And, Mr. Speaker, that is not my assessment. That is the assessment of Max Vanderstahl, the U.N. Special Rapporteur For Human Rights, who just a few short years ago documented, in an official U.N. publication, that there has been no regime since Adolf Hitler that has committed the kinds of human rights abuses that Saddam Hussein has been documented as having committed, including Milosevic.

So, Mr. Speaker, France is a different story. And my own feeling is that we should look very closely at any involvement of those companies and entities in France, especially those funded with government subsidies because, as we all know, significant parts of the French economy are directly tied to the French Government. And I for one, Mr. Speaker, will have an extremely tough time justifying any governmental entity that is a ''business entity'' benefiting in the reconstruction of Iraq.

Finally, Mr. Speaker, let me talk about Russia. Now, I am not here to make apologies for Russia. I was extremely disappointed that Vladimir Putin did not come out and support the United States in our effort. I was convinced, as someone who chairs the interparliamentary dialogue with the Russian Duma, as someone who has traveled to that country many times and knows all of their leaders, I was convinced that Russia would in fact support us. And I am still convinced to this day that if it had come down to a U.N. vote in the Security Council that Russia would have abstained as opposed to vetoing or opposing a resolution. That would be my best guess.

But, Mr. Speaker, let me talk about Russia for a moment. What Russia did in not supporting us was wrong, and I have conveyed that message very strongly to my friends in Russia in the Duma, the federation council, and to the Russian leadership. Likewise, I have expressed in very strong terms, as I have done for the past 10 years, my outrage that technology has continued to flow out of Russia into the hands of Iraq and other unstable nations. And that is an issue that we have to deal with that I will talk about in a moment.

But I want to look at the Russian perspective for just one moment, Mr. Speaker, and I want us to try to put ourselves in the minds of the Russians. Because since Putin has decided to fundamentally put his country in the camp of the U.S. and the west, there has not been much that we have done to give him political victories back home. After all, Mr. Speaker, it was the U.S. that pulled out of the ABM Treaty.

Now, Mr. Speaker, as my colleagues know, I have been a leader in saying that that treaty had outlived its usefulness. But we all know that the ABM Treaty was an extremely important political statement in Russia in terms of bilateral security with the U.S. The fault with the ABM Treaty was not that we pulled out of it, as President Bush did, with my support, it was how we handled the pulling out of the ABM Treaty. We did not give Putin any degree of cover politically back home in his country.

And the same thing occurred with the expansion of NATO. Again, I supported the expansion of NATO and all of those countries that are currently NATO members, including the Baltic States; the former Soviet states of Estonia, Latvia, and Lithuania; the former eastern block nations, all of which are a part of NATO. I absolutely supported the membership of those countries into the family of nations in NATO. But, again, from the Russian perspective, we move NATO up to Russia's doorstep. Again, we did not take the appropriate steps to give Putin the political cover to his people that this was not some kind of an overt move or some kind of overt effort to try to threaten Russia and its stability and security.

The third thing was, Mr. Speaker, the war in Kosovo, which I just described a moment ago, 4 years ago, where we bombed Milosevic and deliberately kept Russia out of the equation. In fact, Mr. Speaker, 4 years ago I led a delegation of 11 of our colleagues to Vienna, five from the Democrat side and five from the Republican side. I let each of those 11 Members read on the airplane ride to Vienna an internal memo that was written by Strobe Talbott to Vice President Gore and Sandy Berger that outlined the fact that we did not want Russia involved in helping to find a solution to get Milosevic out of power. So, again, we sent the wrong signal to Russia.

And, finally, Mr. Speaker, the one priority that Russia has consistently asked for, that President Bush promised he would deliver to President Putin over 1 year ago, was the elevation of Russia out of Jackson-Vanik restraints. Now, Mr. Speaker, there is strong overwhelming bipartisan support in this body to elevate Russia out of Jackson-Vanik, and many of my colleagues have cosponsored that legislation. President Bush promised President Putin over 1 year ago that we would elevate Russia out of Jackson-Vanik. Because of actions by Members in the other body over issues like poultry imports and steel imports, action was never taken on elevating Russia out of Jackson-Vanik. So another commitment that we made to Russia never materialized.

So if you look at it from Putin and Russia's standpoint, it really has been a one-way effort in terms of trying to convince the Russians that we want to be their equal partner. That does not justify Russia's action in not supporting us. In my opinion, Russia should have been with us because they have the same problems with terrorism that we have. And, in fact, I might add, Mr. Speaker, Russia has been very cooperative in working with us in sharing intelligence and allowing us to use airspace and allowing us to use former Soviet military bases for our troops in fighting the war against terrorism.

But my disappointment in Russia and its position is also partly modified by the reality of what happened over the past several years that I think caused Russia not to be as supportive as perhaps they should have and could have been.

□ 2330

Mr. Speaker, in Russia today we still have a major problem. One of the points that I have made to my colleagues repeatedly over the past 10 years is that much of our problem with homeland security today has come about because we did not enforce the requirements of arms control regimes in the mid to late 1990s that allowed technology to flow out of Russia into the hands of five nations, Iran, Iraq, Syria, Libya and North Korea.

As a student of Russia and someone who has spent much time working with the Russian leaders, during the late 1990s I saw instance after instance where we had solid evidence that technology, including chemical precusors, biological technology, technology associated with missile systems, and conventional weapons was being sold out of Russia into the hands of people in those five unstable nations. In fact, in 1998 I did a floor speech where I laid on the CONGRESSIONAL RECORD documentation prepared by the Congressional Research Service outlining 38 times that we caught Russian and Chinese entities illegally transferring technology to five nations, Iran, Iraq, Syria, Libya and North Korea. In all 38 of those cases, we did not take the appropriate steps. In fact of the 38 cases, we imposed the required sanctions 8 times.

I was in Moscow in January 1996 a month after the Washington Post ran a front page documenting the story of accelerometers and gyroscopes for Iraq's missiles. I went to see our ambassador, Tom Pickering, in Moscow in January. I asked, What was the Russian response? That is a violation. They are not allowed to transfer that kind of technology to Iraq. His answer was, You have to ask Washington, I do not make that call.

I wrote to the President and he wrote me back in March, Dear Congressman WELDON, I share your concerns. We are investigating the allegations that are in the Washington Post, and if it did occur, it would be a violation of the missile technology control regime, but we have no evidence.

Since I work closely with the intelligence community, several of my friends in one of our agencies brought in a package and showed me two devices which I have used in speeches around the country probably 500 times, a Soviet-made accelerometer and a Soviet-made gyroscope that we caught being transferred out of Russia to Iraq 3 times.

During the year that our President told me he was investigating the transfer of illegal technology to Iraq, we caught Russian entities illegally transferring technology 3 times. Over 100 sets of those devices were in the hands of our intelligence agency. What were they used for, to improve the accuracy of the missiles that Saddam Hussein fired against our troops in 1991 and tried to fire against our troops just over the past several weeks.

Mr. Speaker, the problem of our homeland security today is because we did not take the appropriate steps in the 1990s to secure the weapons of mass destruction within Russia's borders. We made some success, the Nunn-Lugar program, the Cooperative Threat Reduction Program, and the Nuclear Nonproliferation Program did make good strides. They allowed us to take apart nuclear weapons and dismantle offensive arms. They allowed us to begin to control the amount of chemical and biological agents and understand them. But even that program did not go far enough. In fact, that program did not have enough in the way of accountability to make sure the funds that we were expending were being used for the proper purpose for which they were intended.

Just this past month, we held a hearing in the Committee on Armed Services where over $100 million of U.S. money was paid to a U.S. contractor to build a plant in Russia that was supposed to destroy fuel that Russia had which we felt was a potential threat.

After $95 million of that money was spent and the plant was completed, we realized that Russia no longer had the fuel. They in fact used the fuel for their space program leaving us with a

$95 million empty plant and an absolutely red face.

Mr. Speaker, in our programs to help Russia control and monitor these weapons of mass destruction, it is essential that we have accountability. Mr. Speaker, I want to say to my colleagues, now is not the time for us to back away from engaging Russia in helping her control these technologies that are the reason why we went to war in Iraq in the first place, these chemical and biological agents, these weapons of mass destruction, these potential nuclear programs.

In fact, it was retired Soviet General Alexander Levitt who entertained a delegation that I took to Moscow in May of 1997 who responded to a question I asked him about the status of the Russian military in this way. I said General Levitt, you have just left President Yeltsin's side as his top defense adviser. You have been in a position of overseeing all of Russia's military on behalf of your country's President. Would you tell me the status of your military?

He looked at our bipartisan delegation and he said it is in total disarray. He said our best Soviet war fighters, our most competent Soviet generals and admirals have left the service of their country because they have not been paid. They do not have decent housing, and morale among our troops has never been worse. So Congressman, all of those technologies and weapons that we built during the Cold War to use against you are being sold by those generals and admirals, and they are being sold to your enemies.

How right he was in 1997 to tell us what would happen in the future. Those Soviet generals and admirals, not the Russian government, those Soviet generals and admirals who felt betrayed by the motherland resorted to selling off technology to unstable leaders like Saddam Hussein. So today in Iran, Iraq, Syria, Libya and North Korea, we have technologies that flowed out of Russia into the hands of evil people and are now being considered for transfer to unstable terrorist organizations.

Now Russia still contains vast amounts of weapons of mass destruction. When I had Dr. Alexa Yobakov come to Congress in the fall of 1998 to testify before my subcommittee, and he is perhaps the most respected environmentalist in all of Russia, he said this about Russia's chemical weapons stockpile. He said publicly we have claimed that we produce and have 40,000 metric tons of chemical weapons. But he said my hunch is that our actual inventory is probably closer to double that amount, 80,000 to 100,000 metric tons of chemical weapons.

These are the same chemical agents that we have been so concerned about Iraq using. We cannot now move away and not help Russia stabilize the security of those weapons and destroy them because if we do, they will ultimately get again in the hands of the wrong people.

Likewise, Mr. Speaker, the Soviet Union before it became Russia and a nation that divided itself, produced significant amounts of biological weapons. In fact, a good friend of mine, Dr. Ken Alibek, who at one time was the number two leader of the Soviet agency that produced the biological weapons for the Soviet Union and is now a professor at George Mason University here in the States, in testimony again before my subcommittee in 1998 and in his book ''Biohazard'' that he has produced nationwide, Ken Alibek talks about the significant amount of biological weapons that the Soviet Union produced again to use against America. In his book he documents 60 strains of anthrax, smallpox, botulism, VX gas, mustard gas, all of which the Soviets produced and stockpiled so that one day they might have to use them against us. Well, those stockpiles are still there, Mr. Speaker. Those biological agents are still stored throughout the former Soviet Union.

□ 2340

It is not enough for us to pull away and think that somehow Russia is going to have the money and the will to take apart and destroy all of those chemical and biological agents.

In addition, Mr. Speaker, in the transition of Russia from a communist society to a free market democracy, many of their most competent nuclear scientists are out of work. They used to produce nuclear weapons, nuclear warheads. Today they have no work. They are driving taxicabs. So it is equally essential that we not allow those scientists to end up working in Iran or Iraq or North Korea or Syria or Libya or China or India or Pakistan, helping them develop a new generation of nuclear weapons.

For all of those reasons, Mr. Speaker, it is essential that we renew our effort to help Russia, in spite of our concerns with their position on the Iraqi conflict, to stabilize, secure and destroy those weapons of mass destruction.

Because of that, Mr. Speaker, tomorrow, joined by my colleagues on both sides of the aisle, with our lead minority sponsor the gentleman from Texas (Mr. EDWARDS), I will introduce the most comprehensive nuclear nonproliferation cooperative threat reduction program with Russia and the former Soviet States in the history of our relationship.

This 35 page bill will be introduced tomorrow. I would encourage our colleagues on both sides of the aisle to sign on as original cosponsors. At this point in time we have approximately 10 Members of the Republican Party and 10 Members of the Democrat Party. I have not yet introduced the bill, nor have I sent it out for consideration.

Tomorrow this comprehensive legislation will be filed, which builds and expands upon our successes in the Nunn-Lugar program and the nuclear nonproliferation and weapons of mass destruction programs and creates new possibilities to go into Russia and to help them identify, secure and destroy these nasty weapons that we do not want to get in the hands of other leaders that might one day do what Saddam Hussein did in Iraq.

It is absolutely essential, Mr. Speaker, now at this critical juncture, that we redouble our effort with Russia to help her stabilize and destroy these most nasty weapons that are the most significant threats to our homeland security.

This legislation, Mr. Speaker, is creative. It creates a number of new initiatives, all of which are involved to have a closer working relationship.

Mr. Speaker, in my initial discussions with the Russians, they have told me if America passes this kind of comprehensive legislation, they will work with us to open up all of those other secret sites that up until now Russia has been unwilling to allow our scientists to visit.

If we truly want to secure the homeland, Mr. Speaker, then we have to go to where the threats are, and the threats to our security and our homeland, the threats of chemical, biological, nuclear strategic missile systems, are contained within the confines of the former Soviet States.

This legislation gives us new initiatives to address those threats cooperatively with Russia, and, in doing so, convinces the Russians that they have got to stop keeping some of their facilities closed and off limits, but rather allow us to work collectively together.

It also provides something new, Mr. Speaker. It provides for an accountability process that will prevent future expenditures of U.S. money from being misspent the way we have seen dollars misspent in past programs, where the projects were not in fact doing what was intended to be done and did not accomplish the objectives that we laid out initially.

So, Mr. Speaker, I would ask my colleagues to join on this legislation tomorrow morning. Our press conference at 9:30 in the Capitol will be attended by support groups that I think represent the broad cross-section of ideology in America. The Carnegie Center for International Peace, the Heritage Foundation, the Organization of Vietnam Veterans and the Nuclear Threat Reduction Campaign will all join with us in a bipartisan announcement to put forward a new initiative, a bold initiative that allows us to deal with the underlying threats to our homeland security, the reasons why we had to go to war in Iraq, because Saddam had obtained these terrible technologies from a destabilized Russia.

Mr. Speaker, the minister of atomic energy from Russia, Rumyantsev, is in our city tonight. I will be meeting with him tomorrow morning at 9 a.m. I know the minister well. He wants to work with us in a constructive way to reduce threats. We must seize the opportunity and the initiative. We must not allow ourselves to be clouded, to

think that somehow pulling away from Russia is the answer. It is the worst solution. It is the worst alternative in terms of dealing with the concerns of our homeland and its security.

So I would encourage our colleagues to look at this legislation, to cosponsor it and to work to get it brought up on the House and Senate floors as quickly as possible.

Finally, in closing, Mr. Speaker, let me just speak a word or two about a man who I think will go down in history as the 21st century Winston Churchill. I was not a big fan of Tony Blair's up until this year, Mr. Speaker, but let me tell you, I have changed my mind.

You know, Britain went through a very difficult time when Adolf Hitler was in power in Germany, and I remember from my history lesson the position of Winston Churchill as a minority voice in Great Britain, calling out for the people to be wary of this man Hitler and what he might do to dominate people around him and to eventually inflict pain on Britain.

The people of Britain laughed at him. They said Churchill was an alarmist. Instead, they listened to Neville Chamberlain. Neville Chamberlain had a very famous meeting with Adolf Hitler. At that meeting he supposedly received assurances from Adolf Hitler that Hitler had no intention of harming Great Britain, that Hitler had no intention of harming Europe.

So Neville Chamberlain went back to Britain and gave a famous speech. In that famous speech he pronounced those famous words: ''Don't worry, Britain. Peace is at hand.'' Within a matter of a few short weeks, Britain was being bombarded with missiles launched by Germany, Adolf Hitler.

It was Winston Churchill who then rose to prominence. It was Winston Churchill, who had been mocked by the people of Britain, who stood up and provided leadership, and perhaps Britain, Europe and the world's worst hour. It was Winston Churchill who had the courage to do the right thing, in spite of the animosity generated by the people of his Nation and by those who said, ''We can negotiate with Hitler. He will listen to us. He has agreed not to attack us and agreed not to harm Europe.''

Thank goodness for Winston Churchill, that he was there, to call to arms Great Britain, Europe and eventually America.

I am convinced, Mr. Speaker, Tony Blair is the Winston Churchill of the 21st century. Under absolutely outrageous odds, from his own party, internal bickering and sniping at him, to the British people, to world opinion, to the European leaders, his neighbors, Tony Blair stood up, and he stood for his convictions, and he did the right thing.

So, Mr. Speaker, I rise tonight in final summary of my discussion about the war to pay tribute to someone who I think will go down in history as an equivalent to Winston Churchill in the 21st century, a man who stood up and did the right thing under impossible conditions.

Now, that is not to minimize the leadership of our great President. George Bush provided the vision, but it would have been far easier for Tony Blair to blend in with the European crowd, with the Jacques Chiracs, the Gerhard Schroeders, and said that is not our battle, that is not our worry. Tony Blair did not do that.

This Nation, this body and the world owes Tony Blair on this evening of the celebration of the stabilization of Iraq and Baghdad a tremendous vote of thanks.

RECESS

The SPEAKER pro tempore (Mr. BURGESS). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 11 o'clock and 50 minutes p.m.), the House stood in recess subject to the call of the Chair.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1724. A letter from the Secretary of the Navy, Department of Defense, transmitting notification of the decision to order up to 150,000 additional workstations under the Navy Marine Corps Intranet (NMCI) contract; to the Committee on Armed Services.

1725. A letter from the Under Secretary, Department of Defense, transmitting a report required pursuant to title 10, United States Code, section 12302(d), relating to those units of the Ready Reserve of the Armed Forces that remained on active duty under the provisions of section 12302 as of January 1, 2003; to the Committee on Armed Services.

1726. A letter from the Under Secretary, Department of Defense, transmitting a report entitled, ''Devolvement of Research, Development, Test and Evaluation Programs and Activities Beginning in FY 2004''; to the Committee on Armed Services.

1727. A letter from the Under Secretary, Department of Defense, transmitting notification regarding the Department's study required by the Senate Armed Services Committee report accompanying the Bob Stump National Defense Authorization Act for FY 2003; to the Committee on Armed Services.

1728. A letter from the Under Secretary, Department of Defense, transmitting the annual report of the Armed Forces Retirement Home for Fiscal Year 2001; to the Committee on Armed Services.

1729. A letter from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule — Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits — received April 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

1730. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's annual financial report to Congress required by the Prescription Drug User Fee Act of 1992 (PDUFA) for fiscal year 2002, pursuant to 21 U.S.C. 379g note; to the Committee on Energy and Commerce.

1731. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Medical Devices; Reclassification of the Knee Joint Patellofemorotibial Metal/Polymer Porous-Coated Uncemented Prosthesis and the Knee Joint Femorotibial (Uni-compartmental) Meta/Polymer Porous-Coated Uncemented Prosthesis [Docket No. 00N-OO18] received April 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1732. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Labeling Requirements for Systemic Antibacterial Drug Products Intended for Human Use; Correction [Docket No. 00N-1463] (RIN: 0910-AB78) received April 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1733. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — New Animal Drugs; Phenylbutazone; Extralabel Animal Drug Use; Order of Prohibition; Correction [Docket No. 03N-0024] received April 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1734. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report entitled, ''Policy on terminating the Arab League Boycott of Israel and expanding the process of normalization between the Arab League countries and Israel,'' pursuant to Public Law 108—7, section 535; to the Committee on International Relations.

1735. A letter from the Administrator and Chief Executive Officer, Department of Energy, transmitting the 2002 Annual Report of the Bonneville Power Administration, pursuant to 16 U.S.C. 839(h)(12)(B); to the Committee on Government Reform.

1736. A letter from the Chief Operating Officer, Chemical Safety and Hazard Investigation Board, transmitting the Board's annual inventory of activities; to the Committee on Government Reform.

1737. A letter from the Secretary, Department of the Treasury, transmitting the Financial Report of the United States Government for Fiscal Year 2002 (Financial Report); to the Committee on Government Reform.

1738. A letter from the Director, Holocaust Memorial Museum, transmitting the Annual Performance Report for Fiscal Year 2002; to the Committee on Government Reform.

1739. A letter from the Executive Director for Operations, Nuclear Regulatory Commission, transmitting a report on Year 2002 Inventory of Commercial Activities and Inherently Governmental Functions; to the Committee on Government Reform.

1740. A letter from the Director, Office of Personnel Management, transmitting a report on the Federal Activities Inventory Reform Act Inventory as of June 30, 2002; to the Committee on Government Reform.

1741. A letter from the Chief Judge, Superior Court of the District of Columbia, transmitting the Superior Court's Family Court Transition Plan; to the Committee on Government Reform.

1742. A letter from the Architect of the Capitol, transmitting a report discussing the AOC's activities to improve worker safety during the first quarter of FY03; to the Committee on House Administration.

1743. A letter from the Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting a biennial report on Atlantic Bluefin

Tuna (2001-2002), pursuant to 16 U.S.C. 971i; to the Committee on Resources.

1744. A letter from the Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Final 2003 Harvest Specifications for Groundfish; Correction [Docket No. 021212307-3037-02; I.D. 110602C] received April 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1745. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 of the Gulf of Alaska [Docket No. 021212306-2306-01; I.D. 031703B] received April 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1746. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific cod by Catcher Vessels Less Than 60 ft (18.3m) LOA Using Jig or Hook-and-Line Gear in the Bogosl of Pacific Cod Exemption Area in the Bering Sea and Aleutian Islands Area [Docket No. 020718172-2303-02; I.D. 032503D] received April 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1747. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock sole/Flathead sole/''Other flatfish'' Fishery Category by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands management area [Docket No. 021212307-3037-02; I.D. 032103D] received April 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1748. A letter from the Commissioner, Department of the Treasury, transmitting FY 2002 Report to the Congress U.S. Government Receivables and Debt Collection Activities of Federal Agencies, pursuant to 31 U.S.C. 3716(c)(3)(B); to the Committee on the Judiciary.

1749. A letter from the Chief Financial Officer, Paralyzed Veterans of America, transmitting a copy of the annual audit report of the Paralyzed Veterans of America for the fiscal year 2002, pursuant to 36 U.S.C. 1166; to the Committee on the Judiciary.

1750. A letter from the Chairman, Federal Maritime Commission, transmitting the 41st Annual Report of the Federal Maritime Commission for fiscal year 2002, pursuant to 46 U.S.C. app. 1118; to the Committee on Transportation and Infrastructure.

1751. A letter from the Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Joint Hurricane Testbed (JHT) Opportunities for Transfer of Research and Technology into Tropical Cyclone Analysis and Forecast Operations [Docket No. 021114275-3052-02] received April 1, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

1752. A letter from the Chairman, Defense Nuclear Facilities Safety Board, transmitting the Thirteenth Annual Report describing the Board's health and safety activities relating to the Department of Energy's defense nuclear facilities during the calendar year 2002; jointly to the Committees on Armed Services and Energy and Commerce.

N O T I C E

Incomplete record of House proceedings.

Today's House proceedings will be continued in the next issue of the Record.