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

DESIGNATION OF THE SPEAKER PRO TEMPORE
The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC, April 30, 2003.
I hereby appoint the Honorable MICHAEL K. SIMPSON to act as Speaker pro tempore on this day.

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

PRAYER
Rabbi Manny Behar, Executive Director, Queens Jewish Community Council, Forest Hills, New York, offered the following prayer:

Today people around the world remember the martyrdom of 6 million Jews who perished in the Holocaust. We also remember the leadership shown in this very Chamber, and the courage of our Armed Forces who brought an end to the Holocaust by defeating the Nazi regime.

Today, as always, we as a Nation stand for freedom and opportunity for ourselves and for all people. Once again, the men and women of this great body are called upon to make decisions that will impact on the future of individuals, of nations, of all humankind.

Certainly such an awesome responsibility demands that we turn to God in prayer.

May God on this day and every day grant all the Members of the House of Representatives the wisdom to make the decisions that will make a nation and a world where all may enjoy peace, freedom, and opportunity. May you go from strength to strength in the service of God’s children.

May God continue to grant success to our soldiers in Iraq, Afghanistan, and around the world. May they speedily achieve their mission and return home to the embrace of their families, and may God always bestow his blessings on the United States of America.

WELCOMING RABBI MANNY BEHAR, EXECUTIVE DIRECTOR, QUEENS JEWISH COMMUNITY COUNCIL
(Mr. WEINER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEINER. Mr. Speaker, it is appropriate that today, as we commemorate Yom Hashoah, the commemoration of the Holocaust here in Washington, DC, that I ask the House to join me in welcoming Rabbi Manny Behar, who gave the invocation this morning. Rabbi Behar is one of the most prominent spiritual leaders in the Queens community. Since 1992, he has been the executive director of the Queens Jewish Community Council, an umbrella organization for more than 90 synagogues and Jewish institutions throughout our borough.

In this position, he oversees a network of social service programs which include every service we can imagine, from counseling for victims of September 11 to assistance for homebound elderly to food distribution to job placement and training.

Rabbi Behar should feel at home here in the halls of Congress, because before coming to the Queens Jewish Community Council he had a distinguished career working in government. He was special assistant to Queens Borough president Claire Shulman, where he played a critical role in obtaining the historic New York State Supreme Court decision upholding the validity of Eruvim under American law.

During his tenure working for New York City controller Elizabeth Holtzman, he did research which led to the first conviction of an American company for participating in the Arab boycott of Israel.

It is my pleasure to also welcome Rabbi Behar’s wife Evelyn, his two sons Moshe David and Nathan Benjamin, his father Moshe, and his cousins, Shalom and Cynthia Brilliant, who...
are here today. We wish Rabbi Behar’s mom Rivka a speedy get well.

On behalf of the House of Representatives we would like to thank him, not only for his eloquent words this morning, but more importantly, for his service to his faith, his community, and to his country.

URGING MEMBERS TO ENACT ROBUST ECONOMIC STIMULUS PLAN THAT PRIORITIZES THE TAXPAYER AND CREATES JOBS

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

Mr. RYUN of Kansas. Mr. Speaker, our economy needs a boost, and it seems that lawmakers on both sides of the aisle agree on a couple of basic points: First, we must do something to stimulate the economy; Second, President Bush’s tax proposal would create jobs.

Since we can agree that cutting taxes creates jobs, why would Democrats want to slash the proposed economic stimulus in half?

It is estimated that tax relief would create 700,000 jobs yearly throughout the country. In Kansas, this plan would create over 9,000 jobs per year over the next 5 years. Why do we choose to limit our success by cutting these numbers in half?

Some think the answer to our problem is to make the government a little larger. I believe the answer lies in empowering people with their own money so they can work, save, and invest in our economy.

I urge my colleagues to hold the line on spending and to enact a robust economic stimulus to prioritize taxpayers and create jobs.

THE ECONOMY

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

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to voice my strong concerns over the current state of the economy and the President’s solution to stimulate this economy.

The President has defended his proposal for a tax cut of at least $550 billion, arguing that a large tax cut will create more jobs.

Now, let us see. The last tax cut that this President did was signed into law, and it was the largest tax cut in history, with a cost nearing $2 trillion. How effective has that been in creating jobs? Let us see. It is estimated that 53,000 United States workers lost their jobs this month alone. Unemployment is still hovering around 6 percent. So it looks to me like the President is using more of his fuzzy math here.

We need to work to come up with real solutions that reduce unemployment and that help us with respect to education, the environment, child care, and, yes, a prescription drug plan for seniors.

If Members want to cut taxes, then alleviate the tax burden on the working poor and on the middle class; do not give it to the wealthy, who are the least likely to get this economy turning.

CELEBRATING THE LIFE OF MR. CRUZ ACOSTA

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

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today to celebrate the life and spirit of Mr. Cruz Acosta, a wonderful constituent and an exceptional human being who remains high-spirited despite his struggle with cancer.

Cruz was the first in his family to leave the tyranny of Cuba in search of freedom, living his life in appreciation of the liberty he found here in the United States.

Throughout the last 11 years, he has fought bone marrow cancer and leukemia, but his continuous desire for better health would not have been possible without the loving care and prayers of his family and the dedicated attention of the nurses and the doctors at Baptist Hospital, an exceptional medical institution located in my district.

As he remains in the hospital today, my thoughts and my prayers are with him, Miriam, with Cruz, and his entire family.

CONGRESSIONAL TRIBUTE TO FIRST LIEUTENANT FREDERICK POKORNEY

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

Ms. BERKLEY. Mr. Speaker, United States Marine Corps First Lieutenant Frederick Pokorney was killed in action in Iraq on March 23, 2003. On that day, Nevada lost a true American patriot, a proud Marine, and a loving husband and father.

Fred was born in California and raised himself from an early age, until he moved to Tonopah, Nevada, to live with Wade and Susie Lieseke, whom he regarded as his parents.

Fred’s first love was his family, with his favorite time being spent with his “best little helper,” his daughter. His second love was the Marines and this great Nation.

When I spoke to Fred’s wife, Chelle, she said that he embodied what it is to be a Marine: honor, courage, commitment.

Lieutenant Pokorney’s daughter Taylor expressed her loss in these words: “My daddy, my hero, I will take care of you as you asked. We will be best friends. I will take her to Sea World for my birthday like you planned. I love you. I need you. I miss you.”

The hearts of all Nevadans and all Americans go out to his family and friends. Our thoughts and prayers are with his wife, Shelly, and their 3-year-old daughter, Taylor.

DECLARING TERRORIST ATTACK IN TEL AVIV

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

Mr. WILSON of South Carolina. Mr. Speaker, Mahmoud Abbas, also known as Abu Mazen, was yesterday the first Palestinian prime minister. Hours before he was sworn in, a suicide bomber blew himself up at a popular nightclub, known as Mike’s Place, located right beside the U.S. Embassy in Tel Aviv. At least three people were killed and 30 injured, including an American.

The world’s attention is now focused on the new Palestinian leader, Abu Mazen. He has denounced terrorism, but words are not enough. Mazen must do everything possible to disarm terrorist groups such as Hamas and al-Aqsa Martyrs Brigade that are doing everything possible to derail the peace process.

President George W. Bush has a vision for the Middle East, a plan that was delivered this morning where Israelis and Palestinians live side by side in peace. We must not let terrorists thwart the important peace process that is now under way.

In conclusion, God bless our troops.

CALLING ON SENATOR RICK SANTORUM TO APOLOGIZE FOR REMARKS OFFENSIVE TO GAY AND LESBIAN COMMUNITY OR TO STEP DOWN

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I waited patiently as the words of a Member of the other body permeated throughout our society with respect to negative comments on the gay and lesbian community.

As a Member of this great body and the Committee on the Judiciary, I have a great deal of respect and honor for the Bill of Rights and the first amendment, and the right for individuals to express their beliefs. I honor that.

But as an African American, I stand squarely and solidly against any form of discrimination. I think America loses its promise and its values and its beliefs in equal opportunity and equality for all and justice if there is a second-class discrimination.

I believe it is imperative for Senator RICK SANTORUM to apologize fully to the gay and lesbian community of this Nation around the world or step down from leadership. We cannot tolerate this kind of reckless speech.
Mr. PITTS. Mr. Speaker, 84 percent of Americans say they think Scott Peterson should be held responsible for the deaths of his wife, Lacy, and their unborn son, Connor. I agree. Criminals who kill an unborn baby in the act of a crime should be held accountable.

On January 1, 1999, Deanna Mitts was 8 months pregnant. And after celebrating New Year's with her family, Deanna, her 3 year old daughter, Kayla, and her unborn daughter, were killed by a bomb explosion in their Connersville, Indiana, home. Joseph Minerd, the father of the unborn child was arrested for Deanna and Kayla's murders but is not being held criminally liable for the death of the unborn child. That is not right.

If Scott Peterson should be held accountable, so should Joseph Minerd. The Unborn Victims of Violence Act would make sure that Joseph answers to all 3 of these deaths under Federal law. The bill would protect the innocent and defenseless against crime, and it would hold the Scott Petersons and Joseph Minerd of this world.

I urge the House to support the Unborn Victims of Violence Act.

FAITH-BASED ORGANIZATIONS AND THE AIDS EPIDEMIC

Mr. PENCE. Mr. Speaker, there is an epidemic of AIDS and HIV in Africa that threatens the stability of that continent. 42 million infected with HIV, 8,500 deaths every day, entire villages in Africa where there is no single living adult.

Yesterday as I sat in the East Room of the White House, I heard President Bush describe a compassionate vision of moral obligation for the American people addressing this crisis that would bring with it not only $15 billion over 5 years, but to put a priority on the values of the American people, abstinence and monogamy, and then condom distribution, and would protect faith-based organizations in the process.

Sadly, Mr. Speaker, unless the House amends the bill we will consider tomorrow, the global AIDS bill will not reflect the values of the American people or the vision of the President of the United States of America. President Bush was right when he said we will not pass on the other side of the road, citing the good Samaritan in this crisis. But as we decide whether we will support abstinence first and protect the role of faith-based organizations in Africa, let us remember the good Samaritan not only stopped and provided money, but he took the man to a place where he could be cared for.

Faith-based organizations and those timeless values are such a place and I urge support of the Pitts and Smith amendments.

STOP UNNECESSARY MEDICATION OF CHILDREN

Mr. BURNS. Mr. Speaker, I rise this morning to salute our soldiers of tomorrow. That is the service-bound academy students of the Third District of Texas. This district of Texas is home to some of the best and the brightest young people, and it is always an honor to recommend such fine students to our Nation's service actions.

On the heels of our swift victory in Iraq, I know they are ready to join the premier military force of the world. This year, north Texas is going to send five students to the United States Military Academy; two to the United States Naval Academy; four to the United States Air Force Academy; four to the Merchant Marine Academy with students hailing from Allen, Frisco, Garland, Plano and Richardson.

I think that this is something that every student wants to do. They want to become a member of the defense of our country.

The 15 appointees and their hometowns are as follows:

U.S. MILITARY ACADEMY

Brittany Ladner—Allen, Texas—Allen High School.
Chad Lorenz—Richardson, Texas—Senior High School.
J. Jennifer MacGibbon—Plano, Texas—Plano Senior High School.
Andrew Moore—Plano, Texas—Plano West Senior High School.
Nathan Navarro—Frisco, Texas—Frisco High School.

U.S. NAVAL ACADEMY

Eric McBee—Plano, Texas—Plano Senior High School.
Mr. Sessions. Mr. Speaker, by the direction of the Committee on Rules, I call up House Resolution 206 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 206

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XIX, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1350) to reauthorize the Individuals with Disabilities Education Act, and for other purposes.

The previous question shall be considered as ordered on the bill and amendments thereto except one motion to recommit with or without amendments.

The SPEAKER pro tempore (Mr. Boehner) declared the vote of the House on the question in the negative, the roll having been called, there appearing a quorum present.

The SPEAKER pro tempore (Mr. Boehner) declared the vote of the House on the question in the negative, there appearing a quorum present.

Mr. Speaker, I stand in strong support of H.R. 1350. As you know, Mr. Speaker, as the gentleman from Delaware (Mr. Castle) has said, the reauthorization of IDEA is one of the most important pieces of legislation that we consider each year. It recognizes that the education of all of our children is at the heart of our nation’s future and must be given the same level of concern and commitment as any other federal program.

As you know, Mr. Speaker, it is a bipartisan consensus that the education of students with disabilities is a national priority. It is a bipartisan consensus that these children have the potential to achieve and that we must do everything in our power to help them reach their full potential.

Mr. Speaker, the Committee on Rules met yesterday afternoon and granted a structured rule for H.R. 1350. Improving Education Results for Children With Disabilities Act of 2003. This rule makes a total of 14 amendments in order, including 3 minority and 1 bipartisan amendment. I am very proud of the fact that not only do we have 14 amendments, but also the Committee on Education and the Workforce for preserving the great hallmarks for democracy while setting the stage for today’s votes on H.R. 1350. I believe inclusion, deliberation and full participation was achieved in making sure that this important Act is brought forward.

Mr. Speaker, since I want original enactment in 1975, the purpose of IDEA has been to ensure free appropriate education for all children with disabilities. When IDEA was first enacted, this was the goal. Today we are here to improve upon the things that we learned since the last IDEA reauthorization in 1997. As you know, Mr. Speaker, through IDEA, the Federal Government is, in fact, authorized to cover 40 percent of the costs that schools nationwide spend to educate special needs students. However, the Federal Government today only spends 18 percent of the total cost of educating our special needs students and we must do better than that.

The good news this year, Mr. Speaker, is that the budget agreement reached by the House and the Senate this month includes an increase of $2.2 billion for special education in 2004. This unprecedented funding to increase for special education programs means that the Federal share of the special education bill is up to 21 percent this year.

The good work for the Committee on the Budget this year also establishes a clear pattern to reach our State goal of funding fully 40 percent of the total cost of the special needs education within the next 7 years.

Mr. Speaker, I am very proud of the fact that from fiscal year 1996 to fiscal year 2003, overall IDEA funding has increased by nearly 21 percent, from $3.2 billion to $3.8 billion annually. In fact, the 2003 funding level is more than a 15 percent increase over the 2002 funding level. This is a positive trend and we are serious about maintaining our goals and meeting our commitment to special education needs. But there is so much more that this bill does, more than just increasing funding. And I would like to provide some of the major provisions of H.R. 1350 to Members of Congress who may be able to see that this committee and the committee work that was done not only by the gentleman from Ohio (Mr. Boehner) but also the subcommittee chairman, the gentleman from Delaware (Mr. Castle) really has made a difference in the life and ongoing life of IDEA.

The underlying bill ensures that State will align their accountability systems for students with disabilities to the No Child Left Behind Act system and requires each child’s Individual Education Plan, known as an IEP, to specifically address that child’s academic achievement.

H.R. 1350 makes significant changes to the Department of Education’s accountability system for research of special education, establishes a 10-State pilot program that allows the State to reduce the IEP paperwork burden on teachers in order to increase instructional time and resources and improves results for disabled students.

For these and so many other reasons, Mr. Speaker, I have asked that you and each of my 434 other colleagues join me in supporting the dream of the greatest realization of our beloved, compassionate and democratic Nation. The realization that we have inherent worth and that here in America we will provide opportunity, individual commitment to special education needs.

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

Mr. McGovern. Mr. Speaker, I yield myself such time as I may consume. I want to thank the gentleman from Texas (Mr. Sessions) for yielding me time.

Mr. Speaker, partisan battles are nothing new on the floor of this House, but there are many matters where broad bipartisan agreement and good will have traditionally been the rule. Education for disabled and special needs children has been one of those issues notable for its profound bipartisan consensus.

Therefore, it is a sad day for this House as we consider the reauthorization for H.R. 1350, the IDEA reauthorization. This is not a bipartisan rule, and this bill certainly does not reflect a broad bipartisan consensus. If anything, H.R. 1350...
represents consensus breaking, undermining many of the hard-won and carefully constructed checks and balances of existing law.

Education for disabled and special-needs children is a sensitive issue for all Americans. The changes in H.R. 1350 categorically state that the majority did not join me in that support. I am disappointed the majority has denied both Republican and Democrat amendments on this issue.

During consideration of this bill in the Committee on Rules last night, I told every Member who testified before the committee that I supported their right to offer their amendments on the floor today. Unfortunately, the majority did not join me in that support. I am disappointed the majority has denied the opportunity for many Members of this House to voice their concerns and their amendments, but I am most disappointed that the majority has stifled debate on mandatory funding by denying the Woolsey/Van Hollen/McCollum amendment and the Bass/Simmons amendment, both of which would have had required mandatory funding for IDEA.

There is a pattern in this body of saying one thing and doing another. The majority talks a good game about educating America’s children but balks at providing the necessary funding when the time comes to back up their rhetoric with deeds. Today, we will hear about increases for special education in the budget resolution. But when it comes time to fully fund these programs, the majority denies debate on the only two amendments that would genuinely make that a reality.

This bill renews on our 28-year commitment to fully fund the Federal share of special education part B grants that is commonly referred to as fully funding IDEA. It denies mandatory funding that would ensure the Federal Government finally lives up to its legal commitment to provide States with 40 percent of these costs.

Time and time again Congress has passed meaningless sense of Congress resolutions supporting full funding for IDEA. But when it came to the point to require that these funds be provided, this bill once again, turned its back on that promise. In fact, this bill actually sets caps, authorizing ceilings on the amount of funding that Congress may provide in any given year.

Even those groups representing teachers, principals, and school administrators that do support many of the changes in H.R. 1350 categorically state that the bill must be amended to require mandatory funding increases. Yet the majority on the Committee on Rules, a broad consensus of Republican and Democratic amendments on this issue. So there will be no debate in the United States House of Representatives on the most critical issue facing special education today: Will the Congress finally put some money where its mouth has been for the past several years?

H.R. 1350 also undermines due process and discipline protections for children with disabilities, placing new restrictions on the ability of parents to seek legal representation when a violation of the law has occurred. It might even bring us back to the time when children with disabilities were removed from the classroom or, worse, refused a public education simply because they had disabilities.

I have heard from so many parents of children with disabilities and from school counselors and other professionals about how this bill would adversely affect the lives and education of these children. Here is what one mother in my district wrote about H.R. 1350, and I quote:

"Leah is my 7-year-old daughter. She has Down's Syndrome. Leah is fully included in her class, learning to read and has many friends. Not only has she benefited from being in this class, I truly believe that Leah's school have benefited from knowing Leah and becoming her friend. I want Leah to continue in this inclusive environment because I feel this is the best way for her to develop independence and appropriate social skills for the future. But H.R. 1350 does not provide full funding for IDEA. H.R. 1350 would take away many protections for parents' rights that are in IDEA, called procedural safeguards. It is important for school administrators to go to advocates, parents' rights and parents can use them to make sure their children get a good education. H.R. 1350 would prevent this. When you sign an important contract, you get notice of your rights. H.R. 1350 would let schools give a short description of rights to parents rather than fully explain these rights to parents, like they now have to do. Why are the schools so afraid for parents to know their rights?"

Another woman from my district, the mother of a 12-year-old boy with autism, is also extremely disturbed by the changes contained in H.R. 1350. She writes: "Under H.R. 1350, procedural rights would be greatly reduced. As a parent dealing with large teams of school district staff, these rights are critical to me in ensuring that my child's unique and individual needs are considered. Both school staff and I work very hard with my child to meet society's expectations. However, it is the nature of his disability that sometimes he cannot obey student codes of conduct. To subject my child to a segregated placement at the sole discretion of school staff anytime a rule is violated would be terrifying. Although some of the proposed changes in H.R. 1350 may appear sensible on the surface, as a person who has dealt with special education, I can easily see what their real-world impact would be, and it would be disastrous." I am sure my colleagues have received scores of similar letters from parents and grandparents of children who need special education, as well as letters from school counselors, psychologists, and therapists who work with and support these families. They are asking us and they are pleading with us to reject H.R. 1350. Surely we can find a way to give school administrators the flexibility they say they need without undermining the rights of the children and families they are charged to serve. Surely we can find a way to fulfill our promises and provide mandatory funding. We should send this bill back to committee and return with a genuine consensus on the IDEA reauthorization, as has been the tradition of this body for nearly 3 decades.

Mr. Speaker, this bill is opposed by nearly every major constituency directly involved in the lives of children requiring special education: parents, families, school counselors, psychologists and developmental specialists, disabilities advocates, and organizations involved in the professional development of teachers.

Mr. Speaker, I submit for the Record a list of organizations opposed to this bill:

The Council for Exceptional Children
The National Mental Health Association
The Higher Education Consortium for Special Education
The National Center for Learning Disabilities
The American Academy of Pediatrics
The School Social Work Association of America
The National Down Syndrome Society
Easter Seals
American Society for Deaf Children
National Coalition of Parent Centers
Epilepsy Foundation
Association of Maternal and Child Health Programs
National Alliance of Pupil Services Organizations
American Council of the Blind
National Parent Teacher Association
National Association of School Psychologists
National Association of School Nurses
American School Counselor Association
American Psychological Association
National Association for College Admissions Counseling
National Association of Social Workers
The American Academy of Child and Adolescent Psychiatry

Mr. Speaker, I urge my colleagues to reject this rule and to oppose the underlying bill.

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

Mr. SESSIONS. Mr. Speaker, I yield my time.
these things and approached this entire effort with an open mind, instead of saying I do not want any changes. I said, what are the things that we have learned from time; what are the things that we think we can do to get closer to making it better. But I believe that we have better results from our children who fall within the IDEA guidelines?

Mr. Speaker, my son, who is 9 years old, and who is in first grade, is making progress. And I see where these things occur. But this committee and subcommittee, under the leadership of the chairman, the gentleman from Ohio (Mr. BOEHNER), and the gentleman from Delaware (Mr. CASTLE), have done things to go in and instead of keeping the status quo, they have gone in and made things dynamic. We are going to be more inclusive, we are going to provide more money, we are going to do those things that will enhance the relationship that a parent has in an IEP, which are these individualized education program, which are these times processes that one goes through where they sit down and look at their child and try to map out and plan out a way for them to fully meet their needs and also those educational opportunities that are ahead of them.

After the entire haze is all gone, not just a piece or a part, I am satisfied; and I believe that what has occurred here is a better bill. Is it perfect? Probably not. But under the current law, there are still parents and still schools who have not been aided as a result of either people not understanding the law or people not complying completely. That will always be a part of the process. But the advantages of this new bill come about as a result of the intuitive nature of this committee and subcommittee, who wanted to enhance and learn from the past and make it better.

So as a parent of a child who is affected by what this legislation will do, and one who was on behalf of our community, I am asking those people who have written in, those people who have called, and I have talked to a good number of them, to allow us an opportunity to speak fully about the entire bill, to put it into context; and I believe that by the end of today, as the smoke has cleared, as we have talked about it, the advantages will be very apparent for not only the parents but also the students that are impacted.

It is the parents that we are put on the front line in trying to negotiate. Parents are scared and they are worried about this; but if we walk through the things that this bill will do, including providing more funding and more flexibility, they will see where the benefits will be for each one of them and their children. So I would politely address the concerns that the gentleman from Massachusetts has, because it is a real question that does exist in real parents' minds; and I respect the gentleman for his discussion.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wilmington, Delaware (Mr. CASTLE), the chairman of the Subcommittee on Education Reform.

Mr. CASTLE. Mr. Speaker, I thank the gentleman from Texas for yielding me this time, and I have a tremendous amount of personal and professional situation and have spent a great deal of time discussing that and his interest in this bill, as well as the gentleman from Massachusetts, who exhibited, I felt, at the hearing before the Committee on Rules, an understanding of the legislation as well.

I think it is very important that we begin this debate by understanding several background areas. One is that this legislation which was created in 1975 with the help of a number of people who are still here today. One of those Members is the ranking member on the Committee on Education and the Workforce, and others who put language into this legislation, which I think has held up extraordinarily well over 30 years. I believe that the services that we provide to our children who have disabilities are tremendous, light years ahead of where we were just 30 years ago.

I believe that Republicans and Democrats alike, have gathered together every 5 or 6 years in the reauthorization process, and I know it was very difficult 5 or 6 years ago when I went through it in order to put together legislation which will be helpful in improving how we are doing in helping children with disabilities. But I believe that the legislation before us is another step in that direction.

Now, obviously, if this passes today, with some of the amendments which are before us, it will go into a conference with the Senate and may come out somewhat differently. But I would suggest that before the process is done, this may become both bipartisan and perhaps even some improvements in it.

In the year 2000, we are doing in helping children with disabilities; but I believe that the legislation before us is another step in that direction.

Turning to the bill, I believe that this bill employs common sense reforms to reduce the excessive amount of paper work requirements, and that is the common complaint that we hear from everybody. It improves IDEA to provide greater parent involvement, seeks to reduce litigation, authorizes dramatic and significant increases, and improves early intervention strategies.

The excessive amount of paperwork requirement simply, frankly, over whelms teachers and robs them of valuable time to educate their students. Teachers must have the ability to spend more time in the classroom rather than spending endless hours filling out unnecessary forms. Additionally, these provisions will allow school districts to retain and recruit highly qualified special education teachers.

Throughout the bill we have made improvements to IDEA to provide greater flexibility to parents and greater input in developing the Individualized Education Program, which is exhibited in the acronym IEP, for their child.

The bill gives parents discretion over who attends IEP team meetings, how they are conducted, or whether to have one at all. We have improved the parent training and information centers which can serve as valuable resources to serve as valuable tools for parents trying to work with schools to get a quality education for their child.
This bill seeks to reduce litigation and restore trust between parents and school districts by encouraging the use of alternative means or what we know as dispute resolution. All too often, miscommunication damages this relationship and results in litigation. Not only is this course of action costly, but it breeds an attitude of distrust.

H.R. 1350 authorizes dramatic increases in funding for special education programs. The Federal Government’s 40 percent goal within 7 years. Let me go through that carefully. We are going to hear that a lot in the course of the next 4 or 5 hours on the floor. Essentially, after IDEA was created, in the original language it said that the Federal Government will fund up to 40 percent of the cost of the education of these children beyond the normal cost of education. The Federal Government for whatever reasons did not live to that.

Up until about 7 years ago, the Federal Government was funding 5 or 6 percent of that cost. In the last 7 years, and I am proud that Republicans have been involved with this although Democrats have been supportive as well, but over the last 7 years, we have increased that dramatically so that instead of funding 5 percent, we are now funding 18 percent.

In this year’s budget resolution, that funding number will take us up to 21 percent. The President of the United States has indicated his complete willingness to fund this in rapid increases to get us to that 40 percent in a 7-year glide path. This Congress, in the form of the Committee on Appropriations, has indicated doing it the same way. This is all under the discretionary spending which we have with constant review; and believe me, we need constant review of IDEA which is happening. The fact that it is under discretionary spending, I do not believe when we go to mandatory spending we get those reviews.

I believe that particular commitment to getting there in 7 years is going to work. The mandatory spending side of it, the amendments that we are seeing, although they are not in this particular legislation, have a 6-year path to get us to that 40 percent funding. The real differences are rather minimal in terms of when we would get there, and the commitment to do it. Some Members say we need to do it in a mandatory way or it is not going to happen.

I do not agree with that. I have watched it happen year after year in most of the years that I have been in the Congress of the United States, and it is happening extremely well. I am proud of our record of dramatically increasing this funding for IDEA over the past 7 years and remain committed to building on this positive record as far as the future is concerned. I am convinced that we are doing the right thing. We will hear a lot about it in a political sense today, but the bottom line is the commitment is there and that is happening.

The bill also improves early intervention strategies. Currently too many children with reading problems are likely to become disabled and placed in special education classes they do not necessarily belong in. We have given local school districts the flexibility to use up to 15 percent of their funds for prereferral services for reading disabled as well as many other disability identified students. I think that is a very important provision because of some of the overidentification that goes on, particularly in the African American community. We also attempt to address that question of a disproportionate number of minority students wrongly placed in special education. We encourage school districts to provide positive behavioral interventions to prevent this overidentification and misidentification.

Mr. Speaker, there is a lot in this legislation. It is very difficult, frankly, if I take the time to legislate and be able to comprehend it unless one has lived it for a long time. I will tell Members there are many people who have come to my office and left pictures of their children behind, which I have on my desk in Wilmington and here in Washington, D.C. There are many Members of Congress who are involved very personally with children with disabilities and are very concerned with what is in this legislation.

Many steps have been taken in order to improve the legislation. We have tried to keep an open mind about amendments and suggestions and will do so through conference in intensive educational interventions to prevent this overidentification and misidentification.

Mr. Speaker, I urge Members to vote this rule. There are several issues there, but one of the most important ones was requiring that additional increases in funding above fiscal year 2003 levels be paid down directly to the local level. There was a very important discussion in the Committee on Rules about Governors and the responsibility they have as they allocate their State budgets. I would like to make sure that the Members of Congress understand this will be part of the debate that takes place today.

Mr. Speaker, I urge Members to vote this rule and in so doing demand the opportunity to vote on an IDEA reauthorization bill that includes mandatory full funding.

Mr. Speaker, the gentlewoman from California (Ms. Woolsey) and the gentleman from California (Mr. McKeon) who are the Chairs of these committees, last night and spoke eloquently about their desire to ensure the funding levels. There are several issues there, but one of the most important ones was requiring that additional increases in funding above fiscal year 2003 levels be paid down directly to the local level.

There was a very important discussion in the Committee on Rules about Governors and the responsibility they have as they allocate their State budgets. I would like to make sure that the Members of Congress understand this will be part of the debate that takes place today.

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

Mr. Speaker, the gentlewoman from California (Ms. Woolsey) and the gentleman from California (Mr. McKeon) who are the Chairs of these committees, last night and spoke eloquently about their desire to ensure the funding levels. There are several issues there, but one of the most important ones was requiring that additional increases in funding above fiscal year 2003 levels be paid down directly to the local level.
H.R. 1350. These amendments allow the House to work its will on a variety of important issues and topics. It is a fair rule, and I hope it is overwhelmingly approved.

With respect to H.R. 1350, I want to commend the gentleman from Delaware (Mr. CASTLE), the chairman of the Subcommittee on Education Reform, and the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce, for all of the time and effort they have invested in bringing this important, well-crafted legislation to the House floor.

Although IDEA has helped many children with special needs since it was enacted in 1975, some problems remain. The largest problem with IDEA is its focus on requiring compliance with complex rules, rather than producing the academic results that children with disabilities need. Streamlining and significant reforms are needed.

H.R. 1350 represents a step in the right direction. Not only does it strengthen accountability and results for students, it also gives States the freedom to reduce paperwork that is often repetitive, complex, and unnecessary. Doing this will allow teachers to focus less on complex forms and more on spending time in the classroom teaching students with needs.

Other reforms include greater flexibility for school districts to improve early intervention strategies and thereby helping to lower the number of children who are improperly placed in special ed classes, and more innovative approaches to parental involvement and choice.

When the IDEA law was originally enacted in the mid-1970s, the Federal Government promised to fund 40 percent of its costs. Although the Federal Government has made dramatic improvements in the last 8 years by appropriating significantly higher funding, we are still falling short of the goal. However, to the credit of the gentleman from Delaware (Mr. CASTLE), the subcommittee chairman, and the gentleman from Ohio (Mr. BOEHNER), the full committee chairman, this bill puts the Federal Government on a glide path towards providing its full 40 percent share of IDEA costs within 7 years.

To those who would vote against a rule because it does not do what they did not do for the 22 years they controlled this House and the Senate and the White House is pure politics. It has nothing to do with children; it has nothing to do with special needs. When I came here 10 years ago, IDEA was funded to the tune of 5 percent. It is now 18, soon to be 23, and on a glide path to 40 percent; and that is real significant progress. Opposition to this bill because it does not do what was failed to have been done for 25 years is sheer politics.

I have always supported the right of children to a quality public education, and that remains a bedrock principle of mine. Unfortunately, in many local schools, special ed cannot be given the kind of treatment, attention, and care that it ought to receive. When this happens, families with special education children suffer.

H.R. 1350 will move us toward our goal of working to give families with special education children the choices and the support they deserve. Mr. Speaker, I urge Members to support this rule so we may proceed to debate the underlying legislation.

Mr. KENNY of New York, Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just say to the gentleman from Georgia (Mr. LINDER) what we would like to see happen is all of us, including those on the majority side, keep their word to the American people, that we provide full funding for IDEA.

There have been over 22 various resolutions and bills which have been voted on in this Chamber and the other body dealing with IDEA. The gentleman from Delaware (Mr. CASTLE) is putting the Federal Government in the position of fully funding IDEA. We want them to keep their word. Let us put our appropriations where our rhetoric is.

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

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I thank the gentleman from Delaware (Mr. CASTLE), the chairman of our subcommittee, for the gentleman’s recognition of leading the committee with an understanding of the disproportionately high number of African American males being placed in special education.

I raised the issue in subcommittee in the form of an amendment, and the gentleman from Delaware (Mr. CASTLE), to his credit, led us through a discussion of that which led to what I am sure is a real adjustment and a way to handle that issue by dealing with this disproportionately high number of individuals in a special group.

With that having been said, since we did not get to the point, though, of dealing with full funding for the legislation and without the resources needed, I am afraid that we cannot take care of the problems. Therefore, Mr. Speaker, I cannot support the rule. I think we have had an opportunity and could have had an excellent piece of legislation, but I am afraid that it falls short because it short-changes those in our society who need the help the most, children with disabilities.

Mr. SESSIONS. Mr. Speaker, I would like to let the gentleman know that I would be pleased to have them consider several speakers so that we can get more closely aligned on the time.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. VAN HOLLEN), a valued member of the Committee on Education and the Workforce.

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

I think it is extremely unfortunate that the Republican majority on the Committee on Rules has voted to deny this full body, all 435 Members of this Congress, the opportunity today to vote up or down on meeting the educational commitments made to America’s children. We many years ago said that the Federal Government was going to pay for 40 percent of the costs for special education; and as we sit here on this floor today, we are only at 11 percent. It is a disgrace throughout this country when we all go before school boards, Republicans and Democrats, when we talk to parents groups, we have all said how important it is to keep our promise and make the 40 percent commitment. I am very pleased and I want to thank the chairman of the full committee and the chairman of the subcommittee for giving us the opportunity to debate that very issue and vote on it in committee.

I am disappointed that it failed on party lines, and I think it is important that this full House have an opportunity to debate that. This is the reauthorization bill. This is the one time for the next 5 years we are going to be taking up this issue. This is the time to do it.

For those who say it is not important, we should leave it to the appropriations process, I would say to those listening it is the difference between giving a guarantee today and rolling the dice every year with the Committee on Appropriations, and we know from history that we have been unable to meet that commitment rolling the dice every year. Now is the time to make the guarantee. Just a little over a year ago, the President signed the No Child Left Behind bill and promised a great deal of more resources to our States and our school boards in exchange for numerous responsibilities that we put upon them; and yet just a little over a year later, we are already failing to make our commitment on No Child Left Behind. This year we are $9 billion short. We need to meet our commitments we made on special ed more than 20 years ago. We need to meet our commitments we made in No Child Left Behind. We should not be pitting these groups against each other. There should not be competition in funds between special education and all other education. Let us vote today to provide our schools and our children the resources we have promised. Give this House an opportunity to do it. Why are we afraid to let 435 Members vote on this issue?

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. KIND), another valued
Mr. KIND. Mr. Speaker, I thank the gentleman from Delaware (Mr. CASTLE), the subcommittee chairman, who has put in with the outreach that he has provided to the members of the committee and members of the subcommittee on Early Childhood, Youth and Families in charge of the reauthorization of this bill. And while I will be supporting legislation at the end of the day, assuming the voucher amendments that will be offered today are not in fact adopted, I have to rise and express my opposition to the rule.

I do appreciate most sincerely the effort that the gentleman from Delaware (Mr. CASTLE), the subcommittee chairman, has put in with the outreach that he has provided to the members of the committee and members of the subcommittee on Early Childhood, Youth and Families in charge of the reauthorization of this bill. And while I will be supporting legislation at the end of the day, assuming the voucher amendments that will be offered today are not in fact adopted, I have to rise and express my opposition to the rule.

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Mr. KIND. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. SCOTT). Mr. SCOTT of Virginia, Mr. Speaker, I rise in opposition to the rule and the bill.

In general, IDEA is a good program which works well. As a society, we have decided that all children have a right to a quality education. In 1954 our country made it clear that "all children" included racial minorities, and under IDEA we made it clear that "all children" included those with disabilities. The dream that all children are entitled to a quality education is an expensive dream to achieve, but we have decided that we mean to achieve that goal.

Many years ago, Congress promised to contribute 40 percent of the cost of achieving their goal, and this bill provides only a modest increase in authorization; but if No Child Left Behind is a guide, the appropriations will not follow. If we mandated the appropriations in the bill, we could be sure that the states would follow the authorization, but that mandate is not in the bill. We should remember, Mr. Speaker, that the Federal legislation to protect the educational rights of children with disabilities would not be necessary if school districts did a better job in carrying out their responsibilities.

Prior to the Federal mandate of Individuals with Disabilities Education Act, millions of children with disabilities receive no education at all. But this bill makes it more difficult for our children with disabilities to get the free and appropriate education to which they are entitled because many of the discipline provisions in the bill are inconsistent with that goal. Rather than making sure that children with disabilities receive a good education, the bill burdens school districts, shuttering education opportunities for students with disabilities, and mandates that they cut back on professional training and professional development. The result is that students are being expelled or removed from school districts to shuttle kids off to so-called interim alternative educational settings that will not provide a free and appropriate public education.

In doing this, this bill makes it easier for local schools systems to illegally place children with disabilities in inappropriate settings. At the same time reducing the parents' ability to challenge those placements. And so, Mr. Speaker, in the bill the removal of the current discipline protections will result in students with disabilities being expelled or removed for actions they cannot control.

Mr. Speaker, the revised discipline provisions in the bill were added to give school districts an opportunity to avoid providing the most challenging students with disabilities free and appropriate education; yet we should reiterate that even with the current protections, students with disabilities are already overrepresented among students who are expelled from schools. The elimination of the current disciplinary safeguards will remove the only legal safeguards that currently exist for these students with disabilities.

Mr. Speaker, for reasons as well as others I ask my colleagues to oppose the rule and oppose final passage of H.R. 1350.

Mr. SCOTT. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, wherever I have gone in my district meeting with my school superintendents and parents, teachers, and just proponents of good education for all of our children, one of the strongest issues has been the full funding of the authorization for children with disabilities. Full funding, full funding is the cry all over America. I would have hoped today that we could have moved forward with the current fundings and not just the bare minimum, and I am gratified that this legislation has finally come to the floor; but clearly we are missing the boat if we believe that we are going to be able to reach again to America's commitment to equal education for every child. I am not saying full funding for children with disabilities.

And then, Mr. Speaker, I think it is clearly important that we again reassess these new provisions dealing with penalties for misbehavior in this legislation. Why are we penalizing the children who need the most help? Why are we penalizing the teachers who need the most help? Why are we penalizing the students who need the most help? Why are we penalizing the children who need the most help? Why are we penalizing the teachers who need the most help?

Have my colleagues ever spoken to a parent of a disabled child? Their greatest plea is to give their child that opportunity. And here we come with a bill that, one, does not have full funding; and, two, creates these extraordinary burdens on the school system, the teachers, and the parents.

I would also say that I think it is extremely important to support the McKeon-Woolsey amendment that guarantees that we do not have full funding and I know they are struggling with the funding resources that they have, to direct all funds beyond the administrative costs directly to the services so that all the moneys that we do have funds out of this legislation will directly go to serving our children.

I would like us to come forward as we have attempted to do in a bipartisan manner. I certainly appreciate the work of the Committee on Education and the Workforce and the Workforce, but we are falling short of America's children and America's promise of the educational opportunity for all children. If we do not provide full funding, we do not direct
all monies to the services and we get rid of these burdensome provisions, that will only send more special ed children into the streets away from equal opportunity of education for all of our children.

Mr. SESSIONS. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. CUNNINGHAM), a member of the Committee on Appropriations.

Mr. CUNNINGHAM. Mr. Speaker, before I was selected to be one of the committee chairmen, I was subcommittee chairman of the Committee on Education. I went through the IDEA bill and the reauthorization. Taking the parent groups and the schools and putting them in the same room is like putting a Persian cat and a Siamese cat together. It was very difficult. We actually basically put them in a room, gave them no bread or water, and told them to come out with a solution. The solution they came out with was pretty reasonable, and there was balance except for the final bill. And for example, the trial lawyers changed the intent, we said the first time a parent goes to the school we do not want a trial lawyer there because it will raise the funding and it will cost schools more. I said let the schools provide a lawyer. The schools do not need a lawyer. But they do, and what happened is they got around it when we established that rule that a parent would go to school, the trial lawyers would still be paid, and it would cost the administration a great deal.

I think the Democrats have really got their gall. For 20 years IDEA was supposed to be funded at 40 percent. The most it was ever funded was 5 percent of that 40 percent. When the Democrats had the White House, the House, and the Senate, they gave us the highest tax increase in history. They increased spending with a deficit at $330 billion forever; but, no, they did not increase the spending on IDEA. It stayed where it was. Since we have taken the majority, we have put it up to 18 percent, over a 262 percent increase; and it is on a climb, and it will go on to climb. But they want to put this program on a mandatory level, on autopilot. None of these changes would be possible. People will retire on active duty just like the other mandatory spending programs. The Democrats talk about fiscal responsibility. Let us put veterans, let us put IDEA, let us put Impact Aid, let us put all those other things on mandatory spending. The budget in this place will go out of sight and the deficit and the debt will also go up. The real problem is Gray Davis, the Governor of California. He is cutting the money at the State level and running the whole IDEA engine on Federal money. He is cutting IDEA.

He is cutting Impact Aid. He is cutting Title I. So if you want to improve IDEA stop him from stealing the money. I do not want to add new money and have Governor Davis steal it. I do not want to add new money though and have it go to the trial lawyers with these cottage organizations. But the Democrats will not do that, because that is where they get their campaign money.

We need to change the system. Alan Bersin was Bill Clinton's Border Czar and is now the superintendent of the San Diego city schools. He has testified that IDEA is his biggest problem in schools. He wants to improve IDEA. IDEA has helped children with disabilities before they were left out; but out they went. We are trying to improve the bill. But to make it mandatory after what the Democrats have done nothing for all of these years is hypocrisy and political demagoguery.

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

Mr. Speaker, I would just say to the gentleman from California who just spoke that the government made a commitment to provide States with 40 percent of the costs for special education. We have broken that promise time and time again. We are breaking that promise again today. If the gentleman does not want to provide 40 percent of the costs to States, he can vote against the amendment that was offered in the Committee on Rules last night that was denied here on the floor today that would provide mandatory funding.

Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. DAVIS).

Mr. DAVIS of Tennessee asked and was given permission to revise and extend his remarks.

Mr. DAVIS of Tennessee. Mr. Speaker, I rise in objection to the rule.

Mr. Speaker, the Individuals with Disabilities Act, also known as IDEA, has made progressive strides for children with disabilities since it was first introduced in 1975. H.R. 1350, which reauthorizes this landmark legislation, is before the House today. This bill has some very positive attributes and, I think, perhaps some very negative points.

First, this bill provides for a 1-year statute of limitations on complaints for due process hearing. I think this is very helpful for school districts who are serving many of these children. The 1-year statute will prevent complaints from previous school years from recurring.

But at the same time, this bill weakens protections for parents and students that are provided by the current law. The bill gives the option for a school district to develop an individual education plan for the child every 3 years. The current law provides for the IEPs to be done every year. Three years is too long. I think, to track a student's progress. This bill needs to maintain the continued IEP for every school year.

Additionally, the bill allows students to be moved indefinitely to an alternative placement for any violation of a school's code of conduct. Current law allows a 45-day alternative placement unless it is for weapons, guns or drugs. Removing the child indefinitely may not be warranted by the facts of the particular situation of the child. The child should be entitled to a manifestation review to see if the disability has caused that conduct, but this bill removes the manifestation review that is in the current law. We should not permanently remove a child from school if the conduct was a result of his or her disability.

Mr. Speaker, I urge my colleagues to uphold the imposition of the rule so debate can continue on H.R. 1350.

Mr. SESSIONS. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Speaker, let me thank my colleague from Texas for yielding time and for his great work working with himself and the members of our committee and others to help craft the bill that we have before us today.

Let me also thank the gentleman from California (Chairman DREIER) and the Committee on Rules for their continued dedication and work on this very fair rule for Members on both sides of the political aisle. There is great opportunity for Members to offer amendments.

Let me also thank my good friend, the chairman of our Subcommittee on Education Reform, the gentleman from Delaware (Mr. CASTLE), for the tremendous work that he did, and the members of our committee and our staff, by the way, for all of their hard work in getting us here today.

I will have a lot more to say about the bill when we actually get into the bill, but we are on the rule.

Mr. Speaker, there has been a lot of conversation this morning about the issue of mandatory spending versus full funding. I just want to say that the amendments that were offered that were not made in order with regard to mandatory spending were not made in order because they violated the rules of the House. You cannot bring a mandatory funding amendment here without getting a waiver of the Budget Act. The fact is that neither of these amendments was offered in such a way that they did not violate the rules of the House. That is why they were not made in order.

Let me also say that mandatory funding for this program is the wrong way to fund the program. We would not be here today making the improvements in this bill to help children with special needs and to help our teachers, principals, school board members and superintendents if it had not been for the fact that we have this bill on a 5-year reauthorization track. It forces the Congress to step back and look at this Act and to determine, is it working the way we intended it? Are there better ways to achieve our objective?
I would suggest to all of my colleagues that if it had been under mandator
y spending, we know what happens with those programs; they get put on
automatic pilot and are very seldom looked at. That is not in the best inter
ests of special needs children, and it is not in the best interests of our schools.
Let me also say what my colleague from California pointed to. The first 20
years of this Act Congress never really stepped up to the plate. Our friends on
the other side of the aisle were in charge. Even in 1993 and 1994, when they
had control of the House and Senate and the White House, there was no
move made to make this a mandatory funding program. So why do we hear
about it now?
I would just suggest to my colleagues we do two things here in this town; we
do public policy and we do politics. We would like to get the politics out of it,
but it is kind of hard to take politics out of politics. But when we hear all of the
discussion about mandatory funding, let me tell you, it is nothing more than
politics.
Since 1996, all you have to do is look at the chart next to me and see the
dramatic increases in funding. 1997, a 33.7 percent increase in IDEA spending.
In 1998, a 22.3 percent increase in spending; then we raised it another 13.2
percent in 1999; how about the year 2000, 16 percent more on top of that; the
year 2001, a 27.1 percent increase; or how about the year 2002, an 18.8 percent
increase; or about 2003, a 17.8 percent increase.
All of these are built on top of the previous increases. And in the budget
resolution that we adopted just several weeks ago we called for a 24.8 percent
increase in IDEA spending.
For someone to suggest that we are not doing our job, we are not trying to meet
our responsibilities, I think, misses the point entirely. In this bill that we have in
front of us, we have a glidepath to get from the 20 percent of funding, in round figures, 21 percent at the end
of this year, to 40 percent. I think that is a reasonable approach, it is the right
way to go, and none of us, none of us, should hang our heads when it comes to
the question of whether we are meeting our obligations to fully fund IDEA.
Mr. McGovern. Mr. Speaker, I yield myself such time as I may consume to
make a few comments.
Mr. Speaker, the vast majority of schools welcome children with disabili
ties as an integral part of their student body. They work with parents,
teachers, medical professions and support personnel to provide these stu
dents with “free appropriate public education.”
Unfortunately, there are still children with disabilities who are denied the
education they need, the education that they deserve, and the education that they are entitled to by law.
H.R. 1350 does nothing. It does nothing to guarantee that the Federal Gov
ernment will keep its commitment to
fund 40 percent of the Part B grants to States.
It is astonishing that the new argument we have been hearing the right to
vote up or down on the issue of mandator
y funding is this amendments would require a budget waiver. The ma
jority provides budget waivers and every other kind of waiver for all of their amendments all the time. So the
real reason why we are not having these amendments on the floor is be
cause the majority does not want to vote on an amendment that would re
quire the Federal Government to keep
its word to the American people.
This bill also does not address the shortage of qualified special education teachers in a meaningful way. Cur
rently unqualified and under-qualified special education teachers are teaching
more than 600,000 children with disabilities. By significantly weakening both the discipline protections and due proc
ess rights in current law, H.R. 1350
would require the Federal Government to keep
its word to the American people.
For this reason, I urge the House to reject the current mandatory funding level, the most fundamental question af
fecting special education programs. For this reason, I urge my colleagues to vote no on this rule and to vote no
on H.R. 1350.
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, I would like to thank several people who have been a part of
this debate today. First, just the gen	lenan from Ohio (Chairman Boehner)
and the gentleman from Delaware (Chairman Castle), but also from the Commit
tee on Education and Work
force, David Cleary and Sally Lovejoy; from the staff of the gentleman from
Delaware (Chairman Castle), Sarah Ritting; from the Committee on Rules, Adam Jarvis and Eileen Harley; and from my
staff, Bobby Hillert and Tucker Anderson,
Mr. Speaker, this is about a decision
that this House is going to make to de
bate today, IDEA. That is what the vote on the rule is about, are we going to proceed with regular order?
I am in favor of what we are doing, I believe that the clay that we have put
in front of us today will be a better model. We will rebuild IDEA and we will make it better than what it is today.
As the parent of a child who will fall under IDEA, I can tell you, if I had my way, there are risks involved any time you
goto anewcircumstance. I am con
vinced beyond any reasonable doubt that the opportunity that this great
body has to make IDEA better for every single student, for the teachers
and the administrators who will work underneat these new processes and the students who come into contact
with our children, will find that this will be a better way. We have learned from the last 7 years. We will learn on
a going-forward basis. It is the right thing to do.
Mr. Speaker, I ask every single one of my colleagues, please support the rule.
Let us debate IDEA, and let us get it passed today.
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 question was taken; and the
Speaker pro tempore (Mr. Simpson). The question is on the reso
lution.
The question was taken; and the
Speaker pro tempore announced that
the ayes appeared to have it.
Mr. McGovern. Mr. Speaker, I ob
ject to the use of the ground that a quorum is not present and make the
point of order that a quorum is not present.
The SPEAKER pro tempore. Evi
dently a quorum is not present.
Mr. Sergeant at Arms will notify ab
sent Members.
The vote was taken by electronic de
vice, and there were—yeas 211, nays
195, not voting 28, as follows:

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<tr>
<th>Yeas</th>
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<td>211</td>
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[Roll No. 149]
ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). The Chair announces that there are 2 votes remaining in this call.

Ms. VELÁZQUEZ and Messrs. EDWARDS, DAVIS of Tennessee, and GUTIERREZ changed their vote from "yea" to "nay." Mr. Goss changed his vote from "nay" to "yea.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for.

Mr. COLLINS. Mr. Speaker, I was inevitably detained at the White House and was not able to be present on rollcall vote 149, providing for consideration of H.R. 1350; to reauthorize the Individuals with Disabilities Education Act. Had I been present, I would have voted "yea" on rollcall vote 149.

Mr. BACHUS. Mr. Speaker, on Wednesday April 30th I missed rollcall vote 149 due to attending an awards ceremony for the National Teacher of the Year at the White House. If I had been present I would have voted "yea" on rollcall vote 149.

The SPEAKER pro tempore (Mr. CAMP). Pursuant to House Resolution 206 and rule XVIII, the Chair declares the House in the Committee of the Whole on the State of the Union for the consideration of the bill, H.R. 1350.

The Chair designates the gentleman from Georgia (Mr. LINDER) as chairman of the Committee of the Whole, and requests the gentleman from Idaho (Mr. SIMPSON) to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1350) to reauthorize the Individuals with Disabilities Education Act, and for other purposes, 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.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER) and the gentlewoman from California (Ms. WOOLSEY) each will control 30 minutes.

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

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

Mr. Chairman, I am pleased that we have a chance today to consider the Improving Education Results for Children with Disabilities Act, H.R. 1350, legislation that will strengthen our Nation’s education law for children with special needs.

I am very grateful for the work of the gentleman from Delaware (Mr. CASTLE) on this important legislation, and for all of the hard work all of our committee members have put into this project over the last 18 months.

I also want to thank the ranking member and my friend, the gentleman from California (Mr. GORRETTA), for his work during this process. While we are not in complete agreement with the bill that we have before us today, his efforts have been extraordinary and very helpful.

The issues addressed in this bill are important ones for our constituents. I hear more comments from Members about IDEA than I do about any other Federal education program. Today is a chance to do something that will make a real difference in our schools.

This bill is important as an opportunity for us as legislators. The reforms in H.R. 1350 are strongly supported by teachers, special educators, state, local, and school leaders.

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country. The American Association of School Administrators, which represents some 14,000 educational leaders nationwide, calls H.R. 1350 “the best special education policy revisions we have seen in decades.”

The No Child Left Behind Act redesigns IDEA with No Child Left Behind and gives our school districts greater flexibility in reviewing the progress of a child by replacing benchmarks and short-term objectives with regular reporting requirements that are contained in No Child Left Behind.

The bill before us reduces the paperwork burden on teachers. Good special education teachers are leaving the profession in frustration because of the IDEIA paperwork burden, and there is a growing shortage of quality teachers in special education. This legislation before us allows parents to choose the option of a 3-year individualized education plan instead of an annual one.

And it is at the option of school to offer it and at the option of parents if they want to move to a 3-year plan. And the gentleman from Florida (Mr. KELLY) has been promoting this idea for several years. I want to thank him for his contributions in this bill.

H.R. 1350 will reduce the numbers of students that are misidentified or overrepresented in special education, a problem that particularly affects minority children. As the Civil Rights Project at Harvard University has shown, African Americans are nearly 3 times more likely to be labeled as mentally retarded under the current IDEA system than white children, and African American children are twice as likely to be labeled emotionally disturbed. Thousands of children every year are inappropriately identified, while many others are not identified at all.

The gentleman from Pennsylvania (Mr. FATTAN), our colleague, gave us compelling testimony during his committee sessions in the last Congress to help us address this, and I am so proud to say that it is being addressed.

H.R. 1350 gives local school districts new flexibility and resources to improve early intervention and reduce misidentification of children into special education. The bill before us would reduce destructive lawsuits and litigation in special ed, it encourages the use of mediation as early as possible, and creates new opportunities for voluntary binding arbitration.

The bill encourages parental involvement and allows IDEA or school districts to use IDEA to support supplemental services for students with disabilities in high priority schools. It also allows parents to choose to keep their children with the same educational provider from the beginning of service until the child reaches school age. And I am grateful for the help from the gentleman from South Carolina (Mr. DEMINT) who helped devise these provisions.

The bill also charts a clear path to full funding within 7 years. Thanks to the gentleman from Nevada (Mr. PORTER), it authorizes a systematic increase in special education aid to the State that would result in the Federal Government paying an unprecedented 21 percent of the total cost of special education. As is shown in Appendix A, as this chart shows, we have had unprecedented increases over the last 7 years. And the budget resolution that we passed just several weeks ago brings an increase this year of over $2 billion and authorizes an additional $2.5 billion near the highest percentage in history; and the Porter language will allow appropriators to increase IDEA spending through the traditional spending process, the same process that Congress has used to increase IDEA spending by almost 30 percent over the past 8 years.

H.R. 1350, the bill before us, will enhance school safety, requiring districts to continue to provide educational services to students with disabilities even when the school district personnel have one uniform discipline policy for our children. And the gentleman in Georgia (Mr. NORWOOD) has been a very effective member in leading the Congress to deal with this issue for many years. So thank you for your willingness to work with the committee to craft the discipline provisions that we have in our bill.

Let me just say as I close, I want to commend my colleague from Delaware (Mr. CASTLE) for his leadership in bringing this legislation to this point. It is an excellent bill that will make a positive difference in the lives of parents with special needs children, teachers, school boards members and others, and I urge all of my colleagues today to join me in supporting this bill.

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

Ms. WOOLSEY. Mr. Chairman, I yield such time as the may consume to the gentleman from California (Mr. GEORGE MILLER), the ranking member of the Committee on Education and the Workforce.

Mr. GEORGE MILLER of California. Mr. Chairman, this is a very important piece of legislation and I hope the Members will have an opportunity to listen to the debate. I wanted to thank my colleagues on the committee, the gentleman from Delaware (Mr. CASTLE), the gentleman from California (Ms. WOOLSEY), and the gentleman from Ohio (Mr. BOEHNER), the chairman of our committee, for the work and effort they have put in on behalf of this legislation. We went through an extensive mark-up. We had an opportunity to offer a number of amendments. Unfortunately, most of them from our side were not accepted. But I believe that, in fact, this is a matter of good intentions by both sides of this debate.

I must state, however, at this time I think this bill does considerable harm. I think that this bill falls short in protecting what is the basic civil rights of children with disabilities to get a free and appropriate education. That is the intent of the law. And I am concerned that this bill does not do what it says it should do with respect to guaranteeing the basic rights of those children.

This bill also falls short on another front, and that is the guaranteed full funding of this Act. The gentleman from Ohio (Mr. BOEHNER) is right, the Congress has done a much better job in the last 6 or 7 years in providing those funds, but the fact is that the promise that has been made to the local school districts has not been kept; and even this year in an appropriations bill passed just a couple of weeks ago, we are $1 billion $200 million behind that curve; and yet we will not be allowed to offer amendments to require that that funding be mandatory and that full funding be achieved by this legislation. That is a 30 year-old promise that we made, and it is unfortunate that we will not be allowed to have that amendment.

Yes, many in the school establishment and the education establishment are for this Act. It probably makes good intentions by both sides of this bill. We ought to be thinking also about the rights of these children and the protections of these children and the needs of these children and their families; to make sure that, in fact, the educational opportunities provided to these children with disabilities.

It is for that reason that after reviewing this legislation that the National PTA, the Children’s Defense Fund, the National Association of Education of Young Children, and so many other organizations have contacted the Members of Congress and said that this bill is unacceptable, that they oppose this bill because it does not provide that protection along with 14,000 other people who have sent e-mails and petitions against this legislation, representing the parents and families of the children who have been difficult it is to get that education for the children. And yet at the same time, when we have not met full funding, when we are weakening the rights of the children and the families, we also see that this legislation allows for the diversion of funds, some of which are for good purposes, but when you do not have the funding in place, you have to raise the question of whether or not this money ought to be diverted from the system. And also, we have to look at that diversion of these Federal funds targeted for the education of children with disabilities at a time when these funds at the local level are becoming more and more scarce because of the budget problems of our States that is now so well documented.

Finally, let me say, Mr. Chairman, that I am deeply concerned about the waivers that are authorized in the name of paperwork reduction for the States. I am very concerned that this
will allow the waivers of documentation to ensure access to a general education curriculum, documentation ensuring accommodations of State tests, information on a child’s academic achievement, information on transition, second language acquisition, procedural safeguard notices provided to parents so that they are aware of their rights, prior written notices to parents of the services and placements that their child will receive.

These are fundamental to these families. It is fundamental to these children. It is fundamental to making sure that they get the education that they have sought for their child so that the child will have a full opportunity to participate in American society. And yet we see as we go into the due process hearings, you go in to enforce your child’s civil rights, that you would be barred from raising new issues at a process hearing even if the evidence there is new. If there is new evidence that comes to the attention of the school and the parents, you cannot raise it in these hearings. You cannot raise it. You cannot. All they have to decide is whether or not you are getting what you have been promised. If the evidence here is new of the denial that comes to the attention of the school and the parents, you cannot raise it in these hearings. You cannot raise it. You cannot.

I would urge Members to vote against this legislation. It fails on the protections for children and it fails on the funding, and this will be our last chance to try and get and redeem the promise that every Member of this Congress has made to local school districts that we would provide the funding. We said we would provide the funding in No Child Left Behind. We are $5 billion behind on that one, and we are $3.2 billion behind on this one this year. That is $7 billion that we are down at a time when the States are struggling, and at a time when it is becoming more and more expensive to educate these children. We ought not to be talking about an amendment here on full funding and we ought to make it mandatory, and we ought to protect the rights of these children.

The fact of the matter is that many school districts, we may not want to say it is one on our district, but there are a huge number of school districts that make it very difficult for parents to get the free and appropriate education, to get the services. Huge numbers of these children do not get services. They get put on the list for services. And there is a world of distinction between being on the list for services and getting services when your child is in an educational setting and you run the risk that they are going to fall further and further behind, and then you need additional services to have them catch up.

Then we have a cap on attorneys fees on this legislation, which says that it goes to being harder and harder for low income parents to find a lawyer to take these cases to challenge the school districts where that educational opportunity is being denied. But the school district, there is no limitation on their use of tax dollars paid for by these parents to do what they have done. Now, nothing there. It is just that you cannot get attorney’s fees when you bring a case because your child has been denied that education.

My concern, Mr. Chairman, is that this legislation is taking us back to another time. With the discipline provisions, where we are now going to determine this basic right to an education, this basic civil rights action based upon the code of conduct in individual schools, so that children with autism, children with attention deficit disorder, or emotional and emotionally disturbed children, are going to be determined by that code of conduct. You ought to read those codes of conduct and see whether or not that is how you would like your child to be measured up if they have Down syndrome, because unacceptable displays of affection are reasons for suspension.

You say a school district would not do the special education school districts that are throwing Harry Potter out of school. So we cannot take the educational needs of these children and the civil rights protections in this law and have them open to that kind of whim. And I think we ought to be very careful about this.

The other side will tell you that we have done all that is possible. That there are no offsets to provide additional funding. With all due respect, those arguments do not stand up under scrutiny.

What we are asking for to ensure that children with disabilities have the accommodations, the aides, the qualified teachers, the curriculum, and other things they need to receive a quality education is chump change compared to other legislation this House has passed within the last couple of years.

No one asked for an offset when we spent $99 billion over 10 years to repeal the estate tax for the richest 2 percent of decedents. No one asked for an offset when we spent $87 billion over 10 years on the farm bill. No one asked for an offset when we spent $36 billion over 10 years on a pointless energy bill. But suddenly we cannot come up with a measly $1.2 billion. Shame on us. Shame on us.

Diversion of Funds: To add insult to injury. H.R. 1350 contains many provisions that allow States and school districts to divert funds—all IDEA funds—from direct services to students with disabilities during the regular school day. The other one is a point of order.

Fifteen percent of funds can be diverted to a new “pre-referral” program:

Twenty percent of funds can be used to supplant local education funds; and

An unlimited percentage of funds can be diverted to “supplemental services” required under the Title I program of Federal education law.

These are all worthy purposes. But because we fail to provide the necessary funding, we are setting an even more intense competition for scarce resources. Resources that are being scavenged State and local budget crises and the prolonged economic downturn—-are becoming scarcer and scarcer every day.
H. R. 1350 authorizes a pilot project under which the Secretary of Education may grant waivers to up to 10 States under the auspices of “paperwork reduction.” Under this authority, many bedrock requirements of IDEA could be waived, including:

Individualized Education Programs—Documentation on ensuring access to general education curriculum;
Documentation ensuring accommodations on State tests;
Information on a child’s academic achievement; and
Information on transition plans for postsecondary education or employment.

Procedural Safeguard Notices—Notices provided to parents to ensure they are aware of their rights.

Prior Written Notices—Notices to parents on the services and placement their child will receive.

Accountability and Public Reporting—State and local achievement and drop out data, disaggregation by race or LEP status, disproportionate representation of minorities in special education.

This bill Weakens Due Process Protections for Parents in All 50 States—even if children and their parents are lucky enough to live in one of the States that is not part of the waiver program, they cannot escape this bill’s damage. This would fundamentally undermine the due process rights of all parents:

Parents would be barred from raising new issues at due process hearings—even if new evidence has surfaced;
Hearing officers would be hamstring to limit rulings to the denial of a Free and Appropriate Public Education (FAPE);
Schools would not be liable for procedural, due process, and other violations; and
Schools would have little to fear in denying due process rights because parents would effectively have no recourse, no remedy.

H. R. 1350 institutes a one-year statute of limitations on violations of IDEA. Virtually the only thing that would have a shorter statutory reach would be parking tickets and traffic violations.

H. R. 1350 Caps Attorneys’ Fees Reimbursement to parents, requiring Governors to set the rate of attorneys’ fees reimbursement when a parent wins a due process hearing. This would allow caps on attorneys’ fees but only for parents. School districts would still be free to hire and pay, at public expense, the salaries of lawyers who are on the opposite side of the legal battle from parents. This provision will effectively prevent low- and moderate-income parents from acquiring legal representation to protect the rights of their disabled children.

H. R. 1350 would allow students to be expelled unilaterally and placed in an “alternative setting” for any violation of a school’s “code of conduct.” This is the single most egregious provision in this bill. It will set back the disability rights movement 30 years.

Under the guise of discipline, many children will confront the same obstacles they confronted before IDEA was passed—school districts that can say unilaterally: “You are not welcome here. We do not want to educate you.”

Under this provision, a student could be expelled for virtually anything: chewing gum, shouting out in class, carrying a plastic eating utensil with their lunch, inappropriate displays of public affection, being late for class, not completing homework.
Moreover, placement in an alternative setting is unilateral. There is no “manifestation determination” when we willights the consequences for students whose violations are the result of their disability:
A child with Tourette’s syndrome could be expelled for shouting out in class;
A child with cerebral palsy could be expelled for involvement in making contact with another student or teacher;
A developmentally disabled child (low IQ) could be expelled for an “inappropriate public affection;”
A child with Attention Deficit Disorder could be expelled for repeatedly being late for class or getting out of his or her seat.

As I said in my opening, I think many of the provisions in this bill are well-intentioned. Some make sensible improvements in the law. But overall the bill is fundamentally flawed. I hope we are able to improve the bill here on the floor and in conference and look forward to working with my colleagues in that effort. I hope we can make these so that this law makes a positive change in lives of children with disabilities and their families. And so that it garners the strong bipartisan support and consensus it has long enjoyed.

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

Mr. Chairman, with all due respect to my good friend from California (Mr. George Miller), one of the authors of the original underlying legislation, there is a point that is being missed here.

In all, the conversation that we heard from my friend from California revolved around the current system and how the current system works and the changes to the current system. But there is one very large dynamic that is being changed, and it changed under No Child Left Behind when we require school districts to disaggregate data and we require them to disaggregate the test data by subgroups including special education children. For a school to succeed under No Child Left Behind, all the sub-groups have to show improvement. And so school districts are going to have to ensure that their special needs students are improving and showing progress.
This is a dramatic change in terms of how we are going to deal with special education students. And as a result, the changes that we are putting in the bill will allow school districts to have more flexibility to move this program to one that will bring results for our special ed students as opposed to being locked in the process.
Mr. Chairman, I yield 1½ minutes to the gentleman from Indiana (Mr. Burton).

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding me time.
I just wanted to say that the committee has done a pretty good job on a very difficult issue. They are going to be up to 21 percent. The goal has been 40 percent for a long time. Let me just say that I have a personal interest in this issue. I did not have a few years ago but I do now. And I want to tell you that there are children being left behind and they are going to be left behind unless we pass funds.
I have talked to school boards and school teachers and others and the funds are not there to give these children the educational additional attention they need, particularly children who are autistic. As a matter of fact, out of every 200 children in America now that are autistic. And we need to get to that 40 percent level before 6 years; and I know the gentleman is doing his absolute best to get there, but that is not going to happen.
And it will cost 10, 20, 30 times more if we do not do it now by educating them and giving them a chance to be a productive member of society, than if we wait.
So what I would like to do is say to my colleagues in this Congress, and I know we are all well-intentioned and we care about these kids, the problem is real. Children are being left behind, and it is going to come back to bite us in the fanny in the future if we do not do something about it right now.
So I would like to say to my colleague who has worked very hard on this and his committee and the members of the Appropriations, let us get to the 40 percent level a lot quicker than 6 years from now because these kids cannot wait.

We are going to bear the responsibility 10, 20, 30 years from now when they grow up and they cannot produce.

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

So what I would like to do is say to my colleagues in this Congress, and I know we are all well-intentioned and we care about these kids, the problem is real. Children are being left behind, and it is going to come back to bite us in the fanny in the future if we do not do something about it right now.

So I would like to say to my colleague who has worked very hard on this and his committee and the members of the Appropriations, let us get to the 40 percent level a lot quicker than 6 years from now because these kids cannot wait.

We are going to bear the responsibility 10, 20, 30 years from now when they grow up and they cannot produce.

Mr. Chairman, as the ranking member of the subcommittee that has jurisdiction over the IDEA, I have been struck by how very emotional people are about this very issue. In fact, before me I have a stack of mail that came to the Committee on Education and the Workforce just over the last few days, and that mail is against passage of H.R. 1350.

But there are two things we can do in Congress to reduce the stress and the emotion that people feel about this issue. One is to fully fund it and make it mandatory; two is to make sure that children are treated fairly in the discipline process.

If we fully fund the Federal share of our costs and if we make funding mandatory, we will fulfill the commitment to our schools for the special education programs that we have promised here in the past. Unfortunately, H.R. 1350 does not do that. Without mandatory full funding, the authorization levels in the bill are meaningless because they are subject to the many,
many competitive requests included in all and every appropriations process.

Amendments were offered during the committee, Mr. Chairman. Amendments were offered by the Democrats that would fully fund IDEA and make the reauthorization mandatory. But these amendments were defeated on a partisan basis, and we do not have before us any amendment that would fully fund and allow for the debate here today to fully fund this issue of mandatory funding for IDEA.

To me, a student with H.R. 1350 is a vote against fully funding the issue, and I oppose it for that reason alone. But there is another good reason to oppose H.R. 1350. And talk about getting emotional, this is where parents and educators have a lot to say, and that is the discipline provisions in the bill.

In the bill, a student with special needs can be removed from school for, and I quote, any violation of a school’s student code of conduct.”

Now, that is different in every single school, and a child can be kept out of school for an indefinite length of time. So a student with Tourette's syndrome, for example, who may shout out in class, can be expelled. A student who does not wear the dress code and wears shorts when long pants are required, could be expelled. A student with limited muscular control could be expelled for lashing out or possibly pushing another student. There is no requirement in H.R. 1350 to determine if the child's violation is the result of his or her disability.

This is going backwards. It is no way to reauthorize IDEA. Children, parents, and schools deserve an IDEA reauthorization where parents will not have to compete over education funds, where the goal will be to keep kids with special needs in school, where the legislation removes the emotion surrounding the issue, not increases it. Unfortunately, Mr. Chairman, H.R. 1350 is not that kind of reauthorization, and I will not be able to support it.

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

Mr. BOEHNER. Mr. Chairman, I am pleased to yield 1½ minutes to the gentleman from California (Mr. MCKEON), a friend and member of the committee as well as the chairman of the Subcommittee on 21st Century Competitiveness.

Mr. MCKEON. Mr. Chairman, I rise in strong support of H.R. 1350, which will make dramatic improvements in the Nation's special education law. I would like to thank my good friend and chairman of the committee, the gentleman from Ohio (Mr. BOEHNER), and the gentleman from Delaware (Mr. CASTEEL), chairman of the Subcommittee on Education Reform, for their leadership in bringing this bill to the floor.

Nearly 2 years ago, the Committee on Education and the Workforce began holding hearings in preparation for the reauthorization of the Individuals With Disabilities Act. During conversations with actual practitioners in the classroom, many who were from my own State of California, we have been told that the burdensome, unnecessary paperwork is driving away teachers from the classroom, which will hurt these children. Priority is placed on complying with complicated rules rather than delivering achievement. This must be changed, and H.R. 1350 starts the process by creating a 10-State pilot program to reduce the IEP paperwork burden on teachers in order to increase instructional time and re- source allocation.

I also remain concerned that excessive and expensive litigation continues to be a large component of the special education system. It seems that all too often decisions that are reached are those that benefit the attorneys the most. Every single one of the school districts in my congressional district, from the suburban areas of Santa Clarita to the rural areas of Bishop, have told me the single most important thing that we can do is to reduce litigation and restore the trust between the parents and the school district.

Though I do not think this goes far enough, the legislation does make significant improvements by encouraging utilization of mediation as soon as possible, creating opportunities for voluntary binding arbitration, and allowing States to set limits on attorneys' fees. By passing IDEA, this Congress moves to following through on a commitment made over 27 years ago to families and their children with special needs.

In closing, I want to say that I commend the members of the committee for their hard work, and I strongly urge my colleagues to support the underlying bill, which will increase accountability and reduce overidentification of nondisabled children.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. KILDEE), a really important member of the committee.

Mr. KILDEE. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise today in opposition to the bill before us today. H.R. 1350 does not ensure full funding of IDEA and, worse, jeopardizes the civil rights of children with disabilities.

Reauthorization of IDEA has traditionally been a bipartisan effort. In Michigan I was cosponsor of the Special Education Act, which was passed before this Congress, addressed the education of children with special needs in the least restrictive environment. In my tenure here in Congress I have always supported the reauthorization of IDEA.

But I cannot support the bill before us today. The last time we reauthorized IDEA in 1997, we worked tirelessly with our majority colleagues to improve this program for children with disabilities and the schools which serve them.

Unfortunately, the pace at which this legislation has moved has left very little time for public input or bipartisan discussions.

This bill has fundamental flaws. First, the legislation does not provide any additional resources for IDEA. It does not get us any closer, Mr. Chairman, to fully funding IDEA, an effort that many Members have worked on for many, many years. Democratic members of the Committee on Education and the Workforce attempted to address this issue in committee. We offered several amendments that would provide mandatory spending for IDEA. Unfortunately, these amendments were defeated on party-line votes. These amendments represent the only way to ensure full funding for IDEA in this legislation.

Second, the legislation jeopardizes the civil rights of children with disabilities. This bill would allow children with disabilities to be removed from their current educational placement for any violation of a code of student conduct. The bill also eliminates the current manifestation determination. Manifestation determinations ensure that children with disabilities are not unfairly punished for acts they cannot control. The discipline provisions in this legislation are simply unfair.

Last, I would like to express my disappointment that this legislation does not continue funding for the freely associated states. These former U.S. territories have an extremely high percentage of children with disabilities due to U.S. military testing of weapons around the islands that make up these nations. I hope this issue can be further addressed in conference, Mr. Chairman.

In closing, I urge Members to carefully consider the impact that this legislation will have on children with disabilities. The disabled children of our Nation are best served by defeating this legislation.

Mr. Chairman, I rise in opposition to the bill before us today. H.R. 1350 does not ensure full funding of IDEA and worse, jeopardizes the civil rights of children with disabilities.

Reauthorization of IDEA has traditionally been a bipartisan effort.

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This bill would allow children with disabilities to be removed from their current educational placement for any violation of a code of student conduct.

The bill also eliminates the current manifestation determination. Manifestation determinations ensure that children with disabilities are not removed from school for acts they cannot control. The discipline provisions in this legislation are simply unfair.

In addition, the bill places a strait jacket on parents of children with disabilities by instituting a 1-year statute of limitations.

This provision will prevent parents of disabled children from raising issues with the education of their children to those issues that are less than 1 year old. This unfairly constrains parents and their efforts to ensure their children receive an education.

Lastly, I'd like to express my disappointment that this legislation does not continue funding for the freely associated States.

These former U.S. territories have an extremely high percentage of children with disabilities due to U.S. military testing of weapons around the islands that make up these nations.

I believe it is our responsibility to ensure that the freely associated States receive funding under this legislation and their negotiated compacts of free association.

I hope this to be an issue we can further address in conference.

In closing, I urge Members to carefully consider the impact that this legislation will have on children with disabilities due to U.S. military testing of weapons around the islands that make up these nations. I believe it is our responsibility to ensure that the freely associated States receive funding under this legislation and their negotiated compacts of free association.

I hope this to be an issue we can further address in conference.

Mr. NORWOOD. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia (Mr. Norwood), another member of our committee and a subcommittee chairman.

Mr. NORWOOD. Mr. Chairman, I thank the gentleman for yielding me this time, and I particularly appreciate the time right now.

We need to take just a minute and ask ourselves a question, and perhaps someone can answer it. In 1975, IDEA was passed by a Democratic Congress and signed by a Republican President. From 1975 to 1995 the Congress was controlled by the Democrats. Where were my Democratic colleagues' amendments then to fund IDEA? Why did they not fund it in the 20 years while they were in control? Why has it been only since Republicans have been in control of this House that we have increased funding for IDEA?

There is a very good reason for that, my colleagues. If the Federal Government does not pay its share, it comes out of the school districts and that affects disabled children and nondisabled children.

I wish to advise the gentleman from California (Mr. George Miller) that this bill protects the civil rights of 88 percent of our schoolchildren that are not in special education without reducing the civil rights of special education children. To say it otherwise is simply not the way it is done. It is not the truth.

I want to also briefly mention the cap on attorneys' fees. The money from the school districts that is used to train our children is going into the pockets of attorneys rather than going to train our children, whether they are in special ed or whether they are not. There is no question in my mind that we need to deal with that.

Last, the discipline amendments in this bill. The discipline amendments in this bill are not unfair. What is unfair is how the bill was written in 1975. I strongly support this legislation. It does not go quite as far as I would like, but it greatly improves that bill that has been on the books for 25 years.

I have been trying to improve this discipline provision almost for 5 years. We have passed it in this House, I know, three different times. It has been taken out in the other body every time. I have done this because of my concern that the system we have today is a double-standard system for the behavior in our schools, one for special needs students and another for nonspecial needs students. It is critical to the safety of the special ed student that we pass these disciplinary provisions.

My colleagues know as well as I do that there are people, teachers, who have been harmed because they could not remove a dangerous child from school. Now, all we are really doing is saying that rather than after 10 days they can now have 55 days to discipline a special education student. They really do get a manifestation determination after 55 days. They do get special education.

The other very important part of this is that it says that State laws will prevail for students who bring weapons, drugs, or commit felonies in school. A special ed child who would bring a gun or a pair of scissors and kill one of my constituents does not make any difference to them whether the children in the classroom are in special ed or whether they are not. We cannot stand for these discriminatory changes we are making in this bill are harmful to the students of America. It is very, very important for the students of America, the 12 percent that are special needs students and the 88 percent that are not.

I encourage my friend, the gentleman from Michigan (Mr. Kildee), to vote for this bill. He is a good man. The gentleman from California (Mr. George Miller) is a good man. They do want full funding for IDEA. They did not do it when they were in charge; but they do want it, just like we want it. This is the right thing to do at this stage. I plead with my colleagues to pass this thing and let us move forward with protecting the children in the classroom.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. Tierney), another important member of the committee.

Mr. TIERNEY. Mr. Chairman, I rise in opposition to H.R. 1350 in its present form. As proposed, it is designed to dramatically undermine the ideals of IDEA, and doing so in the name of re-authorizing it.

In response to the previous speaker’s question about funding over a period of time, from 1980 to 1992, we had a Republican majority in the Senate. It was a Republican majority in the White House. We had a division between the leadership in the White House and in Congress, and that may explain some reason why things were not funded. But this year we had a Republican majority in the House, a Republican President in the White House. If they have the will, they certainly have the way to move forward for full funding.

I am joined in my position of opposition to this bill in its present form by parents, educators, and advocates for the disability community, all making clear that this bill is not responsive to the needs of the true consumers of the law, and that is children.

The majority is asserting something is better than nothing, and in this case I am afraid that is wrong. These countenances are inequitable provisions that mean that the children would be better served by the Individuals with Disabilities Education Act in its current form. The civil rights of these children and the due process rights of their parents are not being quality protected in the legislation. Foremost, as has been mentioned, this bill fails to fully fund that 40 percent of the average per-pupil expenditure that Members have been promising for 30 years to fund in order to help our States and local governments as they try to educate children who, before 1975, and before the courts stepped in to make it, otherwise were ignored or mistreated.

We cannot afford to rely on promises from the majority that some day we are going to fully fund it. We have to make it positive and firm right now. As our President rather inartificially tried to say some time ago, Fool me once, shame on me. Fool me twice, and I did it just like he did.

The problem is that we cannot do that. We cannot just rely on their promises. Nobody can rely on that statement as inarticulately set forth. The fact of the matter is that their promises have fallen behind on the education bill; their promises have fallen behind on this bill; their promises have fallen behind on civil rights, due process rights and on funding. I ask Members to not support the bill.

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. Carter), a member of the Committee on Education and the Workforce.

Mr. CARTER. Mr. Chairman, I thank the gentleman for his hard work on this bill and the committee for bringing this bill forward. I am encouraged that the improvements that will help reduce litigation, restore trust and refocus the system on improving the education of children with disabilities.
In 1997, Congress required the States to set up and maintain mediation systems that would allow school districts and parents to handle their disputes in less hostile fashion. The change significantly reduced the amount of litigation and helped restore trust between parents and school personnel. This bill builds upon the 1997 improvements by requiring States to establish and maintain voluntary arbitration systems. Given the interest in resolving disputes through mediation, it is expected that this will reduce the litigation burden and restore the focus on educating children.

Importantly, this system is voluntary and voluntary means the parents can choose, the school can choose. If both parties do not choose voluntary arbitration, then the complaint goes through the regular due process system.

This bill also clarifies that the parent is obligated to provide clear and specific notice to the LEA or SEA before a due process hearing can be held. This change is important to ensure that a school district has a clear understanding of what the problem is. Without this clear and specific notice, the school district cannot attempt to resolve the issue.

The resolution session created by this bill allows parents and the school district officials to explain the problem and attempt to resolve the problem in a rapid time frame, so that the child can be better served. Instead of waiting to air concerns at the due process hearing, the parent and the school district will meet within 15 days of the filing of the complaint to see if they can resolve the problem. If they cannot, the parent can still go to a due process hearing. This does not delay the parent's right to a due process hearing in any way. The IDEA regulations require a due process hearing to commence within 45 days of a parent filing a complaint. The language in the bill does not modify or delay that timeline in any way.

This resolution session gives parents and school districts a new opportunity to sit down and work out the issues and is a sensible change to ensure that everyone's efforts are focused on the child's educational needs.

The improvements included in H.R. 1350 should clear some of the legal landmines and allow for more productive, less hostile relations between parents and schools that re-focuses on the Act's primary role of educating children with disabilities. IDEA currently has no statute of limitations and leaves school districts open to litigation for all of the 12 years a child is in school, whether or not the child has been identified as a child with a disability. School boards are now taking additional steps from parents involving issues that occurred in an elementary school program when the child may currently be a high school student.

Such an unreasonably long threat of litigation hanging over a school district forces them to do everything in their power to avoid a lawsuit no matter how trivial. This bill will reduce unnecessary litigation and help them gain confidence in their ability to educate children with disabilities.

I encourage my colleagues to support this bill and these provisions as we continue to work to improve the education results for children with disabilities.

Ms. WOOLSEY. Mr. Chairman, I yield 1 minute to the gentlewoman from Illinois (Ms. SCHAKOWSKY). Mr. Chairman, I rise today in support of children with disabilities and their families and in opposition to H.R. 1350. They say, "If it ain't broke, don't fix it." The fundamental idea of IDEA is widely appreciated by parents. In an e-mail I received, it says, "Do not dilute IDEA legislation in any way. Our family has personally benefited from almost every part of IDEA rights," says the father of an autistic son.

We say, "First, do no harm." Unfortunately, this legislation does do harm. It changes the features of the Individualized Education Program in a way that hurts children and makes it easier to kick children with disabilities out of school. Even when they are doing their best to comply and to do everything right, and it may be the result of their disability.

Third, it diminishes the legal rights of parents to get the best education for their children.

Finally, this legislation still is disarmingly underfunded. If we want to do something good for IDEA, we should provide full funding and vote against H.R. 1350.

Mr. CASTLE. Mr. Chairman, I yield myself 4 minutes. I rise in strong support of this legislation. Sometimes when we hear debates, we do not get the full significance of what we are doing. We are dealing with a piece of legislation which the chairman and others on the Democrat side have worked very hard on to make educational opportunities better for children with disabilities in this country.

We have been involved for 2 years doing this. We have had 7 hearings, we started a Web site, we had something like 3,000 suggestions on that Web site. We have had many discussions with many people in trying to work out a lot of differences, and there are a lot of problems in dealing with this issue.

I have talked to many, many individual Members, but at the heart of it, this legislation is aimed at trying to help children with disabilities get a better education and help other children being educated in our schools. I thank the parents and children in Delaware, many of whom I have spent time with, and my judgment is this is good legislation, excellent legislation which is going to move us forward.

For too many years children who had disabilities were denied access to education. In 1975, this House and the Senate, provided that educational opportunity. According to the Department of Education, an estimated 1 million or more students currently participate in these programs across the Nation. Of those, almost 50 percent of the children with disabilities spend 80 percent or more of their day in a regular education classroom. Mr. Chairman, 30 years ago that would not have happened. Probably zero of those children would have spent time in a regular classroom. That is happening today. Each 5 years, we are lagging in Congress to try to improve that. There is room for improvement.

These are children who are at the greatest risk of being left behind. We have to give children with disabilities access to an education that maximizes their unique abilities and provides them with tools for later successful, productive lives. We must work together to do this in every way we can.

This bill aims to improve current law by focusing on improved education results, reducing the paperwork burden for special education teachers, and addressing the problem of overidentification of minority students as disabled.

In 1997, Congress required the States to implement systems that would allow school districts to implement voluntary arbitration systems. The changes in this legislation do reduce litigation and reform special education financing and funding. One of the great benefits of No Child Left Behind, H.R. 1, is that we have raised expectations and will hold school districts accountable for the annual progress of all of their students, including students with disabilities.

Although we have made great progress in including students with disabilities in regular classrooms, we now must make equally great efforts to ensure that they receive a quality education in a regular classroom. We need to align IDEA and No Child Left Behind.

This bill will help reduce the paperwork burden so school districts are able to retain and recruit highly qualified special education teachers. The excessive amount of paperwork currently inherent in special education continues to overwhelm the burden on teachers. We hear that from all of them, robbing them of time with their students. Based on that, we have tried to amend the individual education plan without reconvening the entire IEP team at all times. We also encourage the secretary to develop model forms for the IEP, something a lot of people have for.

Secondly, we permit the use of alternative means of meeting participation, such as teleconferencing and videoconferencing.

All of these measures will give teachers the ability to spend more time in classrooms. Furthermore, we are committed to implementing reforms that would reduce the number of students that are misidentified or overrepresented in special education. Minorities are often significantly overrepresented in these programs. In fact, African Americans are nearly 3 times, more likely twice, to be diagnosed and identified with special education disabilities. This is likely to be labeled emotionally disturbed. Thousands of children are misidentified every year, while many are not identified early enough.
We address these issues in this legislation. By providing these services to children at an earlier age, we can prevent people from being identified as having learning disabilities and help them in their education process. We also seek to reduce litigation, restore trust between parents and school districts, and many other steps have been taken in this legislation that we think are tremendously helpful in improving the opportunities for children with disabilities. I urge Members to support the legislation.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. HINOJOSA) who is also an important member of the committee.

Mr. HINOJOSA. Mr. Chairman, I rise to oppose H.R. 1350 in its present form. The Improving Results for Children With Disabilities Act is the bill that we are debating. It includes amendments that I did not consider when we were moving our knowledge as to how well special education serves limited English-proficient children, and to support research on best practices for identifying, assessing and providing instructional and other services to these left children.

H.R. 1350 also ensures that disabled children in migrant worker families are not placed at risk because their school records are not transferred to their next school. I believe that these additions to the bill will put us on the right path to improving services to migrant children and left children with disabilities.

These improvements, however, do not compensate for the draconian discipline provisions that are in H.R. 1350. Under this bill, schools could suspend or expel a child with disabilities for any infraction of the school code of conduct. By considering improper behavior as the result of a disability, this manifestation determination has been one of the key protections for children with disabilities under the current law. Given the disproportionate suspension and expulsion rates for Hispanic and black youth in general, it is hard to imagine that H.R. 1350 will not push more of these young people out of school.

Finally, the fast pace of this bill has shortchanged debate and full discussion on this and other important issues. I have heard from respected flagship university experts in my State in the field of special education research who are very concerned about transfer of special education research to the Institute for Education Sciences. We all recognize the value of education research is its direct link to practice. Moving special education research, the special education program undermines that link. Because of the serious deficiencies in the bill, I oppose and ask my colleagues to oppose H.R. 1350.

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. ISAKSON), a member of the Committee on Education and the Workforce.

Mr. ISAKSON. Mr. Chairman, I commend the gentleman from Delaware (Mr. CASTLE) and his great work on this bill. I have heard from a lot of Members about their concerns about the alignment of No Child Left Behind in IDEA. I know of a child that should not be left behind, it is a child with disabilities.

We are ensuring through this legislation and No Child Left Behind that goals are aligned, that we have meaningful statistics on children with disabilities, and that we give them meaningful assessments to determine whether schools need improvement. And then if that determination is made, we provide additional funds through subgrants so local education agencies can fund professional and staff development for special education and regular teachers alike who teach our children with disabilities.

If Members are for children with disabilities and the improvement of our education, I hope for lifting their sights and raising standards, if Members are for funding professional and necessary staff development, Members should be for this bill, and I urge all Members to vote in favor of it.

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

Mr. DAVIS of Illinois. Mr. Chairman, I commend the gentleman from Ohio (Mr. BOEHNER), the gentleman from California (Mr. GEORGE MILLER), the gentleman from Delaware (Mr. CASTLE), and the gentlewoman from California (Ms. WOOLSEY) for the spirited hearings and debate and discussions that we have had on this legislation.

While it is not supportable to me, I do believe we made some progress, and I thank the gentleman from Delaware (Mr. CASTLE), chairman of the subcommittee for his sensitivity to an issue which I raised through proposed amendments that did not work out for inclusion in the base bill.

The issue related to the disproportionately high number of African American males being placed in special education. The new language states in the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities or the placement in particular educational settings of children in accordance with paragraph (1), the State or the secretary, as the case may be, shall provide for the review and, if appropriate, revision of the policies, procedures and practices used in such identification or placement to ensure that such policies, procedures and practices comply with the requirements of this Act, and shall require any local educational agency identified under paragraph (1) to provide comprehensive coordinated preferred support services to serve children in the local educational agency, particularly children in those groups that were significantly overidentified under paragraph (1).

Even though I am pleased with this section, the inability to provide full funding and some onerous discipline provisions makes this Act unacceptable and I urge Members to oppose it.

Mr. CASTLE. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida (Mr. KELLER), a member of the Committee on Education and the Workforce.

Mr. KELLER. Mr. Chairman, I rise today in support of the IDEA bill for two reasons. First, we have tripled the IDEA special education funding from $3 billion in over $10 billion since 1995, when Republicans took control of the House.

Second, this bill will help reduce the paperwork burden on teachers so that they are able to spend more time in the classroom with the students rather than wasting hours a day filling out forms and performing clerical duties.

I recently spent time in the classroom with some of our special education teachers. We saw a student who was hired as a special education teacher for a day in an elementary and a high school in Orlando, Florida, I learned firsthand that special education teachers spend approximately 2 hours a day completing government-required paperwork. I have an idea to address this problem head-on by drafting the paperwork reduction provisions in this IDEA bill. These paperwork reduction provisions incorporate the good ideas we received from parents; teachers; the Council for Exceptional Education, which is a non-profit, nonpartisan organization; and the President’s Commission on Excellence in Special Education. For example, this IDEA legislation helps reduce the paperwork burden on teachers by requiring the Secretary to develop model forms for IEPs, by creating a pilot program for 10 States, and by allowing parents the flexibility to choose to develop the multiple-year IEP for their child to a maximum of 3 years.

Mr. Chairman, I urge my colleagues to vote “yes” on this IDEA bill because it will improve the lives of disabled children in Orlando, Florida, and all across the country by making a historic increase in special education funding and by reducing the paperwork on teachers.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentlewoman’s courtesy in allowing me to speak on this bill.

Twenty years ago, Congress made a law and a commitment. The law was to extend equal education opportunity for all children. The commitment was to provide 40 percent funding to meet this goal. I would urge a no vote to put off fulfilling this commitment for yet another decade. Nearly every State is facing serious financial difficulty, few as serious as my State of Oregon. We need
Mr. CASTLE. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina (Mr. WILSON).

Mr. WILSON of South Carolina. Mr. Chairman, I thank the gentleman from Delaware (Mr. CASTLE) and the gentleman from Ohio (Mr. GILLMOR) for their introduction of the bill. First of all, I would like to praise the gentleman from Delaware for the very significant improvements that this bill contains over the Education Act of 1975, which has been discussed here on the floor. However, there are some significant improvements like dealing with some burdensome paperwork, which has been discussed here on the floor. But without providing full funding, the bill ought to be rejected until we do what we know is right and what is clearly within our power. I for one would be embarrassed to go home to a State that is stressed like many of my colleagues, giving cover for those who would avoid meeting this long-standing commitment for another decade. My community and my colleagues' deserve commitment for another decade. My colleagues, giving cover for those who would be embarrassed to go home to a State that is stressed like many of my colleagues, giving cover for those who would avoid meeting this long-standing commitment for another decade. My community and my colleagues' deserve better. By all means, embrace the positive elements in this bill; but let us not pass it until we make sure we have fulfilled our commitment.

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina (Mr. WILSON).

Mr. WILSON of South Carolina. Mr. Chairman, I thank the gentleman from Delaware (Mr. CASTLE) and the gentleman from Ohio (Mr. GILLMOR) for their efforts to improve the Individuals with Disabilities Education Act.

As a new grandfather for the first time, as the husband of a very hard-working school teacher, and with 17 years' experience on the Education Committee in the South Carolina State senate, I know the most important aspect of improving education is ensuring each classroom has a teacher committed to educating every child. Special education also requires teachers with this dedication. Teachers who choose to work with children with disabilities are especially gifted and especially valued.

The particular legislation we have before us today brings some very positive changes. First, the bill focuses on reducing unnecessary paperwork which is not educationally relevant to the teacher's interaction with the child. Second, to reduce the paperwork burden, the bill requires GAO to review paperwork requirements and report to Congress on strategies to reduce paperwork burdens on teachers. Third, we have shifted the goal of the State Improvement Grant to focus grants entirely on the activities to support the professional development of regular and special education teachers and administrators.

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

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. BURNS), a member of the committee.

Mr. BURNS. Mr. Chairman, I rise today in support of H.R. 1350. This is an important bill that contains much-needed improvements that address the needs of children with disabilities throughout this great Nation. I am especially grateful for the changes in this bill to identify the problem of misidentification of minority students as having a disability. I find it very troubling that we are continuing to identify three times as many African Americans as having mental retardation as everything else combined. We must reduce these excessive figures.

This bill makes great strides in this area. I would like to point out that the bill permits local educational agencies to use funds for prereferral services for children not yet identified as needing special services. I believe that this will have a significant impact on the current overidentification of students, especially minority students, having disabilities. Finally, I am pleased that the bill allows personnel preparation programs, research and technical assistance projects to address the issue of overidentification of minority students. We must and we will solve this problem. I urge my colleagues to support this bill.

Ms. WOOLSEY. Mr. Chairman, I continue to reserve the balance of my time.

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, I thank the gentleman for yielding me this time. I rise, first of all, to commend the gentleman from Delaware for the very hard work and the dedication he has for improving education for special needs children. I have some concerns about the bill, and I bring them up because they were brought to my attention in a conference. Number one, I read through the bill and spoke to staff. It does not seem to have any mechanism in there to inform parents of services that actually are available to them for their children. The second concern that I have is that a parent might choose a 3-year IEP because of a misunderstanding or being misinformed by the school district. We must ensure that parents are not intimidated by school districts into agreeing to a 3-year IEP when there is a need for more follow-up for many students. And, third, we need to make sure that there are not any retaliation tactics that may occur at some school districts. Parents tell me that very often they fear retaliation. I would encourage the sponsor of the bill to make sure that these considerations are taken in when they do the conference.

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

Mr. CASTLE. Mr. Chairman, actually the key here is mandatory funding because no matter what we authorize on this committee, no matter what we vote for today on H.R. 1350, whether it is 18 percent of the 40 percent Federal commitment, whether it is 21 percent of the 40 percent commitment, or if it is 25 percent of the 40 percent Federal commitment, the funding has to be spent. We authorize what we authorize, but we can authorize on Appropriations; it spends it. Unless we tell the Committee on Appropriations through changing the rules of H.R. 1350 and IDEA, unless we tell them that it is mandatory that they spend what we authorize, it will not work because it is going to be the year 2035 before we even come close to reaching 40 percent.

Later on today the gentleman from California (Mr. MCKEON) and I have an amendment that will pass all new funding after the year 2003, removing new funding that is appropriated directly to the school districts and to the schools. But if we do not get any new funding because indeed the appropriators do not choose to add funding, then we pass all nothing to the education districts because 100 percent of nothing is still nothing.

The Federal commitment to IDEA 30 years ago was 40 percent that Federal Government would fund 40 percent of the $40 billion that the States educate all kids, which is absolutely the right thing to do, and provide them a free education and equally educate all children in the public school system. That was 40 years ago; we are at 18 percent of that 40 percent today, and we are never going to get there if we do not say that it is something that must be done. And in so doing, we will be making it possible for schools to count on the funding they need, we will be removing the emotion that parents pit themselves against each other because there is so little funding available for education in the first place, and we will make sure that special education funding not come out of money funding necessary for other programs.

We make promises. We do not fulfill them. Voting for H.R. 1350 would be another broken promise unless H.R. 1350 includes mandatory full funding over the next 6-year, 2-year period.

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

Mr. CASTLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. GILLMOR).

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

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

I rise in support of the bill. Mr. Chairman, I rise today in support of H.R. 1350. Reauthorizing and improving the Individuals with Disabilities Education Act is important to the future of many American children and their families. The special education community is now in a state of crisis—teachers are leaving, students are being over-identified, and litigation has taken the place of education. The true spirit of this legislation has been lost and because of this lost vision many children have been denied an appropriate education.

I commend my colleagues on the Education Committee who, under the leadership of my
colleague from Ohio, Chairman BOEHNER, reported a bill that brings back the spirit of the original legislation. This bill not only empowers local school districts, but more importantly it empowers parents with the freedom to choose what education plan best suits the needs of their child. Reducing bureaucratic red-tape, supporting local empowerment is ever left behind. Everyone is in this together.

Mr. CASTLE. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, I would like to take this 1½ minutes to address this issue of funding because I think there has been perhaps a misunderstanding here. Some of it, frankly, is a little bit political; but I think we need to sort of clear the air if we can.

This bill, as we all know, I think, now at this point, was first passed in 1975, and it was passed in 1990, which was a time, frankly, that the Congress was controlled by the Democrats for the most part here, the funding for the Federal share of this never got above 7 percent. Starting in 1996 and thereafter up until 2003, Congress determined that the Federal share as the percentage share of the Federal Government, even with the cost-of-living increases and everything else, has gone to 18 percent. The funding in the budget bill for this next year 2004, is the year in which this bill is the bill on the table, is actually at 21 percent, on our way to 40 percent. In that legislation is a guide path by authorization to take that funding to the full 40 percent in 7 years. Even under the mandatory funding bills that those advocates are talking about in terms of handling the funding would not get there for 6 years. It would take an additional $10.2 billion, and everybody realizes that that cannot be done.

This Congress has committed to it. This Republican Party under this President has absolutely committed to doing this, and it is making extraordinary gains. In fact, that increase is 282.3 percent in that period of time, from 1996 to 2003. We wish our stocks had increased that much in value. The average yearly funding for IDEA between 1996 and 2003 has grown at 18.6 percent. Those are astounding increases for any kind of Federal program, all of which usually increase, at best, at a rate of cost of living.

So, the truth of the matter is, the bottom line is that we have met our responsibility, I would encourage everyone to support the legislation.

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

Mr. Chairman, I would like to thank the gentleman from Ohio (Chairman BOEHNER), and the gentleman from Delaware (Mr. CASTLE), and certainly my ranking member, the gentleman from California (Mr. GEORGE MILLER), for what has gone into this legislation. We truly have worked hard to make this be something that we could all vote for, and I believe in your sincerity and I know you believe in our’s and our passion on all of this.

There are reasons why I will not be able to vote for this. Reason number one is the discipline provisions. This bill will allow students to be moved indefinitely to alternative placements for any violation of a school code of conduct, and we have gone over that. That could severely affect a disabled child.

This bill has no guarantee of full funding. We can say we want full funding, but if we do not guarantee it, it probably is not going to happen. And, yes, we have done a much better job over the last few years. We have just gone through some really good prosperous years in this country. Now this country is in an economic downturn and the challenges for the same dollars are going to be much, much greater.

This bill will put an open-ended provision for parents. It would bar parents from raising new issues at due process hearings, even if new evidence has surfaced since the hearing was scheduled. This bill has a pilot program for Secretary of Education to waive IDEA provisions to reduce paperwork. Criteria for the approach of these pilot programs are completely open-ended and would be defined by the Secretary.

Mr. Chairman, the other thing this bill does that will make it impossible for me to vote for it is it puts a cap on attorney fee reimbursements, which makes it even more difficult for low income parents to get their due process.

Mr. Chairman, I am hoping Democrats and those on the Republican side who want full funding and want that funding to be mandatory, who want our children’s discipline provisions not to go backwards, but to go forward, will vote against this bill.

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

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

Mr. Chairman, let me again thank my colleague, the gentleman from Delaware (Mr. CASTLE) and all of the members on our committee who have played an important role in bringing this bill to us today.

I also want to congratulate the members of our staff, including Sally Lovejoy, Krisann Pearce, David Cleary, Melanie Looney and Elisabeth Wheel; Sarah Ritting, a staff member of the gentleman from Delaware (Mr. CASTLE); and Jacqueline Norris, a staff member of the gentleman from Florida (Mr. KELLER), for all of their hard work and dedication over the last year or so as we were bringing this bill together.

Mr. Chairman, this is a very difficult piece of legislation. It has been very difficult for Congress to deal with it ever since the first brought it up in 1975. But I think that Members on both sides of the aisle have worked closely together to craft a bill that will help special needs children all across our country.

I think it is important to note that is our goal here. It is to make sure that children with disabilities get the free and appropriate public education that they are entitled to in the least restrictive environment. Next, the bill that we have before us today does, in fact, provide that, and does not weaken any safeguards for those children or their parents.

Let us not forget the importance of the requirements under No Child Left Behind where schools are going to have to focus in on results for these children. This is a huge shift in dynamics for how schools are going to have to deal with their IDEA children. As a result, being able to change the paperwork requirements, to ease those for classroom teachers, to make the process more simple for school districts and administrators to enact, will not diminish the services for these students, because these same schools are going to have to show results for these children.

So this is a very big change, and I do believe it will lead to much better results for our special needs children.

The last point I would make is this is a bipartisan bill. We will talk about more of it as we get into the amendments.

Mr. UDALL of Colorado. Mr. Chairman, I rise today as a firm supporter of providing a free and quality education to students with and without disabilities, but also in opposition to H.R. 1350, the Reauthorization of the Individuals with Disabilities Act (IDEA).

When IDEA was initially enacted into law, Congress determined that the cost of educating a student with a disability was, on average, twice the cost of educating a student without a disability. In the original legislation, the Federal Government required States to provide an education to students with disabilities, but also agreed to help states fund the “extra cost” of educating disabled children by 40 percent of the total cost. It has been 28 years since the original implementation of IDEA, and Congress has yet to appropriate the full 40 percent to states for their special education programs. For 28 years, State and local governments have struggled to fulfill their obligation to disabled students with less than half of the funding that is necessary for the task.

This year, Congress again had the opportunity to fulfill the Federal Government’s obligation. Members on both sides of the isle and education organizations representing not only administrators and teachers, but students and their parents have voiced their support of appropriating full funding. H.R. 1350 allocates the highest percentage ever to IDEA, yet the funding level is barely over half of that that is required, at 21 percent.

Even at a time when full funding for IDEA is almost unanimously supported, and education is touted as a priority by almost every Member of Congress, H.R. 1350 does not come close to increasing IDEA’s federal funding. It is clear that in order to ensure substantial funding to the nation’s disabled children, funding for IDEA must become a mandatory program.
that requires the Federal Government to ap-propriate the full 40 percent every appropriations cycle. It is past time for us to fulfill our obligation to this Nation’s disabled children. H.R. 1350 does not appropriate full funding, and does not make full funding of IDEA mandatory, and so I feel it is my duty to oppose the bill.

I also have serious concerns with the dis-cipline provisions of this bill. Under the “manifestation determination” previously required in IDEA, when students with disabilities are dis-ciplined for a behavior it was recognized that their disability was a fundamental reason for the problem must be considered. H.R. 1350 would no longer require schools to determine whether a student’s ac-tion was the result of the disability. Under the bill a child with cerebral palsy could be ex-elled for accidental contact with his teacher or a developmentally disabled child could be expelled for “inappropriate public af-fection”. While the majority of schools and ad-ministrators would not expel a student for minor infractions, the original intent of IDEA was to protect students with disabilities. If every school was enthusiastic and dedicated to the education of disabled students there would have never been any need for IDEA in the first place.

I understand the concerns voiced by na-tional teachers and administrators regarding their need to have the authority to discipline students with and without disabilities. How-ev-er, in order to protect the students from punishment for their disability, the law must in-clude the requirement for the disability always to be taken into account before deciding on con-sequences. I have received many calls from parents in my district voicing anxiety over what will happen to their disabled children next time he or she makes a mistake related to their dis-ability instead of their actions. I believe it is necessary for discipline disabled children, just as it is neces-sary to discipline children without disabil-ities, but we must ensure that the disabilities are always taken into account. H.R. 1350 would omit this requirement, and this was an-other reason that I cannot vote for the bill.

Mrs. McCARTHY of New York. Mr. Chair-man, I rise today with deep concerns with H.R. 1350, the bill to reauthorize the Individ-uals with Disabilities Education Act. Prior to IDEA being passed in 1975, many children with disabilities did not receive access to education, and worse they were denied any educational services at all.

As a result of court decisions and congres-sional action, schools were required to offer children with disabilities a free appropriate public education.

Since then, Congress has acted to strength-en these laws time and time again regardless of whether it was a Republican-controlled or Demo-cratic-controlled Congress.

Today under H.R. 1350, we are taking a large step backward especially with regards to disciplining students.

Current law allows a school to suspend or expel a student with disabilities if he or she brings a weapon to school or drugs to school, or is found by a hearing officer to be likely to injure themselves or others. Education services must be provided for up to 45 days in an alternative setting.

In addition, current law requires schools to determine if the problem which caused the student to be suspended or expelled was due to his or her disability. This bill removes these important safety provisions completely.

Mr. Chairman, H.R. 1350 allows students of all disabilities to be removed from classrooms for any behavior for an indefinite period of time.

Mr. Chairman, I am the first person to say we need to protect our children from violence in the classroom. Therefore if a student with attention deficit disorder hits another student, the student with attention deficit disorder can be expelled indefinitely.

As a nurse, I can tell you that attention def-icit disorder is widely misunderstood by teach-ers and principals across the country. However, it is recognized by Congress as dis-ability under the law we are amending today and the Americans with Disabilities Act.

Mr. Chairman, this provision in H.R. 1350 alone cuts out the very heart of IDEA. IDEA was created to prevent this type of discrimina-tion against disabled students. If a student’s health problem is the reason for causing trou-ble in the classroom, the health problem must be taken into account before the child is ex-elled indefinitely. We should be strengthening the current law instead of weakening it. It’s just common sense.

As a student with disabilities, a nurse, a mother, and a Member of Congress, I am hopeful that we protect all children.

With that, I urge all my colleagues to vote against this bill that takes the heart out of IDEA.

We should be doing more not less for our students.

Mrs. CHRISTENSEN. Mr. Chairman, the Americans with Disabilities Act, ADA, and the Individuals with Disabilities Education Act, IDEA, are not secondary and do not detract from the rights of the special segment of our population—individuals with disabilities. Today, we debate the passage of H.R. 1350, a bill to reauthorize IDEA, which was created to ensure that all children with disabilities are af-forded a free and appropriate public education within the least restrictive environment, and that the rights of children with disabilities and parents of such children are protected. H.R. 1350, undermines the original intent of the law and essentially guts the protections it was in-tended to provide.

I support, 100 percent improving the quality of education for children with disabilities, but despite the statements of its proponents, this bill would not achieve this goal.

The base bill undermines civil rights provi-sions, something that seems under attack on many fronts by this administration, and as in the Leave No Child Behind Act, fails to fully fund it. This reauthorization would make IDEA nothing more than an empty promise.

I am also very much opposed to the DeMint voucher proposal. This is another opportu-nity for the Republicans to force one of their favorite programs upon the unsuspecting pub-lic. It has been said that the amendment that Representative DeMINT is scheduled to offer is not a voucher, since it allows vouchers without requiring them. That is a distinction without a difference. A voucher is a voucher is a voucher.

On behalf of approximately 1617 students with disabilities in my district, the U.S. Virgin Islands, and all the major organizations rep-representing children with disabilities, I urge my colleagues to rescind this threat raised by vot-ing for the Democratic amendments and to op-pose final passage of the bill if these issues have not been successfully addressed.

Mr. CUMMINGS. Mr. Chairman, the Individ-uals With Disabilities Education Act, IDEA, is the Nation’s main statute ensuring children with disabilities receive the special education they need for success. Today, Congress had the opportunity to make a difference in the lives of millions of children, the reauthoriza-tion of IDEA. However, H.R. 1350 squan-ders this opportunity and that is why I urge all of my colleagues to vote against this legis-la-tion.

Congress had the opportunity to support mandatory full funding for the IDEA. Two amend-ments that would have made IDEA a mandatory program and would have guaran-teed that the Federal Government contribute 40 percent of the cost as promised in the original 1975 law were not allowed to be of-fered.

Congress authorized the Federal Govern-ment to pay up to 40 percent of each State’s excess cost of educating children with disabil-ities. As we have learned with the No Child Left Behind Act, promises to fund education through authorizations are often not kept. It is time to renew our commitment to all of our Nation’s children and pay our share of the cost of IDEA.

States across the Nation are dealing with an economic crisis, facing large State budget deficits and making deep cuts to services. IDEA’s unfunded mandate is $10 billion—this is money our States and school districts could be spending to alleviate State budget crises, reduce class sizes, build and modernize schools and further technology advances in education. This is an unfortunate trade off that our States should not have to make.

Fully funding IDEA is not just about special education. It is about keeping the promise of funding the mandate the Federal Government has put on the States and relieving the school funding crisis that States across the Nation are facing.

Congress needs to focus on real increases in IDEA funding and on aiding our States and local communities in times of tight budgets. Congress must follow through on the promise made to our special needs students years ago.

H.R. 1350 in its current form does not fulfill that promise. Please oppose H.R. 1350.

Mr. GIBBONS. Mr. Chairman, I rise today in support of H.R. 1350. As a father of three, I know the importance of educating our chil-dren. There should be no greater priority than providing our children with the educational tools needed to succeed in life.

H.R. 1350 fulfills our commitment to the youth of this Nation, by providing special education children with the mechanisms and funding needed for success.

Mr. Chairman, since the Republicans have controlled Congress we have increased IDEA part B funding by $6.5 billion or 282 percent. All the while, the political rhetoric continues to fly in the face of these facts.

However, this is simply not enough. Since 1975 when IDEA was originally established, Congress committed to provide Federal fund-ing at 40 percent. Since 1975, IDEA funding levels have not even come close to reaching the 40 percent level.

This bill sets up a bold plan, by setting a clear 7-year path to reach the 40 percent goal to make the full funding of IDEA a reality. I strongly support this effort, and this is one of the reasons I will be voting in favor of this bill.

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Still, many on the other side of the aisle will confuse the issue, by asserting that this needs to be done by making IDEA a new Federal entitlement program.

Mr. Chairman, this is a misguided attempt. Making the program a mandatory Federal entitlement will only make it nearly impossible to make much needed reforms in IDEA for the future.

Making IDEA a new Federal entitlement spending program will cause an explosion of new paperwork and bureaucracy in special education. Today time teachers and parents are seeking a simpler process to ensure children with disabilities receive the education they deserve.

In addition, this could even prevent IDEA from receiving substantial funding increases in the upcoming years.

Finally, mandatory spending through a Federal entitlement will remove the accountability and oversight mechanisms that Congress provides through the annual discretionary appropriations process.

Instead, we need to continue our commitment to increasing the IDEA budget as well as the overall education budget to ensure real academic improvements results for children with disabilities and their peers.

Mr. Chairman, education is a top priority for this Republican-controlled House and Senate and that is a clear example of the continuing commitment to our children's education.

In spite of the continuing challenges of war and economic recovery—the Republican administration and Congress remain dedicated to funding our priorities. For this reason, I am proud to support the full funding of IDEA and H.R. 1350.

Mr. ETHERIDGE. Mr. Chairman, I rise to speak about this bill to reauthorize the Individuals with Disabilities Education Act.

As the only former State schools chief serving in Congress, I know firsthand the tremendous challenges facing our schools, teachers, parents and students when it comes to educating disabled children. Congress has an obligation to provide a fair share of funding for special education, and although this bill makes some progress toward that important goal, it unfortunately falls short.

Since 1975, the Federal Government has pledged to fund 40 percent of the costs of educating children with disabilities, but it has never made good on that promise. When I first arrived in this body, Congress was only funding its special education obligations at about 14 percent. This year that level will rise to about 18 percent, and this legislation will provide for additional increases perhaps as high as 21 percent.

But Mr. Chairman, that still is not good enough. Congress must live up to its commitments and fully fund IDEA.

I also urge my colleagues to vote against the voucher amendments on this bill. Specifically, the DeMint amendment would siphon off precious public resources and funnel them to fund private schools. Vouchers are not good public policy. Taking taxpayer dollars to fund private school tuition is wrong. I urge my colleagues to vote against any and all voucher amendments.

Vouchers are a bad idea because they drain needed public resources away from our public schools, where more than 90 percent of the children in this country are educated, in favor of private schools that have no accountability to the American taxpayers. Rather than siphoning funds from the public schools, we need to invest more in initiatives like school construction, teacher training, class size reduction, tutoring and in other proven methods to raise academic achievement.

Finally, Mr. Chairman, I state that this bill is not all bad, and I am hopeful it can be improved in the upcoming conference with the Senate. If the conference can fix its shortcomings, I could support the final version of this legislation. But this House can do better than the bill before us now, and I will vote no today on H.R. 1350.

Mr. STARK. Mr. Chairman, I rise today in opposition to H.R. 1350, the “Improving Education Results for Children with Disabilities Act.”

Once again, the Republican majority is failing to match their rhetoric with their actions. This time the victims are children with disabilities. This bill will not improve education for children with disabilities as its title claims. It is sensitive to the changes in their home lives or their health conditions that create barriers to their successful learning. It is critical for schools to constantly monitor the situation of students with disabilities and ensure that their educational needs are addressed as quickly as possible. Instead of promoting this need, the bill eliminates the requirement that every school have short-term instructional objectives for each student. This clearly decreases the chance for students with disabilities to succeed because their individual educational needs may well go unaddressed for what could be years.

In the biggest step backward, this bill provides schools with the right to unilaterally expel and child with a disability if they violate, even once, that school’s code of conduct, regardless of the severity. Republicans eliminate the review process and the requirement for alternative interventions in these discipline cases. Without these protections, there is no limit to the number of students with disabilities who can be kicked out of school with no questions asked. This provision is wrong and unfair and has no place in a bill that aims to improve education for children with disabilities.

It is long overdue for Congress to make good on our promise to give children with disabilities a better chance to succeed. It is in that spirit that I urge my colleagues to join me in voting against the “Improving Education Results for Children with Disabilities Act” because it flatly fails that promise. I hope the Senate will fix many of the damaging provisions in this bill and pass an IDEA reauthorization that fully funds IDEA and opportunity for children with disabilities.

Then, maybe after a conference, we can vote on a bill that truly achieves the goal of its title. Mr. RUSH. Mr. Chairman, I rise against this ill-conceived and ill-advised piece of legislation. Yet again the Republicans say that education is their number one priority but every time they have a chance to demonstrate their commitment to education they slash the funding or eliminate the programs designed to educate our children.

Since the enactment of the Individuals with Disabilities Education Act in 1975, we have failed to fully fund this worthy program. It has now been 28 years since we wrote children with disabilities a bad check and today its time to make good on that debt. The only way to ensure appropriate public education is to fully fund special education. Let us not politicize this issue. We know that the program is working. Millions of children with special needs have benefitted greatly from IDEA. Let us not return to the dark ages where children with disabilities needs were considered second class citizens. Our children deserve better.

Not only do we negate to fully fund special education but we do away with our children's basic civil rights protections. By removing due process procedures in this Act, many children with special educational needs are subjected to discriminatory practices. This is troubling to me because even with the current safeguard, minorities are disproportionately suspended or expelled from school compared to their major- ity counterparts. Its seems that this legislation is geared towards educating just the privileged few.

Again, I urge my colleagues on both sides of the aisle to rise on behalf of the 600,000 children with disabilities so that no child will be left behind.

Mr. EVAN. Mr. Chairman, I rise in opposition to the rule and against the bill. The legislation before the House today fails to live up to our promises to fully fund special education. It fails the parents of children with disabilities. Worst of all, it fails the kids who need our help the most.

The Bush Administration and many in this Congress have said over and over that the education policies of this country should leave no child behind. If it becomes law, this bill would leave more than 600,000 children with disabilities behind.

For more than 28 years, Congress has pledged time and time again to provide full funding for special education in this country, but not once has Congress provided the promised 40 percent Federal cost share of the states’ cost of educating children and disabilities. Currently, the Federal Government pays just 18 percent. To illustrate my point, this year my home state of Michigan, will receive $308 million in IDEA Part B grants. Michigan should receive almost $704 million, if this Congress would only meet its obligation to fully fund this bill program, as it has promised.

IDEA is really the poster child for unfunded federal mandates. The fiscal crisis confronting the states makes it increasingly difficult for
them to pick up the unfunded federal share. Proponents of this legislation will claim that this bill fully funds IDEA by 1010. This House can authorize higher spending limits for IDEA until it is blue in the face, but it doesn’t mean anything to our nation’s disabled school children unless we follow up and actually appropriate the funds to meet these additional requirements. And that’s where the problem has been.

If the Majority is really serious about fully funding special education, as it claims, why not make the funding mandatory? It is ironic that at the same time the Majority is pushing to lock in a permanent $550 billion tax cut that chiefly benefits the very rich, it is unwilling to provide the same assurance of funding to disabled school kids. This speaks volumes about priorities around here.

I urge my colleagues to join me in opposing the rule and opposing this bill. We can do much better.

Mr. PAUL. Mr. Chairman, I rise to oppose H.R. 1350, the Improving Education Results for Children with Disabilities Act. I oppose this bill as a strong supporter of doing everything possible to advance the education of persons with disabilities. However, I believe this bill is yet another case of false advertising by supporters of centralized education, as it expands the federal education bureaucracy and thus strips control over education from creative communities and the parents of disabled children. Parents and local communities know their children so much better than any federal bureaucrat, and they can do a better job of meeting a child’s needs than we in Washington. There is no way that the unique needs of my grandson, and some young boy or girl in Los Angeles, CA or New York City can be educated by some sort of “Cookie Cutter” approach. In fact, the “Cookie Cutter” approach is especially inappropriate for special needs children.

At a time when Congress should be returning power and funds to the states, IDEA increases Federal control over education. Under this bill, expenditures on IDEA will total over $100 billion by the year 2011. After 2011, congress authorized higher spending limits for IDEA. However, H.R. 1350 still imposes significant costs on state governments and localities. For example, this bill places new mandates on state and local schools to offer special services in areas with significant “overidentification” of disabled students. Mr. Chairman, the problem with this H.R. 1350 still imposes significant costs on state governments and localities. For example, this bill places new mandates on state and local schools to offer special services in areas with significant “overidentification” of disabled students. Mr. Chairman, the problem with this.

Mr. HOLT. Mr. Chairman, none of the goals of IDEA can be achieved without full funding. Today, the majority is refusing even to allow amendments to improve the funding level in the bill.

Congress authorized full funding of IDEA 28 years ago and still has failed to deliver. In 1975, Congress authorized funding to cover 40 percent of the excess cost of educating a child with a disability.

President Bush has requested $1 billion increases for IDEA in each of his last 2 budgets. But according to the U.S. Department of Education, providing $1 billion increases each year will never allow IDEA to reach full funding.

When it comes to IDEA funding, Republicans are dwelling on the past, rather than focusing on the future. The majority consistently points to increases in IDEA spending in the past years and this is true. However, this doesn’t respond to the needs of school districts now. That is why we need to ensure full funding of IDEA over the next six years.

During debate on the No Child Left Behind Act, the majority claimed we had to reform IDEA before providing full funding. The bill before us supplies the Majority’s reforms, yet renege on full funding. What is the excuse now? Since 1977, 22 separate bills and resolutions have passed in the House and Senate calling for full funding of IDEA with support of members from both parties. The Majority has failed for Congress to make good on this promise.

In recent years, the Republican majority have said that there is not enough money to appropriate full funding, however they seem to be able to find enough money to give a large tax cut to those who don’t need it.

I offered an amendment in the Education and the Workforce Committee with Representative Andrews to remove the funding cap from the bill. I did so because today seven states stand to lose IDEA funding under this cap, and another seven may soon be affected. While the Chairman did agree to move the cap to 13.5 percent—and I thank him for working with us—I still believe that a cap is fundamentally unfair. Not just unfair to the 50 states but also to the American children.

Even with this cap on funding, states and schools are still required to educate students that are identified as having special need even when the population exceeds the cap. So, why not allow the funding?

While I recognize that the cap reflects an attempt to reduce inappropriate identification of students as disabled, I believe that a cap does not get at the problem. Simply setting a cap does not address the issue of how students are being identified.

I believe that states and localities should be allowed to improve this inappropriate identification through professional development.

I applaud the chairman for including increased funding for professional development and research funding to reduce inappropriate identification of children with disabilities, in- cluding disproportionate assignment of minority children. We should allow these funds to work.

Let me point out a good point of today’s bill. I am glad to see that section 674(c) recognizes the continued importance of funding an organization that provides free educational materials, including textbooks, in accessible media for visually impaired and print-disabled students in elementary, secondary, postsecondary, and graduate schools. As you may know, Mr. Speaker, recording for the Blind & Dyslexic, located in New Jersey in my district, spent federal funding to produce thirty years to produce, distribute and promote the use of accessible-format versions of printed textbooks free to students. During this time,
they have helped hundreds of thousands of students who would have otherwise not had access to the textbooks they need to receive the kind of “free and appropriate” education that is outlined under IDEA. I commend RF&B and want to bring to the attention of my colleagues in the Congress the outstanding work of the organization.

I would like to express my concern, however, that funding for this activity is no longer a requirement of the Secretary of Education, as it is under current law. I believe this must be changed and this requirement should be restored, and I look forward to working with the Chairman and my colleagues to resolve this issue during conference with the Senate.

Mr. NUNN. Mr. Chairman, I rise in support of H.R. 1350, which reforms and re-Authorizes the Individuals with Disabilities Education Act (IDEA), the Nation’s primary special education law. This reauthorization of IDEA offers an opportunity to renew our commitment to students with special needs in Iowa and across the country.

IDEA laws and funding decisions impact all students, regardless of whether they have special educational needs.

I commend the Education Committee for authorizing this bill special education funding increases for the next two years in line with the amounts provided in the fiscal year 2004 conference budget resolution. This includes a $2.2 billion increase in 2004, followed by another $2.5 billion increases on top of that for 2005.

These funding increases would bring us more than halfway toward our ultimate goal of funding 40 percent of the national average per pupil expenditure for each child served under IDEA. These funding levels will result in the Federal Government paying 21 percent of these costs in 2004 and 25 percent the following year.

Let’s take a moment to acknowledge just how far we have come in funding special education in recent years. The increases in this bill builds on the dramatic rises in special education funding already provided by the Republican Congress.

Since 1995, annual special education funding has risen from $23 billion to $89 billion. We’ve gone from 7 percent Federal funding to 17 percent.

In the first few years of the previous administration, special education funding remained essentially flat, with no increase in the Federal share.

I also want to point out that the fiscal year 2004 budget resolution includes mandatory funding to help address the national shortage of special education teachers by allowing Federal loan forgiveness of up to $17,500 for special education teachers who teach in disadvantaged school districts.

Funding is only one piece of the puzzle in improving education. We must ensure that significant improvements are made to the system. Iowa’s students deserve no less. I am pleased this bill includes critical reforms to enhance educational performance while reducing the bureaucratic red tape that teachers and school administrators in Iowa tell me can get in the way of what is most important: teaching.

H.R. 1350 substantially reduces the paperwork requirement of annual individualized education plans (IEPs) by giving parents the option of choosing a three-year IEP, instead of having to craft a new one each year.

The bill grants school districts greater flexibility to more accurately classify students to avoid wrongly identifying as disabled those who may have a less severe condition. This growing problem hinders the progress of affected students and indirectly impacts all students.

There will be expanded choices for parents by allowing IDEA to be used in some cases to obtain supplemental educational services, including services offered by private educational providers.

The bill also increases the flexibility of local school districts in making decisions about discipline for individual special education students. This flexibility can enhance the educational environment for all students. This is a necessary step I have been advocating for some time.

I support this bill and applaud the efforts of Mr. BOEHNER and Mr. CASTLE to improve the Nation’s special education law at a time as we continue working to ensure that no child is left behind in America’s classrooms.

Mr. BALLINGER. Mr. Chairman, not since Congress first provided to help children with disabilities receive a free and appropriate public education has a bill done so much for disabled students, parents, and their teachers. That is why I am proud to support the Improving Education Results for Children with Disabilities Act.

One important aspect of this legislation is that it helps to reduce the over-identification and mis-identification of non-disabled students. For far too long, students that were not disabled were classified as being disabled—stigmatizing these children for the rest of their education even though they were fully capable students.

H.R. 1350 encourages the use of early intervention strategies, which we all know that an ounce of prevention is worth a pound of cure. By reducing the number of non-disabled students receiving services, students who truly need assistance will have more resources available to them.

I would also like to point out that our litigious society has fostered an atmosphere of mistrust and apprehension between parents and teachers. H.R. 1350 gives parents and schools increased flexibility in resolving disputes. Through mediation and voluntary binding arbitration, the trust between parents and teachers can be restored.

While I understand the fears and concerns of some regarding changes to IDEA, I believe that H.R. 1350 goes a long way towards increasing accountability and flexibility for both teachers and parents. I strongly urge my colleagues to support this bill.

Mr. KIND. Mr. Chairman, over a quarter century ago, President Ford signed historic legislation seeking to ensure educational equity for children with disabilities and special needs. This legislation, now known as the Individuals with Disabilities Education Act (IDEA), was a major milestone in the quest to end the chronic exclusion of students with exceptional needs. It helped open the door to fairness and access for millions of such youngsters and paved the way to greater educational success for many students with disabilities.

IDEA is both a grants statute and a civil rights statute. It mandates that all disabled students be provided a free appropriate public education in the least restrictive environment. Over six million children with disabilities are no longer limited by their families’ ability to afford private education; they are no longer forced to attend costly state institutions, or worse, stay home and miss out entirely on the benefits of an education that children with disabilities may attend public school alongside their peers. There is no question about it: students, schools, communities are enriched when all children have a right to a free, appropriate public education.

As a member of the Workforce Committee since 1997, I have worked hard to improve the quality of education for our children. Consistently, I have called on the federal government to fully fund IDEA. In fact, during reauthorization of the Elementary and Secondary Education Act I offered an amendment to fully fund IDEA. Unfortunately the House leadership prevented the amendment from being debated on the House floor.

Again, during committee consideration of H.R. 1350, I supported an amendment for mandatory full funding of IDEA. Representative WOOLSEY. I am disappointed by the Committee’s failure to adopt this important amendment. This is not the time to withhold necessary funds from our states. In the end, it is all our students nationwide, with an without disabilities, who suffer from the lack of federal funds for special education.

While I realize that H.R. 1350 is not a perfect bill, I feel that it resolves some significant issues that are problematic in Wisconsin, such as increasing instructional time with students with disabilities, early intervention strategies, reducing overidentification and working to resolve conflicts between schools and parents early and with less litigation. I hope, that as we move forward we can continue to improve the bill and work with the Senate to produce the best bill possible.

Specifically, I am pleased that H.R. 1350 includes several amendments I offered during committee that focus on professional development. Frequently, during my visits with special education personnel in Wisconsin I heard how critical it is to access professional development, this being more pronounced in those rural school systems in my district. For example, in Wisconsin a special education teacher is required to obtain six credit hours of professional development training every five years.

Thus, my amendment encourages the use and development of state-of-the-art strategies to deliver professional development training for school personnel working with special education students through the use of technology, peer networks, and distance learning. The training will include special and regular education teachers, principals, superintendents, and other related services personnel.

Furthermore, to better assist states in encouraging the development and use of distance learning and technology for special education personnel, it is critical to raise awareness of what is currently available in the area of distance learning for professional development. Therefore, I requested GAO to research the existing and developing distance learning and technology program offered to special education personnel. This knowledge will help better focus resources and time on developing programs where they are needed.

I offered an additional professional development amendment that will include principals,
Since the Great Depression and school funding is being slashed.

It’s critical that our nation’s Governors unite with Congress now to uphold the special education commitment to school districts. I support the Woolsey-McKeon amendment which requires that any additional increases in IDEA federal funding be passed down directly to the local level.

I regret that the House is missing a critical opportunity to invest in our children and our schools through IDEA reauthorization. The reality of this bill is that it’s bad for our children and it will set back the progress we’ve made.

Mrs. JO ANN DAVIS of Virginia. Mr. Chairman, I rise in support of H.R. 1350 as I believe it will make many necessary reforms to better serve our Nation’s special-needs students, but wish to make my reservations known about funding levels for part B of the Individuals with Disabilities Education Act. It is well known that Congress committed to contribute up to 40 percent of the average per pupil expenditure of educating special needs children, and Congress’ failure to achieve even half of that 40 percent promise is even more well known. In fact, in 28 years Congress has never contributed more than 17.6 percent, leaving local school districts with too heavy a burden to provide for their special needs children. Thus, I currently cosponsor to H.R. 1094, legislation that would authorize appropriations to achieve the full, 40 percent funding for part B of IDEA by 2008. I believe it is imperative that the Federal Government keep its promise to our Nation’s special needs children.

While I am pleased that funding for IDEA has steadily risen in the last several years, Congress is long overdue in providing its promise of 40 percent. That said, I support H.R. 1350, although I realize that its funding levels for part B of IDEA are lower than those that would be authorized if H.R. 1094 were signed into law. While I realize this discrepancy, I do believe that H.R. 1350 puts forth a good-faith effort to dramatically increase the Federal Government’s expenditure for special needs children. H.R. 1350 will set in motion a plan to achieve the 40 percent funding, and thus makes a statement that Congress realizes its current funding shortfall of IDEA. I will continue to fight for full funding for part B of IDEA in the budget for FY2004 and beyond.

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

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. 1350

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 “Improving Education Results for Children With Disabilities Act of 2003”.

TITLE I—GENERAL PROVISIONS

PART A—GENERAL PROVISIONS

Sec. 601. Short title; table of contents; findings; purposes.

(a) Short Title.—This Act may be cited as the “Individuals with Disabilities Education Act.”

(b) Table of Contents.—The table of contents for this Act is as follows:

Section 601 through 603 of the Individuals with Disabilities Education Act (20 U.S.C. 1400-1402) are amended to read as follows:

Sec. 601. Short title; table of contents; findings; purposes.

Sec. 602. Definitions.

Sec. 603. Office of Special Education Programs.

Sec. 604. Abrogation of State sovereign immunity.

Sec. 605. Acquisition of equipment; construction or alteration of facilities.

Sec. 606. Employment of individuals with disabilities.

Sec. 607. Requirements for prescribing regulations.

Sec. 608. State administration.

PART B—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

Sec. 611. Authorization; allotment; use of funds; authorization of appropriations.

Sec. 612. State eligibility.

Sec. 613. Local educational agency eligibility.

Sec. 614. Evaluations, eligibility determinations, and individualized education programs, and educational placements.

Sec. 615. Procedural safeguards.

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“(1) Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.

“(2) Before the date of the enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94–142), the special education services for children with disabilities were not being fully met and there were many children with disabilities participating in regular school programs whose undiagnosed disabilities prevented them from having a successful educational experience.

“(3) Since the enactment and implementation of the Education for All Handicapped Children Act of 1975, this Act has been successful in ensuring children with disabilities and the families of such children access to a free appropriate public education and in improving educational results for children with disabilities.

“(4) Over 25 years of research and experience has demonstrated that the education of children with disabilities can lead to more effective educational experiences for all children.

“(A) having high expectations for such children and ensuring their access to the general education curriculum in the regular classroom to the maximum extent possible in order—

“(i) to meet developmental goals and, to the maximum extent possible, the challenging expectations that have been established for all children;

“(ii) to be prepared to lead productive and independent adult lives, to the maximum extent possible, the challenging expectations that have been established for all children;

“(iii) to be prepared to lead productive and independent adult lives, to the maximum extent possible, the challenging expectations that have been established for all children;

“(B) providing services to, and work for, other individuals who provide services to, or are otherwise substantially involved in the education and related services.

“(C) coordinating this Act with other local, State, and Federal school improvement efforts, including efforts under the Elementary and Secondary Education Act of 1965, in order to ensure that children with disabilities benefit from such efforts and that such children can become a service for such children rather than a place where they are sent.

“(D) supporting high-quality, intensive professional development for personnel who work with children with disabilities;

“(E) providing incentives for scientifically based reading programs and preferential inter-vention services to reduce the need to label children as disabled in order to address their learning needs;

“(F) focusing resources on teaching and learning while reducing paperwork and requirements that do not assist in improving educational results for children;

“(G) supporting the development and use of technology, including assistive technology devices and services, to maximize accessibility for children with disabilities;

“(H) While States, local educational agencies, and educational service agencies are primarily responsible for providing an education for all children with disabilities, it is in the national interest that the Federal Government has a supporting role in assisting State and local efforts to educate children with disabilities in order to improve results for such children and to ensure equal protection of the law.

“[6] The more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals.

“[7] The related services that must respond to the growing needs of an increasingly diverse society.

“(B) America’s ethic profile is rapidly changing. In the year 2000, nearly one of every three persons in America was a member of a minority group or was Limited English proficient.

“(C) Minority children comprise an increasing percentage of the school population students from non-English language backgrounds.

“(9) Greater efforts are needed to prevent the intensification of problems connected with misunderstood disabilities among minority children with disabilities.

“(B) More minority children continue to be served in special education than would be expected from the minority population of school students in the general school population.

“(C) African American children are over-represented in special education and emotional disturbance at rates greater than their white counterparts.

“(D) In the 1998–99 school year, African American students represented just 14.8 percent of the population aged 6 through 21, but comprised 20.2 percent of all children with disabilities.

“(B) Studies have found that schools with predominantly Caucasian students and teachers have placed disproportionately high numbers of their minority students into special education.

“(C) In special education increases, the number of minority teachers and related services personnel produced in colleges and universities continues to decrease.

“(B) The opportunity for full participation by minority individuals, organizations, and historically black colleges and universities in awards for grants and contracts, boards of organizations receiving assistance under this Act, peer review panels, and training of professionals in the area of special education to provide for the education of minority children with disabilities.

“(D) PURPOSES.—The purposes of this title are—

“(1)(A) to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living; and

“(B) to assist States, localities, educational service agencies, and public and private agencies to provide for the education of all children with disabilities; and

“(2) to assist States in the implementation of a statewide, comprehensive, coordinated, multi-disciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families;

“(3) to ensure that educators and parents have the necessary tools to improve educational results for children with disabilities by supporting system improvement and coordinated technical assistance, dissemination, and support; and

“(4) to assess, and ensure the effectiveness of, efforts to educate children with disabilities.

“Sec. 660. Definitions.

“Except as otherwise provided, as used in this Act:

“(1) ASSISTIVE TECHNOLOGY DEVICE.—The term ‘assistive technology device’ means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.

“(2) ASSISTIVE TECHNOLOGY SERVICE.—The term ‘assistive technology service’ means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.

“(3) CHILD WITH A DISABILITY.—(A) means a regional public multiservice agency;

“(B) CHILDR.ED.—The term ‘child with a disability’ means a child—

“(1) who, by reason thereof, needs special education and related services;

“(2) who, by reason thereof, needs special education and related services;

“(3) who, by reason thereof, needs special education and related services;

“(3) who, by reason thereof, needs special education and related services;

“(4) who, by reason thereof, needs special education and related services;

“(4) who, by reason thereof, needs special education and related services.

“(B) CHILDR.ED.—The term ‘child with a disability’ means a child—

“(A) who, by reason thereof, needs special education and related services;

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“(A) who, by reason thereof, needs special education and related services;

“(B) who, by reason thereof, needs special education and related services.
(iii) recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary and secondary schools of the State; and

(b) includes any other public institution or agency having administrative control and direction over a public elementary or secondary school;

(5) ELEMENTARY SCHOOL.—The term 'elementary school' means a nonprofit institutional day or residential school that provides elementary education as determined under State law.

(6) EQUIPMENT.—The term 'equipment' includes—

(A) machinery, utilities, and built-in equipment and any necessary enclosures or structures to house such machinery, utilities, or equipment; and

(B) all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials.

(7) EXCESS COSTS.—The term 'excess costs' means those costs that are in excess of the average annual per-student expenditure in a local educational agency in the preceding school year for an elementary or secondary school student, as may be appropriate, and which shall be computed after deducting—

(A) amounts received under part B of this title;

(ii) under part A of title I of the Elementary and Secondary Education Act of 1965; and

(iii) any other Federal law; and

(B) any State or local funds expended for programs that would qualify for assistance under any of the provisions of law described in subparagraphs (A) and (B) of this subsection.

(8) FREE APPROPRIATE PUBLIC EDUCATION.—The term ‘free appropriate public education’ means special education and related services that—

(A) have been provided at public expense, under public supervision and direction, and without charge;

(B) meet the standards of the State educational agency;

(C) include an appropriate preschool, elementary, or secondary school education in the home, in hospitals and institutions, and in the community; and

(D) are provided in conformity with the individualized education program required under section 1414(a) of the Elementary and Secondary Education Act of 1965;

(9) HIGHLY QUALIFIED.—The term 'highly qualified' has the same meaning as that term in section 9010 of the Elementary and Secondary Education Act of 1965.

(10) INDIAN.—The term ‘Indian’ means an individual who is a member of an Indian tribe.

(11) INDIAN TRIBE.—The term ‘Indian tribe’ means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act).

(12) INDIVIDUALIZED EDUCATION PROGRAM.—The term ‘individualized education program’ or ‘IEP’ means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with section 1414.

(13) INDIVIDUALIZED FAMILY SERVICE PLAN.—The term ‘individualized family service plan’ has the meaning given such term in section 636.

(14) INFANT OR TODDLER WITH A DISABILITY.—The term 'infant or toddler with a disability' has the meaning given such term in section 632.

(15) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' includes any public or private institution of higher education, as determined under State law.

(16) INVESTIGATING.—The term ‘investigating’ means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act).

(17) INVESTIGATOR.—The term ‘investigator’ means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act).

(18) also includes any community college receiving funding from the Secretary of the Interior under the Tribally Controlled Community College Assistance Act of 1978.

(19) INSTRUCTION CENTER.—The term ‘Instruction center’ means—

(A) The term 'local educational agency' means a public board of education or other public authority within the State, for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political division of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.

(B) The term includes—

(ii) an educational service agency, as defined in paragraph (3)(A); and

(iii) any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(C) The term includes an elementary or secondary school funded by the Bureau of Indian Affairs, but only to the extent that such inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency providing assistance to the school under this Act with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency or agency of the Bureau of Indian Affairs.

(19) NATIVE LANGUAGE.—The term ‘native language’, when used with reference to an individual of limited English proficiency, means the language normally used by the individual, or, in the case of a child, the language normally used by the parents of the child.

(20) PARENT.—The term ‘parent’ includes—

(A) a legal guardian; and

(B) except as used in sections 635(b)(2) and 635(a)(5), includes a person legally responsible for the child’s welfare.

(21) PARENT ORGANIZATION.—The term ‘parent organization’ means the meaning given such term in section 672.

(22) PARENT TRAINING AND INFORMATION CENTER.—The term ‘parent training and information center’ means a center assisted under sections 672 and 673.

(23) RELATED SERVICES.—The term ‘related services’ means aids, services, and other supports that are provided in regular education classes or in other settings, to enable children with disabilities to access the curriculum, unless the provision of such aids, services, and other supports results in removal of the child to a separate class, except that the term includes—

(A) transportation, as defined in section 1417(b) of the Education Act of 1965.

(25) SECRETARY.—The term ‘Secretary’ means the Secretary of Education.

(26) SPECIAL EDUCATION.—The term ‘special education’ means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including—

(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

(B) instruction conducted in a regular classroom.

(C) SPECIFIC LEARNING DISABILITY.—The term ‘specific learning disability’ means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imbalance in such areas as oral expression, mathematical calculation, reading, spelling, or writing.

(27) DISORDERS INCLUDED.—Such term includes such conditions as perceptual disabilities, minimal brain dysfunction, dyslexia, and developmental aphasia.

(28) STATE.—The term ‘State’ means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

(29) STATE EDUCATIONAL AGENCY.—The term ‘State educational agency’ means the State board of education or other agency or officer primarily responsible for the supervision of all public elementary and secondary schools of the State; and

(30) SUPPLEMENTARY AIDS AND SERVICES.—The term ‘supplementary aids and services’ means aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with section 612(a)(5).

(31) TRANSITION SERVICES.—The term ‘transition services’ means a coordinated set of activities for a child with a disability to facilitate the child's move from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), adult services, independent living, or community participation, to the extent that the activities are based upon the individual child's needs, taking into account the child's skills, preferences, and interests; and

(C) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

(32) VIDEOTHET.—The term ‘videothet’ means a center desks, as determined under State law.

(33) VIDEOTHET.—The term ‘videothet’ means a center desks, as determined under State law.
SEC. 110. ADDITIONAL GAO STUDY AND REPORT.
(a) In general.—The Comptroller General of the United States shall conduct a study on existing or developing professional development programs under this Act delivered through the use of technology and distance learning.
(b) Report.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall submit a report containing the findings from the study conducted under subsection (a) to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

TITLES

TITLE I—GENERAL PROVISIONS

SEC. 601. DEFINITIONS.
"Section 607. REQUIREMENTS FOR PRESCRIBING REGULATIONS.
SEC. 608. STATE ADMINISTRATION.
SEC. 609. USE OF FUNDS; AUTHORIZATION OF APPROPRIATIONS.
SEC. 610. ADDITIONAL GAO STUDY AND REPORT.
SEC. 611. AUTHORIZATION; ALLOTMENT; USE OF FUNDS; AUTHORIZATION OF APPROPRIATIONS.

SEC. 601. DEFINITIONS.
"Section 607. REQUIREMENTS FOR PRESCRIBING REGULATIONS.
SEC. 608. STATE ADMINISTRATION.
SEC. 609. USE OF FUNDS; AUTHORIZATION OF APPROPRIATIONS.
SEC. 610. ADDITIONAL GAO STUDY AND REPORT.
SEC. 611. AUTHORIZATION; ALLOTMENT; USE OF FUNDS; AUTHORIZATION OF APPROPRIATIONS.
(d) ALLOCATIONS TO STATES.—

(1) IN GENERAL.—After reserving funds for payments to the outlying areas and the Secretary of the Interior under subsections (b) and (c), the Secretary shall allocate the remaining amount among the States in accordance with this subsection.

(2) SPECIFIC RULE FOR USE OF FISCAL YEAR 1999 AMOUNT.—If a State does not make a free appropriate public education available to all children with disabilities aged 3 through 21 who are of the same age as children with disabilities for whom the State ensures the availability of a free appropriate public education under this part; and

(3) INCREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) is greater than the amount allocated to the States under this paragraph for the preceding fiscal year, those allocations shall be calculated as follows:

(A)(i) Except as provided in subparagraph (B), the Secretary shall allocate—

(aa) the amount it received for fiscal year 1999; or

(bb) that amount multiplied by the percentage increase in the State’s allocation from fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of—

(1) the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor; or

(2) 1.5 percent; or

(bb) that amount multiplied by 90 percent of the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor, whichever is greater; and

(B) Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:

(i) No State’s allocation shall be less than its allocation for the preceding fiscal year.

(ii) No State’s allocation shall be less than the greater of—

(aa) the amount it received for fiscal year 1999; or

(bb) that amount multiplied by the percentage increase in the amount appropriated from the preceding fiscal year.

(4) DECREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) is less than the amount allocated to the States under this paragraph for the preceding fiscal year, those allocations shall be calculated as follows:

(A) If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1999, each State shall be allocated the sum of—

(i) the amount it received for fiscal year 1999; and

(ii) an amount that bears the same relation to any such amount the increase in the amount received for the preceding fiscal year over fiscal year 1999 bears to the total of all such increases for all States.

(B)(i) If the amount available for allocations is equal to or less than the amount allocated to the States for fiscal year 1999, each State shall be allocated the amount it received for fiscal year 1999.

(ii) If the amount available is insufficient to make the allocations described in clause (i), those allocations shall be reduced.

(e) STATE-LEVEL ACTIVITIES.—

(I) IN GENERAL.—Each State may retain not more than the amount described in subparagraph (B) for administration and other State-level activities in accordance with paragraphs (2), (3), and (4).

(B) For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the lesser of—

(i) 75 percent of the amount the State received under this section for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of—

(aa) the percentage increase, if any, from the preceding fiscal year; or

(bb) 15 percent of those remaining funds to States on the basis of their relative populations of children described in clause (ii) who are living in poverty.

(ii) Each outlying area may use up to 5 percent of the amount the Secretary allocates to it under this section (I) for purposes described in paragraph (5)(A).

(f) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES FOR ACCOUNTABILITY.—In any fiscal year in which the percentage increase in the State’s allocation under this section exceeds the rate of inflation (as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor) or in which the percentage increase, if any, from the preceding fiscal year exceeds the amount appropriated under paragraph (1)(A) for any fiscal year or $35,000 (adjusted by the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor), each State shall reserve, from its allocation under this section, the amount described in subparagraph (B) to make subgrants to local educational agencies, unless that amount is less than $100,000, to provide technical assistance and direct services to local educational agencies identified as being in need of improvement under section 1116 of the Elementary and Secondary Education Act of 1965 on the basis, in whole or in part, of the assessment results of the disaggregated subgroup of students with disabilities, including providing development to special and regular education teachers, based on scientifically based research to improve educational instruction.

(g) MAXIMUM SUBGRANT.—For each fiscal year, the amount referred to in subparagraph (A) is—

(i) the maximum amount the State was allowed to retain under paragraph (1)(A) for the fiscal year; or

(ii) the lesser of—

(aa) the percentage increase, if any, from the preceding fiscal year; and

(bb) 15 percent of the amount the State received under this section for fiscal year 1999, bears to the total of all such increases for all States.

(h) REPORT ON USE OF FUNDS.—As part of the information required to be submitted to the Secretary under section 622, each State shall annually describe—

(A) how amounts retained under paragraph (1) will be used to meet the requirements of this part;

(B) how those amounts will be allocated among the activities described in this subsection to meet State priorities based on input from local educational agencies; and

(C) the percentage of those amounts, if any, that will be distributed to local educational agencies by formula.
(f) Subgrants to Local Educational Agencies.—

(1) Subgrants required.—Each State that receives a grant under this section for any fiscal year shall distribute such funds to local educational agencies in the State that are not adequate and appropriate for the provision of special education and related services for children with disabilities ages 3 through 5 residing on reservations, the State educational agency shall distribute the total amount of the payment under subparagraph (B) to a tribe or tribal organization. The amount of such payments under subparagraph (B) for any fiscal year shall be equal to 20 percent of the amount allotted to States under subsection (c).

(8) Distribution of funds.—The Secretary of the Interior shall distribute the total amount of the payment under subparagraph (A) for any fiscal year as specified in the report made to the Congress under this section.

(2) Subdivision of funds.—The Secretary of Education may provide the Secretary of the Interior with funds for the coordination of assistance for special education and related services for children with disabilities ages 3 through 5 residing on reservations with State educational agencies and local educational agencies in the State.

(q) Definitions.—For the purpose of this section—

(A) Average per pupil expenditure.—The term ‘average per pupil expenditure in public elementary and secondary schools in the United States’ means—

(i) the amount of public funds spent per student in the public schools in the United States, excluding Federal and State grant-in-aid payments, and combined with non-Federal, non-State contributions from private sources, divided by the number of students in such schools,

(ii) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which such information is sought, divided by the aggregate number of students in such schools; and

(iii) any direct expenditures by the State for the operation of those agencies;

(iii) the aggregate number of students in average daily attendance to whom those agencies provided free public education during that preceding year;

(B) mean.—The term ‘mean’ means—

(i) the term ‘average per pupil expenditure in public elementary and secondary schools in the United States’;

(ii) the aggregate expenditures by the Secretary of the Interior for the coordination of assistance for special education and related services for Indian children with disabilities ages 3 through 5 residing on reservations with State educational agencies and local educational agencies in the State.

(C) Submission of information.—To receive a payment under this paragraph, the tribe or tribal organization shall submit a report to the Secretary of the Interior that includes—

(i) a description of the activities carried out by the tribe or tribal organization;

(ii) the total amount of funding provided to the tribe or tribal organization for the provision of services to Indian children with disabilities ages 3 through 5 residing on reservations; and

(iii) an assurance that the tribe or tribal organization will provide such information as required under this section.

(D) Prohibitions.—None of the funds allocated under this paragraph may be used for the provision of services for children with disabilities who are not enrolled in public schools operated or funded by the Department of the Interior.
to infants, toddlers, and children with disabilities, to tribes, and to other interested parties.

(5) Establishment of Advisory Board.—To meet the requirements of section 612(a)(22), the Secretary of the Interior shall establish, under the BIA, an advisory board composed of individuals involved in or concerned with the education and provision of services to Indian infants, toddlers, children, and youth with disabilities, including Indians with disabilities, Indian parents or guardians of such children, teachers, service providers, State and local educational agencies, representatives of tribes or tribal organizations, representatives from State Interagency Coordinating Councils under section 641 in States having reservations, and other members appointed by the various divisions and entities of the BIA. The chairperson shall be selected by the Secretary of the Interior. The advisory board shall—

(A) assist in the coordination of services within the BIA and with other local, State, and Federal agencies in the provision of education for infants, toddlers, and children with disabilities;

(B) advise and assist the Secretary of the Interior in the performance of the Secretary's responsibilities described in this subsection;

(C) recommend policies concerning effective inter- and intra-agency collaboration, including modifications to regulations, and the elimination of barriers to inter- and intra-agency cooperation and activities;

(D) provide assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved educational programming for Indian infants, toddlers, children, and youth with disabilities; and

(E) provide assistance in the preparation of information required under paragraph (2)(D).

(6) Annual Reports.—

(A) In General.—The advisory board established under paragraph (5) shall prepare and submit to the Secretary of the Interior an annual report containing a description of the activities of the advisory board for the preceding year.

(B) Availability.—The Secretary of the Interior shall make available to the Secretary of Education the report described in subparagraph (A).

(7) Authorization of Appropriations.—For the purpose of carrying out this part, other than section 619, there are authorized to be appropriated—

(A) $13,074,398,000 for fiscal year 2004;

(B) $13,374,398,000 for fiscal year 2005;

(C) $15,746,302,000 for fiscal year 2006;

(D) $15,631,345,000 for fiscal year 2007;

(E) $20,090,109,000 for fiscal year 2008;

(F) $22,262,307,000 for fiscal year 2009;

(G) $25,198,603,000 for fiscal year 2010; and

(H) such sums as may be necessary for fiscal year 2011 and each subsequent fiscal year.

SEC. 202. STATE ELIGIBILITY.

(a) In General.—(1) Section 612(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)) is amended in the matter preceding paragraph (1) by striking "demonstrates to the satisfaction of" and inserting "reasonably demonstrates to".

(2) Paragraphs (1) through (11) of section 612(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(1)-(11)) are amended to read as follows:

(1) Free Appropriate Public Education.—

(A) In General.—(a) Free appropriate public education is available to all children with disabilities residing in the State at no cost to parents, including children with disabilities who have been suspended or expelled from school.

(B) Limitation.—(b) The obligation to make a free appropriate public education available to all children with disabilities does not apply with respect to children—

(ii) aged 3 through 5 and 18 through 21 in a State to the extent that its application to those children would be inconsistent with State law or practice, or the order of any court, respecting the provision of special education to children in those age ranges; and

(iii) aged 18 through 21 to the extent that State law does not require that special education services provided under this part be provided to children with disabilities who, in the educational placement prior to their incarceration in an adult correctional facility,

(A) were not actually identified as being a child with a disability under section 602(3) of this Act; or

(B) did not have an individualized education program under this part.

(2) Full Educational Opportunity Goal.—The State has established a goal of providing all children with disabilities an individualized education program and a detailed timetable for accomplishing that goal.

(3) Child Find.—

(A) In General.—All children with disabilities residing in the State, including children with disabilities attending private schools, regardless of the severity of their disabilities, and who need special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.

(B) Construction.—Nothing in this Act requires that children be classified by their disability, that a child has a disability, or that a disability listed in section 602 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under this part.

(4) Individualized Education Program.—An individualized education program, or an individualized family service plan, for children with disabilities (i) that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with section 614(d)(3);

(5) Least Restrictive Environment.—

(A) In General.—To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the unique needs of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(B) Additional Requirement.—

(I) In General.—If the State uses a funding mechanism by which the State distributes State funds on the basis of the type of setting in which a child is served, the funding mechanism does not result in placements that violate the requirements of subparagraph (A).

(II) Authorization.—The Secretary of the Interior shall make available to the Secretary of Education the number of children served under this paragraph, the number of children in the program assisted or carried out under this part by providing funds required to be expended under this subpart, the funding formula applied, and the number of Federal funds required to be expended under this subpart.

(6) Procedural Safeguards.—

(A) In General.—Children with disabilities and their parents are afforded the procedural safeguards required by section 615.

(B) Additional Procedural Safeguards.—Procedures to ensure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with disabilities for services under this Act will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the primary language and mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

(7) Evaluation.—Children with disabilities are evaluated in accordance with subsections (a)(4)(C) of section 614 of the Act.

(8) Confidentiality.—Agencies in the State comply with section 617(d) (relating to the confidentiality of records and information).

(9) Transition from Preschool Programs.—Children participating in early intervention programs assisted under part C, and who will participate in preschool programs assisted under part C, expect a smooth and effective transition to those preschool programs in a manner consistent with section 619(d)(5), an individualized education program or, if consistent with section 636(d), an individualized family service plan, has been developed and is in effect. The early intervention educational agency will participate in transition planning conferences arranged by the lead agency under section 619(a)(8).

(10) Children in Private Schools.—

(A) Children Enrolled in Private Schools by Their Parents.—

(I) In General.—To the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary and secondary schools in the area served by such agencies, transition is made to the provision of those children in the program assisted or carried out under this part by providing for such children special education and related services in an as nearly similar manner as feasible and in as similar school settings as the child's school, unless the Secretary has arranged for services to those children under subsection (f);

(ii) Amounts to be expended for the provision of those services (including the cost of those services to parents of children with disabilities) by nonpublic schools shall be proportionate to the proportion of the number of children with disabilities who are enrolled by their parents in private schools to the number of children with disabilities in the State who are enrolled by their parents in private schools.

(B) Provision of Services.—The early intervention educational agency shall be equal to a proportionate amount of Federal funds required to be expended under this part.

(ii) In calculating the proportion of Federal funds, the local educational agency, after timely and meaningful consultation with representatives of children with disabilities parentally-placed in private schools as described in clause (iii), shall conduct a thorough and complete child-find process to determine the number of parentally-placed children with disabilities attending private schools located in the district.

(iii) Such services may be provided to children with disabilities parentally-placed in private schools, including religious, schools, to the extent consistent with law.

(iv) State and local funds may supplement and in no case shall such proportionate amount of Federal funds required to be expended under this paragraph.

(v) Each local educational agency maintains in its records and provides to the State educational agency the number of children evaluated under this paragraph, the number of children determined to be children with disabilities, and the number of children served under this subsection.

(II) Child-Find Requirement.—

(A) In General.—The transition plans of paragraphs (3) of this subsection (relating to child find) shall apply with respect to children with disabilities in the State who are enrolled in private, including religious, elementary and secondary schools.

(B) Equitable Participation.—The child-find process must be designed to ensure the equitable participation of parentally-placed private school children.

(II) Activities.—In carrying out this clause, including individual evaluations, may not be considered in determining whether a local
education agency has met its obligations under clause (I).

(iv) completion period.—Such child-find process shall be completed within a time period comparable to other students attending public schools in the local educational agency.

(iii) consultation.—To ensure timely and meaningful consultation, a local educational agency, in appropriate single subject classes, a state educational agency, shall consult with representatives of children with disabilities parentally- placed in private schools during the design and development of special education and related services for children including:

(II) the child-find process and how parentally-placed children should be identified; and

(I) the rights of the child and his or her parents of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process;

(ii) by determination of the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities under this paragraph, including the determination of how those funds were calculated;

(iii) the consultation process among the district, private school officials, and parents of parentally-placed private school children with disabilities as appropriate this process shall operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child-find process can meaningfully participate in special education and related services; and

(iv) how, where, and by whom special education and related services will be provided for parentally-placed private school children with disabilities, including a discussion of alternate service delivery mechanisms, how such services will be appropriated if funds are insufficient to serve all children, and how and when these decisions will be made.

(iv) compliance.—

(I) in general.—A private school official shall have the right to complain to the State educational agency that the local educational agency did not engage in consultation that was meaningful and timely, or did not give due consideration to the views of the private school official.

(II) procedure.—If the private school official wishes to complain, the official shall provide the basis of the noncompliance with this section by the local educational agency to the state educational agency as the means of carrying out the requirements of this part or any other applicable special education and related services to all children with disabilities within such State.

(iii) standards.—In all cases described in clause (ii), the State educational agency shall determine whether such schools and facilities meet standards that apply to State and local educational agencies and that children so served have met all the rights they would have if served by such agencies.

(v) payment for education of children enrolled in private schools without consent of or referral by the public agency.—

(I) in general.—Subject to subparagraph (A), this part does not require a local educational agency to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made a free appropriate public education available to the child and the parents elected to place the child in such private school or facility.

(II) reimbursement for private school placement.—If the child had a disability, who previously received special education and related services, at a private school or facility, and if the State or local educational agency had not made a free appropriate public education available to the child before the enrollment, the parents did not give written notice to the public agency of or referral by a public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment.

(iii) limitation on reimbursement.—The cost of reimbursement described in clause (ii) may be reduced or denied—

(aa) if, at the most recent IEP meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the public agency of the removal in writing; or

(bb) within 10 business days following the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in division (a).

(iv) reimbursement.—

(I) if, prior to the parents’ removal of the child from the public school, the parents did not make the child available for such evaluation; or

(ii) upon a judicial finding of unreasonableness with respect to actions taken by the parents.

(iv) exception.—Notwithstanding the notice requirement in clause (iii), the cost of reimbursement—

( aa) the parent is illiterate or cannot write;

(bb) the parents had not received notice, pursuant to section 615, of the notice requirement in clause (iii); or

(cc) compliance with clause (iii) will likely result in physical harm to the child; and

(i) may, in the discretion of a court or a hearing officer, not be reduced or denied for failure to provide such notice if—

(aa) the parent is illiterate or cannot write in English; or

(bb) compliance with clause (iii) would likely result in serious emotional harm to the child.

(ii) state educational agency responsible for general supervision.—

(A) in general.—The State educational agency is responsible for ensuring that—

(aa) the requirements of this part are met; and

(bb) all educational programs for children with disabilities in the State, including all such programs administered by any other State or local agency.

(iii) under the general supervision of individuals in the State who are responsible for educational programs for children with disabilities; and

(iv) meet the educational standards of the State educational agency.

(B) limitation.—Subparagraph (A) shall not limit the responsibility of agencies in the State other than the State educational agency to provide, or pay for some or all of the costs of, a free appropriate public education for any child with a disability in the State.

(C) exception.—Notwithstanding subparagraphs (A) and (B), the Governor (or another official, in the case of States administering part B that are not consistent with State law), may assign to any public agency in the State the responsibility of ensuring that the requirements of this part are met with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons.

(13) procedural requirements relating to local educational agency eligibility.—

(A) in general.—The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this part without first affirming that agency reasonable notice and an opportunity for a hearing.

(B) standards described.—Such standards shall—

(i) ensure that special education teachers who teach in core academic subjects are highly qualified in those subjects;

(ii) be consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services in order to ensure that such individuals are qualified to provide such services; and

(iii) allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulations, or written policy, in meeting the requirements of this part to be used to assist in the provision of special education and related services to children with disabilities under this part.

(C) innovative strategies for professional development.—The State educational agency encourages the development and use of research-based innovative strategies, such as strategies using technology, peer networks, and distance learning, to deliver intensive professional development programs for special and regular education teachers, administrators, principals, and related services personnel that—

(i) improve educational results for students with disabilities; and

(ii) are both cost-effective and easily accessible.
EXCEPT as provided in section 633, funds paid to a State under this part will be used to supplement the level of Federal, State, and local funds (including funds that are not under the direct control of the State educational agencies) expended for special education and related services provided to children with disabilities under this part and in no case to supplant such Federal, State, and local funds. The Secretary provides clear and convincing evidence that all children with disabilities have available to them a free appropriate public education, the Secretary may waive this subparagraph in part, or all, the requirements of this subparagraph if the Secretary concurs with the evidence provided by the State.

(19) MAINTENANCE OF STATE FINANCIAL SUPPORT.—

(A) IN GENERAL.—The State does not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children below the amount of that support for the preceding fiscal year.

(B) REDUCTION OF FUNDS FOR FAILURE TO MAINTAIN SUPPORT.—The Secretary shall reduce the allocation of funds under section 633 for any fiscal year following the fiscal year in which the State fails to comply with the requirement of subparagraph (A) by the same amount by which the State fails to comply.

(C) WAIVERS FOR EXCEPTIONAL OR UNCONTROLLABLE CIRCUMSTANCES.—The Secretary may waive the requirement of subparagraph (A) for a State, for one year at a time, if the Secretary determines that—

(i) granting a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural or unforeseen decline in the financial resources of the State; or

(ii) the State meets the standard in paragraph (18)(C) of this section for a waiver of the requirement to supplement, and not to supplant, funds received under this part.

(D) SUBSEQUENT YEARS.—If, for any year, a State fails to meet the requirements of subparagraph (A), the Secretary shall determine the amount that would have been required in the absence of that failure and not the reduced level of the State's support.

(20) PUBLIC PARTICIPATION.—Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities.

(21) STATE ADVISORY PANEL.—

(A) IN GENERAL.—The State has established and maintains a State advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State.

(B) MEMBERSHIP.—Such advisory panel shall consist of members appointed by the Governor, or any other official authorized under State law to make such appointments, that is representative of the population and that is composed of individuals involved in, or concerned with, the education of children with disabilities, including—

(i) parents of children with disabilities (ages birth through 26);

(ii) individuals with disabilities;

(iii) representatives of the State educational agency;

(iv) teachers of children with disabilities;

(v) administrators of programs for children with disabilities;

(vi) representatives of other State agencies involved in the financing or delivery of related services to children with disabilities;

(vii) representatives of private schools and public and other public schools;

(viii) at least one representative of a vocational, technical, or business organization concerned with the provision of transition services to students with disabilities;

(ix) representatives from the State juvenile and adult corrections agencies;

(x) representatives from the State juvenile and adult corrections agencies.

(B) PURCHASE REQUIREMENT.—Not later than 2 years after the date of the enactment of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(13)–(22) is amended by adding at the end the following:

(23) INSTRUCTIONAL MATERIALS.—

(A) IN GENERAL.—The State adopts the national instructional materials accessibility standard for the purposes of providing instructional materials to blind persons or other persons with print disabilities in a timely manner after the publication of the standard by the Secretary in the Federal Register.

(17) DISPUTE RESOLUTION.—The State has in effect systems of mediation and voluntary binding arbitration pursuant to section 615(e).

(18) PROHIBITION AGAINST COMMISSIONING.—Funds paid to a State under this part will be expended in accordance with all the provisions of this part.

(19) PROHIBITION AGAINST SUPPLANTATION AND CONDITIONS FOR WAIVER BY SECRETARY.—

EXCEPT as provided in section 633, funds paid to a State under this part will be used to supplement the level of Federal, State, and local funds (including funds that are not under the direct control of the State educational agencies) expended for special education and related services provided to children with disabilities under this part and in no case to supplant such Federal, State, and local funds.
(24) Identification and Disproportionality.—The State has in effect, consistent with the purposes of this Act and with section 618, policies and procedures designed to identify, evaluate, and place children with disabilities, including the identification of children as children with disabilities with a particular impairment described in section 602(3).

(25) Prohibition on Psychotropic Medication.—The State educational agency develops and implements policies and procedures prohibiting school personnel from requiring a child to obtain a prescription for substances covered by section 202(c) of the Controlled Substances Act (21 U.S.C. 812) as a condition of attending school or receiving services.

(b) State Educational Agency as Provider of Free Appropriate Public Education or Direct Services.—Section 612(b) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(b)) is amended to read as follows:

''(b) STATE EDUCATIONAL AGENCY AS PROVIDER OF FREE APPROPRIATE PUBLIC EDUCATION OR DIRECT SERVICES.—If the State educational agency provides free appropriate public education of children with disabilities, or provides direct services to such children, such agency—

''(1) shall comply with all requirements of section 613(a), as if such agency were a local educational agency; and

''(2) may use amounts that are otherwise available to such agency under this part to serve those children without regard to section 612(b)(4), as if such agency were a local educational agency.

(c) Exception for Prior State Plans.—Section 612(c) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(c)) is amended to read as follows:

''(c) EXCEPTION FOR PRIOR STATE PLANS.—Section 612(c) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(c)) is amended to read as follows:

''(1) IN GENERAL.—If a State has on file with the Secretary for fiscal years 1965, 1966, or 1967 a plan or program for the disabilities of children with disabilities, or if the plan or program is in effect in such year, the Secretary, in consultation with the States, may allow the State to continue to use the plan or program.

''(2) USE OF FUNDS.—(A) The Secretary may provide for payments to the State for each fiscal year from the Education for All Handicapped Children Act Fund (20 U.S.C. 1110) to carry out the plan or program described in paragraph (1).

''(B) The State educational agency shall use such funds to provide services under the plan or program.

''(C) The Secretary may not provide for payments under this subpart if the State has failed to comply with any requirement of the plan or program.

(d) Assistance Under Other Federal Programs.—Section 612(e) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(e)) is amended to read as follows:

''(e) ASSISTANCE UNDER OTHER FEDERAL PROGRAMS.—Nothing in this title permits a State to reduce medical and other assistance available, or to alter eligibility, under titles V and IX of the Social Security Act, pursuant to the provisions of a free appropriate public education for children with disabilities in the State."

SEC. 203. LOCAL EDUCATIONAL AGENCY ELIGIBILITY.

Section 613 of the Individuals with Disabilities Education Act (20 U.S.C. 1413) is amended to read as follows:

''SEC. 613. LOCAL EDUCATIONAL AGENCY ELIGIBILITY.

''(a) In General.—A local educational agency is eligible for assistance under this part for a fiscal year if such agency reasonably demonstrates to the State educational agency that it meets each of the following conditions:

''(1) CONSISTENCY WITH STATE POLICIES.—The local educational agency, in providing for the education of children with disabilities within its jurisdiction, has in effect policies, procedures, and programs that are consistent with the State policies and procedures established under section 612.

''(2) USE OF FUNDS.—(A) IN GENERAL.—Amounts provided to the local educational agency under this part shall be expended in accordance with the applicable provisions of this part and—

''(i) shall be used only to pay the excess costs of providing special education and related services to children with disabilities; and

''(ii) shall be used to supplement, or to supplant funds for any program or service with revenues from any other source; and

''(B) EXCEPTION.—Notwithstanding the restrictions in subparagraph (A), a local educational agency may use funds received under this part for any fiscal year to carry out a schoolwide program under section 1114 of the Elementary and Secondary Education Act of 1965, but only if the amount so used in any such program does not exceed—

''(i) the number of children with disabilities participating in the schoolwide program; multiplied by

''(ii) the amount received by the local educational agency under this part for that fiscal year.

''(3) PERSONNEL DEVELOPMENT.—The local educational agency shall ensure that all personnel necessary to carry out this part are appropriately and adequately prepared, consistent with the requirements of title II of the Elementary and Secondary Education Act of 1965.

''(4) PERMISSIVE USE OF FUNDS.—Notwithstanding any other provision of law, section 612(a)(18)(B) (relating to commingled funds), funds provided to the local educational agency under this part may be used for the following activities:

''(A) SERVICES AND AIDS THAT ALSO BENEFIT NONDISABLED CHILDREN.—For the costs of special education and related services and supplementary aids and services provided in a regular class or other educational-related setting to a child with a disability in accordance with the individualized education program of the child, including the education of nondisabled children benefit from such services.

''(B) PREREFERRAL SERVICES.—To develop and implement a system of comprehensive coordination and referral education support services in accordance with subsection (f).

''(C) HIGH COST EDUCATION AND RELATED SERVICES.—To establish and implement cost or risk sharing funds, consortia, or cooperatives for the agency itself, or for local educational agencies working in consortium with which the local educational agency is a part, to pay for high cost special education and related services.

''(D) CASE MANAGEMENT AND ADMINISTRATION.—To purchase appropriate technology for case management data collection and case management activities of teachers and related services personnel who are providing services described in the individualized education program of children with disabilities necessary to the implementation of those case management activities.

''(E) SUPPLEMENTAL EDUCATIONAL SERVICES FOR CHILDREN WITH DISABILITIES IN SCHOOLS DESIGNED FOR IMPROVEMENT.—For the reasonable additional expenses (as determined by the local educational agency) of any necessary activities of the local educational agency, or the local educational agency and related services personnel who are being educated in a school identified for school improvement under section 1116(b) of the Elementary and Secondary Education Act of 1965, to provide supplemental educational services under section 1116(e) of such Act on an equitable basis.
education and related services under this Act, in combination with other amounts such agency receives under this part for any fiscal year, in combination with other amounts (which may include amounts other than education funds), to develop and implement comprehensive coordinated prereferral educational support services for students in kindergarten through grade 12 (with a particular emphasis on students in grades kindergarten through 3); (C) be jointly responsible for implementing, as the case may be, modifications required by State educational agencies developed to carry out this Act. The joint responsibilities under this subsection shall—

(C) Notification of Local Educational Agency or State Agency in Case of Ineligibility.—If the Secretary determines that a local educational agency or State agency is not eligible under this section, the local educational agency shall notify the local educational agency or State agency in receipt of payments under this part, the joint responsibilities under this subsection who subsequently receive special education and related services under this subsection shall—

(d) Local Educational Agency Compliance.—

(a) In General.—If an educational service agency is required by State law to carry out programs under this part, the joint responsibilities given to local educational agencies under this subsection shall—

(i) not apply to the administration and disbursement of any payments received by that educational service agency; and

(ii) be carried out only by that educational service agency.

(b) Additional Requirement.—Notwithstanding any other provision of law, if an educational service agency shall provide for the education of children with disabilities in the least restrictive environment, as required by section 612(a)(5).

(1) Prereferral Services.—

(a) In General.—A local educational agency may receive more than one amount for such services for students in kindergarten through grade 12 (with a particular emphasis on students in grades kindergarten through 3); (B) be jointly responsible for implementing, as the case may be, modified programs under this subsection that improve results for children with disabilities.

(c) Maintenance of Effort.—Funds used under this section shall be supplemental, and not supplant, funds made available under the Elementary and Secondary Education Act of 1965.

(d) Direct Services by the State Educational Agency.—

(a) In General.—A State educational agency shall use the payments that would otherwise be available to a local educational agency or to a State agency to provide special education and related services directly to children.
with disabilities residing in the area served by that local agency, or for whom that State agency is responsible, if the State educational agency determines that the local educational agency or State agency is not taking appropriate action.

"(A) has not provided the information needed to establish the eligibility of such agency under this section;

"(B) is unable to establish and maintain programs of free appropriate public education that meet the requirements of subsection (a);

"(C) is unable or unwilling to be coordinated with other educational agencies in order to establish and maintain such programs; or

"(D) has one or more children with disabilities who can best be served by a regional or State program or service-delivery system designed to meet the needs of such children.

"(2) MANAGER AND LOCATION OF EDUCATION AND SERVICES.—The State educational agency may provide special education and related services under paragraph (1) in such manner and at such locations (including regional or State centers) as the State agency considers appropriate. Such education and services shall be provided in accordance with this part.

"(3) STATE AGENCY ELIGIBILITY.—Any State agency that desires to receive a subgrant for any fiscal year under section 611(f) shall demonstrate to the satisfaction of the State educational agency that—

"(I) all children with disabilities who are participating in programs and projects funded under this part receive a free appropriate public education; and those children and their parents are provided all the rights and procedural safeguards described in this part; and

"(II) the agency meets such other conditions of this section as the Secretary determines to be appropriate.

"(i) DISCIPLINARY INFORMATION.—The State agency may require that a local educational agency include in the IEP of a child with a disability a description of any current or previous disciplinary action that has been taken against the child and transmit such statement to the same extent that such disciplinary information is included in, and transmitted with, the student records of nondisabled children. The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child. If the State adopts such a policy, and the child transfers from one school to another, the transmission of any of these records must include both the child's current individualized education program and any such statement of current or previous disciplinary action that has been taken against the child.

"(ii) PROCEDURES.—The agency shall convey to the parent and the local educational agency a description of any current or previous disciplinary action that has been taken against the child. Such information shall consist of procedures—

"(A) to determine whether a child is a child with a disability; and

"(B) to determine the educational needs of such child.

"(D) PARENTAL CONSENT.—

"(i) IN GENERAL.—(I) CONSENT FOR INITIAL EVALUATION.—The agency shall provide written notice of the agency's intent to conduct an initial evaluation to determine if the child is a child with a disability. The notice shall be in a form prescribed by the Secretary and shall include a description of—

"(I) the purpose of the initial evaluation to determine if the child is a child with a disability; and

"(II) the content of the initial evaluation, including information related to enabling the child to be involved in and progress in the general education curriculum or, for preschool children, to participate in appropriate activities;

"(B) not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child; and

"(C) use technically sound instruments that measure the relative strengths and weaknesses in cognitive and behavioral factors, in addition to physical or developmental factors.

"(3) ADDITIONAL REQUIREMENTS.—Each local educational agency shall ensure that—

"(A) assessments and other evaluation measures used to assess a child under this section—

"(I) are selected, validated, and administered in accordance with any criteria, guidelines, or standards that are developed by and made available to the agency; and

"(ii) are administered by trained and knowledgeable personnel; and

"(i) are selected and administered so as not to be discriminatory on a racial or cultural basis;

"(ii) are provided and administered, to the extent practicable, in the language and form most likely to yield accurate academic and developmental data;

"(iii) are used for the purposes for which the assessments or measures are intended to be reliable; and

"(iv) are administered in accordance with any instructions provided by the producer of such tests;

"(B) the child is assessed in all areas of suspected disability; and

"(C) assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

"(4) DETERMINATION OF ELIGIBILITY AND EDUCATIONAL NEED.—Upon completion of the administration of assessments and other evaluation measures—

"(A) the determination of whether the child is a child with a disability as defined in section 602(3); and

"(B) the educational needs of the child shall be made by a team of qualified professionals and the parent of the child in accordance with paragraph (5); and

"(C) a copy of the evaluation report and the documentation of determination of eligibility will be given to the parent.

"(E) RULE OF CONSTRUCTION.—The screening of a student by a teacher or specialist to determine appropriate instructional strategies for the student's educational needs is not considered to be an evaluation for eligibility for special education and related services.

"(2) REEVALUATION.—

"(A) IN GENERAL.—A local educational agency shall ensure that a reevaluation of each child with a disability is conducted in accordance with subsections (b) and (c). (i) if the local educational agency determines that the educational needs, including improved academic achievement, of the child warrant a reevaluation; or

"(ii) if the child's parent or teacher requests a reevaluation.

"(B) LIMITATION.—A reevaluation conducted under this paragraph—

"(i) no more than once a year, unless the parent and the local educational agency agree otherwise; and

"(ii) at least once every three years, unless the parent and the local educational agency agree that a reevaluation is unnecessary.
written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning.

(3) ADEQUATE AUTHORITY.—In determining whether a child has a specific learning disability, a local educational agency may use a process which determines if a child responds to scientific, research-based intervention.

(4) DEFINITIONS.—As used in this title:

(5) DEVELOPMENT.—In the development of each child's IEP, the IEP Team shall include the parents of a child with a disability who will turn age 3 during the school year, each local educational agency, and other qualified professionals who may be a member of the team described in subclause (II)(aa).

(6) EVALUATIONS.—Each local educational agency shall obtain informed parental consent, in accordance with section 614(d)(2)(B) and other qualified professionals, as appropriate, to participate, as appropriate, in the general education curriculum.

(7) EVALUATION.—Each local educational agency shall obtain informed parental consent, in accordance with section 614(d)(2)(B) and other qualified professionals, as appropriate, to participate, as appropriate, in the general education curriculum.

(8) EVALUATION.—Each local educational agency shall obtain informed parental consent, in accordance with section 614(d)(2)(B) and other qualified professionals, as appropriate, to participate, as appropriate, in the general education curriculum.

(9) EVALUATION.—Each local educational agency shall obtain informed parental consent, in accordance with section 614(d)(2)(B) and other qualified professionals, as appropriate, to participate, as appropriate, in the general education curriculum.

(10) EVALUATION.—Each local educational agency shall obtain informed parental consent, in accordance with section 614(d)(2)(B) and other qualified professionals, as appropriate, to participate, as appropriate, in the general education curriculum.

(11) EVALUATION.—Each local educational agency shall obtain informed parental consent, in accordance with section 614(d)(2)(B) and other qualified professionals, as appropriate, to participate, as appropriate, in the general education curriculum.

(12) EVALUATION.—Each local educational agency shall obtain informed parental consent, in accordance with section 614(d)(2)(B) and other qualified professionals, as appropriate, to participate, as appropriate, in the general education curriculum.

(13) EVALUATION.—Each local educational agency shall obtain informed parental consent, in accordance with section 614(d)(2)(B) and other qualified professionals, as appropriate, to participate, as appropriate, in the general education curriculum.

(14) ROLE OF THE PARENT.—In each IEP, the IEP Team shall include the parents of a child with a disability who will turn age 3 during the school year, each local educational agency, and other qualified professionals who may be a member of the team described in subclause (II)(aa).
The IEP Team shall—

(i) in the case of a child whose behavior impedes his or her learning or that of others, consider the need for special education, behavior interventions, and supports, or other strategies, to address that behavior;

(ii) in the case of a child with a limited English proficiency background, consider the language needs of the child as such needs relate to the child’s IEP;

(iii) in the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child’s reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child’s future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;

(iv) consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child’s language and communication needs, opportunities for direct communications with peers and professional personnel in the child’s language and communication mode, academic level, and full range of needs, opportunities for direct instruction in the child’s language and communication mode; and

(v) consider whether the child needs assistive technology devices and services.

(c) Requirement with respect to regular education teacher.—The regular education teacher of the child, if a member of the IEP Team pursuant to paragraph (b)(ii), shall, to the extent appropriate, participate in the development of the IEP of the child, including the determination of appropriate positive behavioral interventions and supports, and other strategies and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with paragraph (1)(A)(i)(III).

(d) IEP team attendance.—The parent of a child with a disability and the local educational agency shall use any member of the IEP Team from attending all or part of an IEP meeting if they agree that the member’s attendance is not necessary. The IEP Team shall obtain the consent of the parent prior to an IEP meeting from which the member is excused.

(e) Agreement on meeting.—In making changes to a child’s IEP after the annual IEP meeting, the parent of a child with a disability and the local educational agency may agree not to reconvene the IEP team and instead develop and implement plans, in consultation with the parent, to achieve the child’s annual goals.

(f) Consolidation of IEP team meetings.—To the extent possible, the local educational agency shall encourage the consolidation of IEP and related transition and placement meetings pursuant to this section (relating to participation of children with disabilities in general assessments). The IEP Team shall—

(i) review the child’s IEP periodically, but no less than once a year, to determine the child’s current levels of achievement and progress toward meeting the annual goals and in the general education curriculum, where appropriate;

(ii) review the child’s IEP at least once a year, to determine the child’s current levels of achievement and progress toward meeting the annual goals and in the general education curriculum, where appropriate;

(iii) review and revise the IEP to determine the child’s current levels of achievement and progress toward meeting the annual goals and in the general education curriculum, where appropriate;

(iv) review and revise the IEP to determine the child’s current levels of achievement and progress toward meeting the annual goals and in the general education curriculum, where appropriate;

(v) revise the IEP as appropriate to address—

(A) any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate;
"(6) an opportunity to present complaints—

(A) with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child; and

(B) which set forth a violation that occurred not more than one year before the complaint is filed;

(7)(A) procedures that require the parent of a child with a disability, or the attorney representing the child, to provide notice (which shall not include a copy of the complaint) to—

(ii) the local educational agency or State educational agency (if the State educational agency is the direct provider of services pursuant to section 613(g)), in the complaint filed under paragraph (6); and

(iii) that shall include—

(I) the name of the child, the address of the residence of the child (or, in the case of a homeless child or youth (within the meaning of section 7252)(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child), and the name of the school the child is attending;

(II) a description of the specific issues regarding the nature of the problem of the child relating to the complaint and the proposed solution or initiation of change, including facts relating to such problem; and

(III) a proposed resolution of the problem to the extent known and available to the parents at the time;

(B) a requirement that a parent of a child with a disability may not have a due process hearing until the parent, or the attorney representing the child, files a notice that meets the requirements of this paragraph; and

(8) procedures that require the State educational agency to develop a model form to assist parents in filing a complaint in accordance with paragraph (7).

(c) CONTENT OF PRIOR WRITTEN NOTICE.—Section 615(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(d)) is amended to read as follows:

"(1) a description of the action proposed or refused by the agency;

(2) an explanation of why the agency proposes or refuses to take the action and a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposal or refusal;

(3) a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is intended for referral for evaluation, this means by which a copy of a description of the procedural safeguards can be obtained; and

(4) sources for parents to contact to obtain assistance in understanding the provisions of this part.

(d) PROCEDURAL SAFEGUARDS NOTICE.—Section 615(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(d)) is amended to read as follows:

"(1) a parent training and information center in the State established under section 672; or

(II) an appropriate alternative dispute resolution entity to encourage the use, and explain the benefits, of the mediation process to the parents.

(iii) The State shall maintain a list of individuals who are trained in educational law and knowledgeable in laws and regulations relating to the provision of special education and related services.

(iv) The State shall bear the cost of the mediation process, including the costs of meetings described in clause (ii).

(v) Each State shall ensure that the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

(vi) An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.

(vii) Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings and the parties to the mediation process may be required to sign a confidentiality agreement prior to the commencement of such process.

(viii) VOLUNTARY BINDING ARBITRATION.—

(A) IN GENERAL.—Any State educational agency that receives assistance under this part shall establish and implement, to the extent possible within the resources of the agency or local educational agency that receives assistance under this part, procedures that require the State educational agency or a State agency that is not a State educational agency (if the State educational agency is the direct provider of services pursuant to section 613(g)) to provide the parent of a child with a disability or the parent's attorney to whom the complaint is filed, the following services:

(1) PROCEDURAL SAFEGUARDS.—

(i) The procedures shall ensure that the mediation process is in lieu of a due process hearing; and

(ii) The procedures shall meet the following requirements:

(A) The procedures shall ensure that the voluntary binding arbitration process—

(I) shall be conducted pursuant to paragraph (1)(A) of this section;

(II) shall be conducted pursuant to paragraph (1)(A) without the consent of the other party.

(3) LIMITATION ON HEARING.—If, prior to a hearing conducted pursuant to paragraph (1)(A) of this section, the parents or the local educational agency agree in writing to waive such hearing, the due process hearing shall occur in accordance with subparagraph (A).

(iii) DEFINITION OF MEETING.—A meeting conducted pursuant to clause (ii) shall not be considered—

(A) a meeting convened as a result of an administrative hearing or judicial action; or

(B) an administrative hearing or judicial action for purposes of subsection (h)(3).

(2) DISCLOSURE OF EVALUATIONS AND RECOMMENDATIONS.—

(A) IN GENERAL.—At least 5 business days prior to a hearing conducted pursuant to paragraph (1), each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party’s evaluations that the party intends to use at the hearing.

(B) FAILURE TO DISCLOSE.—A hearing officer may bar any party that fails to comply with subparagraph (A) from offering any relevant evaluation or recommendation at the hearing without the consent of the other party.

(3) LIMITATION ON HARING.—

(A) REQUIREMENTS.—Such procedures shall meet the following requirements:

(I) The procedures shall ensure that the voluntary binding arbitration process—

(A) shall be conducted pursuant to paragraph (1)(A) of this section; and

(B) shall be conducted pursuant to paragraph (1)(A) without the consent of the other party.
"(i) an employee of the State educational agency or the local educational agency involved in the education or care of the child; or
(ii) any person having a personal or professional relationship to the child that would conflict with his or her objectivity in the hearing.

(B) SUBJECT MATTER OF HEARING.—The parents of the child shall not be allowed to raise issues at a hearing conducted pursuant to this section which were not raised in the complaint or discussed during the meeting conducted pursuant to subparagraph (1)(B), unless the local educational agency agrees to the presentation of such issues.

(C) DECISION OF HEARING OFFICER.—A decision made by a hearing officer must be based on a determination that the issues were not raised in the complaint or discussed during the meeting conducted pursuant to subparagraph (1)(B), unless the local educational agency agrees to the presentation of such issues.

(D) RIGHT TO REFRAIN FROM TESTIMONY.—A child who is the subject of a hearing conducted pursuant to this section may request that the child's testimony be placed in the public school program pending a decision regarding placement of the child. If the hearing officer grants the request, the child shall be placed in the public school program pending a decision regarding placement of the child.

(h) SAFE GUARDS.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended—
(1) by redesignating subsection (b) as subsection (c); and
(2) by amending subsection (g) (as redesignated) to read as follows:

"(g) SAFE GUARDS.—No local educational agency shall be required to present evidence that were not raised in the complaint or discussed during the meeting conducted pursuant to this section, unless the local educational agency agrees to the presentation of such evidence.

(i) ADMINISTRATIVE PROCEDURES.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended—
(1) by redesignating subsection (i) as subsection (j); and
(2) in subsection (k), by striking "subsection (l) as subsection (k).

(j) SAFEGUARDS.—No local educational agency shall be required to present evidence that were not raised in the complaint or discussed during the meeting conducted pursuant to this section, unless the local educational agency agrees to the presentation of such evidence.

(k) SAFE GUARDS.—No local educational agency shall be required to present evidence that were not raised in the complaint or discussed during the meeting conducted pursuant to this section, unless the local educational agency agrees to the presentation of such evidence.

(l) RULE OF CONSTRUCTION.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended by redesigning subsection (l) as subsection (k)."
relevant information and data, including data
provided by States under section 618, and also
including the following:

(A) PRIORITIES FOR THIS PART.—The Sec-

racy may add or modify monitoring on the
following areas under this part:

(i) Provision of educational services in the
least restrictive environment, including—

(ii) educational services to students
whose behavior impedes learning; and

(iii) participation and performance of chil-
dren with disabilities on State and local
assessments, including alternate assessments.

(ii) Secondary transition, including the ex-
tent to which youth exiting special education
are prepared for post-secondary education,
employment, and adult life, and are participants
in appropriate transition planning while in
school.

(iii) State exercise of general supervisory au-
thority, including effective monitoring and use
of complaint resolution, mediation, and vol-
untary binding arbitration.

(b) PRIORITIES FOR PART C.—The Secretary
may give priority to monitoring in the following
areas under part C:

(C) dropout rates for children with disabil-
ities; and

(D) graduation rates of children with disabil-
ities and dropout rates of children with disabil-
ities as compared to dropout rates of non-
disabled children; and

(2) PERMISSIVE INDICATORS.—The Secretary
may establish other priorities for review of
an agency shall provide any no-
tice required by this section to both the indi-
vidual and the parents;

(1) all other rights accorded to parents under
this part transfer to the child;

(C) the agency shall notify the individual
and the parents of the transfer of rights; and

(D) all rights accorded to parents under
this part transfer to children who are incarcerated
in an adult or juvenile Federal, State, or local
correctional institution.

(2) SPECIAL RULE.—If, under State law,
a child with a disability who has reached the age
of majority under State law, who has not been
determined to be incompetent under State law,
shall examine relevant information and data re-

A child with a disability who has reached the age
of majority under State law, who has not been
determined to be incompetent under State law,
(A) the public agency shall provide any no-
tice required by this section to both the individ-
ual and the parents;

(B) all other rights accorded to parents
under this part transfer to the child;

(C) the agency shall notify the individual
and the parents of the transfer of rights; and

(D) all rights accorded to parents under
this part transfer to children who are incarcerated
in an adult or juvenile Federal, State, or local
correctional institution.

(2) SPECIAL RULE.—If, under State law,
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determined to be incompetent under State law,
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tice required by this section to both the individ-
ual and the parents;

(B) all other rights accorded to parents
under this part transfer to the child;

(C) the agency shall notify the individual
and the parents of the transfer of rights; and

(D) all rights accorded to parents under
this part transfer to children who are incarcerated
in an adult or juvenile Federal, State, or local
correctional institution.

(2) SPECIAL RULE.—If, under State law,
a child with a disability who has reached the age
of majority under State law, who has not been
determined to be incompetent under State law,
SEC. 207. ADMINISTRATION.

Section 617 of the Individuals with Disabilities Education Act (20 U.S.C. 1417) is amended to read as follows:

"SEC. 618. PROGRAM INFORMATION.

"(a) In General.—Each State and local educational agency that receives assistance under this part, and the Secretary of the Interior, shall provide data to each year the Secretary—

"(1)(A) on—

"(i) the number of children with disabilities, by race, ethnicity, and disability category, who are receiving a free appropriate public education;

"(ii) the number and percentage of children with disabilities, by race and ethnicity, who are receiving early intervention services;

"(iii) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who are participating in regular education;

"(iv) the number and percentage of children with disabilities, by race, ethnicity, and disability category who begin secondary school and graduate with a regular high school diploma, through the age of 21;

"(v) the number and percentage of children with disabilities, by race and ethnicity, who, from birth through age 2, stopped receiving early intervention services because of program completion or for other reasons;

"(vi) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who are subject to long-term suspensions or expulsions; and

"(vii) the incidence, duration, and type of disciplinary actions, by race and ethnicity, including suspension and expulsions;

"(b) SAMPLING.—The Secretary may permit the use of a sampling of the data required by subparagraph (a) and under sections 618 and 661 without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service and to chapter 53 and subchapter III of chapter 53 of such title relating to appointments in the competitive service. Nothing in this Act may be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content, curriculum, or program of instruction.

"(c) CONFIDENTIALITY.—The Secretary shall take appropriate action, in accordance with section 444 of the General Education Provisions Act information related to the effectiveness of program completion or for other reasons why those children stopped receiving special education and related services.

"(d) PERSONNEL.—The Secretary is authorized to hire qualified personnel necessary to carry out the purposes of this section and subchapter II of this Act.

"(e) PILOT PROGRAM.—The Secretary is authorized to grant waivers of paperwork requirements to States under this part for a period of three years if such State—

"(i) cooperates with, and (directly or by grant to) the State educational agency that receives assistance under section 602(3);

"(ii) the number and percentage of children with disabilities, by race, ethnicity, and disability category who begin secondary school and graduate with a regular high school diploma, through the age of 21;

"(iii) the number and percentage of children with disabilities, by race and ethnicity, who, from birth through age 2, stopped receiving early intervention services because of program completion or for other reasons;

"(iv) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who are subject to long-term suspensions or expulsions; and

"(v) the incidence, duration, and type of disciplinary actions, by race and ethnicity, including suspension and expulsions;

"(f) REPORT.—The Secretary shall include in the annual report to Congress required under section 422 of the Department of Education Organization Act information related to the effectiveness of waivers granted under subsection (e).

"(g) MODEL FORMS.—Not later than the date on which the Secretary publishes final regulations to implement this part (as amended by the Improving Education Results for Children With Disabilities Act of 2003), the Secretary shall publish and disseminate widely to States, local educational agencies, and parent training and information centers—

"(1) a model individualized education program form;

"(2) a model form for the procedural safeguards notice described in section 615(d); and

"(3) a model form for the prior written notice described in section 615(e) that would be consistent with the requirements of this part and be deemed to be sufficient to meet such requirements;"
...
(vii) psychological services;
(viii) service coordination services;
(ix) medical services only for diagnostic or evaluation purposes;
(x) early identification, screening, and assessment services;
(xi) health services necessary to enable the infant or toddler to benefit from the other early intervention services;
(xii) social work services;
(xiii) vision services;
(xiv) assistive technology devices and assistive technology services for individuals with disabilities and their families;
(xv) transportation and related costs that are necessary to enable an infant or toddler and the infant’s or toddler’s family to receive another early intervention service under this part or participate in preschool programs assisted under section 619.
SEC. 635. GENERAL AUTHORITY.
The Secretary shall, in accordance with this part, make grants to States (from their allotments under section 643) to assist each State to maintain and implement a statewide, comprehensive, coordinated, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.
SEC. 636. ELIGIBILITY.
In order to be eligible for a grant under section 633, a State shall provide assurances to the Secretary that the State—
(1) has adopted a policy that appropriate early intervention services are available to all infants and toddlers with disabilities in the State and their families, including Indian infants and toddlers and their families residing on a reservation geographically located in the State; and
(2) has in effect a statewide system that meets the requirements of section 635.
SEC. 635. REQUIREMENTS FOR STATEWIDE SYSTEM.
(a) In General.—A statewide system described in subsection (b) shall include, at a minimum, the following components:
(1) A definition of the term ‘developmental delay’ that will be used by the State in carrying out its responsibilities under this part;
(2) A State policy that is in effect and that ensures that appropriate early intervention services based on scientifically sound research are available to all infants and toddlers with disabilities and their families, including Indian infants and toddlers and their families residing on a reservation geographically located in the State;
(3) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the State, and a family-directed identification of the needs of each family of such an infant or toddler, to appropriately assist in the development of the infant or toddler;
(4) For each infant or toddler with a disability in the State, an individualized family service plan in accordance with this part.
(b)Policies and Procedures.—In implementing subsection (a), a State shall—
(1) establish a comprehensive child find system, consistent with part B, including a system for the identification and coordination of all referral sources, especially hospitals and physicians, of information to be given to parents, especially to inform parents with premature infants, or infants with other physical risk factors associated with learning or developmental complications, on the availability of early intervention services under this part and of services under section 619 of this Act, and procedures for assisting such sources in disseminating such information to parents of infants and toddlers;
(2) establish a comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources respecting the basic components of early intervention services available in the State that—
(A) shall include—
(i) implementing innovative strategies and activities for the recruitment and retention of early education service providers;
(ii) promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this part; and
(iii) training personnel to coordinate transition services for infants and toddlers served under this part from a program providing early intervention services under this part and under part B (other than section 639), to a preschool program receiving funds under section 619, or another appropriate State program; and
(3) provide a system for compiling data requested by the Secretary under section 619 that is consistent with the provisions of this part, including the contents of the application used and the conditions of the contract or other arrangements.
(4) A procedure for securing timely reimbursements of funds used under this part in accordance with section 640(a).
(5) Policies and procedures with respect to programs under this part, as required by section 639.
(6) A system for compiling data requested by the Secretary under section 619 that is consistent with the provisions of this part.
(7) A single line of responsibility in a lead agency designated or established by the Governor for carrying out—
(A) the general administration and supervision of programs and activities receiving assistance under section 633, and the monitoring of programs and activities used by the State to carry out this part, whether or not such programs or activities are receiving assistance under section 633; and
(B) the identification and coordination of all resources respecting the basic components of early intervention services, including—
(i) training personnel in the emotional and social development of young children;
(ii) job training personnel for early childhood education service providers; and
(iii) training personnel in the emotional and social development of young children;
(b) TREATMENT OF CHILDREN AGED 3 THROUGH 5.—
(1) In General.—If a State includes children described in section 633 in the part described in section 633, the State shall be considered to have fulfilled any obligation under part...
B with respect to the provision of a free appropriate public education to those children during the period in which they are receiving services under this part.

(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed to alter or diminish the rights and protections afforded under this part to children described in such paragraph.

"SEC. 636. INDIVIDUALIZED FAMILY SERVICE PLAN.

"(a) ASSESSMENT AND PROGRAM DEVELOPMENT.—A statewide system described in section 633 shall be developed, at a minimum, for each infant or toddler with a disability, and the infant's or toddler's family, to receive—

(1) a multidisciplinary assessment of the infant's or toddler's needs and the family's needs; and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the infant or toddler; and

(2) a statement of the family's resources, priorities, and concerns relating to enhancing the development of the family's infant or toddler with a disability; and

(3) a statement of the major goals expected to be achieved for the infant or toddler and the family, including targets for literacy and language skills, as developmentally appropriate for the child.

(b) PRIORITY FOR TRANSITION.—Nothing in paragraph (1) shall be construed to alter or diminish the rights and protections afforded under this part to children described in such paragraph.

(c) PROMPTNESS AFTER ASSESSMENT.—The individualized family service plan shall be developed and constructed—

(1) within a reasonable time after the assessment required by subsection (a)(1) is completed; and

(2) in consultation with the parents.

(d) CONTENT OF PLAN.—The individualized family service plan shall be in writing and contain—

(1) a statement of the infant's or toddler's present levels of physical development, cognitive development, communication development, social or emotional development, and adaptive development, based on objective criteria;

(2) a statement of the family's resources, priorities, and concerns relating to enhancing the development of the family's infant or toddler with a disability; and

(3) a statement of the natural environments and the identification of the supports and services available to the general public, including individuals with disabilities and parents of infants or toddlers with disabilities; and

(4) a description of the policies and procedures to be used—

(A) to ensure a smooth transition for toddlers receiving early intervention services under this part to preschool or other appropriate services, including a description of how—

(i) the families of such toddlers will be included in the transition plans required by subparagraph (C) and the lead agency will administer such plans;

(ii) the lead agency designated or established under section 635(a)(10) will—

(I) notify the local educational agency for the area in which such a child resides that the child will shortly reach the age of eligibility for preschool services under part B, as determined in accordance with State law;

(II) in the case of a child who may be eligible for such preschool services, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency at least 90 days (and at the discretion of all such parties, up to 6 months) before the child is eligible for the preschool services; and

any other information and assurances as the Secretary may reasonably require.

(8) the steps to be taken to support the transition of the toddler with a disability to preschool or other appropriate services.

(e) PARENTAL CONSENT.—The contents of the individualized family service plan shall, to the extent practicable, be explained to the parents and informed written consent from the parents shall be obtained prior to the provision of early intervention services described in paragraph (3), including a description of how—

(i) the early intervention services to which the child is eligible will be provided; and

(ii) the early intervention services to which the child is eligible will be provided with respect to the provision of a free appropriate public education to those children during the period in which they are receiving services under this part.

(f) CONTENT OF PLAN.—The individualized family service plan shall be fully developed within a reasonable time after the assessment required by subsection (a)(1).

(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed to alter or diminish the rights and protections afforded under this part to children described in such paragraph.

(3) CONTENT OF PLAN.—The individualized family service plan shall be in writing and contain—

(a) ASSESSMENT AND PROGRAM DEVELOPMENT.—A statewide system described in section 633 shall be developed, at a minimum, for each infant or toddler with a disability, and the infant's or toddler's family, to receive—

(1) a statement of the infant's or toddler's needs and the family's needs; and the identification of the supports and services necessary to meet the unique needs of the infant or toddler and the family;

(2) a statement of the family's resources, priorities, and concerns relating to enhancing the development, based on objective criteria; and

(3) a statement of the natural environments and the identification of the supports and services available to the general public, including individuals with disabilities and parents of infants or toddlers with disabilities; and

(4) a description of the policies and procedures to be used—

(a) to ensure a smooth transition for toddlers receiving early intervention services under this part to preschool or other appropriate services, including a description of how—

(i) the families of such toddlers will be included in the transition plans required by subparagraph (C) and the lead agency will administer such plans;

(ii) the lead agency designated or established under section 635(a)(10) will—

(I) notify the local educational agency for the area in which such a child resides that the child will shortly reach the age of eligibility for preschool services under part B, as determined in accordance with State law;

(II) in the case of a child who may be eligible for such preschool services, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency at least 90 days (and at the discretion of all such parties, up to 6 months) before the child is eligible for the preschool services; and

any other information and assurances as the Secretary may reasonably require.

(8) the steps to be taken to support the transition of the toddler with a disability to preschool or other appropriate services.

(f) PARENTAL CONSENT.—The contents of the individualized family service plan shall, to the extent practicable, be explained to the parents and informed written consent from the parents shall be obtained prior to the provision of early intervention services described in paragraph (3), including a description of how—

(i) the early intervention services to which the child is eligible will be provided; and

(ii) the early intervention services to which the child is eligible will be provided with respect to the provision of a free appropriate public education to those children during the period in which they are receiving services under this part.

(f) CONTENT OF PLAN.—The individualized family service plan shall be fully developed within a reasonable time after the assessment required by subsection (a)(1).

(g) WEEKLY REVIEW.—The individualized family service plan shall be reviewed—

(1) at least weekly; and

(2) in consultation with the parents.

(h) MODIFICATION OF PLAN.—The individualized family service plan shall be modified at least—

(1) twice per year; and

(2) in consultation with the parents.

(i) PRIORITY FOR TRANSITION.—Nothing in paragraph (1) shall be construed to alter or diminish the rights and protections afforded under this part to children described in such paragraph.

(j) ADMISSION.—No child shall be denied admission to the services described in paragraph (3) because of the child's failure to meet the eligibility requirements for those services.

(k) CONSTRUCTION.—Nothing in paragraph (1) shall be construed to alter or diminish the rights and protections afforded under this part to children described in such paragraph.
Section 635. State Interagency Coordinating Council.

(a) Establishment.—The Governor shall establish a State Interagency Coordinating Council to provide policy direction and the necessary coordination to ensure that the services for infants and toddlers with disabilities are developed, implemented, and maintained in the State.

(b) Composition.—The council shall be composed of:

(1) State agencies, including the Governor, the State educational agency, and the State health department, and the State early intervention agency; and

(2) representatives of any other State agencies or organizations that will be involved in the development, implementation, or administration of services for infants and toddlers with disabilities.

(c) Duties.—The council shall:

(1) establish an agenda and hold regular and special meetings; and

(2) advise and assist the State educational agency in the coordination of the early intervention programs in the State; and

(3) prepare and submit an annual report to the Governor and to the Secretaries of Education and Health and Human Services, to the extent appropriate, for the preceding fiscal year and for the current fiscal year.

Section 643. Services for Infants and Toddlers with Disabilities.

(a) Registration of Services.—Each State that receives funds under this part shall develop and maintain a registry of service providers for the provision of early intervention services for infants and toddlers with disabilities.

(b) Service Coordination.—Each State that receives funds under this part shall develop and maintain a system for coordinating the services provided for infants and toddlers with disabilities.

(c) Coordination of Services.—Each State that receives funds under this part shall develop and maintain a system for coordinating the services provided for infants and toddlers with disabilities.

Section 645. Use of Funds.

(a) Authorized Activities.—The State educational agency shall have the authority to use funds received under this part for the following purposes:

(1) development and implementation of State and local programs for the early intervention of infants and toddlers with disabilities;

(2) development and implementation of interagency agreements; and

(3) development and implementation of a system for the coordination of the services provided for infants and toddlers with disabilities.

(b) Use of Funds for Other Purposes.—Each State that receives funds under this part shall use the funds for the following purposes:

(1) development and implementation of State and local programs for the early intervention of infants and toddlers with disabilities;

(2) development and implementation of interagency agreements; and

(3) development and implementation of a system for the coordination of the services provided for infants and toddlers with disabilities.

Section 647. Federal Administration.

(a) Allocation of Funds.—The Secretary shall allocate funds under this part to States and other eligible recipients.

(b) Use of Funds.—Each recipient shall use the funds received under this part for the following purposes:

(1) development and implementation of State and local programs for the early intervention of infants and toddlers with disabilities;

(2) development and implementation of interagency agreements; and

(3) development and implementation of a system for the coordination of the services provided for infants and toddlers with disabilities.

Section 651. Indian Tribes and Other Eligible Recipients.

(a) Allocation of Funds.—The Secretary shall allocate funds under this part to Indian tribes and other eligible recipients.

(b) Use of Funds.—Each recipient shall use the funds received under this part for the following purposes:

(1) development and implementation of State and local programs for the early intervention of infants and toddlers with disabilities;

(2) development and implementation of interagency agreements; and

(3) development and implementation of a system for the coordination of the services provided for infants and toddlers with disabilities.

Section 655. Oversight and Evaluation.

(a) Oversight.—The Secretary shall have oversight of the implementation of this part.

(b) Evaluation.—The Secretary shall conduct an evaluation of the early intervention program in each State and shall make the results of the evaluation available to the public.

(c) Report.—The Secretary shall submit a report to the Congress on the implementation of this part.
parent training. Such funds may also be used to provide early intervention services in accordance with this paragraph. Such activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe, tribal organization, or consortium shall make an annual report to the Secretary of the Interior of its activities under this subsection, including the number of children contacted and receiving services for each year, and the estimated number of children receiving services during the year following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on an annual basis to the Secretary of Education along with such other information as required under section 611(h)(3)(E). The Secretary of Education may require any additional information from the Secretary of the Interior.

6 PROHIBITED USES OF FUNDS.—None of the funds under this subsection may be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance, support, and dissemination services.

(c) STATE ALLOTMENTS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) from the funds remaining for each fiscal year after the reservation and payments under subsections (a) and (b), the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such funds allocated to such State for such year.

(2) MINIMUM ALLOTMENTS.—Except as provided in paragraph (3) no State shall receive an amount under this section for any fiscal year that is less than the greater of—

(A) one-half of one percent of the remaining amount described in paragraph (1); or

(B) $500,000.

(3) Ratable Reduction.—

(A) IN GENERAL.—If the sums made available under this Act for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive, the Secretary shall reduce the allocations for such fiscal year in accordance with the following:

(B) Ratability.—In this subsection, including the number of children contacted and receiving services for each year, and the estimated number of children receiving services during the year following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on an annual basis to the Secretary of Education along with such other information as required under section 611(h)(3)(E). The Secretary of Education may require any additional information from the Secretary of the Interior.

6 PROHIBITED USES OF FUNDS.—None of the funds under this subsection may be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance, support, and dissemination services.

(c) STATE ALLOTMENTS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) from the funds remaining for each fiscal year after the reservation and payments under subsections (a) and (b), the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such funds allocated to such State for such year.

(2) MINIMUM ALLOTMENTS.—Except as provided in paragraph (3) no State shall receive an amount under this section for any fiscal year that is less than the greater of—

(A) one-half of one percent of the remaining amount described in paragraph (1); or

(B) $500,000.

(3) Ratable Reduction.—

(A) IN GENERAL.—If the sums made available under this Act for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive, the Secretary shall reduce the allocations for such fiscal year in accordance with the following:

(B) Ratability.—In this subsection, including the number of children contacted and receiving services for each year, and the estimated number of children receiving services during the year following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on an annual basis to the Secretary of Education along with such other information as required under section 611(h)(3)(E). The Secretary of Education may require any additional information from the Secretary of the Interior.

6 PROHIBITED USES OF FUNDS.—None of the funds under this subsection may be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance, support, and dissemination services.

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(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) from the funds remaining for each fiscal year after the reservation and payments under subsections (a) and (b), the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such funds allocated to such State for such year.

(2) MINIMUM ALLOTMENTS.—Except as provided in paragraph (3) no State shall receive an amount under this section for any fiscal year that is less than the greater of—

(A) one-half of one percent of the remaining amount described in paragraph (1); or

(B) $500,000.

(3) Ratable Reduction.—

(A) IN GENERAL.—If the sums made available under this Act for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive, the Secretary shall reduce the allocations for such fiscal year in accordance with the following:

(B) Ratability.—In this subsection, including the number of children contacted and receiving services for each year, and the estimated number of children receiving services during the year following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on an annual basis to the Secretary of Education along with such other information as required under section 611(h)(3)(E). The Secretary of Education may require any additional information from the Secretary of the Interior.

6 PROHIBITED USES OF FUNDS.—None of the funds under this subsection may be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance, support, and dissemination services.

(c) STATE ALLOTMENTS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) from the funds remaining for each fiscal year after the reservation and payments under subsections (a) and (b), the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such funds allocated to such State for such year.

(2) MINIMUM ALLOTMENTS.—Except as provided in paragraph (3) no State shall receive an amount under this section for any fiscal year that is less than the greater of—

(A) one-half of one percent of the remaining amount described in paragraph (1); or

(B) $500,000.

(3) Ratable Reduction.—

(A) IN GENERAL.—If the sums made available under this Act for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive, the Secretary shall reduce the allocations for such fiscal year in accordance with the following:

(B) Ratability.—In this subsection, including the number of children contacted and receiving services for each year, and the estimated number of children receiving services during the year following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on an annual basis to the Secretary of Education along with such other information as required under section 611(h)(3)(E). The Secretary of Education may require any additional information from the Secretary of the Interior.

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(c) STATE ALLOTMENTS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) from the funds remaining for each fiscal year after the reservation and payments under subsections (a) and (b), the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such funds allocated to such State for such year.

(2) MINIMUM ALLOTMENTS.—Except as provided in paragraph (3) no State shall receive an amount under this section for any fiscal year that is less than the greater of—

(A) one-half of one percent of the remaining amount described in paragraph (1); or

(B) $500,000.

(3) Ratable Reduction.—

(A) IN GENERAL.—If the sums made available under this Act for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive, the Secretary shall reduce the allocations for such fiscal year in accordance with the following:

(B) Ratability.—In this subsection, including the number of children contacted and receiving services for each year, and the estimated number of children receiving services during the year following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on an annual basis to the Secretary of Education along with such other information as required under section 611(h)(3)(E). The Secretary of Education may require any additional information from the Secretary of the Interior.

6 PROHIBITED USES OF FUNDS.—None of the funds under this subsection may be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance, support, and dissemination services.

(c) STATE ALLOTMENTS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) from the funds remaining for each fiscal year after the reservation and payments under subsections (a) and (b), the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such funds allocated to such State for such year.

(2) MINIMUM ALLOTMENTS.—Except as provided in paragraph (3) no State shall receive an amount under this section for any fiscal year that is less than the greater of—

(A) one-half of one percent of the remaining amount described in paragraph (1); or

(B) $500,000.

(3) Ratable Reduction.—

(A) IN GENERAL.—If the sums made available under this Act for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive, the Secretary shall reduce the allocations for such fiscal year in accordance with the following:

(B) Ratability.—In this subsection, including the number of children contacted and receiving services for each year, and the estimated number of children receiving services during the year following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on an annual basis to the Secretary of Education along with such other information as required under section 611(h)(3)(E). The Secretary of Education may require any additional information from the Secretary of the Interior.

6 PROHIBITED USES OF FUNDS.—None of the funds under this subsection may be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance, support, and dissemination services.

(c) STATE ALLOTMENTS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) from the funds remaining for each fiscal year after the reservation and payments under subsections (a) and (b), the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such funds allocated to such State for such year.

(2) MINIMUM ALLOTMENTS.—Except as provided in paragraph (3) no State shall receive an amount under this section for any fiscal year that is less than the greater of—

(A) one-half of one percent of the remaining amount described in paragraph (1); or

(B) $500,000.

(3) Ratable Reduction.—

(A) IN GENERAL.—If the sums made available under this Act for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive, the Secretary shall reduce the allocations for such fiscal year in accordance with the following:

(B) Ratability.—In this subsection, including the number of children contacted and receiving services for each year, and the estimated number of children receiving services during the year following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on an annual basis to the Secretary of Education along with such other information as required under section 611(h)(3)(E). The Secretary of Education may require any additional information from the Secretary of the Interior.

6 PROHIBITED USES OF FUNDS.—None of the funds under this subsection may be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance, support, and dissemination services.
"(D) Individuals with disabilities.

"(E) Organizations representing individuals with disabilities and their parents, such as parent training and information centers.

"(F) Early care and other nonprofit organizations involved in the education and employment of individuals with disabilities.

"(G) The lead State agency for part C.

"(H) General and special education teachers, related services personnel, and early intervention personnel.

"(I) The State advisory panel established under part D.

"(J) The State interagency coordinating council established under part C.

"(K) Institutions of higher education within the State.

"(L) Individuals knowledgeable about vocational education.

"(M) The State agency for higher education.

"(N) The State vocational rehabilitation agency.

"(O) Public agencies with jurisdiction in the areas of health, mental health, social services, and juvenile justice.

"(P) Other providers of professional development that work with students with disabilities.

"(Q) Other individuals.

"SEC. 655. USE OF FUNDS.

"(a) IN GENERAL.—

"(1) ACTIVITIES.—A State educational agency that receives a grant under this subpart shall use the grant funds, subject to subsection (b), for the following:

"(I) PROFESSIONAL DEVELOPMENT.—

"(i) Teacher mentoring from exemplary special education teachers, including programs that are designed to improve the quality of the teacher force that serves children with disabilities, such as—

"(1) innovative professional development programs (which may be provided through partnerships including institutions of higher education), including programs that train teachers and specialists in an integrated approach to instructional technology into curricula and instruction to improve teaching, learning, and technology literacy, are consistent with the requirements of section 9101 of the Elementary and Secondary Education Act of 1965, and are coordinated with activities carried out under this part; and

"(ii) development and use of proven, cost-effective strategies for the implementation of professional development activities, such as through the use of technology and distance learning;

"(b) STATE ACTIVITIES.—

"(ii) Reforming special education and regular education teacher certification (including recertification) or licensing requirements to ensure that—

"(i) special education and regular education teachers have the training and information necessary, including an understanding of the latest scientifically valid education research and its applicability, to address the wide variety of needs of children with disabilities across disability categories; and

"(ii) special education and regular education teachers have the necessary subject matter knowledge and teaching skills in the academic subjects that they teach; and

"(iii) special education and regular education teacher certification (including recertification)
or licensing requirements are aligned with challenging State academic content standards; and

"(IV) special education and regular education teachers have the subject matter knowledge and teaching skills necessary to help students meet challenging State student academic achievement standards.

"(V) programs that expand or improve alternative routes for State certification of special education teachers for individuals who demonstrate the potential to become effective special education teachers, such as individuals with a baccalaureate or master’s degree (including mid-career professionals from other occupations), paraprofessionals, former military personnel, and recent college or university graduates with records of academic distinction.

"(VI) outcomes of teacher advancement initiatives for special education teachers that promote professional growth and emphasize multiple career paths (such as paths to becoming a career teacher, mentor teacher, or exemplary teacher) and pay differentiation.

"(VII) Developing and implementing mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified special education teachers.

"(VIII) Reforming testing systems, implementing teacher testing for subject matter knowledge, and instituting alternative testing for State certification or licensing, consistent with title II of the Higher Education Act of 1965.

"(IX) Implementing mechanisms to assist schools in effectively recruiting and retaining highly qualified special education teachers.

"(X) Funding projects to promote reciprocity of teacher certification or licensing between, or among States for special education teachers, except that no reciprocity agreement developed under this clause or developed using funds provided under this subpart may lead to the weakening of any State teaching certification or licensing requirement.

"(XI) Developing or assisting local educational agencies to serve children with disabilities through the development and use of proven, innovative strategies to deliver intensive professional development programs that are both cost-effective and easily accessible, such as strategies that involve delivery through the use of technology, peer networks, and distance learning.

"(XII) Developing, or assisting local educational agencies in developing, merit-based performance strategies that provide differential and bonus pay for special education teachers.

"(XIII) Supporting activities that ensure that teachers are challenging State academic content standards and student academic achievement standards, and State assessments, to improve instructional practices and improve the academic achievement of children with disabilities.

"(XIV) Coordinating with, and expanding, centers established under section 2113(c)(19) of the Elementary and Secondary Education Act of 1965 to benefit special education teachers.

"(1) Contracts and subgrants.—Each such State educational agency—

"(A) shall, consistent with its partnership agreement under section 644(b)(2), award contracts or subgrants to local educational agencies, institutions of higher education, and public training and information centers, as appropriate, to carry out its State plan under this subpart; and

"(B) use of funds for professional development.—A State educational agency that receives a grant under this subpart shall use—

"(i) no more than 10 percent of the funds it receives under the grant for any fiscal year for activities under subsection (a)(1)(A); and

"(ii) at least 90 percent of the funds it receives under the grant for any fiscal year for activities under subsection (a)(1)(B).

"(2) Grants to outlying areas.—Public Law 95-244 directs the consolidation of grants to the outlying areas, shall not apply to funds received under this subpart.

"SEC. 654. STATE GRANT AMOUNTS.

"(a) In general.—The Secretary shall make a grant to each State educational agency whose application the Secretary has selected for funding under this subpart in an amount for each fiscal year that—

"(1) does not less than $500,000, nor more than $2,000,000, in the case of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

"(2) does not less than $80,000, in the case of an outlying area.

"(b) Factors.—The Secretary shall set the amount of each grant under subsection (a) after considering—

"(1) the amount of funds available for making the grants;

"(2) the relative population of the State or outlying area; and

"(3) the types of activities proposed by the State or outlying area.

"(A) the alignment of proposed activities with paragraphs (14) and (15) of section 612(a);

"(B) the alignment of proposed activities with the plans submitted under sections 1111 and 2112 of the Elementary and Secondary Education Act of 1965;

"(C) the use, as appropriate, of scientifically based research.

"SEC. 657. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart $44,000,000 for fiscal years 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2009.

"Subpart 2—Scientifically Based Research; Technical Assistance Model Demonstration Projects; Dissemination of Information; and Personnel Preparation Programs

"(1) In general.—The purpose of this subpart is to provide Federal funding for scientifically based research, training, technical assistance, model demonstration projects, information dissemination, and personnel preparation programs to improve early intervention, educational, and transitional results for children with disabilities.

"(2) Required outreach and technical assistance.—Notwithstanding any other provision of this Act, the Secretary shall reserve at least two percent of the total amount of funds appropriated to carry out this subpart for each of the following activities:

"(A) Fostering and technical assistance to historically black colleges and universities, and to institutions of higher education with minority enrollments of at least 25 percent, to promote the participation of such colleges, universities, institutions, and in activities under this subpart.

"(B) Enabling historically black colleges and universities, and the institutions described in subparagraph (A), to award grants to colleges, universities, institutions, and agencies in improving educational and transitional results for children with disabilities, if such grant recipients meet the criteria established by the Secretary under this subpart.

"(C) Promoting the participation of historically black colleges and universities, and to institutions of higher education with minority enrollments of at least 25 percent, to promote the participation of such colleges, universities, institutions, and in activities under this subpart.

"(D) Eligible applicants.—In making an award of a grant, contract, or cooperative agreement under this subpart, the Secretary shall, as appropriate, require an applicant to demonstrate how the applicant will address the needs of children with disabilities from minority backgrounds.

"(2) Required outreach and technical assistance.—Notwithstanding any other provision of this Act, the Secretary shall reserve at least two percent of the total amount of funds appropriated to carry out this subpart for each of the following activities:

"(A) Providing and technical assistance to historically black colleges and universities, and to institutions of higher education with minority enrollments of at least 25 percent, to promote the participation of such colleges, universities, institutions, and in activities under this subpart.

"(B) Enabling historically black colleges and universities, and the institutions described in subparagraph (A), to award grants to colleges, universities, institutions, and agencies in improving educational and transitional results for children with disabilities, if such grant recipients meet the criteria established by the Secretary under this subpart.

"(C) Eligible applicants.—In making an award of a grant, contract, or cooperative agreement under this subpart, the Secretary shall, as appropriate, require an applicant to demonstrate how the applicant will address the needs of children with disabilities from minority backgrounds.

"(3) Application requirement.—In making an award of a grant, contract, or cooperative agreement under this subpart, the Secretary shall, as appropriate, require an applicant to demonstrate how the applicant will address the needs of children with disabilities from minority backgrounds.

"(3) Application requirement.—In making an award of a grant, contract, or cooperative agreement under this subpart, the Secretary shall, as appropriate, require an applicant to demonstrate how the applicant will address the needs of children with disabilities from minority backgrounds.

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"(3) Application requirement.—In making an award of a grant, contract, or cooperative agreement under this subpart, the Secretary shall, as appropriate, require an applicant to demonstrate how the applicant will address the needs of children with disabilities from minority backgrounds.
"(e) Applicant and Recipient Responsibilities.—

(1) Development and Assessment of Projects.—The Secretary shall require that an application submitted by a recipient of a grant, contract, or cooperative agreement for a project under this subpart—

(A) involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26 who are beneficiaries, or have benefited, from coordinated research, personnel preparation, and technical assistance; and

(B) Federal Employment Limitation.—A majority of the individuals on each subpanel that reviews applications under this subpart (other than section 663) shall be individuals who are not employees of the Federal Government.

(2) Additional Responsibilities.—The Secretary shall require a recipient of a grant, contract, or cooperative agreement for a project under this subpart—

(A) to share in the cost of the project;

(B) to prepare the research and evaluation findings and products from the project in formats that are useful for specific audiences, including parents, administrators, teachers, early intervention personnel, related service personnel, and individuals with disabilities; and

(C) to disseminate such findings and products, and to report related to management of applications submitted under this subpart.

(3) Use of Discretionary Funds for Administrative Purposes.—

(A) Expenses and Fees of Non-federal Panel Members.—The Secretary may use funds appropriated to carry out this subpart to pay the expenses, and fees of the panel members who are not officers or employees of the Federal Government.

(B) Program Evaluation.—The Secretary may use funds appropriated to carry out this subpart to evaluate activities carried out under the subpart.

(4) Program Evaluation.—The Secretary may use funds appropriated to carry out this subpart to report related to management of applications submitted under this subpart.

(5) Minimum Funding Required.—

(A) in general.—Subject to paragraph (2), the Secretary shall require that, for each fiscal year, at least the following amounts are provided under this subpart to address the following needs:

(1) $12,832,000 to address the educational, related services, transitional, and early intervention needs of children with deaf-blindness;

(2) $4,000,000 to address the postsecondary, continuing, and adult education needs of individuals with deafness;

(3) $4,000,000 to address the educational, related services, transitional, and early intervention needs of children with emotional disturbance and those who are at risk of developing an emotional disturbance;

(B) Ratable Reduction.—If the total amount appropriated to carry out this subpart for any fiscal year is less than $130,000,000, the amounts listed in paragraph (1) shall be ratably reduced.

(6) Eligibility for Financial Assistance.—

Effective for fiscal years for which the Secretary may make grants under section 619(b), no State or local educational agency or agency or public institution or agency may receive a grant under this subpart which relates exclusively to programs, projects, and activities pertaining to children aged 3 through 5, inclusive, unless the State is eligible to receive a grant under section 619(b).

(7) National Center for Special Education Research.—

(A) Establish.—

There is established, in the Institute of Education Sciences, for the development and use of effective strategies to improve the education of children with disabilities, the National Center for Special Education Research.

(B) Establishment.—The National Center for Special Education Research shall be headed by a Commissioner for Special Education Research and shall have substantial knowledge of the Center’s activities, including a high level of expertise in the fields of research and research management.

(8) Authorization Appropriations for Fiscal Year 2003.—

There are authorized to be appropriated to carry out this subpart—

(A) $48,000,000 for salaries and expenses of the Center and the Commissioner; and

(9) Limitation.—

There is hereby provided that of the amount appropriated under this section for any fiscal year, not more than 1 percent of the amount appropriated to carry out this subpart shall be used for expenses, and fees of the panel members who are not officers or employees of the Federal Government.

(10) Special Education Research and Improvement Fund.—Of the amount appropriated under this section for any fiscal year, not more than 1 percent of the amount appropriated to carry out this subpart shall be used for expenses, and fees of the panel members who are not officers or employees of the Federal Government.
"(1) is consistent with the purposes of this Act; "(2) reflects an appropriate balance across all age ranges of children with disabilities; "(3) is such that objective and that uses measurable indicators to assess its progress and results; "(4) is such that basic research and applied research, which shall include research conducted through field-initiated studies and which may include ongoing research initiatives; "(5) the research conducted under this section is relevant to special education practice and policy; "(6) synthesize and disseminate, through the National Center for Education Evaluation and Regional Assistance as well as activities authorized under this part, the findings and results of education research conducted or supported by the National Center for Special Education Research; and "(7) assist the Director in the preparation of a biennial report, as described in section 119 of the Education Sciences Reform Act of 2003. "(f) Applications.—An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require. 

"SEC. 664. TECHNICAL ASSISTANCE, DEMONSTRATION PROJECTS, DISSEMINATION OF INFORMATION, AND IMPLEMENTATION OF SCIENTIFICALLY BASED RESEARCH. •

"(a) In General.—The Secretary shall make competitive grants to, or enter into contracts or cooperative agreements with, eligible entities including activities for high-incidence and low-incidence disabilities, in policy, procedure, practice, and transitional services; and "(b) Eligible Entities.—Funds appropriated under this section shall be used to support activities to improve services provided under this Act, including the practices of professionals and others involved in providing such services to children with disabilities, that promote academic achievement and improve results for children with disabilities through— "(1) effective strategies for addressing inappropriate behavior of students with disabilities in schools, including strategies to prevent children with emotional and behavioral problems from developing emotional disturbances that require the provision of special education and related services; "(2) the development, compatibility, and development of valid and reliable assessments and alternate assessments for assessing adequate yearly progress, as described under section 1112(b)(8) of the Elementary and Secondary Education Act of 1965; "(3) providing training for both regular education teachers and special education teachers to address the needs of students with different learning styles; "(4) identifying innovative, effective, and efficient curricula designs, instructional approaches, and identifying positive academic and social learning opportunities, that— "(A) provide effective transitions between educational settings or from school to post school settings; and "(B) improve educational and transitional results of the educational settings in which the activities are carried out and, in particular, that improve the progress of children with disabilities, as measured by assessments within general education curriculum involved; and "(5) demonstrating and applying scientifically based findings to facilitate systemic changes, related to the services to children with disabilities, in policy, procedure, practice, and the training and use of personnel. "(c) Authorized Activities.—Activities that may be carried out under this section include activities to improve services provided under this Act, including the practices of professionals and others involved in providing such services to children with disabilities, that promote academic achievement and improve results for children with disabilities through— "(1) applying and testing research findings in typical service settings to determine the usefulness, effectiveness, and general applicability of such findings to such service settings, including such instructional methods, curricula, and tools, such as textbooks and media; "(2) supporting and the coordination of educational services for children with disabilities with services provided by health, rehabilitation, and social service agencies; "(3) promoting improved alignment and comparability of general and special education reforms concerned with curricular and instructional reform, and evaluation of such reforms; "(4) enabling professionals, parents of children with disabilities, and other persons to learn about, and implement, the findings of scientifically based research, and successful practices developed in model demonstration projects, relating to the provision of services to children with disabilities; "(5) conducting outreach, and disseminating information, relating to successful approaches to overcoming systemic barriers to the effective and efficient delivery of early intervention, education, and supportive services to personal and families who provide services to children with disabilities; "(6) assisting States and local educational agencies with the process of planning systemic changes that will promote improved early intervention, educational, and transitional results for children with disabilities; "(7) promoting change through a multistate or regional framework that benefits States, local educational agencies, and other participants in partnerships that lead to the process of achieving systemic change-outcomes; "(8) focusing on the needs and issues that are specific to a population of children with disabilities, such as the provision of single-state and multi-State technical assistance and in-service training; "(9) providing technical assistance to schools and agencies serving deaf-blind children and their families; "(10) to programs and agencies serving other groups of children with low-incidence disabilities and their families; "(11) addressing the postsecondary education needs of individuals who are deaf or hard-of-hearing; and "(12) to schools and personnel providing special education and related services for children with autism spectrum disorders; "(13) implementing models of personnel preparation to ensure appropriate placements and services for all students and reduce disproportionality, in eligibility, placement, and disciplinary actions for minority and English proficient children; and "(14) disseminating information on how to reduce racial and ethnic disproportionalities identified under section 619; "(d) Balance Among Activities and Age Ranges.—In carrying out this section, the Secretary shall ensure an appropriate balance across all age ranges of children with disabilities. "(e) Linking States to Information Sources.—In carrying out this section, the Secretary shall support projects that link States to technical assistance resources, including special education and general education resources, and shall maintain products available through libraries, electronic networks, parent training projects, and other information sources, including through the activities of the National Center on Disability and Rehabilitation Research. "(f) Applications.—(1) In general.—An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. "(2) Priority.—An applicant for an award shall include in its application the extent to which the Secretary shall give priority to applications that propose to serve teachers and school personnel directly in the school environment. "SEC. 665. PERSONNEL PREPARATION PROGRAMS TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES. •

"(a) In General.—The Secretary shall, on a competitive basis, make grants to, or enter into contracts or cooperative agreements with, eligible entities to— "(1) to address State-identified needs for qualified personnel in special education, related services, early intervention, and regular education personnel who work with children with disabilities; "(2) to ensure that those personnel have the necessary skills and knowledge, derived from practices that have been determined, through scientifically valid research, to be successful in serving those children; "(3) to encourage increased focus on academics and core content areas in special education personnel preparation programs; "(4) to ensure that regular education teachers have the necessary skills and knowledge to provide instruction to students with disabilities in regular education classrooms; "(5) to provide high-quality professional development for principals, superintendents, and other administrators, including training in— "(A) instructional leadership; "(B) behavioral supports in the school and classroom; "(C) paper work reduction; "(D) promoting improved collaboration between special education and general education teachers; "(E) accountability and evaluation; "(F) ensuring effective learning environments; and "(G) fostering positive relationships with parents; and "(6) to ensure that all special education teachers teaching in core academic subjects are highly qualified. "(b) Personnel Preparation; Authorized Activities. •

"(1) In general.—In carrying out this section, the Secretary shall support activities, including activities for high-incidence and low-incidence disabilities, consistent with the objectives described in subsection (a). "(2) Authorized Activities.—Activities that may be carried out under this subsection include the following: •

"(i) Professional development activities undertaken by institutions of higher education, local educational agencies, and other local entities— "(A) to improve and reform the existing program and to support effective existing programs, to prepare teachers and related services personnel; "(B) to meet the diverse needs of children with disabilities for early intervention, educational, and transitional services; and "(C) to work collaboratively in regular classroom settings; and "(ii) to incorporate best practices and scientifically based research about preparing personnel— •

"(A) so they will have the knowledge and skills to improve educational results for children with disabilities; and
“(III) they can implement effective teaching strategies and interventions to ensure appropriate identification, and to prevent the misidentification or over-identification, of children with low-incidence disabilities, especially minority and limited English proficient children.

“(B) Developing, evaluating, and disseminating innovative models for the recruitment, induction, and professional development of highly qualified teachers to reduce shortages in personnel.

“(C) Developing and improving programs for paraprofessionals to assist in the provision of special education, related services, and early intervention services, including interdisciplinary training to enable them to improve early intervention services and transitional results for children with disabilities.

“(D) Demonstrating models for the preparation of special education teachers with an expertise in working with children with disabilities.

“(E) Providing personnel from various disciplines with interdisciplinary training that will contribute to improvement in early intervention, educational, and transitional services for children with low-incidence disabilities.

“(F) Preparing personnel to be qualified educators, interpreters, and providers of educational, related services, and transitional services for children with disabilities.

“(G) Preparing personnel to work with children with disabilities, especially minority and limited English proficient children.

“(H) Preparing personnel to teach Braille in the provision of services to children who receive a free appropriate public education under this Act.

“(I) Preparing personnel to address early childhood and transitional services for children with disabilities.

“(J) Preparing personnel to be qualified educators, interpreters, and providers of educational, related services, and transitional services for children with disabilities.

“(K) Preparing personnel to teach Braille in the provision of services to children who receive a free appropriate public education under this Act.

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“(M) Preparing personnel to be qualified educators, interpreters, and providers of educational, related services, and transitional services for children with disabilities.

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“(XX) Preparing personnel to teach Braille in the provision of services to children who receive a free appropriate public education under this Act.

“(YY) Preparing personnel to address early childhood and transitional services for children with disabilities.

“(ZZ) Preparing personnel to be qualified educators, interpreters, and providers of educational, related services, and transitional services for children with disabilities.
through their activities to reform policies, procedures, and practices designed to improve educational and transitional services and results for children with disabilities.

(2) An analysis of State and local needs for professional development, parent training, and other appropriate activities that can reduce the need for disciplinary actions involving children with disabilities.

(3) An assessment of educational and transitional services and results for children with disabilities from minority backgrounds, including:

(I) the number of minority children who graduated from secondary programs with a regular diploma in the standard number of years; and

(dd) the number of minority children who dropped out of the educational system without a regular diploma; and

(ii) the performance of children with disabilities from minority backgrounds on State assessments and other performance indicators established for all students;

(iv) a measure of educational and transitional services and results for children with disabilities who are 3 through 17 years of age and are receiving special education and related services under this Act, using a national, representative sample of distinct age cohorts and disability categories;

(v) an examination of educational and transitional services, postsecondary placement, and employment status of individuals with disabilities, 18 through 21 years of age, who are receiving or have received special education and related services under this Act.

(2) ANNUAL REPORT.—The Secretary shall provide an annual report to the President and the Congress—

(A) a final report of the findings of the assessment not later than 30 months after the date of the enactment of this Act for public and accessible dissemination activities under this section and the timeline for providing special education, early intervention, educational, and transitional services and results for children with disabilities; and

(B) a report on the implementation of the State and local needs for professional development, parent training, and other appropriate activities that can reduce the need for disciplinary actions involving children with disabilities.

(C) ANNUAL REPORT.—The Secretary shall provide an annual report to Congress that—

(1) summarizes the research conducted under section 663;

(2) analyzes and summarizes the data reported by the States and the Secretary of the Interior under section 618;

(3) summarizes the studies and evaluations conducted under this section and the timeline for their completion;

(4) describes the extent and progress of the national assessment; and

(5) describes findings and determinations resulting from reviews of State implementation of this Act.

SEC. 667. AUTHORIZATION OF APPROPRIATIONS. There are appropriated to carry out sections 663, 664, and 666 $171,861,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2009, for the purpose of providing special education, early intervention, educational, and transitional services and results for children with disabilities and their families.

Subpart 3—Supports To Improve Results for Children With Disabilities

SEC. 671. PURPOSES. The purposes of this subpart are to ensure that—

(1) children with disabilities and their parents receive training and information on their rights, responsibilities, and protections under this Act, in order to develop the skills necessary to cooperatively and effectively participate in planning and decisionmaking relating to early intervention, educational, and transitional services.

(2) parents, teachers, administrators, early intervention personnel, related services personnel, and transition personnel receive coordinated, accessible training and information to assist them in improving early intervention, educational, and transitional services and results for children with disabilities and their families.

(3) appropriate technology and media are researched, developed, and demonstrated, to improve the participation of children with disabilities and their families.

(4) the President and the Congress receive assistance under this section.

(5) the President and the Congress receive information about the range, type, and quality of options, programs, services, and resources available to assist children with disabilities and their families in school and at home.

This Act, in order to develop the skills necessary to cooperatively and effectively participate in planning and decisionmaking relating to early intervention, educational, and transitional services.

(2) parents, teachers, administrators, early intervention personnel, related services personnel, and transition personnel receive coordinated, accessible training and information to assist them in improving early intervention, educational, and transitional services and results for children with disabilities and their families.

(3) appropriate technology and media are researched, developed, and demonstrated, to improve the participation of children with disabilities and their families.

(4) the President and the Congress receive assistance under this section.

(5) the President and the Congress receive information about the range, type, and quality of options, programs, services, and resources available to assist children with disabilities and their families in school and at home.

(6) network with appropriate clearinghouses, including the organizations conducting national dissemination activities under subpart 2 and the Institute of Educational Sciences, and with other national, State, and local organizations and agencies, such as the Civil Rights Division and other national organizations and agencies, that serve parents and families of children with the full range of disabilities; and

(7) assist parents to understand the availability, and how to effectively use, professional safeguards under this Act.
"(8) annually report to the Secretary on—
   "(A) the number and demographics of parents to whom it provided information and training in the most recently concluded fiscal year; and
   "(B) the types of strategies used to reach and serve parents, including underserved parents of children with disabilities; and
   "(C) any cooperative agreements with, local parent organizations to support parent training and information centers that will help ensure that underserved parents of children with disabilities, including low-income parents, parents of children with limited English proficiency, and parents with disabilities, have the training and information they need to enable them to participate effectively in helping their children with disabilities—
   "(1) to meet developmental goals and, to the maximum extent possible, those challenging standards that have been established for all children; and
   "(2) to be prepared to lead productive independent adult lives, to the maximum extent possible.
   "(B) REQUIRED ACTIVITIES.—Each parent training and information center assisted under this section shall—
   "(1) provide training and information that meets the training and information needs of parents of children with disabilities proposed to be served by the grant, contract, or cooperative agreement;
   "(2) carry out the activities required of parent training and information centers under paragraphs (2) through (7) of section 672(b); and
   "(3) establish cooperative partnerships with the parent training and information centers funded under section 672; and
   "(C) DEFINITION.—As used in this section, the term 'local parent organization' means a parent organization as defined in section 672(g), that either—
      "(1) has a board of directors the majority of whom are from the community to be served; or
      "(2) as a part of its mission, serving the interests of individuals with disabilities from such community; and
   "(B) a special governing committee to administer the grant, contract, or cooperative agreement, a majority of the members of which are individuals from such community.

SEC. 674. TECHNICAL ASSISTANCE FOR PARENT TRAINING AND INFORMATION CENTERS.

   "(a) IN GENERAL.—The Secretary may make grants to, and contracts and cooperative agreements with, local parent organizations to support parent training and information centers that will help ensure that underserved parents of children with disabilities, including low-income parents, parents of children with limited English proficiency, and parents with disabilities, have the training and information they need to enable them to participate effectively in helping their children with disabilities—
      "(1) to meet developmental goals and, to the maximum extent possible, those challenging standards that have been established for all children; and
      "(2) to be prepared to lead productive independent adult lives, to the maximum extent possible.
   "(B) REQUIRED ACTIVITIES.—Each parent training and information center assisted under this section shall—
      "(1) provide training and information that meets the training and information needs of parents of children with disabilities proposed to be served by the grant, contract, or cooperative agreement; and
      "(2) carry out the activities required of parent training and information centers under paragraphs (2) through (7) of section 672(b); and
   "(C) DISTRIBUTION OF FUNDS.—
      "(1) to ensure that the needs for training and information of underserved parents of children with disabilities in the area to be served are effectively met; and
      "(2) to work with community-based organizations, including those that work with low-income parents and children with limited English proficiency.
   "(d) APPLICATION REQUIREMENTS.—Each application for assistance under this section shall identify with specificity the special efforts that the applicant undertakes to reach and serve parents, including underserved parents of children with disabilities; and
   "(e) DISTRICT OF COLUMBIA.—The term 'parent organization' means a national, nonprofit entity with a demonstrated capacity to serve children with disabilities; and
   "(f) IN GENERAL.—The Secretary shall make grants and awards to, and enter into contracts and cooperative agreements with, entities (as defined in section 626(b)) to support parent training and information centers in the District of Columbia through programs carried out by parent training and information centers receiving assistance under section 672 and 673.
   "(B) AUTHORIZED ACTIVITIES.—The Secretary may provide technical assistance to a parent training and information center under this section in areas such as—
      "(1) effective coordination of parent training and information efforts; and
      "(2) dissemination of scientifically based research and information; and
      "(3) promoting the use of technology, including assistive technology devices and assistive technology services; and
      "(4) reaching underserved populations, including children of, low-income and limited English proficient children with disabilities; and
      "(5) including children with disabilities in general education programs.
   "(D) APPLICATION REQUIREMENTS.—
      "(1) the number and demographics of parents of children with disabilities; and
      "(2) a memorandum of understanding between the board of directors and the community of the organization that clearly outlines the relationship between the board and the community and the decisionmaking responsibilities and authority of each.
SEC. 104. GAO REPORTS.

Notwithstanding any other provision of law, the Secretary of Education is authorized to use amounts appropriated for the carryout of section 615(f) of the Individuals with Disabilities Education Act (as added by section 205(f) of the bill) to conduct a study on how limited English proficient students are being served under the Individuals with Disabilities Education Act (as amended by section 205(f) of the bill), strike "videos, or other materials with an education based content for use in the classroom setting" and insert "such children with disabilities from minority backgrounds" and insert "such children with disabilities".

In section 675(c)(2) of the Individuals with Disabilities Education Act, strike "videos, or other materials with an education based content for use in the classroom setting" and insert "such children with disabilities from minority backgrounds" and insert "such children with disabilities".

(1) STUDY.—The Comptroller General shall conduct a study on how limited English proficient students are being served under the Individuals with Disabilities Education Act (as amended by section 205(f) of the bill), strike "subject matter of hearing.—No party shall be allowed to raise issues at the due process hearing that were not raised in the complaint, discussed during the meeting conducted pursuant to paragraph (1)(B), or properly disclosed pursuant to paragraph (2), unless both parties agree to do so.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit to the appropriate congressional committees a report containing the findings from the study conducted under paragraph (1).

(C) DEFINITION.—In this section, the term "appropriate congressional committees" means the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

The CHAIRMAN. The Clerk will designate the amendment.

Mr. CASTLE. Mr. Chairman, pursuant to the rule, I offer Amendment No. 1.

SEC. 104. GAO REPORTS.

(a) PAPERWORK STUDY.—

(1) REVIEW.—The Comptroller General shall conduct a review of all Federal requirements under the Individuals with Disabilities Education Act, and the requirements of a reasonable sample of State and local educational agencies relating to such Act, to determine which requirements result in excessive paperwork, if any, or if any, and the extent to which such requirements result in excessive paperwork, if any, or if any, and the extent to which such requirements result in excessive paperwork, if any.

(b) DISABILITY DEFINITIONS.—

(1) REVIEW.—The Comptroller General shall conduct a review of the States in definitions, and evaluation processes, relating to the provision of services under the Individuals with Disabilities Education Act to children having conditions described in section 602(a)(3) of such Act using the terms "emotional disturbance", "other health impairments", and "specific learning disability"; and the degree to which these definitions and evaluation processes conform to scientific, peer-reviewed research.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall prepare and submit to the appropriate congressional committees a report that contains the results of the review under paragraph (1).

(c) DISTANCE LEARNING PROFESSIONAL DEVELOPMENT PROGRAMS.—

(1) STUDY.—The Comptroller General shall conduct a study on existing or developing professional development programs for special education personnel delivered through the use of technology and distance learning.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit a report containing the findings from the study conducted under paragraph (1) to the appropriate congressional committees.

(d) LIMITED ENGLISH PROFICIENT CHILDREN WITH DISABILITIES.—

(1) STUDY.—The Comptroller General shall conduct a study on how limited English proficient students are being served under the Individuals with Disabilities Education Act (as amended by section 205(f) of the bill), strike "subject matter of hearing.—No party shall be allowed to raise issues at the due process hearing that were not raised in the complaint, discussed during the meeting conducted pursuant to paragraph (1)(B), or properly disclosed pursuant to paragraph (2), unless both parties agree to do so.

(2) REPORT.—Not later than 2 years after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003, the Comptroller General of the United States shall submit a report containing the findings from the study conducted under paragraph (1).

(e) DEFINITION.—In this section, the term "appropriate congressional committees" means the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

The CHAIRMAN. Pursuant to House Resolution 206, the gentleman from Delaware (Mr. CASTLE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Nebraska (Mr. OSBORNE), the vice chairman of the Subcommittee on Education Reform.

Mr. OSBORNE, Mr. Chairman, as I have traveled my district, I hear a lot of concerns from teachers, administrators and parents, and the most common concerns that I have heard reflect on excessive paperwork and litigation.

This bill obviously addresses those. We attempt to streamline the administrative process. It provides for less legislation through arbitration.

The second major issue we have talked about a great deal here today is funding. I am convinced that the chairman of the committee, the subcommittee chairman and others, are fully committed to full funding of 40 percent within the next 7 years. The 40 percent that this bill talks about.

In the last 8 years, we have seen a 300 percent increase in funding for IDEA. So we are very convinced that this full funding will occur.

The third issue I would like to address over the course of this bill. We find that some schools have 40 to 50 percent of their student body identified as learning disabled, and, generally speaking, this is simply due to reading difficulties. So if we have adequate Head Start and early childhood programs, we can eliminate this process.

Mr. Chairman, I urge support of the bill. It is a good bill, and I appreciate the chairman's offering it.

Ms. WOOLSEY. Mr. Chairman, I ask unanimous consent to claim the time in opposition.

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

There is no objection.

The CHAIRMAN. The gentleman from California (Ms. WOOLSEY) is recognized for 5 minutes.

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

The CHAIRMAN. Mr. Chairman, we worked with the majority on this amendment. We do not oppose it, and would hope that it could be passed right now.
Mr. Chairman, I reserve the balance of my time.

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

Mr. Chairman, first I appreciate the bipartisan support for the amendment. Secondly, I think it would be worth taking this 2 minutes to try to read what is actually in this amendment so we will know what we are voting for.

It is a technical amendment, it clarifies and consolidates a series of GAO reports that were added during the consideration of the bill by the Committee on Education and Workforce.

It redefines the percentage of funds that the State can reserve out of its State level activities for programs designed to serve children with disabilities with high cost, special education-related services needs to reflect the common understanding.

It updates authorization levels that were modified by the fiscal year 2004 budget resolution. This level reflects the increased spending in the fiscal year 2004 budget resolution included for IDEA Part B State Grants.

It clarifies that evaluations are provided to children in the language and form designed to obtain useful information and includes longstanding terminology used throughout the implementing regulations and elsewhere in the Act.

It modifies language in the section prohibiting the Federal control of curriculum to ensure that this exact language is included in the No Child Left Behind Act. This is an important change, by the way, that ensures consistent language addressing local control over the curriculum.

It revises language in the Part D programs to ensure that the needs of limited English proficient children with disabilities are met through the training of school personnel and effective data collection.

It puts in the section regarding support for captioning programs to enable new programs to be captioned until 2006, which is when Federal Communications Commission requirements require all news programs to be captioned until 2009.

These amendments, Mr. Chairman, continue our well-balanced approach toward improving IDEA. As with the remainder of the bill, these improvements will result in improved services for students and improved achievement for students.

I urge my colleagues to adopt this amendment.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Chairman, I thank my colleague for yielding me time.

Mr. Chairman, I rise in support of the text any California amendment, but opposing the one we are about to consider in Congress on the Committee on Education and Workforce, but also for many years as a State legislator in the State Senate in Texas on the Education Committee, it has been frustrating, both in Congress and as a legislator dealing with IDEA and the special education programs.

For more than a quarter of a century, the Individuals With Disabilities Education Act, IDEA, has helped countless disabled youth to complete their education and become contributing members of our society. I see it every day when I go home.

Although this program has succeeded in its efforts to ensure that all American children receive a free and appropriate public education, this Congress, and I am not talking about the majority Republican, I am talking about my first term when we were in the majority, although IDEA was not up for reauthorization, we failed to fully fund IDEA. This is my sixth term, and for five of those terms, as Democrats, we have been in the minority, so somewhere along the way you are going to have to quit pointing back a decade ago and saying "it is your all's fault."

I am sure that almost every Member of Congress, at one point or another, has been supportive of funding IDEA. But when it comes down to putting our money where our mouths are, we once again come up short.

I know the frustration, because we see it in our schools, we see it on our State level, we see it with our principles, instead of requiring Congress to live up to the promise and fully fund the 40 percent of IDEA costs that we agreed to do originally, this legislation continues to leave the funding subject to the appropriations process.

Children with disabilities have a hard enough time making it in this world. We should not make them compete against all the other very worthwhile projects that we have. We should live up to the promise and provide mandatorily funding for IDEA.

We also should not make it harder for students to receive their education by the provisions in this bill on discipline. I do not want somebody bringing guns or knives or scissors to school to hurt someone, but I also know we should not let minor infractions cause a student to be removed from an educational setting that works for them.

Mr. Chairman, I urge opposition to the bill and support for the amendment.

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the gentlewoman from Illinois (Mrs. BIGGERT), a member of the committee.

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

I rise today in support of both this amendment and the underlying bill.

We all agree that we need to fully fund IDEA. This legislation will get us there sooner than ever before. We will be at 21 percent, over half of our promise, by 2004. We will reach full funding in 7 years.

But this bill contains more than financial matters. It makes it easier for parents and schools to meet to discuss the unique needs of a student and for teachers and administrators from a mountain of required paperwork that takes time away from their students.

Some parents have expressed concern over the 3-year Individualized Education Plan, or IEP. They are afraid that it may undermine their children's rights. I want to reassure them that this is simply an option. The parents must agree to a 3-year plan. Just like under current law, they can request a new IEP at any time.

Every single one of the due process rights parents have is continued under H.R. 1350. This bill will make special education work for all students.

Ms. WOOLSEY. Mr. Chairman, I yield this balance of my time to the gentleman from Wisconsin (Mr. KIND), a member of the committee.

Mr. KIND. Mr. Chairman, I thank the gentlewoman from California (Ms. WOOLSEY), my friend and the ranking member of the subcommittee for this important debate for yielding me this time and also for the work that she has put in with this important legislation. It has been invaluable. I also want to commend the gentleman from Delaware (Mr. CASTLE), my good friend, the Chairman of the subcommittee, with the way he has conducted the process leading up to today's legislation, the outreach he has provided across the aisle and throughout the Nation looking for input on what I think is the most important piece of education legislation that we will be dealing with in this session of Congress. I do support the technical amendment before us right now.

This, Mr. Chairman, is an important piece of education legislation. It is only following the basic needs in our country to have access to quality education that the rest of our children now have. I think there was room for improvement on a variety of provisions. I think in a lot of respects this bill moves in the right direction to improving it: streamlining the IEP process, trying to reduce the paper burden, trying to increase some flexibility with regard to the disciplinary issues at the local level, and emphasizing the importance of professional development.

I especially appreciate the acceptance of a few amendments that I offered in committee during markup, one that does emphasize professional development and distance learning opportunities for our teachers and administrators, and one that calls for a GAO study that would encompass the entire country to determine what online materials are currently available for our teachers and administrators so that they can upgrade their skills.

But I especially appreciate a new provision that was accepted in committee that I offered that permits States to...
establish and implement costs and risk-sharing funds, consortia, and cooperatives to assist students with severe disabilities. This is an area that is the fastest-growing area of education funding at the local level. Children who normally would not have survived to school age are surviving today because of the miracle of the advancement of medical research and technologies. But they are also bringing with them some exceptionally high costs that school districts are having to bear.

The amendment I put forward allows school districts to address these high-risk and exceptionally expensive students.

We do have to work much harder in this Congress, this year and the years ahead, to try to achieve the full funding which virtually every Member of this body is on record of supporting. I appreciate the fact that the majority party has a 7-year trend line to get to full funding, and this is a little bit skeptical in regards to the institutional willingness and the willingness of the administration to make sure we achieve full funding. This is the granddaddy of unfunded mandates that our local districts have been battling with since the creation of this bill back in the 1970s. We must do a better job so that we can stop pitting student against student in the classroom and end this controversy where it is merely a matter of political and institutional will to do what I think we all recognize must be done, and that is make sure the resources follow the rhetoric after today's debate. I am confident, in working again with the chairman of the subcommittee and others who are like-minded on this issue, that we are going to focus very closely in regard to the appropriation process and hold people to their word. Because if No Child Left Behind is any indication, I am skeptical that we are going to get there.

Mr. CASTLE. Mr. Chairman, I yield myself the balance of the time.

We have no further speakers, and I think we have 1 minute. I will just close by encouraging all of us to support the technical amendment. I do not think there is any disagreement about that, so we can go on to the other amendments.

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

The CHAIRMAN. The question was taken; and the question is for the purpose of amendment, offered by the gentleman from Delaware (Mr. CASTLE).

The amendment was agreed to.

The CHAIRMAN. Pursuant to rule XVIII, further proceedings on the question of the amendment are postponed.

AMENDMENT NO. 2 OFFERED BY MR. VITTER

Mr. VITTER. Mr. Chairman, pursuant to the rule, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. VITTER:

In subsection (a), insert after paragraph (2) (1) in subsection (a), by adding at the end the following new sentence: "As part of such review, the Comptroller General shall include recommendations to reduce or eliminate the excessive paperwork burdens described in the preceding sentence;" and (2) in subsection "Act," insert and endorse every 2 years thereafter:"

The CHAIRMAN. Pursuant to House Resolution 206, the gentleman from Louisiana (Mr. VITTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. VITTER).

Mr. VITTER. Mr. Chairman, I yield myself such time as I may consume. I bring before the House an important amendment with regard to a central problem in IDEA and that is the excessive burden of excessive paperwork. I think there is great clarity and great consensus on this point that in the present system there is just too much paperwork required which drains resources and takes up the time of teachers who could otherwise be with students who need their help.

National surveys show that teachers of special needs students spend between a quarter and a third of each work week on regulatory compliance rather than education. That is ridiculous. Parents, overwhelmed by the system's complexity, often turn to IDEA lawyers for advice. That has become the norm rather than the exception. That is ridiculous. Teachers of special needs students always cite excessive paperwork as the leading reasons for their decision to cease teaching special needs students, thus exacerbating a serious existing shortage of personnel. In fact, the National Association of Elementary School Principals supports dramatic paperwork reduction, saying that the proposals "eliminate the dual-discipline system, streamline the due process system, and encourage professional development for principals."

In light of the background, my amendment is very straightforward. It does two things. Number one, in part A of the GAO report section, it mandates that the review will include recommendations to reduce or eliminate the excessive paperwork burden. Number two, in part B of that GAO report section, it requires that a GAO report be submitted 2 years after the date of enactment and resubmitted every 2 years. The benefit of this is very clear. We want a regular way to track progress and demand progress on reducing this excessive paperwork burden.

So in those two simple, but important, ways, this amendment emphasizes the need to reform, streamline, and update the forms and requirements mandated on both teachers and parents.

Mr. Chairman, I would like to thank the committee for all of its hard work in bringing forward a very positive bill. Mr. Chairman, I reserve the balance of my time.

Mr. KIND. Mr. Chairman, I ask unanimous consent to claim the time in opposition.

The CHAIRMAN. Without objection, the gentleman from Wisconsin (Mr. KIND) is recognized for 5 minutes.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Louisiana (Mr. VITTER) will be postponed.

The point of no quorum is considered withdrawn.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 108-79.

AMENDMENT NO. 3 OFFERED BY MR. BRADLEY OF NEW HAMPSHIRE

Mr. BRADLEY of New Hampshire. Mr. Chairman, pursuant to the rule, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:
Amendment No. 3 offered by Mr. BRADLEY of New Hampshire:

In section 611(e)(2)(A)(i) of the Individuals with Disabilities Education Act (as proposed to be amended by section 201 of the bill)—

(1) strike "$500,000" and insert "$750,000"; and

(2) strike the parenthetical provision.

The CHAIRMAN. Pursuant to House Resolution 206, the gentleman from New Hampshire (Mr. BRADLEY) and a Member opposed each will control 5 minutes.

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

There are two ways that States are able to administer IDEA requirements. One way is for States to have $500,000 of administrative funds as part of the grant that are capped, but with an inflation adjustment; or, alternatively, States are able to use up to 20 percent of that grant for administration purposes. However, small States such as mine in New Hampshire generally do not qualify for this provision to be able to use the 20 percent figure because it is less than the $500,000.

This $500,000 cap, which was authorized as part of the reauthorization law in 1997, therefore places large administrative burdens on small States such as New Hampshire as the accountability standards of not only the Individuals With Disabilities Education Act, but also the No Child Left Behind law have increased. This increases costs to small States, federally mandated costs in States such as mine.

Some of the issues that are involved are greater accountability requirements, improving academic performance, expanded data collection, as well as fiscal accounting requirements.

What my amendment does is lift the cap from $500,000 to $750,000. Amendment No. 3 does not increase costs to the Federal Government, as there is nothing that mandates the expenditure of these funds. Rather, it allows States to spend up to this new cap, as needed, in order to comply with the accountability provisions of this law and the No Child Left Behind law as it affects special education.

So for that reason, Mr. Chairman, I urge my colleagues to support this amendment.

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

Ms. WOOLSEY. Mr. Chairman, I ask unanimous consent to claim the time in opposition.

The CHAIRMAN. Without objection, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

There was no objection.

Ms. WOOLSEY. Mr. Chairman, I yield myself such time as I may consume to say that we do not, on this side of the aisle, oppose the amendment.

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

Mr. BRADLEY of New Hampshire. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by gentleman from New Hampshire (Mr. BRADLEY).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 99-324.

AMENDMENT NO. 4 OFFERED BY MS. WOOLSEY

Ms. WOOLSEY. Mr. Chairman, pursuant to the rule, I offer amendment No. 4.

The CHAIRMAN. Is the gentlewoman from California the designee of the gentlewoman from California (Mrs. DAVIS)?

Ms. WOOLSEY. For the time being, yes.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Ms. WOOLSEY:

In section 612(b)(1) of the Individuals with Disabilities Education Act (as proposed to be amended by section 201 of the bill), add at the end before the semicolon the following:

"that is reasonably calculated to provide educational benefit to enable the child with a disability to access the general curriculum."

The CHAIRMAN. Pursuant to House Resolution 206, the gentlewoman from California (Ms. WOOLSEY), as the designee of the gentlewoman from California (Mrs. DAVIS), and a Member opposed each will control 5 minutes.

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

Amendment No. 4 would change the definition of a free appropriate public education, the language changed in the Supreme Court decision known as Rowley, which states that the goal of a child with disabilities is the same as all other children, to have educational and related services necessary for that child to access the general curriculum.

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

The CHAIRMAN. Pursuant to House Report 99-324, the amendment offered by gentleman from California (Ms. WOOLSEY), as my designee, offered a very simple amendment to H.R. 1350, the Individuals with Disabilities Education Act. It does not change the law or the educational or related services that have long been provided in act to each child with a disability—a free appropriate public education.

The language is simply designed to assure that when parents and teachers sit down at the table to craft an educational program appropriate for an individual child with a disability, everyone is on the same page about the goal.

The 18 words added to the definition are taken directly from an existing Supreme Court decision, Rowley, which provided controlling language on this issue. However, since most of us do not spend our time reading Supreme Court opinions, this places the language into the definition within the law, where it will be easily found. They are words that all of us can understand.

I want to share them with you. The phrase now reads that a "free appropriate public education means special education and related services that": Free—provided at public expense, under public supervision and without charge; meet the standards of the State education agency; and include an appropriate preschool, elementary, or secondary education in the State involved. This amendment adds to that sentence the definition "reasonably calculated to provide educational benefit to enable the child with a disability to access the general curriculum."

Educators of special-needs children who requested placement of these words in the law believe it will help them work with parents as part of the child's Individual Education Program teams to be able to test their proposals against a clear standard. It gives parents a tool to assure that school districts are not dumming down the goals of education for their children as happened too often in the past. It enables all parties to look at the promise and make sure the child's needs are served.
In response to questions from some Members, I would point out that this does not in any way change the results of that individual program as to whether the child is mainstreamed or not—only that the goal of the child’s education is to access the curriculum content provided to all students.

During the long period of time during which the Education Committee members have been struggling with making this reauthorization of IDEA a better bill, there have been some key themes. Funding is, of course, one, including helping schools recover costs for non-educational expenses. Some of these issues need continued work as this bill moves ultimately to conference.

However, another theme has been reducing conflict which leads to expensive litigation over choosing the program that will best help the special needs student. I believe that this simple placement of existing language into the context of the definition will help achieve this goal of reducing conflict in providing an appropriate education to each child.

I urge my colleagues to support this amendment.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Ms. Woolsey). The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 108-79.

AMENDMENT NO. 5 OFFERED BY MR. DEMINT

Mr. DEMINT. Mr. Chairman, I offer amendment No. 5.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. DeMint:

In section 612(a)(10)(A) of the Individuals with Disabilities Education Act, as proposed to be amended by the bill, add at the end the following:

“(vii) Parent option program.—If a State has established a program described in section 614(c)(1)(C) (whether statewide or in limited areas of the State) that allows a parent of a child with a disability to use public funds to pay some or all of the costs of attendance at a public or private school—

“(I) the authorization of a parent to exercise this option fulfills the State’s obligation under paragraph (1) with respect to the child during the period in which the child is enrolled in the selected school; and

“(II) a private school accepting those funds is recognized for the time in opposition.

The CHAIRMAN. The gentlewoman from California (Ms. Woolsey) is recognized for the time in opposition.

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

Mr. Chairman, I strongly oppose this amendment. Federal funds should not be used for private school vouchers for any children, but it is particularly dangerous to do this for children with disabilities.

Vouchers undermine the very foundation of IDEA. IDEA guarantees children with disabilities a free and appropriate public education and provides important safeguards to the child and the parents to ensure that education is received.

When a special education child takes a voucher to a private school, all guarantees of rights under IDEA are lost. The McKay voucher program in Florida, which allows children with disabilities to use vouchers to go to private schools, is a perfect example of the pitfalls of an IDEA voucher program.

In the Florida special education voucher program, there are no State reviews of the education and services being provided, and there are no civil rights protections if the parents are not happy with the education and services their child is receiving.

Under the Florida IDEA voucher program, private schools can and do charge parents additional tuition and fees above the voucher, making it difficult or impossible for low-income parents to benefit from a voucher program.

Contrary to what people claim, vouchers do not increase parents’ choice. Private schools can and do discriminate for a variety of reasons. They can refuse to take a student for any reason, including the student’s disability. So when it comes to vouchers, it is not the parents who have the choice; it is the private school. Whatever choices a private school makes, it does not have to let parents or the public know why.

Vouchers give private schools public taxpayer dollars, but the private schools are not held to any of the same standards of accountability that public schools are held to. Public schools must hold open meetings and make their test scores, dropout rates, and other basic information public. Private schools are subject to no public oversight.

Accountability to the child, to the parents, and to the public is the touchstone of IDEA, and no, supposedly, No Child Left Behind. We must not allow vouchers to jeopardize that accountability. I urge my colleagues to reject this amendment.
Mr. Chairman, I reserve the balance of my time.

Mr. DEMINT. Mr. Chairman, I yield 2 minutes to my distinguished colleague, the gentleman from Ohio (Mr. BOEHNER), chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Chairman, let me thank my colleague, the gentleman from South Carolina, for offering this amendment and congratulate him on his effort in promoting new and innovative ways to deal with children with special needs.

These children require the utmost in flexibility in their education; and the amendment before us encourages innovative options and provides States with much-needed flexibility.

The amendment would accomplish three goals. First, it encourages States to establish innovative solutions by providing seed money to develop new programs. Second, it answers the call of parents of children with disabilities to expand educational opportunities that are not withheld and that States may choose to implement as much or as little flexibility as the State deems appropriate. Third, it allows States to use Federal dollars in flexible programs and to utilize Federal dollars to provide services for children with special needs.

The amendment does not, as has been claimed by some critics, provide vouchers. It simply affords States the flexibility they are seeking to provide individualized options for students with disabilities.

This amendment is not a mandate in any way, shape, or form; but it makes new options available for States who choose, these are only for States who choose, to want to look at new options and new technology and more flexibility in terms of meeting the needs of special needs children, all of their children in their State.

Each participating State must determine which approach and what type of program will best serve the children with disabilities in their State, including options such as public schools, charter schools, or private schools, whatever is in the best interests of the child. So children with disabilities today deserve every effort that can be made to provide them with a high-quality education, and their options and the options of the States should not be limited.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina (Mr. CLYBURN).

Mr. CLYBURN. Mr. Chairman, I thank the gentlewoman for yielding to me this time.

Mr. Chairman, I rise in opposition to this amendment. Yesterday, it was choice. Today, it is options. Tomorrow, there is no telling what we will call it. But by whatever name we may call it, however we may cloak it, this is about vouchers.

I believe, Mr. Chairman, in innovations, but not innovations that supplant the due process clause of the United States Constitution. That is exactly what this amendment will accomplish.

Let us take, for instance, just the issue of choice, if I might use that term today. I know that the proponents of this amendment talk all the time about providing choice for parents and teachers. This amendment provides little choice for parents and students, but provides the ultimate choice to schools and administrators.

It allows those schools to dream, if I might use that term, off all of those children that may be a little bit disabled; but those children whose parents would like to have them participate who may be a little more disabled than the schools would like to tolerate, this amendment will allow those children to be rejected, and take away any choice or any option from those children to participate.

So, Mr. Chairman, I believe that it is in the best interests of public education and educational options for parents that we reject this amendment.

Mr. DEMINT. Mr. Chairman, I yield 2 minutes to my distinguished colleague, the gentleman from Georgia (Mr. ISAKSON).

Mr. ISAKSON. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, it may have been about choice the other day, it may have been about options the other day; it is about children today. No lesser authority than the United States Supreme Court has authorized the portability of Federal funds for students with special education needs.

There is not a Member of this body that does not represent a State that does not have students whose tuition to private schools is paid in full under their eligibility because of IDEA and because the State determines that it cannot meet the needs of those children.

This is not about mandating choice to a parent. This is about giving the option of portability to a public school system that determines that might be necessary in a special education case; for example, a student with severe hearing disability who goes on to an audio trainer in a rural system who might be able to serve a semester or a year in another institution to learn how to use that audio trainer; or a cerebral palsy student or a profoundly disabled and handicapped who, through assistive technology, may have the ability to learn how to function in the public school classroom.

Should we say no if a State makes that determination, and a parent chooses, to send most of the money which is theirs, the State's, to follow that student? I think not.

I understand the legitimate debate, and I understand the smokescreens; but what I want is a special education teacher who has worked in the life of children with handicapped children. I am not for blind programs that seem to fix things that do not; but I am 100 percent for the flexibility to address the uniquely specified needs, sometimes only temporarily, on behalf of a child who deserves the opportunity to enjoy the richness of life that every one of us without those disabilities enjoys right now in this House. It is an effort to make a start. It is not a mandate; it is permissive. It is about children and their parents and a better life for both of them.

Ms. WOOLSEY. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. Davis), a member of the Committee.

Mrs. DAVIS of California. Mr. Chairman, I wanted to address for a moment the issue of accountability within the special education system.

I know when I was a board member in San Diego, I would hear repeatedly about how difficult it was in many cases to keep up without accountability. Yet we know that it is important.

I am pleased that during our discussion on this bill, that we talked about the need to reduce the paperwork and to find ways that we would be accountable, and yet we would make it reasonable and easier for our schools to respond and to address the needs of our children. I commend the chairman, the gentleman from Ohio (Mr. BOEHNER), for that work within the committee.

But please, we need to be careful that we not give up accountability when we suggest that our school would be able to deal with those issues. Those people who work with special education in our communities and in our public school systems, they have been doing this for a long time.

They understand the importance of it and they make sure that it works for our children. I cannot imagine what it would be like to throw that open to a tuition system or a voucher system that really had little understanding of that.

Mr. DEMINT. Mr. Chairman, I yield 1½ minutes to my distinguished colleague, the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Mr. Chairman, I thank the gentleman for yielding to me time and congratulate the chairman of the committee for bringing this piece of legislation forward.

I think the amendment that is being proposed by my colleague is important. It is an important amendment to the underlying legislation. We have made significant progress in the IDEA legislation, and this amendment would take it one step further. Currently, educational choice does exist under IDEA; but too often educational choice exists only for those parents who are wealthy enough to litigate to get their children placed somewhere else. With the important changes in this bill to reduce costly, unnecessary, and prevent non-children to restore to parents opportunities to ensure that their child receives the best education possible.
This amendment is very straightforward. It does not require anything. What it says is it will allow the State to use research and innovation dollars to research and develop new education systems for IDEA children that promote the child’s needs.

The intent here is very simple. Let us make sure we get the right program, the right resources, and the right skills necessary and match them with the child and allow the State the opportunity to experiment and innovate to move forward. This is a very, very good amendment. I hope that we have the opportunity to put this in place and let the States move forward and help all of our children.

Ms. WOOLSEY. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. GEORGE MILLER), the ranking member of the Committee on Education and the Workforce.

Mr. GEORGE MILLER of California. Mr. Chairman, I thank the gentlewoman for yielding me time.

Mr. Chairman, this amendment is a very bad idea. This law was built up about guaranteeing to these children and it is built up that these children have certain rights that would provide them an access to a free and appropriate education in the least restrictive environment. And over the years we have built up a system of accountability to make sure that that education occurs, in fact, provided to these children.

Now we come along with this voucher amendment where immediately upon the exchange of money from the school district to the private school, or from the parent to the private school, those rights are eviscerated. Because this bill deems upon acceptance of the voucher that these children are getting a free and appropriate education. We do not know whether they will or not. If the child is not served, they can come back to the public school system, does the school system get to bring some of the money back? Is the money stuck over there? Does the school system now have to pony up additional money to educate that child? I think the answer is yes, they do because they have an obligation.

The fact of the matter is these schools, they do not have to accept the child if the disability is too expensive. They do not have to accept the child. They get to pick and choose among the children. The public schools have to take the children as they come to give them a free and appropriate education. These schools do not have to be certified. They do not have to be State licensed. They do not have to be State licensed.

What happens to the money? You just get to take this money, the taxpayers’ money and not have these accountability. I can understand the desire; and, in fact, the law provides for parents who think their children can get a better education at a private school with special skills or special talents or a record of handling these children in the appropriate way. They can petition to go to these schools.

In 1997, we had so many people leaving the system that we said you cannot do that because you are sticking the school district for so much money. And they said, if you do not have no determination whether or not this was a suitable placement. Now you can just opt out. If the parent is lucky and if the child is lucky and it works, fine. If it does not, the school district is out the money that was paid out, the education, and we are back in the stew.

This is just an unacceptable amendment. Nobody is required to make adequate yearly progress with these children under No Child. There is no accountability under that. There is for the school. There is no accountability in this legislation. There is no accountability under, in many instances, State law. So I do not understand.

If students need supplemental services, your legislation provides for supplemental services but you do not provide for that child that is hearing impaired, that is sight impaired, where they can get additional services. I assume that is the purpose of the supplemental services. But this voucher goes far beyond that.

This voucher simply gives some level of scholarship to the parents to take. But that does not mean the parents will get into that school. They may say, no, we do not provide these services and we cannot provide those services. It turns out that does not work, and they are back in the public school system. Meanwhile, the public school system trying to hold on to a critical mass of people, children with disabilities, finds out that the cost per service per child goes up.

Again, as we have seen in the McKay scholarship program, about 2 percent of these people go into that. They get their scholarships. They go to schools, and they are coming back. We do not know why they are back; but obviously as they come back to the public school system, they are more expensive than when they left.

There ought to be some screen to know that this, in fact, is going to enhance the children’s education. We understand and deal with, all the time, parents who want another location for the child. That is not the case. This is just a wide open voucher system without any accountability. It ought to be rejected by the House.

The CHAIRMAN. All time has expired on the opposition side. The gentleman from South Carolina (Mr. DE MINT) is recognized.

Mr. DE MINT. Mr. Chairman, how much time remains?

The CHAIRMAN. The gentleman from South Carolina (Mr. DE MINT) has 2½ minutes.

Mr. DE MINT. Mr. Chairman, I yield 1½ minutes to my distinguished colleague, the gentleman from Florida (Mr. PUTNAM).

Mr. PUTNAM. Mr. Chairman, I thank the gentleman for yielding me time. Florida set an example for the rest of the Nation by creating a program giving parents of children with disabilities the choice they deserve. The John McKay Scholarship Program was put in place to increase parental choice by allowing the parents of children with disabilities who had been attending a public school to have the option of choosing whatever educational setting met their needs to decide where their child would excel the most, be it private or parochial. Currently in Florida, these scholarships are funded by the State.

In passing this amendment we would be able to reach more of the 374,000 students in Florida alone who are eligible for these scholarships. Today, over 9,000 students utilize these scholarships to receive the education they would otherwise not be afforded. Fifty percent of those students qualify for free and reduced lunch, a higher percentage of low-income students than in the general education population in Florida. Thanks to these scholarships, we are helping low income students receive services they deserve.

This amendment will allow States to participate if they wish, a chance to benefit from the program like the McKay Scholarship Program; a program, by the way, which has an 89 percent reenrollment rate by those parents who are satisfied with the choice that the McKay scholarship affords.

Mr. Speaker, Florida has received very positive feedback from these parents and from the educational system, and the McKay scholarship continues to grow. Let us not turn our backs on these children who deserve these educational services and let us continue to help them achieve their goals.

Mr. DE MINT. Mr. Chairman, I yield back my time.

Mr. Chairman, I appreciate the concerns of my colleagues on the other side of the aisle, but unfortunately they have apparently read the propaganda from the Teachers’ Union rather than reading the legislation itself.

This legislation does not establish a voucher program. It establishes no program at all. It simply encourages the States to innovate in a way that will empower parents with more voluntary choices so that they can meet the needs of their kids. It allows States to expand the rights of parents with more choices, to expand the accountability by giving parents more voluntary options.

Mr. Chairman, this vote today is a vote to empower parents and to do what IDEA is supposed to do, and that is to provide personalized, customized services for children with special needs.

Mr. Speaker, H.R. 345, Mr. Chairman, I rise in opposition to the DeMint and Musgrave amendments. These are thinly veiled efforts to privatize special education in our public schools by means of vouchers.
Not only would vouchers divert much-needed funds from our public schools, but children with disabilities who attend private schools with these vouchers will be enrolled selectively and that is discriminatory.

The DeMint and Musgrave voucher amendments would drain resources for special education costs. Under these amendments, federal funding for special education services for all disabled children would instead be siphoned off to pay for private school tuition. These amendments would take away Federal dollars from public schools, which place additional burdens on schools and communities to serve more children with less funds.

These voucher amendments would allow discrimination by private schools and fail to provide parental choice. Worried mothers of disabled children from across the country have called my office concerned that this bill and these amendments will make it harder for them to educate their very dear and special children. These children ought not to be ignored because of their special needs. How can we justify to a mother of one of these beautiful children that their kid is not deserving of an adequate education?

No child with a disability would be entitled to go to a private school of their choice under the DeMint or Musgrave amendments. These voucher amendments give veto power to private schools. The schools choose which students they will accept, not the parents.

Children with multiple disabilities and those that require high cost services would likely be excluded from the program. Further, the DeMint voucher program will not pay the entire cost of tuition at a private school, meaning that some families could not afford for their disabled child to go to private school.

For these reasons and the fundamental unfairness of these amendments, I urge my colleagues to oppose these amendments that deprive our Nation’s disabled from the education they deserve.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina (Mr. DEMINT).

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

Ms. WOOLSEY. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from South Carolina (Mr. DEMINT) will be postponed.

The point of no quorum is considered withdrawn.

The CHAIRMAN. It is now in order to consider amendment No. 6 printed in House report 108-79.

AMENDMENT NO. 6 OFFERED BY MRS. MUSGRAVE

Mrs. MUSGRAVE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mrs. MUSGRAVE
In section 622(a)(10)(A) of the Individuals with Disabilities Education Act, as proposed to be amended by the bill—

1. redesignate clause (vi) as clause (vii); and

2. insert after clause (v) the following:

(vi) LOCAL EDUCATIONAL AGENCY OPTION. A local educational agency may elect to fulfill its obligations under this subparagraph to children with disabilities enrolled by their parents in private elementary and secondary schools through the provision by offering certificates to all such parents for necessary special education and related services, if—

(1) the certificates offered with respect to each child have an annual aggregate value that is equal to or greater than the lesser of—

(aa) the per-pupil amount derived by dividing the proportionate share of Federal funds calculated under clause (ii) by the number of parentally-placed children with disabilities determined under clause (ii)(ii); and

(bb) the actual cost of the necessary special education and related services for such child; and

(2) the certificates may only be redeemed by the parents at eligible special education and related services providers, as determined by the local educational agency, that—

(aa) provide information to the parents and such agency regarding the progress of the child as a result of the receipt of such services in a format and, to the extent practicable, a language that the parents can understand;

(bb) meet all applicable Federal, State, and local health, safety, and civil rights laws;

(cc) demonstrate that the provider has been lawfully operating as a business for not less than 1 year; and

(dd) provide assurances to such agency that the provider is financially sound, is not in bankruptcy proceedings, and is not the subject of an investigation or legal judgment involving waste, fraud, or abuse on the part of the provider, or any employee of the provider, with respect to funds under the provider’s control.

Clause (vi) shall not apply special education and related services furnished pursuant to such certificates. At the discretion of the local educational agency, and to the extent consistent with State, Federal, and local laws, may be used to add to the value of such certificates.

The CHAIRMAN. Pursuant to House Resolution 206, the gentlewoman from Colorado (Mrs. MUSGRAVE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Colorado (Mrs. MUSGRAVE).

Mrs. MUSGRAVE. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, this amendment that I am offering today is all about local control. It is all about meeting the need of each child that is in private school; special ed students that are there; and each one of us would certainly agree that we need to meet the needs of these students. Quite frankly, they are not being met today.

Although these students need the services that they need by the agency that are in the count of the local public school, the Federal dollars flow to the public school, and then these dollars very often do not reach the child in regard to purchasing the special services that they need.

This amendment would rectify that by giving the local school districts an option of issuing a certificate to the parents of these special ed students on an average amount of $1,400 so they could pay the services that these children need.

This makes great sense since we want to educate all children well. The children in public school due process right with their parents.

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

Ms. WOOLSEY. Mr. Chairman, I rise in opposition to the Musgrave amendment and I yield myself such time as I may consume.

Mr. Chairman, I strongly oppose this amendment. Vouchers undermine the very foundation of IDEA. IDEA guarantees children with disabilities a free and appropriate public education and provides important safeguards to the child and the parents to ensure that education is actually received.

When a special education child takes a voucher to a private school, all guarantees and rights under IDEA are lost. The McKay Voucher Program in Florida, which allows children with disabilities to use vouchers to go to private schools, is a perfect example of the pitfalls of an IDEA voucher program gone wrong.

In the Florida special education voucher program, there are no State reviews of the education and services being provided, and there are no civil rights protections if parents are not happy with the education and services their child is receiving. Under the Florida IDEA voucher program, private schools can and do charge parents additional tuition and fees above the voucher making it difficult and usually impossible for low income parents to benefit from vouchers.

Contrary to what some people claim, vouchers do not increase parents’ choice. Private schools can and do discriminate for a variety of reasons. They can refuse to take a student for any reason including the student’s disability. So when it comes to vouchers, it is not the parents who have the choice. It is the private school.

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

Mrs. MUSGRAVE. Mr. Chairman, I yield 1 minute to the gentleman from Arizona (Mr. FRANKS).

Mr. FRANKS of Arizona. Mr. Chairman, it has been said that the States are the laboratories of the Nation. In Arizona at this time, when the special needs child comes into the public school, oftentimes this public system recognizes that they are not fully capable of meeting that special need at that time and they provide a certificate for that child to go to a private school or a private institution to meet that child’s need.

All the Musgrave amendment really does is to allow this same option, and I emphasize the word “option,” to be given to public schools in the context
of the IDEA legislation. This is not a federal mandate. This is not what people call vouchers. This is simply an option for the local schools to do this. And in those cases where they do, it gives those parents the opportunity to direct the resources on behalf of their children.

Mr. Chairman, no one knows and loves these children more than these parents. Mr. Chairman, I thank the gentlewoman for offering such a noble amendment.

Ms. WOOLSEY. Mr. Chairman, how much time is remaining?

The CHAIRMAN. The gentlewoman from California (Ms. WOOLSEY) has 3 minutes remaining, and the gentlewoman from Colorado (Mrs. MUSGRAVE) has 3 minutes remaining.

Ms. WOOLSEY. Mr. Chairman, I yield ½ minutes to the gentleman from New Jersey (Mr. PAYNE), a member of the committee.

Mr. PAYNE. Mr. Chairman, I stand in strong opposition to this amendment. Currently, IDEA guarantees every child with a disability a free and an appropriate public education. Diverting public funds to private and parochial schools through vouchers really undermines the public school system, and it undermines that guarantee that we have made to every youngster in this country. Vouchers would subsidize the enrollment of children in private schools that are not accountable nor subject to civil rights laws.

Our Republican colleagues have pushed for accountability in education through the Leave No Child Behind Act; yet if this amendment passes, private schools would not be held to the same standards as public schools. We all know that. Public schools accept all children; but private and religious schools can and often do discriminate by rejecting students due to academic standards, disabilities, behavior problems, religious affiliations, and other criteria.

Public schools are simply that. They are public. Private and parochial are simply that. They are private and they are parochial. Under this amendment, private schools accepting voucher funds would not be required to recognize any of the parental rights contained within IDEA. It would be a step backwards.

We need to move forward in this new millennium. This is directly opposite to what IDEA was created to do, giving parents a voice in their children’s education. Voucher programs will not pay to what IDEA was created to do, giving back what IDEA guarantees every child. It would be a step backwards.

Mr. Chairman, no one knows and loves these children more than these parents. Mr. Chairman, I think the gentlewoman for offering such a noble amendment. Under current law, school districts are required to identify all children who have disabilities in a district, including private school children. All children. School districts are also obligated to provide special education and related services to these private school children in a group, unless the parents of equal access to the federal funds generated by these children to the district under IDEA.

Now, what does this mean? It means the school district receives a certain amount of dollars to provide services to these children. Under current law, however, no parentally placed private school child is entitled to individual services, even though the school district receives this money. The only requirement in the law is that the school’s disabled population as a group must be helped.

In practicality, what this means is that many of the students who have been placed in a private or parochial school do not get the direct services. When those services are available, they are often offered at times and at places that are inconvenient to the child’s parents.

I support the Federal investment in meeting the education needs of all of our nation’s children with disabilities. Support this amendment.

Ms. WOOLSEY. Mr. Chairman, I yield ½ minutes to the gentleman from California (Mr. GEORGE MILLER), the ranking member of the Committee on Education and Labor.

Mr. GEORGE MILLER of California. Mr. Chairman, I thank the gentlewoman for yielding me this time.

The arguments here are very similar to the previous amendment. One, it is a very bad idea in terms of policy and accountability and responsibility to these children, but it is also a bit of a hoax.

The idea that the parent can take the Federal share of the money, which the average is $1,400, maybe as high as $1,800, and go out and buy the same education that they are going to get in the public school system for their children on the school-year basis, well, where does the rest of the money come from? At least if this bill had some intellectual integrity, it would say take all the money the school district is going to spend, take the $6,000 on a national average, give that to the parents, and let them try to find this education. Obviously, if the parents cannot come up with the additional money, they cannot provide for an education. Or if the child is severely disabled, this will not begin to cover those services. Remember, most of the people who go out to get these services end up suing the school district for those services and the school pays the whole amount. They pay $15,000, $20,000, $30,000, $40,000, or $50,000 because of the kind of intense services that these children need in order to qualify to get a free and appropriate education.

That is not what this amendment is about. This is just a sham and a joke, that somehow you can go out and get these first-class services for a severely disabled child for $1,400. Again, the bill allows for, and I think it makes sense on one level, supplemental services. If $1,400 will buy the kind of services for a child that is moderately disabled or with a reading problem, or something, and is labeled as disabled, fine, give them the supplemental services. But the notion someone can go out and buy an education for $1,400 is a hoax on the parents.

Mrs. MUSGRAVE. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. SOUDER).

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

Mr. SOUDER. Mr. Chairman, this is one of the few times I have ever been accused of shucking and jiving. It is not usually what I do for a living.

The gentleman from California (Mr. GEORGE MILLER) has actually made a couple of points that reinforce the point of this amendment. It is absolutely true that school districts have come to us repeatedly and said we do not have enough money to meet the IDEA standards to do the individual development plans and to meet the needs of our special needs students. It is the biggest complaint coming out of every school district in the country.

If the schools actually were paying $6,000 to $7,000 a student, which sometimes, quite frankly, I think is not an accurate claim, then they should be the first ones lining up behind an amendment that says for $1,400 we are going to take $6,000 to $7,000 pressure off your school system. The opposition of those who say that they are against this because there is not enough money, the parent can choose to go to the school. If they cannot get the plan, then they do not get the money.

There are groups in this country, in private schools, who are willing, through churches and others, to put up money to try to address these types of problems, as a Christine Tappan is doing, prohibiting them from addressing it and prohibiting those parents from getting the opportunity to meet those needs.

The CHAIRMAN pro tempore (Mr. TERRY). The time of the opposition has expired, and the gentlewoman from Colorado (Mrs. MUSGRAVE) is recognized.

Mrs. MUSGRAVE. Mr. Chairman, I yield 1 minute to the gentleman from Colorado (Mr. TANCREDO).

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

Currently, 7 percent of all students enrolled in Catholic schools are identified as disabled. Let the government see how many of them get services. They generate $10 million in revenue for the schools in IDEA. The schools actually get about $78,000 out of that $10 million generated.

So when we talk about equity issues and we come to this floor to talk about the needs of all children, please consider the fact that these are children
also. They happen to be in a different setting. They happen to be in a school that is not a government school. But that should not determine whether or not they are served.

We have time and time again stood on the floor arguing about whether or not we are really talking about children in these bills that we pass for education or whether or not we are just simply trying to support a particular system, a particular way of educating children. Should our concern not simply be about children? We hear that word bandied about, so often used to describe our motives here, but when it is a child other than the one the government runs, we say they do not serve it.

This is a great amendment. I hope we support it.

The CHAIRMAN pro tempore. All time having expired, the question is on the amendment offered by the gentlewoman from Colorado (Mrs. MUSGRAVE).

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

Ms. WOOLSEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. All previous questions are now in order. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Colorado (Mrs. MUSGRAVE) will be postponed.

It is now in order to consider amendment No. 7 printed in House Report 109-79.

AMENDMENT NO. 7 OFFERED BY MR. SHADEGG

Mr. SHADEGG. Mr. Chairman, pursuant to the rule, I offer amendment No. 7.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. SHADEGG: In section 204 of the bill, strike “Section 614” and insert “(a) in General.—Section 614.”

In section 204 of the bill, add at the end the following:

(b) FINDINGS; SENSE OF CONGRESS.

(1) FINDINGS.—Congress finds the following:

(A) Certain of the categories of disability that allow students to qualify for benefits under the Individuals with Disabilities Education Act have not been scientifically established and, as a result, some children who do not have actual learning disabilities are classified as having disabilities under that Act.

(B) Nearly one in eight students is now labeled as disabled.

(C) Over one-half of those students are classified as having learning and behavioral challenges.

(D) Current definitions of disabilities in the Code of Federal Regulations, particularly the definition of “emotional disturbance”, are vague and ambiguous.

(E) The absence of reliable methods for distinguishing children with a special learning disability from children who have lower than expected achievement leads to over-identification and misidentification of non-disabled students as students with disabilities.

(F) Clearly and consistently applied diagnostic criteria for specific learning disabilities makes it possible to diagnose almost any low or underachieving child as a student with a disability.

(G) The President’s Commission on Excellence in Special Education (PCese) found in its July 2001 report, “A New Era: Revitalizing Special Education for Children and Their Families”, that many of the current methods of identifying children with disabilities lack reliability. Analysis of data indicates that thousands of children are misidentified every year, while many others are not identified early enough or at all.

(H) The President’s Commission also found that emotional and behavioral difficulties could be prevented through classroom-based approaches involving positive discipline and classroom management.

(I) According to testimony from a March 13, 2003, hearing before the Subcommittee on Education Reform of the Committee on Education and the Workforce of the House of Representatives, students are frequently referred to special education because they are not succeeding in the general education setting, and not because they are actually disabled.

(J) Students with controllable behavioral problems are often classified as having learning disabilities and are not held responsible for their own behavior.

(K) According to testimony by Secretary of Education Rod Paige on October 4, 2003, before the Committee and the Workforce of the House of Representatives, our educational system fails to teach many children fundamental skills like reading, then inappropriately identifies some of them as having disabilities, thus harming the educational future of those children who are misidentified and reducing the resources available to serve children with disabilities.

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

(A) students who have not been diagnosed by a physician or other person certified by a State health board as having a disability (as defined under the Individuals with Disabilities Education Act) should not be classified as having disabilities for purposes of receiving services under that Act; and

(B) students with behavioral problems who have not been diagnosed by a physician or other person certified by a State health board as having a disability should be subject to the regular school disciplinary code.

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentleman from Arizona (Mr. SHADEGG) and a Member in opposition each will control 5 minutes.

The Chair recognizes the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, the purpose of this amendment is to express the sense of the Congress that these resources should go to the truly disabled kids. We do not amend the definition of disabled or mentally ill. We do not attack the definition. We accomplish that by simply saying that the determination of who qualifies to be in the program ought to be made by either a psychiatrist or a psychologist or someone licensed by a State medical board.

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

Ms. WOOLSEY. Mr. Chairman, I claim time in opposition, and I reserve the balance of my time.

Mr. SHADEGG. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. MURPHY).

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

Mr. MURPHY. Mr. Chairman, I want to compliment the gentleman from Arizona (Mr. SHADEGG) on the attempts he is making in this amendment because I think it is critically important that we are working to define very carefully those whose we are going to do evaluations on children.

However, what I would like to suggest is that we continue to work on this, perhaps that we move it to conference and try to refine some of the wording. Because I think some of the aspects that deal with physicians or trying to carefully define who may do these evaluations I believe we will get some more mileage on. It has been an important distinction over the years that I myself, as a psychologist, having worked on these evaluations, have struggled with in trying to come up with the exact way to define special education and learning disabilities and the right tests. It is an issue that the Congress has been dealing with for many years as well and one that I think really requires our continued attention.

So again I compliment the Members for working on this. I hope we can continue to work on this and try to refine some of these definitions so that we can get to this end perhaps by another means.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, I rise today to oppose this amendment, and let me just basically state the reason why.

We have in this country right now 4,000 young people who kill themselves each year in such a way that it is the third leading cause of death in this age group. We need to consider that two-thirds of young people who suffer from mental illness never even get help. Why? Because there is stigma. People do not believe that there is any truth to mental illness.

While I am sure the gentleman who authored this amendment did not intend for the amendment to have this impact, what I worry about is that the impact of this amendment will be to further add to the stigma that exists towards people with mental illness by saying, basically all these kids really need is a good swift kick in the butt.
and they ought to pull themselves up by their bootstraps.

The fact of the matter is we know that there are some serious emotional disturbances that these young people are facing. To suggest that teachers right now in the classroom, administrators and principals do not already know which children need special ed and which children do not, I think is using the heavy hand of Congress to micromanage what school districts are trying to do to help these children.

So I would just ask the Members of the House to take a good hard look at this amendment and to consider the ramifications of voting for this because I think there is an unintended effect of passing this amendment that will further stigmatize people with mental illness.

Mr. SHADEGG. Mr. Chairman, I yield myself such time as I may consume to simply comment there is no intent to change the definition of mental illness nor to stigmatize in any way.

As a Congress, we have a responsibility to not only fund special education but also to make sure the dollars spent on special education are targeted to the children who really need the extra assistance and learning. Each year, children are wrongfully identified as needing special education while many others are not identified early enough or at all.

Mr. Chairman, this misidentification reduces the resources available to serve children who are actually disabled. Furthermore, it gives some children with controllable but negative behavior the ability to misbehave without fear of punishment.

H.R. 1350 takes important strides in addressing the problem of overidentification and the mislabeling of children with disabilities by way of prereference services and early intervention strategies.

It also takes important strides in reforming current discipline procedures to make our schools safer for all of our children and teachers.

The Shadegg amendment supports the efforts of this legislation before us, and expresses a sense of Congress on reducing misidentification and ensuring that our schools are safe. I encourage Members to vote for this amendment.

Ms. WOOLSEY. Mr. Chairman, I yield 30 seconds to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, I yield 30 seconds to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, I yield 30 seconds to the gentleman from Rhode Island (Mr. KENNEDY).
Amendment No. 8 offered by Mr. TANCREDO: 

Strike subparagraph (A) of section 602(27) of the individuals with Disabilities Education Act (as proposed to be amended by section 101 of the bill) and insert the following:

"(A) IN GENERAL.—The term 'specific learning disability' means impairment in one or more of the basic psychological processes involved in understanding or in using language, which may include difficulty in learning to read, write, speak, listen, or to use numerical systems, and which may manifest itself in an aptitude for creative or practical expression. The term includes disorders with psychological and physiological condition relying on physical and scientific evidence and not based on subjective criteria."

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentleman from Colorado (Mr. TANCREDO) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Colorado (Mr. TANCREDO).

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

Much of the debate over this particular amendment, I think, we have actually heard over the previous amendment. It goes to the same issue, although at the inception of Congress, this is an amendment to the bill. It is designed specifically for the purpose of trying to identify those children who are truly in need of the services that we appropriate money for here, those children who are not, but who are placed into these programs in ever-greater numbers, thereby diluting the pool of resources available to serve children who are truly in need.

This is a recognition which has been with us since the beginning of this program. It was hoped it would be addressed in the reauthorization. That did not happen. The reauthorization does, in fact, what the gentleman from Rhode Island (Mr. KENNEDY) was asking for a minute ago, and that is emphasize early identification, and I am all for that. I do not believe that will change the problem.

If children are being misidentified today, they will be misidentified earlier. That is the real problem, misidentification, not the time at which it happens. The problem is with it intrinsically.

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

Ms. WOOLSEY. Mr. Chairman, I claim the time in opposition to the TANCREDO amendment.

The CHAIRMAN pro tempore. The gentlewoman from California (Ms. Woolsey) is recognized for 5 minutes.

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

Mr. Chairman, this amendment restricts local schools' methods of identifying students as having learning disabilities by redefining a specific learning disability as a disorder "due to a medically detectable and diagnosable physiological condition relying on physical and scientific evidence." Learning disabilities are not simply a medical condition that can only be determined by a doctor. Current definition includes disorders with psychological processes which have severe impact on learning and behavior. The TANCREDO amendment creates a new and very narrow medical condition definition that would actually keep children from getting the special education services that they need, and they need those services to learn and be successful in school.

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

Mr. TANCREDO. Mr. Chairman, I yield 1 minute to the gentleman from Missouri (Mr. GRAVES).

Mr. GRAVES. Mr. Chairman, I rise today to talk about a very important issue, and that is overidentification and misidentification of children with suspected learning behavioral disabilities. If schools misdiagnose a child, it not only affects their report card, but it affects their future. We need to make sure that the right children receive special education.

The TANCREDO-GRAVES amendment seeks to address this problem, which is driving up the costs of IDEA and putting misdiagnosed kids into special needs programs. The majority of kids with disabilities are medically diagnosed and, therefore, receive special education services. Children with learning and behavioral disorders should be no different.

The bottom line is that a child has a medical disability, whether it be physical, mental, learning or behavioral, it should be diagnosed and have a medical opinion from a medical professional in order to receive the same special education services as those children that are medically diagnosed.

The TANCREDO-GRAVES amendment would protect parents, and most importantly, it would protect children from being labeled with a disability that they may not have.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. GEORGE MILLER).

Mr. MILLER. Gentlemen of the Committee on Education and the Workforce, Mr. Chairman, this committee has struggled long and hard over many years to try and reduce litigation in this legislation. I think we have a magnet here in terms of litigation. And I also think because the definition of "medically detectable and diagnosable physiological condition," I am not quite sure how we are going to comply with that in the number of conditions that children have. The number of children who are being diagnosed children I am not sure fit within that definition. By the same token, I suggest that does not mean that they are not properly enrolled in these programs and do not have a disability that requires special attention in terms of their ability a medical profession. I think this is a really bad amendment, and I would urge Members to oppose it.

Mr. TANCREDO. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. NORTWOOD).

Mr. NORTWOOD. Mr. Chairman, let me rise to support this amendment. This language really needs to go to conference. It needs to be in the bill.

There are too many people placed in special education that should not be in special education, and that harms the system and it also harms those that should be in special education and the dollars that flow to them. All I am saying is let us put the right people in special education, and those that should not be there not be there.

This amendment was read earlier stating, "The term 'specific learning disability' means a disorder due to a medically detectable and diagnosable physiological condition relying on physical and scientific evidence" and then the reading stopped. The important part of this language is, and I continue, "and not based on subjective criteria." I do not know that part was not read out, but that is the part that is so important because that is why so many people are in special education that should not be in special education. I urge Members to pass this and we will get into conference and talk further.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, the problem we have in this country right now is not that there are too many people who are overidentifying themselves as having mental illness; it is that it is too few people. And the notion that people are readily just going in there and saying, oh, my child is disabled or I have a mental illness, you have got to be kidding me. Two thirds of those who need the help are not getting it, and if my colleagues think that the people who really are going to be at the lower-end socio-economic levels are going to be able to go to a doctor, pay for it to try to get identified so they can get this program, who do they think is going to get it under their bill? I will tell them who. People with health insurance and money. They are the only ones who are going to be able to afford to see a doc and get this designation. In addition to that, this mentally detectable and diagnosable, physiological condition, that has got stigma and stereotype written all over it. It is language that is basically for those who are concerned about this issue, code language for discrimination against people with mental illness; and that is a fact. And my colleagues can talk to anyone who leads any mental health organization in this country, NAMI, National Alliance for the Mentally Ill, any of those, and they will say this language here plays upon the age-old stereotype of people with mental illness. And I urge my colleagues to reject this amendment.

Mr. TANCREDO. Mr. Chairman, I yield 30 seconds to the gentleman from Pennsylvania (Mr. MURPHY).

(Mr. MURPHY asked and was given permission to revise and extend his remarks.)
Mr. MURPHY. Mr. Chairman, I believe the Member is headed in an important direction in terms of identifying a better way of evaluating children. And speaking as the only Member of this Chamber who has done hundreds of thousands of test, I would like to say medical doctors for the most part do not have the training or the tools to do these evaluations. We need to pursue a clearer definition. I am absolutely in agreement on that, but I am not sure this is the correct way to do this. Even the best neurologist, M.D., can say if brain tissue is malformed or damaged; but they cannot say if the brain is functioning properly and therefore give some explanation or diagnosis of such concerns as Asperger’s, autism, or dyslexia at this time.

The CHAIRMAN pro tempore (Mr. TERRY). The gentlewoman from California has 1½ minutes.

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

I would like to repeat that this amendment creates a very narrow medical condition definition, and it would keep children from getting the special education services they need to learn and be successful in school.

Mr. Chairman, I yield the balance of my time to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, I believe my friend has just said, the reason that doctors are not trained in identifying mental illness is that we still are living in a country where mental illness is not regarded as part of the body. In other words, brains are not considered an organ of the body currently in this country for purposes of insurance. So why should we be surprised when there are not any doctors out there who can have the training to do this? What the gentleman is doing is not going to hurt anyone. It is hurting us. So I would just ask my colleagues once again please vote “no” on the Tancredo amendment.

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

The dictionary definition of physiological psychology, a branch, by the way, of physiology, is that it is concerned with the relationship between the physical functioning of an organism and behavior. So I am quite sure that this definition will cover the kinds of folks, the kinds of problems that my colleague from the other side of the aisle has brought to our attention. It is certainly not my intention to discriminate against them. It is simply my intention to make sure that only the children who need help, be it physical or mental, get that help, and they are now being refused that help. We cannot get them into the program. We cannot give them the help they need because of the many kids who are there who should not be there. I sat through many processes that were designed. As a teacher, I sat through the process designed to determine which kids should go into special ed and which kids should not, and I will tell my colleagues everything in that process is designed to push the kid in. Everybody around that table is usually there to say yes, including the parent, who does want an excuse for the problems they are having, and a lot of problems are behavioral. There are all kinds of kids in our classrooms today who are there in IDEA classrooms and hang there for identification because their IQ does not fit their achievement level. But that is not necessarily a handicap and should not be a definition of a handicapping condition. We have title I for this kind of thing. That is the problem, too many put them there subjectively. It is not an attempt to discriminate between mental or physical handicap one iota. I assure my colleagues I have a personal concern about those issues. I assure them.

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

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

Ms. WOOLSEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings will now resume on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings will now resume on those amendments on which further proceedings were postponed, in the following order: amendment No. 2 offered by the gentleman from Louisiana (Mr. VITTER), amendment No. 5 offered by the gentleman from North Carolina (Mr. DEMINT), amendment No. 6 offered by the gentleman from Colorado (Ms. MUSGRAVE), and amendment No. 8 offered by the gentleman from Colorado (Mr. TANCREDO).

The Chair will thereafter vote no 25 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 2 OFFERED BY MR. VITTER

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 2 printed in House Report 108-79 offered by the gentleman from Louisiana (Mr. VITTER) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded. A recorded vote was ordered. The vote was taken by electronic device, and there were—ayes 413, noes 0, not voting 21, as follows:

April 30, 2003
Mr. OTTER. Mr. Chairman, unfortunately I have voted "aye." So the amendment was agreed to. The result of the vote was announced as above recorded.

Stated for Mr. LAMPSON. Mr. Chairman, on rollcall No. 150, had I been present, I would have voted "aye." Mr. FOLEY. Mr. Chairman, on rollcall No. 150, I was at the White House for a bill signing. Had I been present, I would have voted "aye." Mr. ROGERS of Alabama. Mr. Chairman, on rollcall No. 150, had I been present, I would have voted "aye." Ms. JACKSON-LEE of Texas. Mr. Chairman, on rollcall No. 150, the Vitter amendment regarding the GAO study on IDEA paperwork, I was unavoidably detained in a business meeting. If I had been able to be present, I would have voted "aye" on rollcall No. 150.

Mr. OTTER. Mr. Chairman, unfortunately I missed the vote on the Vitter amendment to H.R. 1350, Improving Education Results for Children With Disabilities Act of 2003. Had I been present I would have voted "aye."
The CHAIRMAN pro tempore (Mr. TERRY) (during the vote). Members are reminded there are 2 minutes remaining on this vote.

Mr. CULBERSON changed his vote from "aye" to "no." Mr. SWEENEY changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:
Mr. WILSON of South Carolina. Mr. Chairman, on rollcall No. 151, had I been present, I would have voted "aye."

AMENDMENT NO. 0, OFFERED BY MRS. MUSGRAVE

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 6 printed in House Report 108–79 offered by the gentlewoman from Colorado (Mrs. MUSGRAVE) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk redesignated the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

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

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 176, noes 247, not voting 11, as follows:

[Roll No. 152] AYES—176

Ander...
So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. LAHOOD). It is now in order to consider amendment No. 9 printed in House Report 108-79.

AMENDMENT NO. OFFERED BY MR. KIRK

Mr. KIRK. Mr. Chairman, I offer amendment No. 9. The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. KIRK:

At the end of the bill, add the following:

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. SENSE OF CONGRESS RELATING TO SAFE AND DRUG-FREE SCHOOLS.

(a) FINDINGS.—Congress finds the following:

(1) Providing children with disabilities a safe, productive, and drug-free learning environment is a laudable goal for our Nation's schools.

(2) Schools are a refuge for students, not a place where drugs and violence are to be tolerated.

(3) Every child with a disability in the Nation deserves access to a quality education, including a safe and drug-free learning environment.

(4) Local educational agencies, school boards, schools, teachers, administrators, and students all have a responsibility to keep school facilities, including lockers, drug-free.

(b) SENSE OF CONGRESS.—It is the sense of Congress that safe and drug-free schools are essential for the learning and development of all children with disabilities.

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentleman from Illinois (Mr. KIRK) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Illinois (Mr. KIRK). Mr. KIRK. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I rise today to commend the gentleman from Ohio (Chairman BOEHNER) and the gentleman from Delaware (Mr. CASTLE) for their hard work and dedication to improving our Nation's special education system. I also want to thank Sage Lansing of my staff for her work on this issue.
Mr. SOUDER. Mr. Chairman, I would like to thank the gentleman for his amendment.

As chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, few things are as important as trying to maintain order and safety in our schools.

This is a particular opportunity to point out what has been a current interest and the personal interest of the director of SAMSA, Charles Curry, on looking at co-occurring disorders.

Increasingly, we are seeing the narcotics traffickers, particularly in urban centers but also in schools and elsewhere, prey upon the most vulnerable population in this country: those people who have various disabilities. We are seeing in many of the public housing areas now, not only in the United States but around the world, the vulnerability of this population to marketing and aggressive sales.

I think that the point that this amendment makes, that one of the things that keeps our schools safer for these vulnerable students is to make sure that the illegal narcotics stay out of the schools, is very important. We need to have this resolution passed.

I commend the gentleman from Illinois (Mr. Kirk) for calling attention to the specific problem of drugs in schools, but also to the co-occurring disorders that are such a challenge in our society.

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

Mr. KIRK. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. CUNNINGHAM), the ace of the House.

Mr. CUNNINGHAM. Mr. Chairman, I rise in support of this amendment. I thank the gentleman for the caring amendment offered by the gentleman from Illinois (Mr. KIRK).

The amendment was agreed to.

The CHAIRMAN pro tempore. The amendment No. 10 offered by Mr. MCKEON: In section 611(f) of the Individuals with Disabilities Education Act (as proposed to be amended by section 201 of the bill), add at the end the following:

"(4) SPECIAL RULE FOR INCREASED FUNDS.—

"(A) IN GENERAL.—If the amount available for allocations to States under subsection (d)(1) is equal to or greater than the amount allocated to States for fiscal year 2003, then each State may increase its allocation under subsection (e)(1)(B) by the rate of inflation, each State may increase its allocation under subsection (e)(1)(B) by the allowed under subsection (e)(1)(B), for the sole purpose of making grants under subsection (e)(4)(A).

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentleman from California (Mr. MCKEON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. MCKEON). Mr. MCKEON. Mr. Chairman, I yield myself such time as I may consume.

The one alternative that is easy to administer and immediately solves the problem is to mandate that any additional Federal funding above fiscal year 2003 be distributed straight to the local education agencies.

Unfortunately, California school children have not seen the benefits of increase in the Federal Government. While this practice may not violate any law, I believe it violates the intent of our recent efforts to increase Federal education funding. It is harmful to our Nation’s school children.

In a Contra Costa Times article that appeared in February 2002, Sandy Harrison, spokesperson for the State finance department, said “the governor substituted the new Federal funds for K-12 because it was a tough budget year.”

Even though the redirection of funds in California was only supposed to be for one year, the State has decided once again to use the Federal money to replace State funding for special education.

There is no longer limited to only the State of California. The States of Kansas, Iowa and Oregon are contemplating similar efforts to retain Federal funding at the State level instead of sending it down to the local level where it can make the most difference.

Over the last few months and even during consideration of the bill by the Committee on Education and the Workforce, we tried many avenues to deal with this concern. Unfortunately, most were unworkable and would have been difficult to administer.

The one alternative that is easy to administer and immediately solves the problem is to mandate that any additional Federal funding above fiscal year 2003 be distributed straight to the local education agencies.

The amendment offers the strong support of teachers and local school officials, those on the front lines in California who want to ensure that children with disabilities receive the quality education they deserve.

The amendment, that I, along with my colleague, the gentlewoman from California (Ms. WOOLSEY) am offering would amend current law to require that any additional increases in Federal spending above fiscal year 2003 levels be passed down directly to the local level.

Over the past 2 years, the State of California has substituted additional Federal education money for State funds, in most cases to mask the budget deficit. In effect, the State has used Federal dollars as the sole source of increase in special education over the last 2 years, allowing the State to spend the expected increase in Federal dollars to the State on other programs.

In 2003, the State of California received an increase of $351.5 million in Federal funding to go towards educating special needs kids, and in 2004, the State is slated to receive an increase of $82.8 million. This level is likely to be even higher for my State if Congress provides the significant increases in special education funding called for in the budget resolution.

Unfortunately, special needs children in my State cannot afford to be stripped of this desperately needed funding. Therefore, I am offering this amendment so that
the unprecedented level of funding offered by Congress is not diluted because of States unwillingness to make special education funding a priority.

Mr. Chairman, I urge my colleagues to support the amendment.

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

Ms. WOOLSEY. Mr. Chairman, I claim time in opposition to the amendment, but I do not oppose it.

The CHAIRMAN pro tempore. Without objection, the gentlewoman is recognized for 5 minutes.

There was no objection.

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

Mr. Chairman, there is strong bipartisan support for the McKeeon/Woolsey amendment, amendment No. 10, because it guarantees that from now on, all increases in Federal IDEA funds go to local schools where they belong.

My Republican colleague and I came together to offer this amendment because we want to make certain that State do not use Federal increases in IDEA funds to solve their State budget problems. We are aware of at least 4 States, including our own California, that may be considering using IDEA funding increases at the State level for other purposes.

While we all here in this room are sympathetic to State budget problems, we agree that IDEA funding must not be used to solve those problems. The McKeeon/Woolsey amendment ensures this will not happen by prohibiting States from keeping increases in IDEA funds for their own use.

Whenever I talk to the educators in my local school districts, the first thing they bring up is IDEA, and the first thing they want to know about IDEA is funding. As we all know, the Federal government has a long way to go to fully fund the Federal share of IDEA. It is our local school districts who fulfill the obligation of providing every child with a free and appropriate public education. And it is these school districts, not the States, who must benefit from federal IDEA funds.

Local schools desperately need every penny of Federal IDEA funds, and the McKeeon/Woolsey amendment makes sure that they get them. I encourage my colleagues to vote aye on the McKeeon/Woolsey amendment.

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

Mr. McKeeon. Mr. Chairman, I yield 1 minute to the gentleman from San Diego, California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, I have spent 32 years in this body, both in the authorizations and the Committee on Appropriations. My sister-in-law is in charge of all special education in San Diego city schools. She works for Alan Bersin. And what he has stated that he has got two basic problems. One is what it is improper to say that the governor is taking Federal education money and cutting IDEA. What he is doing is reducing the State funds for IDEA and the Federal funds are supposed to go above that to enhance the IDEA funding, and the governor is doing that to balance his budget. This amendment prevents that.

There is much more that we could do in this body. I wish that we could reduce the excess of paperwork. In California it is unbelievable. I wish we could cap lawyer fees, and put the money directly towards students. We cannot do all of those things. We do not have the votes on some of these issues. But this one is not only very thoughtful, and I wish to thank the gentlewoman from California (Ms. WOOLSEY) and the gentleman from California (Mr. McKeeon), it is not only thoughtful, but it is needed to protect the funds that we have appropriated in a bipartisan way for IDEA.

The CHAIRMAN pro tempore. The amendment is agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 11 printed in House Report 108-79.

AMENDMENT NO. 11 OFFERED BY MR. NETHERCUTT

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. NETHERCUTT:

In section 635a(16)(B) of the Individuals with Disabilities Education Act (as proposed to be amended by section 303(a)(6) of this Act), at the end of section 635a(16)(B) there is inserted the following:

"...the term ‘natural environment’ means an appropriate facility or facilities in conunction with and under the direction of qualified individuals with appropriate training in the field of emotional and physical disabilities, including individuals who are trained in the field of early childhood intervention..."

Mr. Chairman, the amendment that I propose today is intended to expand the service opportunities available to young children under IDEA in an appropriate facility or facilities in conjunction with a parent and the best recommendations of the individualized family service plan team.

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentleman from Washington (Mr. NETHERCUTT) and a Member opposed will control 5 minutes.

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

Mr. Chairman, the amendment that I propose today is intended to expand the service opportunities available to young children under IDEA in an appropriate facility or facilities in conjunction with a parent and the best recommendations of the individualized family service plan team.

The reason for this amendment is for the following purposes: In my district of Spokane, Washington, eastern Washington, the City of Spokane, we have a great facility called the Spokane Guild School. They have a dedicated board of trustees and dedicated volunteers and operational people from Dick Boyser to Rick Melanson and to Jim O’Connell to many, many others who have looked at the services that are provided by the Spokane Guild School and found them to be superior to other environments that may be available to young children who are experiencing muscular conditions or neuromuscular conditions that need attention at an early intervention age.

So what they have done over the years is determine that perhaps existing law would exclude them from providing services for the precious children because it is not necessarily in a natural environment. But my amendment intends to make sure that the definition of natural environment includes the kind of facilities like this, the Spokane Guild School and many other facilities in our State of Washington perhaps around the country, so that the children are benefitted in conjunction with the requests and expectations of parents and the IFSP team. So this is not a threatening amendment. To the disability community it is an enhancement.

About a year or so ago about the request or suggestion of Mr. Melanson and others, we put $500,000 in to make sure that the government of the United States understands this kind of environment for children suffering these kinds of conditions that need desperate help at an early age. We were able to get that money in to do some studies, to make sure that the Feds understand that existing in Washington through the Spokane Guild School may be replicated around the rest of the country because it is enhancing for students and little children, not diminishing.

I have had Undersecretary Bob Pasternak from the Department of Education come to our district, and he did so willingly and with a critical eye, but also a welcoming expectation about the great services that are available even though they may not be precisely in a home environment. I will speak for him and say that we were delighted to have him come, and I believe he was delighted to be able to be there.

In the visit that Undersecretary Pasternak made, he made an impression as a caring person, as a caring person, as a caring person, as a caring person. He came from the Department of Education and in government, but also a person who wants to, in his best expectations, have children served properly who are subject to the IDEA.

So we have a lot to offer in this environment. We have a State legislature in my State, the Senate passed legislation that said, Congress, please allow this expansion or interpretation of IDEA to cover a place like the Spokane Guild School. It passed the House by 96 to nothing. It passed the Senate in our State 49 to nothing. So it is a bipartisan, comprehensive, high-expectation measure that helps children.
Ms. WOOLSEY. 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 Washington (Mr. NETHERCUTT).

Mr. NETHERCUTT. The gentleman has agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 12 printed in House Report 108-79.

AMENDMENT NO. 12 OFFERED BY MRS. DAVIS OF CALIFORNIA

Mrs. DAVIS of California. Mr. Chairman, the amendment on behalf of my colleague, the gentlewoman from California (Ms. LORETTA SANCHEZ).

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

The text of the amendment is as follows:

Amendment No. 12 offered by Mrs. Davis of California:

In section 665(b)(2)(I) of the Individuals with Disabilities Education Act (as proposed to be amended by section 403 of the bill), amend at the end before the period the following: ``including to train school safety personnel and first responders who work at qualified educational facilities."

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentlewoman from California (Ms. Davis) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Ms. Davis).

Mr. CASTLE. Mr. Chairman, I seek the time in opposition.

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentlewoman from California (Ms. Davis) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Ms. Davis).

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

Mr. NETHERCUTT. The gentleman from Ohio.

Mr. BOEHNER. Mr. Chairman, let me suggest to our Members that our friend from the State of Washington makes a valuable contribution to the bill, and I would urge the Members to support his amendment.

Mr. NETHERCUTT. Reclaiming my time, Mr. Chairman, I thank the gentleman and thank the minority Members who support this amendment. It is good public policy. It is good for IDEA, and is a proper expansion, or I should say interpretation of existing law.

Mr. Chairman, I yield back the balance of my time.
Many of these children do have problems occasionally, where they flail their arms, they will bang their heads against the wall, they will even speak incoherently. It takes somebody who understands to be able to deal with them. It is a difficult process, but it is more difficult even for people who are trying to educate these children.

So I think this is a great amendment, and I appreciate the gentleman's comments. I appreciate the amendment of the gentlewoman from California (Ms. LORETTA SANCHEZ) in introducing this amendment.

The parents of these autistic children for the past 5 of 6 years in Congress have been fighting a very difficult battle with pharmaceutical companies, because they think, and I believe, that many of these children were damaged by mercury in some of the vaccines that we had. So they have had a tough fight, and I am glad to see that we are showing a little concern about their problems by having this amendment on the floor; and I assume it will be adopted without any opposition.

So I thank the gentlewoman, and I thank the committee for accepting it.

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

Mrs. DAVIS of California. Mr. Chairman, I yield myself such time as I may consume just to simply say that I appreciate the opportunity to have addressed this bill.

Mr. Chairman, I yield the balance of my time to the gentlewoman from California (Ms. LORETTA SANCHEZ) and ask unanimous consent that she be allowed to control that time in order to speak further about the need for this important amendment.

The CHAIRMAN pro tempore. Without objection, the gentlewoman from California (Ms. LORETTA SANCHEZ) has 2 minutes remaining.

There was no objection.

Ms. SANCHEZ of California. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, autism is currently the third most common developmental disability. It is more common than Down’s syndrome. A majority of the public, including those who work in schools, do not really know, when they see it, what is happening. They are unaware of how autism affects people, and they are not trained well in how to work effectively with individuals who have autism.

Autism interferes with the normal development of the brain in areas of reasoning and social interaction, and so people with autism can, in particular, have difficulty in completing unusual tasks that most of us may not understand: aggressiveness, for example; committing self-injury to themselves. It is a behavior that is of special concern because in responding to situations, it is very difficult. Especially if you are in the classroom or in a school situation, or even in the learning environment, how you respond to the child is important.

It is absolutely necessary to provide funding to train our special ed teachers regarding autism disorders, and it is also important to provide that training to school safety personnel and to other first responders who deal with the school setting.

What we have had in the past are people, law enforcement sometimes, who do not really understand what type of a child this may be. Therefore, they may handle them in a different way, and they might be more injurious towards the student. That is why the Sanchez amendment would include language in this bill that would authorize the use of funds to develop and to improve programs to train school safety personnel and first responders who work with our school facilities to recognize autism spectrum disorders.

The goal of the amendment, Mr. Chairman, is to train school safety personnel and our first responders.

Mr. CASTLE. Mr. Chairman, I yield myself the balance of my time just to say that we are in support of the amendment. We actually think it is a very good amendment on this side. We thank the gentlewoman, and we hope that everybody will support it.

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

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from California (Ms. Davis).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to amend amendment No. 13 printed in House Report 108-79.

AMENDMENT NO. 13 OFFERED BY MR. WU

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

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

The text of the amendment is as follows:

Amendment No. 13 offered by Mr. WU: In section 654(c) of the Individuals with Disabilities Education Act (as proposed to be amended by section 401 of the bill), strike paragraph (2) and insert the following:

(2) PRIORITY.—The Secretary may give priority to applications:

(A) on the basis of need; and

(B) that provide for the establishment of professional development programs regarding methods of early and appropriate identification of children with disabilities.

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentleman from Oregon (Mr. Wu) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Oregon (Mr. Wu).

Mr. Wu. Mr. Chairman, I yield myself such time as I may consume to simply say that it is my intention to submit a written statement with respect to this amendment, and I will make that request on behalf of the gentlewoman from Oregon (Ms. HOOLEY) as well.

Today, students with learning disabilities represent half of all students served under IDEA.

During the 1990s, the number of students in this category substantially increased by 34%.

The President's Commission on Excellence in Special Education asserts that 80% of these students are identified as learning disabled because they have not learned how to read. The report further asserts that up to 40% of learning disabled students are in special education because they were never taught how to read.

These children do not need special education; they need an education.

The problem is that children are being misidentified and over-identified as learning disabled. Moreover, a recent National Research Council report indicates that minority students are over-represented in some special education categories, most notably mental retardation and emotional disturbance.

The role of teacher referral is critical. Unfortunately, many general education teachers are unprepared to identify students who may actually be at risk for a learning disability.

The underlying bill does provide professional development and research funding to reduce the over-identification of children and disabilities, including minority children. Specifically, this bill provides for a competitive grant program. Funding could be used for teacher training in many areas, including how to properly identify students with disabilities.

We must ensure that all states provide identification training. That is why my amendment gives priority to applications that provide for establishment of professional development programs regarding methods of early and appropriate identification of children with disabilities.

The President's Commission demonstrated that over-identification is a problem that is rampant in our schools. My amendment would provide the necessary training to ensure that teachers, administrators and personnel are better equipped to determine if a child is learning disabled.

I urge my colleagues to support this important amendment.

Mr. Chairman, I might inquire as to whether the gentlewoman from California (Ms. WOOLSEY), our ranking subcommittee chair, or the chairman of the full committee, the gentleman from Ohio (Mr. BOEHNER), would care to take a moment to state their position on this amendment. It is my intention to make no further statements at this point in time.

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

Mr. WU. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Chairman, I appreciate the opportunity to work with my friend from Oregon. We have worked on this subcommittee, and we have worked on it since. The committee and I are in full support of the gentleman's amendment and appreciate the opportunity to work with him to help fine-tune this and would recommend to our colleagues that we adopt the amendment.

Mr. WU. Mr. Chairman, reclaiming my time, I thank the chairman very much.

Ms. WOOLSEY. Mr. Chairman, will the gentleman yield?

Mr. WU. I yield to the gentlewoman from California.
Mr. WILSON of South Carolina. Mr. Chairman, I'd like to thank Congressman Wu for his amendment that provides greater opportunities to States in reducing over-identification of children with disabilities. Each school district faces unique challenges in educating its youth. This amendment allows school districts and teachers to improve their ability to appropriately identify special education students. It also provides more support for early intervention so school districts can provide early reading and behavioral programs to help reduce the number of children identified as having a learning disability.

Steps like this amendment combined with my bill entitled Teacher Recruitment and Retention Act, which will provide $17,500 in loan forgiveness for Special Education teachers, will demonstrate our resolve to students with disabilities and those who teach them.

Ms. HOOLEY of Oregon. Mr. Chairman, I support his amendment and I support full funding of IDEA.

While I am pleased that this Congress is tackling the issue of special education today, I am concerned that this bill does not substantively address several important issues including fully funding IDEA and the misidentification of children with disabilities.

Misidentification is a serious problem in our schools. Many general education teachers are not trained to identify learning disabilities and students are placed in special education when all they need is a little extra assistance. Not only is this detrimental to the student, but it diverts precious funding away from students with serious disabilities.

Full funding of IDEA has been one of my top priorities during my time in Congress. When Congress first addressed this issue in 1975, we made a commitment to provide children with disabilities access to a quality public education. But not once in the past 28 years has Congress lived up to its obligation to fund the services it requires states and school districts to provide, despite a commitment that it would do so.

My home state of Oregon, like so many states around the country, is suffering tremendous budget shortfalls. When the federal government doesn't pay its share, the remaining costs don't just disappear. The state and school districts are forced to pick up the additional costs, putting additional strain on our education funding. Living up to our promise and fully funding IDEA would help all States and all students.

It is time that we renew our commitment to all of our nation's children and pay our share of the cost of IDEA.

I urge my colleagues to support the Wu amendment and support full funding of IDEA.

Mr. Wu. Mr. Chairman, I thank the gentleman from California (Ms. Woolsey) very much for her support, and I yield back the balance of my time.

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

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 14 printed in House Report 108-79.
Ms. WOOLSEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Speaker, this is a personal explanation of the amendment that I offered to the House. In it I enumerated the various provisions of the bill and the reasons I had for proposing them. Since they are on the record, I ask the House to send the amendment back to the Speaker pro tempore of the Committee of the Whole.

Mr. Speaker, I ask that the House...
151, 152, 153, and 154 due to medical reasons. Had I been present, I would have voted “aye” on rollcall vote 150 and “nay” on rollcall votes 149, 151, 152, 153, and 154.

PERSONAL EXPLANATION

Mr. HONDA. Mr. Speaker, on rollcall votes Nos. 149, 150, 151, 152, 153, and 154 I was unavoidably detained with important matters in my district. Had I been present, I would have voted “no” on rollcall 149 regarding H. Res. 206, “yes” on rollcall vote 150, the Vitter amendment, “no” on rollcall vote 151, the DeMint amendment, “no” on rollcall vote 152, the Musgrove amendment, “no” on rollcall vote 153, the Tancredo amendment, and “no” on rollcall vote 154 on passage of H.R. 1350.

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 1350, which was just passed.

The SPEAKER pro tempore (Mr. BURTON of Indiana). Is there objection to the request of the gentleman from Ohio? There was no objection.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF H.R. 1350, IMPROVING EDUCATION RESULTS FOR CHILDREN WITH DISABILITIES ACT OF 2003

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 1350, the Clerk be authorized to make technical corrections and conforming changes to the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio? There was no objection.

MAKING IN ORDER MOTIONS TO SUSPEND THE RULES ON WEDNESDAYS THROUGH JUNE 25, 2003

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that the Speaker may be permitted to entertain motions that the House suspend the rules on Wednesdays through June 25, 2003, as though under clause 1 of rule XV.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio? There was no objection.

ELECTION OF MEMBER TO COMMITTEE ON SMALL BUSINESS

Mr. MENENDEZ. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 209) and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution. The Clerk read as follows:

H. Res. 209

Resolved, That the following named Member be and is hereby elected to the following standing committee of the House of Representatives:

COMMITTEE ON SMALL BUSINESS: Mr. Miller of North Carolina.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Transportation and Infrastructure:

This resolution was read and, without objection, referred to the Committee on Appropriations:


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

DEAR MR. SPEAKER: Enclosed please find resolutions approved by the Committee on Transportation and Infrastructure on April 9, 2003, in accordance with 40 U.S.C. § 3307.

Sincerely,

DON YOUNG
Chairman.

Enclosures.

COMMITTEE RESOLUTIONS—LEASE—DEPARTMENT OF JUSTICE, 1401 H STREET, NW, WASHINGTON, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. § 3307, appropriations are authorized to lease up to approximately 116,064 rentable square feet of space for the Department of Justice currently located in leased space at 1401 H Street, NW, in Washington, DC, at a proposed total annual cost of $5,222,880 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION—LEASE—OFFICE OF GOVERNMENT ETHICS AND CORPORATION FOR NATIONAL SERVICE, WASHINGTON, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. § 3307, appropriations are authorized to lease up to approximately 118,754 rentable square feet of space for the Office of Government Ethics and Corporation for National Service currently located in leased space at 1201 and 1225 New York Avenue, in Washington, DC, at a proposed total annual cost of $5,343,930 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION—LEASE—DEPARTMENT OF HEALTH AND HUMAN SERVICES, SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION, SUBURBAN MARYLAND

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. § 3307, appropriations are authorized to lease up to approximately 251,527 rentable square feet of space for the Department of Health and Human Services Substance Abuse and Mental Health Services Administration currently located in leased space at 5515 Security Lane and 5600 Fishers Lane, Rockville, MD at a proposed total annual cost of $8,551,938 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION—LEASE—DEPARTMENT OF DEFENSE, 5600 COLUMBIA PIKE, NORTHERN VIRGINIA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. § 3307, appropriations are authorized to lease up to approximately 162,696 rentable square...
COMMITTEE RESOLUTION—LEASE—DEPARTMENT OF DEFENSE, CRYSTAL PLAZA V, NORTHERN VIRGINIA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. § 3307, appropriations are authorized to lease up to approximately 135,960 rentable square feet of space for the Department of Defense currently located in leased space at Crystal Plaza V, 2211 South Clark Place, in Arlington, VA at a proposed total annual cost of $5,221,040 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION—LEASE—DEPARTMENT OF DEFENSE, HOFFMAN BUILDING 2, NORTHERN VIRGINIA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. § 3307, appropriations are authorized to lease up to approximately 403,734 rentable square feet of space at Hoffman Building 2, 200 Stoval Street, in Alexandria, VA at a proposed total annual cost of $13,726,956 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION—LEASE—DEPARTMENT OF DEFENSE, MISSILE DEFENSE AGENCY, NORTHERN VIRGINIA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. § 3307, appropriations are authorized to lease up to approximately 144,552 rentable square feet of space for the Department of Defense, Missile Defense Agency currently located in leased space at Wing 8 of Federal Office Building #2, Arlington Naval Annex in Arlington, VA at a proposed total annual cost of $4,914,768 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION—LEASE—DEPARTMENT OF THE TREASURY, FINANCIAL CRIMES ENFORCEMENT NETWORK, NORTHERN VIRGINIA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. § 3307, appropriations are authorized to lease up to approximately 149,040 rentable square feet of space for the Department of the Treasury, Financial Crimes Enforcement Network, currently located in leased space at Tycon Courthouse, 2070 Chain Bridge Road in Fairfax, VA at a proposed total annual cost of $5,067,966 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION—LEASE—DEPARTMENT OF STATE, NORTHERN VIRGINIA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. § 3307, appropriations are authorized to lease up to approximately 144,552 rentable square feet of space for the Department of State currently located in leased space at 381 Eileen Street, in Fairfax, VA at a proposed total annual cost of $5,531,664 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION—LEASE—MULTIPLE AGENCIES, 999 18TH STREET, DENVER, CO

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. § 3307, appropriations are authorized to lease up to approximately 231,981 rentable square feet of space for the Environmental Protection Agency Region VIII, GSA Federal Telecommunications Service, and the Department of Health and Human Services, Centers for Disease Control and Prevention, currently located in leased space at 999 18th Street, in Denver, CO at a proposed total annual cost of $7,191,411 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION—AMENDMENT—BYRON G. ROGERS FEDERAL BUILDING, UNITED STATES COURTHOUSE, DENVER, COLORADO

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. § 3307, appropriations are authorized for the alteration of the Byron G. Rogers Federal Building and United States Courthouse, located in Denver, Colorado, at an additional cost of $1,070,000 for additional design.

Provided, That the construction of this project does not exceed construction benchmarks as established by the General Services Administration.

COMMITTEE RESOLUTION—AMENDMENT—UNITED STATES COURTHOUSE, LAS CRUCES, NEW MEXICO

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. § 3307, appropriations are authorized for the site acquisition for a 206,881 gross square foot United States courthouse, including 81 inside parking spaces, located in Las Cruces, New Mexico, at a cost of $600,000, a modified prospectus for which is attached to, and included in, this resolution.

This resolution amends Committee resolution dated July 18, 2001, which authorized appropriations in the amount of $3,688,000 for advanced design.

Provided, That the construction of this project does not exceed construction benchmarks as established by the General Services Administration.
The SPEAKER pro tempore. The SPEAKER pro tempore (Mr. Burns). 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.

Mr. RAMSTAD. Mr. Speaker, the University of Minnesota's hockey team did it again. During our spring recess, Minnesota defeated New Hampshire 5 to 1 to win its second consecutive NCAA championship, the first time a team has repeated as NCAA hockey champion in 31 years.

Mr. Speaker, the key to these back-to-back titles has been hard work by talented athletes, superior coaching by Coach Don Lucia and his great staff, and the greatest fans in hockey anywhere.

In the title game, Minnesota and New Hampshire were tied 1 to 1 until the final period, but a three-goal outburst over 5 minutes and 20 seconds of the third period iced the team's second consecutive national championship.

Minnesota has a long and proud hockey tradition as the hockey capital of the world, and all Minnesotans are extremely proud of our national champions, Golden Gophers.

Unlike most repeat champions, Mr. Speaker, this one came as somewhat of a surprise. The Gophers started the season slowly, but that is to be expected of a team that lost so many players after beating Maine in overtime in last year's title game. But thanks to Coach Lucia's inspiring leadership, great motivational skills and good chemistry, this year's team started gathering steam as players returned to the lineup from injuries. Each player, coach, trainer and manager played a pivotal role during the season, picking each other up at critical times.

Our University of Minnesota's men's hockey team also won the WCHA, the Western Collegiate Hockey Association tournament on the road to its second consecutive national title.

Mr. Speaker, all Minnesotans and Gopher hockey fans everywhere are very proud of this great team. The 2002-2003 Gopher men's hockey team, our back-to-back national champions, are now part of college hockey history. We congratulate our national champions, for they are true champions, both on and off the ice.

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

Mr. RAMSTAD. I am glad to yield to the gentleman from hockey-rich Duluth, Minnesota.

Mr. OBSTER. Mr. Speaker, I thank the gentleman for taking this special order, and I join him in paying tribute to the University of Minnesota Gopher hockey team back-to-back championships. The gentleman made a splendid case. We are proud of the men's hockey team.

But I also want to point out that the University of Minnesota-Duluth women's hockey team for the third consecutive year has won the NCAA hockey championship, trumping the men. It is a great tribute to our State that in the final frozen four in both the women's and men's hockey, our University of Minnesota teams have prevailed. That is a tribute to the great tradition of hockey in our northern part of our State, as well as in the gentleman's part of the State, an area that he now represents in Anoka County, that has a splendid four or more hockey rinks training the future champions.

Mr. RAMSTAD. Mr. Speaker, re-claiming my time, I thank the gentleman for his comments, for his great support of University of Minnesota athletics, both in Minneapolis and Duluth, and I was just as proud to support the Gopher women's team, the University of Minnesota-Duluth, as I am here today. Both are great teams, and that is why Minnesota, as the gentleman knows, is the hockey capital of the world.

HONORING AVIATION’S PIONEER WOMEN OF COLOR

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

Mr. DAVIS of Illinois. Mr. Speaker, on Saturday, May 3, 2003, the Chicago "DODO" Chapter of Tuskegee Airmen, incorporated, in concert with Black Pilots of America will honor three of Aviation’s Pioneer African American Women of Color, Bessie Coleman, Willa Beatrice Brown and Janet Harmon, at a ceremony to be held on Saturday, May 3, at the Logan, 123rd and Kedzie Avenue in Chicago.

I shall be pleased to join Mr. Rufus Hunt, aviation historian, and this group of aviation enthusiasts, flyers, former flyers, mechanics and others who love to fly and have dedicated themselves to keeping the legacy of these three women alive.

Bessie Coleman was the first African American female pilot. She grew up in poverty and discrimination, came to Chicago from Texas, decided that she wanted to fly, and, with encouragement from Robert Abbott, who was the owner of the Chicago Daily Defender newspaper, she was able to put together, as well as to raise the necessary funds and to learn to fly, which she did. She returned to America as a heroine, flew many exhibitions, and ultimately was unfortunately killed in an accident when a wrench got caught in the hot airplane and she did not have her seat belt on and she was thrown out of the plane, and, unfortunately, died.

There is a Bessie Coleman Drive at O'Hare Airport in Chicago that has been dedicated in her memory, and, of course, she has been placed on a stamp by the United States Post Office.

Willa Brown, an African American woman, ended up purchasing her own airplane, as well as organizing groups and clubs and organizations promoting flying.

Mr. Speaker, all three of these women made tremendous contributions to the field of aviation and every year people from the Tuskegee Airmen and other pilots groups fly over Bessie Coleman's grave. They have done this since 1931, and it is a way of paying tribute to women of color and the contributions that they have made to aviation. I commend them for this effort, for keeping these legacies alive.

Mr. Speaker, on Saturday, May 3, 2003, the Chicago "DODO" Chapter of Tuskegee Airmen Incorporated, in concert with Black Pilots of America will honor Bessie Coleman and Willa Beatrice Brown and Janet Harmon at a ceremony to be held on Saturday May 3 at the Lincoln Cemetery, 123rd and Kedzie Avenue in Chicago, Illinois. I shall be pleased to join Mr. Rufus Hunt, Aviation Historian, and this group of aviation enthusiasts, flyers, former flyers, mechanics and others who love to fly and have dedicated themselves to keeping the legacy of these three great women alive.

Bessie Coleman (1892-1926). Bessie Coleman was the first African American women of color pilot. She grew up in poverty and discrimination. The year after her birth in Atlanta, Texas, an African American man was tortured and burned to death.
death in nearby Paris for allegedly raping a five year old girl. The incident was not unusual: lynchings were common throughout the South. African Americans were essentially barred from voting by literacy tests. They could not ride in railway cars with white people, or use a wide range of public facilities set aside for whites. When young Bessie first went to the age of six, it was a one-room wooden shack, a four-mile walk from her home. Often there was no paper to write on or pencils to write with.

When Coleman turned 23 she moved to Chicago to live with two of her older brothers. When she decided that she wanted to learn to fly, the double stigma of race and gender meant that she would have to go to France in order to realize her dreams. It was soldiers returning from World War I with wild tales of flying exploits which first interested Coleman in aviation. It was also her brothers who taunted her with claims that French women were superior to African American women because they could fly. In fact, very few American women of any race had a pilots license in 1918. Those who did were predominantly white and wealthy. Every flying school that Coleman approached refused to admit her because she was both black and a woman. On the advice of Robert Abbott, the owner of the Chicago Defender Newspaper, one of the first African American millionaires, Coleman decided to learn to fly in France. She learned French at the Berlitz School in the Chicago Loop, withdrew the savings she had accumulated from her work as a manicurist and manicurist of a chi parlor, and with financial support from Robert Abbott and another African American business person she set off from New York for Paris on November 20, 1920. The only non-Caucasian in her class, it took her seven months to learn to fly. When she returned to the United States in 1921, she was greeted by great crowds and for more than five years performed at countless air shows. However, she refused to perform anywhere where Blacks were not permitted. In 1926, on her last flight, a loose wrench caught in the gas controls. The plane with a young mechanic, William Willis in the pilots seat, went out of control, and Bessie who was not wearing a seatbelt was thrown to her death. Ten thousand people turned out for her funeral. She has not been forgotten, beginning in 1931, a group of Black pilots instituted a annual fly over her grave, a postage stamp exists in her honor, Bessie Coleman Drive exists at Chicago's O'Hare airport and she continues to help others to know that they too can fly.

Willa B. Brown (1906–1992). The first African American woman to get a commercial pilots license. Willa B. Brown was born January 21, 1906 in Glasgow, Kentucky U.S.A. She received her bachelor's degree in 1927 at Indiana State Teacher's College. For a while, she taught school in Gary, Indiana and then, in 1932, after having divorced her husband, she moved to Chicago, Illinois. Influenced by Bessie Coleman, Willa started taking flying lessons in 1934. Soon she became a member of the flying club, the Challenger Air Pilot's Association, and the Chicago Girls Flight Club. She also purchased her own airplane. In 1937, she received her pilot's license and that same year, she received a master's degree from Northwestern University. Also in 1937, she co-founded the National Airmen's Association of America with her flight instructor, Cornelius R. Coffey. The association's goal was to promote African American aviation. In 1938, they started the Coffey School of Aeronautics, where approximately 200 pilots were trained in the next seven years. Some of those pilots later became part of the 99th Pursuit Squadron at Tuskegee Institute also known as the Tuskegee Airmen. Brown lobbied Washington for inclusion of African Americans in the Civilian Pilot Training Program and in the Army Air Corps, and in 1941, she became a training coordinator for the Civil Aeronautics Administration and a teacher in the Civilian Pilot Training Program. The following year, she became the first African American member of the Civil-Air-Patrol. She also promoted aviation on the radio and taught it in high schools. In 1972, Brown became a member of the Women's Advisory Committee on Aviation in the Federal Aviation Agency. Willa B. Brown died July 18, 1992.

Janet Harmon Bragg. Janet Harmon Bragg was born in Griffin, Georgia in 1912. She grew up with her mean siblings, the youngest of seven children. After graduation from high school in Fort Valley, Georgia, she enrolled in the all girls, all Black Spelman College in Atlanta, Georgia. She earned her degree in nursing from Mac Bicar Hospital which was on Spelman's campus. She moved to Rockford, Illinois and later on to Chicago, where she began a career in nursing. Although Mrs. Bragg started out in the field of nursing and made her living from it, her interest in flying started when she was a little girl. She put it this way, "As a child I always wanted to fly. . . . I used to watch the birds . . . . how they would take off and land. . . . It was interesting to see how they would drop this tail down when they would run and take off." One day in 1933, in Chicago as she was coming out of a house, she saw on a billboard across the street a drawing of a bird building a nest with chicks in the nest. A caption read, "Birds don't have to . . . Why can't you, you said to yourself, They do to learn to fly." That incident cinched it, according to Mrs. Bragg, the owners of a Black Insurance Company in Chicago where she worked encouraged her to pursue her educational and other goals. She enrolled in the Aeronautical School of Engineering to begin here groundwork. Black and white students were segregated. She was the first Black female student to enter the class. Here she learned to fly and to take care of planes. She was able to take a few lessons at a private airport but the rate of $15 per hour in 1933 proved too costly. Therefore, she took $800 and bought her own plane. With the purchase of the plane, a few other Black pioneer aviators started their own airport in Robbins, Illinois, about 20 miles Southwest of Chicago. This group also founded the Challenger Aero Club. This group went on to establish the Coffey School of Aviation in 1939. This school and five other Black colleges participated in the civilian pilot training program and later fed students into the Army Air Corps training program at Tuskegee, Alabama. In short, Mrs. Bragg was at the heart of Black aviation in Chicago from its inception.

Mrs. Bragg, retired from flying in 1965 and from nursing in 1972. Since moving to Tucson, Arizona, she has been active with the Urban League and Habitat for Humanity. She has participated in the Adopt a Scholar Program at Pima College, as a member of the Tuskegee Airmen, lectures locally and nationally on such topics as aviation and women in science and aerospace. She was proclaimed outstanding citizen of Tucson in 1982.

Mr. Speaker, all three of these women have made outstanding contributions to the field of aviation and Chicago is indeed proud that we can lay claim to some part of their legacies.

PROVIDING REMEDIES FOR AUTISTIC CHILDREN

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

Mr. BURTON of Indiana. Mr. Speaker, today we passed the IDEA bill, which was designed to help children who have learning disabilities to get the kind of attention they need in the educational systems across this country. The bill was not a bad bill. It did not go far enough. We only provide about 21 percent of the funds that are necessary. It should be 40 percent. That is what we promised the States. We are not there yet, but hopefully we will get there before too long.

The reason I am here on the floor tonight is because I have received thousands of letters from parents of children who are autistic, and, as autistic children, they do have these learning disabilities.

These parents believe, and I believe, after having hearings for the past 4 years, that many of their children, have been damaged by the mercury that was in children's vaccines. We have been putting mercury from a product called thimerosal in children's vaccines since the 1930s, and now that we are giving children 25 to 30 vaccinations before they start into kindergarten, you have a tremendous amount of mercury being built up in their systems.

Mercury has a cumulative effect in the brain. So when you were giving a child one shot, it might not have been so bad. Obviously, you do not want mercury in their system, but the mercury was getting into the brain, and in many cases it was not causing damage. But when you give a child 30 shots before they start into kindergarten, many, many, many of those children are going to have brain damage and neurological damage such as autism.

I have received, as I said, thousands of letters from parents of autistic children from around the country, and I have been coming down here showing
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pictures of these children and reading
these letters, because the pharmaceutical companies and the Congress of
the United States have a responsibility
to those families who are suffering financially and mentally from the terrible trauma of autism their children
are going through.
It used to be one in 10,000 children
were autistic. Now it is 1 in 200. We
have had a 50-fold increase in autism in
the last 10 to 15 years. It is an absolute
epidemic, and something has to be done
about it. We have been debating how to
handle it in the Congress of the United
States.
Every child who is damaged by vaccine should have access to the Vaccine
Injury Compensation Fund, but many
of these children and their families
who are autistic have not had access to
that fund, and that is why this debate
rages on.
In the other body we have had some
real problems, and that is why we are
trying to bring to the attention of the
other body, the leader of the other
body, as well as Members of Congress,
how deep this problem is and how important it is to the people of this country that we get it solved.
I do not have time to read a lot of
letters tonight, but I want to read part
of one letter I received. It is many,
many pages from a man named James
W. Coll. James is from Hanover, Pennsylvania. He has a son, Jacob, who became autistic. He says in his letter,
‘‘Jacob is 5. There is no doubt in my
mind that my son Jacob has thimerosal-induced autism.’’
Why does he say that? He says it for
the same reason that I say that about
my grandson. My grandson was a very
normal child, as Jacob probably was,
and he was speaking and he was laughing and he was a lot of fun to be
around. He actually got nine shots in
one day, seven which had mercury in
them, and, 2 days later, he was running
around banging his head against the
wall, flapping his arms, had chronic diarrhea and constipation at the same
time, and we lost him. He looked at
you blankly. He would not talk any
more. He became incommunicado, if
you will.
That has happened to thousands and
thousands of families across this country. We cannot leave them high and
dry. It is costing them hundreds of
thousands of dollars. They are mortgaging their homes, they selling everything they have to take care of their
children. They did not realize they had
access to the Vaccine Injury Compensation Fund until the 3-year statute
of limitations ran out.
We need to reopen that fund so that
every person who has an autistic child
has a day in court, if you will, to make
their case before the fund to get money
to help their child and help their family.
There is $1.8 billion in that fund. We
protected the pharmaceutical companies by allowing them to put so much
money in the fund so that they would

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not be sued when people are damaged
by vaccines. So the people who have
been damaged by the vaccines ought to
have access to that fund. It should be
non-adversarial. It is adversarial right
now. They have been keeping people
out, they have been keeping children
out, and damaged children have been
suffering, their families have been suffering, and they have nowhere to turn.
So that is why every night I come
down here and show pictures. These are
called ‘‘The Faces of Autism.’’ We have
thousands of these children. I have
probably 50 or 60 here. Here is a new
one we have. It says on this, ‘‘Vaccines
Stole My Health, Childhood and Future. Don’t Steal My Rights.’’ I think
that is very important. We should not
steal this child’s rights, or any child’s
rights. They should have access to the
Vaccine Injury Compensation Fund,
they should have access to education.
If we do not deal with these children
now, they are going to grow up, they
have an average life expectancy, and if
they cannot cope with society and we
do not deal with them now, we are
going to pay 10, 20, 30 times more to
take care of them when they are adults
and they cannot make a living and cannot function in our society. So it is absolutely imperative.
I say this to my colleagues in the
other body and here, we need to pass
legislation this year that will give
these people access to the Vaccine Injury Compensation Fund so that they
will have somewhere to turn and they
won’t be left high and dry.
I will be back here tomorrow night or
several nights in the future to bring up
other cases, and I hope that we will be
able to make this case time and again
to the American people until we get
the job done.
Mr. Speaker, I include for the
RECORD the letter from James W. Coll.
Dear Sir: I would like to begin this letter
by telling you a little about myself and my
wife Christine. We are both 31 yrs old and
have two children. We live in Hanover, Pennsylvania. She is a stay-at-home mom and I
am a paramedic for a private company in
Washington, DC. My older son James is eight
yrs old and my younger son Jacob is 5. There
is no doubt in my mind that my son Jacob
has thimeroSal-induced autism. I am going
to tell you my family’s story the best way I
can. Before I get started I just want to tell
you that my heart goes out to you, your
daughter and grandchild. I know for me it is
the most challenging thing I ever faced. I
feel like I can related more to parents of autistic children than my own distant family.
My son Jacob was born on July 21, 1997 in
Pittsburgh, PA. He was born by cesarean section because he weighed ten pounds and was
too big for a vaginal delivery. His Apgars
were normal at birth and there were no complications after delivery. He received his
first vaccination, which was the hepatitis
one, at the hospital, just like all children in
America. During the first few weeks he was
home, we noticed he vomited his formula a
lot. Some took him to his pediatrician. He
was then put on Soy formula and it was
thought he might be lactose intolerant. This
did not help much. He would still gag and
vomit. It wasn’t all the time. He was still
able to hold enough down to thrive and grow.

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The pediatrician told us that this was a
problem for some children and that it would
subside in time. During the first year of his
life he learned to crawl. This milestone appeared normal. There were some things that
confused us. He did not like to be sat down
in the grass outside, he would cry inconsolably and wanted to be picked up. His eye
contact with us was not very good. You
could not capture his interest with toys. He
liked to be held close to us a lot and would
put his face next to ours. He was quiet unless
he was hungry or something disturbed him.
Sometimes we would push him in the stroller
and he would cry when we tried to push him
back home. He was very hard to console at
these times. We just thought he was different and this was his personality. My
mother told me I was a fussy baby. At this
point we never suspected autism. We didn’t
even know anything about autism, outside of
the movie Rainman. At a year old he received more immunizations. They were given
at one of his pediatrician’s offices, Dr.
Tuchin. After that we noticed that his
glands in his neck, under his armpits and on
the back of his head, swelled up. They appeared like little peas under his skin.
His pediatrician told us he had a virus and
that this was normal because his body was
fighting off infection. She did not feel any
testing was necessary. Myself and my wife
thought it was and a blood test was ordered
at Children’s Hospital of Pittsburgh. The results were unclear. The CMV virus was suspected or a virus that closely mimicked
CMV. There wasn’t real concern by the physicians in charge of Jacob’s care. In fact, we
seemed to bother his pediatrician because
she was not very nice to us about this problem and wrote little sarcastic notes in his
chart about the testing. Otherwise he continued to grow and thrive, despite his food sensitivity and everything else (as in his vital
signs and physical appearance appeared normal). His lymph nodes stayed enlarged for
about six months from when he was a year
old. We were just told it takes a while for
them to go back down and it was a good sign
because his body was fighting off the virus.
From 11⁄2 years old to 21⁄2 years old his food
sensitivity continued to be a problem and a
lot of solid food made him throw up. We were
referred to Children’s Hospital of Pittsburgh
Occupational Food Sensitivity Clinic. They
observed Jacob eat french fries. They wanted
to feed him pudding, which to this day he
dislikes. They told us that he had some food
sensitivities of an unknown cause and that
he needed therapy. The team of therapists
who observed him wanted to send a therapist
to our house a couple of times a week and
teach him to eat different foods. This idea,
to us, seemed unnatural. We did not think
this would help him. We decided to just keep
on feeding him what he liked and he would
out grow this. The only things he would eat
were chicken and fries, grilled cheese, cookies—basically, anything dry and tasty. He
does not eat any vegetables to this day, or
wet foods. He always coughed a lot too when
he drank liquids. Our doctor told us not to
worry, as long as he did not get pneumonia.
His speech was very limited at 2 yrs old.
Sometimes he could say Mom or Dad, but it
wasn’t all the time. He would jump up and
down a lot and flap his hands in front of the
TV. We thought he was just happy and playing. He did not have interests or imaginary
play with his toys. He liked only push button
toys. In the back of my mind and my wife’s
we knew he was a little different, but we
thought if we just gave him some time he
would start talking more and eat more foods,
and not be so hyperactive. In February, 2000
we moved to the Washington, DC area because I got a job offer paying more money.
We moved to a small 2 bedroom apartment in

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Woodbridge, VA. The people downstairs complained a lot because my son jumped up and down and they could hear it. We lived there six months and the management would not renew the lease because of the noise. My son had jumping and J acob's tantrums. During this time my wife took Jacob to his new pediatrician, Dr. John Farber. When he was approximately 3 years old, Dr. Farber diagnosed Jacob with Pervasive Developmental Disorder. He told us this term coincided with autism and that J acob had to improve in time or that we should go to Child Find Services in the county in Virginia in which we lived. My wife took Jacob there. It was a hot day so it took a while in the trailer which was not air-conditioned. My son tantrummed and did not like it there. They could not even test him. They agreed with the diagnosis. We later learned that this term is routinely used with children when the child is young and that a pediatrician is not ready to totally label the child autistic. We then took Jacob to Johns Hopkins University Hospital in Baltimore, Maryland for a second opinion. They had a special clinical therapy place called the Kennedy Krieger Institute at approximately 3 1/2 years old he was examined by a Dr. Andrew Zimmerman who diagnosed him with Autistic Spectrum Disorder. He also had some symptoms which ruled fragile X Syndrome. He told us to find a good speech therapist. At that time we had moved to Fredericksburg, Virginia where rent was cheaper. He was very wild and we lived in the rental town-home community. We found a speech therapist, but we didn't think this was very effective. She was trying to teach Jacob to say his words with picture cards. We didn't feel this was intense enough. We then learned of a therapy called Applied Behavioral Analyses. We tried to get the Spotsylvania Intermediate Unit which payed for these services. This was a second opinion. They had a special clinician. We then took Jacob to Johns Hopkins University Hospital in Baltimore, Maryland for a second opinion. They had a special clinician. We then took Jacob to Johns Hopkins University Hospital in Baltimore, Maryland for a second opinion. They had a special clinician. We then took Jacob to Johns Hopkins University Hospital in Baltimore, Maryland for a second opinion. They had a special clinician. We then took Jacob to Johns Hopkins University Hospital in Baltimore, Maryland for a second opinion. They had a special clinician. We then took Jacob to Johns Hopkins University Hospital in Baltimore, Maryland for a second opinion. They had a special clinician.
spent watching Jacob and changing his diapers. This works out well because it gives my wife a break and a chance to go out with my son James. Jacob takes melatonin at night, which makes sure that Ninety-five percent of the time now he sleeps a full night. Before he would stay up till 3 a.m. and wake up at 7 a.m. This was exhausting for me and my wife. That couldn't continue. At midnight now and wakes up at 10 a.m. To change jobs now would be very hard for me. I would like to, but my family needs this break every week. This disorder has limited my career, but I greatly appreciate the flexibility of my employer. When I found out a bill was sneaked into the Homeland Security Act, I was outraged and I really tried to get this up. I am glad it was removed. As for a 3 year statute of limitations, this should not apply in thimerosal-induced autism. Nobody knowing this and didn't care about this would be getting off easy. Congressman BURNTON, if you need any copies of my son’s test results, I will be happy to send you one.

I represent the 11th congressional district of Ohio. Since 2001, Ohio alone has lost 167,800 jobs, which is more than 3 percent of its total workforce. In the city of Cleveland, 53,900 jobs have been lost since the President was sworn into office, which is 4.7 percent of its workforce.

Over the last few weeks, I have spoken with many members of the Cleveland business community and most agree on one thing: this tax cut is useless as a tool to help their struggling businesses. For example, local businesses tell me that they are much more likely to invest in new jobs and new technology if they are allowed to write off more of those investments on their taxes, and workers in the health care field feel that they are helped by the increased provider reimbursements, not a dividend tax reduction.

What is more, the Republican budget will mean cuts in local services of all kinds. It means fewer qualified teachers in our public schools. It means fewer police to keep our neighborhoods safe. It means fewer firefighters and EMTs to respond to our emergencies, and it means fewer hospitals dedicated to caring for the veterans who have put their lives on the line to protect ours.

We can and we must do better than that.

Democrats are all for cutting taxes. The difference is that we believe in cutting taxes responsibly so that those cuts can serve as fuel to get our economic engines turning again. We believe that we need to make sure that the revenue generated to pay for those cuts is not lost to the federal government. We believe that the tax cut should be paid for by our government, NO QUESTIONS ASKED. Whoever put thimerosal in immunizations knows that they knew it caused autism. I will only believe in this country because it was recommended to us by the health care industry. I am not proud to be an American. Our standard of living is good and this is also not just a U.S. problem, but a world-wide problem. Our country should have made sure that these immunizations were safe. Our children were exposed. Mercury is toxic! That's why it's not in thermometers. That's why they don't let kids play with it in science class anymore. As soon as they made this discovery about mercury, it should have been removed from the immunizations. I have heard they found out mercury was toxic to humans 20 years ago. But our country still let the drug manufacturers use it to be used in multidose vials of immunizations. Why is it recently that all the manufacturers removed thimerosal from the immunizations? Simply because they know it causes autism. I will only believe in this country because the President was sworn into office by the law! A life sentence for these people who knew about this and didn't care about it. Congresswoman BURNTON, if you need any copies of my son’s test results, I will be happy to send you one.
Mr. HOEKSTRA. Mr. Speaker, tonight I rise to set in context a bill that I introduced with my colleagues, the gentleman from Massachusetts (Mr. FRANK), the gentlewoman from New York (Ms.eteor, the gentleman from Georgia (Mr. COLLINS), the gentleman from Wisconsin (Mr. SENSENBRENNER), and the gentleman from Michigan (Mr. CONYERS), along with 98 others cosponsors just before the Easter recess. The bill is H.R. 1829. It deals with an issue of reforming Federal Prison Industries.

Some of our colleagues may ask, what is the importance of this bill? Or, what are you trying to get accomplished? Let me put that in a framework. What is Federal Prison Industries? Federal Prison Industries is a corporation, and many of the documents and many of the talking points that I will be using tonight come out of the annual report, which was just released by Federal Prison Industries just within the last couple of weeks. But Federal Prison Industries was established on May 7, 1930 when Congress enacted H.R. 7412. One of the key provisions was to "reduce to a minimum competition with private industry or free labor." On June 23, 1934, this bill was signed into law, authorizing the establishment of Federal Prison Industries.

The key phrase is "reduce to a minimum competition with private industry or free labor." I am going to spend much of the evening talking about what Federal Prison Industries is doing to American workers and American companies. In effect, what Federal Prison Industries is doing is it is costing American workers and American taxpayers a contrivance to lose their jobs, even though the underlying statute clearly states, "reduce to a minimum competition with private industry or free labor." Federal Prison Industries and this Justice Department has lost sight of the goal of this legislation and what the rest of Federal Prison Industries was intended to be.

Now, some within the Justice Department today may say, this is our contribution to creating high-quality and high-paying jobs in America, and we will get into that in detail also as we go through this process. But the key point here is that when Federal Prison Industries was established, the mandate was you will reduce to a minimum the impact on American workers and free labor and American business. The message from the current board of directors is very encouraging. It says on page 5 of their annual report, "Our mission is to do so without jeopardizing the job security of the American taxpayer." In 1930, the underlying statute stated, "As a wholly owned corporation of the Federal Government, FPI is exempt from Federal and State income taxes." That is not a bad deal. I wonder what kind of Federal and State income taxes Hathaway Shirts was paying. Of course, they are not out of business.

FPI is exempt from gross receipts taxes, and they are exempt from property taxes. That is an interesting thing. They pay no taxes, and they put out a product. And say should the Justice Department and FPI is looking for a balance. As far as I can see, it is an outrageous balance every time we put an American worker out of a job.
What do they make? Clothing and textiles; law enforcement, medical, military and institutional apparel; mattresses; bedding; linens; towels; embroidered screen printing on textiles; custom-made textiles and curtails; signage; office furniture; interior and exterior architectural signs; safety and recreational signs, printing and design services, re-manufacturing of toner cartridges, exterior and interior task lighting systems, electrical panels, assembly; circuit boards, electrical components and connectors, electrical cables, braid and cord assemblies. Wow. They make a lot of stuff that is made in my district.

They have an office furniture business group: office furnishings and accessories, seating products, case goods, training table products, office systems products, filing and storage products, package office solutions, turnkey solutions, distribution and mailing services, assembly and packaging services, document management services, on-site office services, machinery and special equipment.

One of the good things about the district of my colleague, the gentleman from Michigan, is that it is good to have an industrial sector where there is a large concentration; but one of the bad things is that if you have a small concentration, you do not have as many Members affected by it. Therefore, they may not feel as much pressure to do what is just and right.

The interesting advantage that Federal Prison Industries has, we think, is that we can go out and compete for this business and they can provide a better quality product at a better price and at a better service delivery than the private sector, so be it. If Federal Prison Industries makes it, we have to buy from Federal Prison Industries. The private sector may make the product, they may make it in a better quality at a lower price and a better delivery schedule; but sorry, they do not qualify. We know they paid their taxes, but they cannot even compete for the Federal Government business.

Here is what they make. The law says they should have minimal impact on jobs and free labor, and they have an element called mandatory sourcing. They are quality jobs. This is great.

Here is what we do with our prisoners. We criticize China for their prison labor. Federal Prison Industries, and they are quality jobs. We pay rates: 23 cents to $1.15 per hour. That is the same as in China. It sounds more like China than it does America. The good thing is, of course, these people are covered by OSHA. Wrong. If we are paying them 23 cents to $1.15 an hour, we cannot cover them with OSHA laws.

These are the people that are putting American workers out of business around the country today. My district now has 23 percent of its furniture business with Federal Prison Industries. It was 8 percent in 1990. We are seeing more and more companies in America today, Federal Prison Industries.

Federal Prison Industries, in the business segment, providing textiles and apparel did not have a good year. They were only up 1 percent; electronics, not a good year, 14 percent; fleet management, vehicular components, wow, this is a growth industry. This is a business segment that grew 216 percent. Graphically, they had a rough year. They were down 10 percent. Industrial products, they were down 54; office furniture, up 24 percent.

Not that great of a growth rate, off furniture, up only 24 percent. The statistic they always bring up is that the office furniture industry in the private sector was probably down 15 percent to 18 percent, so they grow by 24. The real manufacturer decreases by 18 percent, and Federal Prison Industries increases their market share. Overall, the last year Federal Prison Industries grew by 16 percent.

It is the ugly little secret that this Justice Department, this Federal Prison Industries, whether it is in clothing and textiles or office furniture, whether it is in automotive or whatever, as these industries are laying people off, Federal Prison Industries through mandatory sourcing and offering poor quality, higher-priced goods with longer delivery schedules is adding more and more jobs.

The Justice Department’s answer or contribution to creating high-quality, high-paying jobs in America is to put more prisoners to work in prison, lay people off in the private sector. We are seeing a lot of office furniture, and the industry is down by 40 percent.
untold other jobs that they could have had.

As the gentleman from Michigan (Mr. HOEKSTRA) said when he visited this plant, they told him what is really completely irritating about this is that they sell it cheaper. We save dollars for the taxpayers.

Mr. HOEKSTRA. Mr. Speaker, excuse me. If the gentleman will clarify, who sells it cheaper?

Mr. SOUDER. The company, Wieland, the private sector company. Even though they do have to follow all the laws that my colleagues alluded to, they sell it cheaper.

And because they can sell it cheaper, that would save taxpayers money in the Defense Department, at universities, in government offices, in anyplace else that Federal Prison Industries is doing it, we would save taxpayer dollars if you bought from the private sector. Not only that, it is built better. They are selling it cheaper. It last longer. So you save money because you do not have to repurchase the goods. The sofas hold together. The tiles hold together.

You have now the combination of not only the immediate prices being cheaper, but the long-term cost of the value, even to the government and any agency buying it, increased exponentially, because you do not have to replace it. The wear and tear is not there. You do not have to repurchase.

Mr. HOEKSTRA. You say, well, why do the Federal procurement officers not support your bill? You know what? They do. Because as this Congress asks different agencies to do more with less, the Federal procurement officers come back and say, hey, we can buy better goods and services from the private sector for a lower price, but you make us get our stuff from Federal Prison Industries. If we are going to have to use Federal Prison Industries, then do not make us do more with less because we cannot buy the best products and we cannot buy the services. You are asking us to get more efficient and more effective in using vendors who do not meet the standards that we need to compete.

Mr. SOUDER. The extraordinary thing here is that if they can meet these standards, that the Federal procurement officers would like to do this. And they are doing this, as he has so eloquently pointed out, that they do not have OSHA, the Occupational Safety and Health Administration laws that say you got to have this over here and threaten to shut them down and they have put the same pressures that you put on the private sector. And still the private sector makes it for less price with better quality.

The owners of the Wheeling Furniture ask me, could our employees get these contracts and get the points if they get busted for dealing drugs? Could our employees get these jobs if they rob a bank? Could our employees, if they get arrested for other crimes, then become eligible to make this furniture?

This is absolutely crazy. I believe that the stumbling block here is that there are many Members here like me who want to work. I am a strong supporter of Prison Fellowship and Justice Fellowship and organizations as is my colleague, that say people need to develop a skill while they are in prison. They need to develop a skill that does not take us away from workaday workers. We are losing jobs all over the place. Figure out, jobs that are taken by overseas workers and give them to the prison industry people. It is not that we do not want to utilize prisoners. It is not that we do not want them to learn a skill. It is not that we do not want them to have some income when they are done, and they are taking advantage of many Members here because in the long run, it is the only way we can help them. If this was another industry that was represented in big numbers in their district like it was in my colleagues, if it was the building industry, they would be outraged if we said we would take prisoners to knock out your contractors. They would be outraged if we said we were going to knock out the restaurant business. They would be outraged if we said we were going to knock out telecommunications. But because this industry is not concentrated in one area, and because of the general good will, there is this misunderstanding that the Justice Department continues to take advantage of, and it must be changed.

It should not be in America that if you rob somebody and deal drugs, you can make the furniture, but if you are honest, you cannot. There is something fundamentally wrong with that, even if it did not cost less and be better quality. And it is particularly stupid when you violate the laws. It makes no sense whatsoever.

Mr. HOEKSTRA. The interesting thing here is that is just not an office furniture industry issue. If you go through the numbers, they are selling $159 million worth of clothing and textiles. That is why if you go to the gentleman from Pennsylvania’s (Mr. SENSENBRENNER) constituency. It is concentrated in one area, I visited up there. There are lots of cut and sew operations that are operating at 25, 30 percent capacities. These are great plants. The workers have been sent home. Federal Prison Industries has grown. It is what happened with Hathaway Shirts in Maine. The contracts went to Federal Prison Industries, and the last shirt manufacturer in the United States closed down. But they are doing it from office furniture. They are doing the electronics. They are doing fleet management. It is a fast growing area. I think somehow they got the Midwest on their target zone. I think they forgot that Michigan is part of the union. So they are sending from office furniture. Stay away from automotive parts, but they have made that a key part of their business.

They are now also moving into the services industry so there is a lot of folks in here. It also talks about the coalition that we have been able to put together. The day I dropped the bill we had 104 co-sponsors. It was awesome. A bipartisan bill. The gentleman from Massachusetts (Mr. FRANK), the gentleman from New York (Mr. MALONEY), two leading Democrats, the gentleman from Michigan (Mr. CONYERS), the ranking member on the Committee on the Judiciary, a Democrat, the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary, me, the gentleman from Georgia (Mr. COLINS), yourself, about 104 Members are joining us in this effort.

The sad thing is the way that we get co-sponsors.

Mr. SOUDER. Let me take a guess. Let me take a wild guess.

When a company closes and jobs are laid off in an individual’s district and they say, why are they laid off? And they say it is competition from Prison Industries?

Mr. HOEKSTRA. That is right. Exactly.

The gentleman from Georgia (Mr. COLINS), he has been just a yeoman on this. For the last several years I really got him interested was a small company in his district which made a very specialize product, missile containers. Well, Federal Prison Industries thought that would be a nice business to get into.

How do they justify getting into the missile container business? They said, well, we are going to go into the container business. So we are going to take a very small piece of the container business so obviously it is a minimal impact on jobs in that industry.

Mr. SOUDER. You are far more informed on this because I clearly got involved because I had a company that got immediately impacted and was outraged by the injustice. Do they have any criteria and does the Justice Department have any response when you say why do you not pick a category that does not have U.S. competition?

Mr. HOEKSTRA. No. Actually what Federal Prison Industries does and what they did with office furniture was they took a growth industry in America and decided to piggyback on it. And
now that that industry is facing some difficult times, the industry is down, there is more foreign competition coming in, and then they are looking over here and they are competing with their own government.

I was absolutely enraged when I am back home in my district because these are my neighbors. It was just a week ago and I am speaking to a local group and a friend of mine that I would like to think of as still a young man, but somebody I worked with, somebody that I have not seen in a long time. He said that you did not hear, but I got laid off last week. He had been with the company for 28 years. This is as the industry is going down 18 percent. Federal Prison Industries is growing by 24 percent. What does that mean? It means they grew from $174 million in the office furniture industry to a $217 million company in one year, as the industry in the private sector was going down and they deliver poorer quality products as at a higher price. These people come up to me and say, how come I am out of a job? I pay taxes. The company paid taxes. We have got shuttered plants. Hathaway is now a shuttered plant. I am sure the folks in Maine, they are not going to pay any State income taxes. You cannot explain to them and say, well, we have got these prisoners to work.

In our bill we do not just put these people in cells. We give them vocational training. They are increasing the investment in vocational training. We are allowing them and encouraging them to make stuff for not-for-profit organizations, to work with Habitat for Humanity. So they are going to be doing things and staying busy, but the thing that they are not going to be doing is they are not going to be putting American workers out of business and out of their jobs. And the other thing that my bill does is it says we are not going to shut you down. We are saying all you have to do is be able to compete.

All I want is the workers in west Michigan, the workers in Indiana, the workers in Maine and down south to be able to compete for the business that if he can, they can get a better product. If they can deliver a better product at a better price right, that they can get that business. Right now they cannot compete for the business. Mr. HOEKSTRA. Number one, I agree with you. I would like to go to the House floor and I tell you exactly what we are doing and what we are not going to do. We are not going to make stuff that competes with the private sector. The law called for minimal impact. But we have got to get the 218 votes. We need to pass this through the House. We need to get it through the Senate. We need to get this done so at least these workers will have the opportunity to compete and fight for their jobs. They are, in many ways, fighting an uphill battle. They are fighting 23 cents an hour labor. They are fighting factories that have no OSHA regulations. They are fighting a bureaucracy that the capital is funded by us so there is no cost or a minimal cost of capital. But the surprising thing is they have shown that they can do it.

So I am willing to accept that as somewhat of a compromise, and the compromise that we have developed, not only do we have great bipartisan support here, but we have got support from the Federal Contracting Officers. We got a letter of endorsement from the AFL–CIO, the U.S. Chamber of Commerce, the Teamsters and the NFIB? I mean, this is where organized labor and the business groups all come together because we are all interested in this. We are interested in creating, and maybe in this case, preserving high-quality, high-paying jobs in America where this Justice Department, this FPI, this Federal Prison Industries and some would say this administration, is bent on eliminating high-quality, high-paying jobs. It is outrageous.

Mr. SOUNDER. I think many Americans who are watching this and our colleagues and staffers around the Hill and folks from Michigan does not make sense. If they have not listened to this debate before, it is like, how could this be happening? About the only people who could possibly defend this would be somebody in prison; but we are not saying they are not going to have a job or income, because you and I have both advocated for many years that, and have been personally interested in how you deal and rehabilitate people in prisons and give them job skills, which I believe in one thing is about.

So who could possibly be blocking this? What is the problem? It makes no sense. It is one of these things that you hear the Federal Government does and you think, well, how does this keep happening? Is it the dollars that are generated by some benefit to employees in Federal Prison Industries who are contracted to supervise the prisoners? Is it the amount of money that has been given to different agencies? Is it in Michigan, that government will not do it? Is it an unfeasible policy. No one likes to stand up and defend this. And when they do, quite frankly, the few times we have ever had any kind of debate, the debate has not been anchored to reality. As I recall, some of our colleagues, they talk about the importance of employing prisoners, but they cannot deal with the fact that people in your district or my district have been following through have been laid off to employ somebody who violated the law. They cannot defend that position and usually they do not try.

So who exactly has held this up, and what is the problem here and why do they not pay attention? So I have got this problem. They are building new plants. They are employing all of these workers. They cannot think outside of the box. They are wedded to the box that says we are going to make products that everybody can identify with.

Going out and starting a new relationship with Habit for Humanity and a new category of products that does not compete with the private sector, that is too hard to do. This is pretty easy. And I think this is easy.

The scary thing here, this is where we are today. Over the next 5 years, the plan of this Justice Department, in their annual report, Attorney General John Aschcroft not only endorses these results of increasing sales by 16 percent and saying that is a wonderful thing, without thinking about what it has done in your district and my district and other districts around the country, they are requesting funding. Other documents would show that what they want is 30 percent growth over the next 5 years.

So I mean there are those within this group of people who see this as a wonderful opportunity, for whatever reason, a wonderful opportunity to put prisoners on the Hill and I think that is not only does not make sense but my legislation is going to pass; I just do not know whether it will pass this year or whether it will pass in 3 to 5 years. Because each and every year when we go through this process, and the gentleman and I have worked on this for about 5 years together, but it becomes much clearer to Members.

We have been kind of tilling the soil, and the seed does not sprout and grow until it happens in their district. Then they take it back and say, PETE MARK, I finally get it. I had a company that was selling this stuff to the Federal Government and they were doing a great job, and last week Federal Prison Industries came in and said, oh, by the way, that is now our business, we are going to make it. And they say, PETE, my folks make that. They had a better quality product, it is cheaper, and they cannot even bid for the business. Is that right? And I have to say, yes, that is exactly how it works. Glad to have you on board and glad to have you now being a supporter.

What we need is we need to get to the 218 Members this year so that we can
get those folks in our districts and other districts back to work as soon as possible by at least providing them the opportunity to compete for this business.

Mr. SOUDER. If the gentleman will yield, one of my concerns is that this inertia starts to develop a bigger and bigger base; and I hope our colleagues understand that if they do not move soon, the bigger this machine gets, the more people that get involved in contesting and building the prison industry infrastructure itself, all of a sudden we will have a monster that starts to consume society.

The other day when I was driving to the airport, or being driven to the airport, I saw a crew out cleaning the roads who were on a work-release type program. Imagine if our county and State governments picked this up and instead of doing a work-release program, they decided they will run the local gas station, which would be the equivalent here. So when you come up to an interstate exit or a highway exit you would now have gas stations operated by people who are in prison, restaurants operated by people in prison. There is no way that can be an outrage. But manufacturing is not as visible to the consumer eye as retailing. They are taking jobs away in the industrial sector and transferring them. And by the way, those industrial sector jobs have the biggest multiplier effect on our economy.

You know, I am a little older, too; and when I was getting my MBA back in 1974 from Notre Dame, one manufacturing job was the equivalent of seven. Now it is closer to 15 in its impact that brings dollars into the community. So when you rip those manufacturing jobs away, maybe they are in a building you cannot see. But if you start to visualize that you are taking as many jobs in my little hometown, say 40, as would be employed by a corner dairy sweet, plus the gas station, plus a couple of other small retailers in this town, and say all this retail infrastructure is going to be operated by prison industries, you would have more outrage in the community. Yet those retailing jobs do not extend dollars to the community like the manufacturing jobs.

We have to wake up. And I just step on another sore point here in Congress, we seem to be so occupied for goodness’ sake that Indian gaming could be allowed. But Members started to realize that that same clause could be used for supergas stations or retailing operations that could be based and moved around similarly by exits. The best thing you can say about the comparison with the Native Americans and how they were using it was, hey, it was originally their land, we probably took the land unjustly, they are following the laws. This group, which is doing in effect the same type of expansion of their categories of industry, putting law-abiding Americans out of work, do not have an injustice; they are there because they committed an injustice and we are trying to rehabilitate them. They do not have any prior claims, yet you see them stealthily moving through sectors of the economy threatening American jobs.

The fundamental question is: Why is this not like other types of illegal dumping from other countries, where they are subsidized? Why is this not like other countries, where we lose competition because they do not have to have the same American laws? And why is it not winning jobs that have gone outside of America in Federal Prison Industries rather than take law-abiding jobs?

How do you answer those questions? How does any Member of Congress answer the question, when some factory in America loses a job, and that person says, if I robbed a bank, if I abused cocaine, would I be able to keep my job? It is backwards, and it makes absolutely no sense.

I am surprised that if we do not move here with a Justice Department that you would expect to be favorable and a Congress that should be paying attention that this momentum and this inertia is just going to overwhelm us. My esteemed colleagues lamenting large numbers: 16 percent overall, 24 percent office furniture. The statistics are ugly. We have seen the growth numbers: 16 percent overall, 24 percent in office furniture, 216 percent in vehicular elements and those types of statistics are ugly. We have to move.

The gentleman brought up a couple of great points that I want to respond to. The gentleman talked about dumping. Under this Justice Department, sanctioned by this administration, Federal Prison Industries has gone and signed contracts with Canadian companies, in the office furniture industry again. It is a Canadian company that could not necessarily penetrate or compete in that market. When I was getting my MBA back in 1974 from Notre Dame, one manufacturing job was the equivalent of seven. If you are going to operate prison industries, they would have to be very, very clear. Our companies are not competing. The company in my district cannot even go compete for that business. Federal Prison Industries gets right of first refusal.

Mr. SOUDER. So it is not points. Mr. HOEKSTRA. It is not points. If Federal Prison Industries makes it, they can demand that that housing project that the gentleman just talked about buy from them, no matter what else they get. No matter what job kicks in, they have to buy from Federal Prison Industries. The companies that our districts cannot even go compete for that business. Federal Prison Industries determines whether you will get it.

It is absolutely outrageous. And I just want to mention one other thing the gentleman talked about. The inertia of the momentum that we build up this prison industrial complex; 111 different factories: Alderson, West Virginia; Atlanta, Georgia; Beaumont, Texas; Butler, North Carolina; Dublin,
California; Edgefield, South Carolina; Fort Dix, New Jersey; Greenville, Illinois; Jessup, Georgia; Leavenworth, Kansas; Lee, Virginia; Manchester, Kentucky; Oakland, Louisiana; Pollock, Louisiana; Ray Brook, New York; Safford, Arizona; Sandstone, Minnesota; Seagoville, Texas; Terre Haute, Indiana; Tucson, Arizona; Minnesota; Texas; Connecticut; New Jersey; Kentucky; California; Pennsylvania; Illinois; Tennessee; New York. 111 different factories. Absolutely they are by the government.

So we have this momentum put in place that just wants to gobble up more and more business. They want to grow and grow, grow by 30 percent after they have grown by 16 percent. They have come up with these creative marketing schemes, and what they are selling is they are selling their mandatory sourcing. They are going to these Canadian companies and saying if you sign these contracts with us, we may or may not sign with the private sector, except pass it through. It may not even stop at a prison, but if you sell through us we can make people buy your stuff that otherwise probably would go to an American company.

Thank you, Federal Prison Industries. Number one, you take our jobs. This is a new scheme that has come up within the last 12 to 18 months. So this is the direction this Justice Department is going. I guess they do not realize that there is a little bit of an economic downturn in America. They think we have full employment. This Justice Department is now saying, before we put people in Michigan or Indiana back to work, we have to get those people in Ontario back to work. And when we get those people in Ontario back to work, we will take a look at Michigan and Indiana. But we have to first take care of those people in Ontario.

It is really too bad that the Attorney General and Federal Prison Industries are getting away with this. Probably Federal Prison Industries is getting away with this because the Attorney General is not paying any attention to it, although we have met with the White House. We have tried to get the attention of the Justice Department.

The President came to Michigan a couple of months ago, and he asked about this issue. I think he shares our passion. He thinks it is wrong. He made a comment along the lines of, hey, Pete, I think we have that issue done. But, Mr. President, no, we have not. Matter of fact, it has gone from bad to worse. This Federal Prison Industries is a fast-growing growth industry. That is what we want to have in the economy, but that is not what we want to have at Federal Prison Industries. But under your Justice Department, that is exactly what is happening.

Mr. SOUDER. If the gentleman will yield, my understanding is a lot of this is defense contracting.

Mr. HOEKSTRA. Well, a good part is defense. But a lot of these products are used throughout the Federal Government. A good portion is defense, yes.

Mr. SOUDER. We are about to mark up in the Committee on Government Reform a new defense procurement act, as is Armed Services; and I am trying to do that, and, again, the Department of Defense came and talked with those of us on the committee last night, their argument was they are trying to reduce costs and get more flexibility in the Federal Government. Why would they then do something that is moving more and more of this industry in another area? And how are they going to justify coming to Congress and asking us to vote for that acquisition act if they do not fix this?

Mr. HOEKSTRA. It will be very difficult. Again, the folks in the Defense Department are very much in support of this type of reform because they want to go to the private sector, or at least they want to have the opportunity to go to the private sector. Typically, they are not going to be more flexible. From experience, we know they can provide a more cost-effective product and a better quality product. So, again, that is why Federal procurement officers are with us.

The folks that are not with us are the bureaucracy within the Department of Justice; and I am hoping that somebody just rings the bell over there and says, wait a minute, guys, this is the direction this Justice Department is now saying, be careful. We are growing the inmate workforce at the same time that unemployment rates in many parts of the country are going up. Again, Federal Prison Industries and Office Furniture grew by 25 percent as the industry went down by 18 to 20 percent, a 45 percent differential. It is terrible to say, but I would argue that if the employment of Federal Prison Industries would have stayed level, but they did not even have the courtesy in this competitive, tough economy not to be greedy. They got greedy.

Mr. SOUDER. Mr. Speaker, this President has had few things as defining in his career as the principle of contracting out and not having things be done by the Federal Government that can be done by entrepreneurial, private sector people. He did that his first term as governor of Texas, and his second term as the governor of Texas, and campaigned on that. Sometimes he goes too far in contracting out.

My question is how can we have such a disconnect in the Department of Justice with the goals of the President of the United States that are explicit through every agency right now order contracting out, and this is not contracting out, it is contracting back. It is sucking jobs out of the private sector, if one visualizes it, what if your local park ranger works for Federal Prison Industries? Or what about if somebody doing the typing in for accountants would be?

Mr. HOEKSTRA. They are getting into services, into the telemarketing, into the processing and all of these kinds of things. Digitizing of photos and photo libraries. They are getting into an unbelievable number of things. Some are highly sensitive.

What the gentleman has laid out I would like to think is nowhere in the realm of possibility, but I should know better. I would never have thought that they could have grown by 25 percent in office furniture or 16 percent overall this past year. I would never have thought in their annual report that they would have publicized and highlighted the fact that they are paying $23 per hour in all kinds of functions, including $1.50. They are proud of it and proud of their results. This Department of Justice has demonstrated through their annual report, even though the original criteria said minimal impact on workers and American taxpayers, they are not abiding by that standard anymore.

They are ruthlessly and aggressively going out to try to transfer jobs from the private sector and move them into Federal Prison Industries. It is one thing for you and I to be talking here in a theoretical sense, and it is a very different thing, and I have seen it in the gentleman’s district and in my district, where I run into folks who say I was laid off. Are you making any progress on the Federal Prison Industries, knowing that this is not going to fix all the problems, but it sure could help.

I would just get some of those people back to work, it would get us moving in the right direction. We need that base volume because the next thing that is on the horizon after Federal Prison Industries is foreign competition. Our industries not to worry about competition from their own government at the same time they are worrying about competition from China, but that is exactly
what they are doing. Our government has duplicated the China model: invest in capital, they get their capital free, and then pay the workers very, very little. The American government, I guess they are teaching our companies how to compete against the Chinese by duplicating the Chinese model through Federal Prison Industries, and it is an outrage.

Mr. Speaker, I yield to the gentleman from Indiana.

Mr. SOUDER. Mr. Speaker, I congratulate the gentleman for his work on this and in trying to get the Department of Justice aware that they are in direct contradiction of the goals of this President and this Congress which has said we are looking at how to maximize the private sector and put Americans who are law-abiding citizens back to work.

I do not want to face people in my district who might have to wear a button that says “I follow the law, I am employed.” We need to look for options for prison inmates. This is not about not giving people in prison an opportunity, but there is no reason that going to prison should give people an unfair advantage, particularly going through foreign countries, against people who in America have followed the law and are working hard who have actu- actually outcompeted foreign companies to hold their sector until the U.S. Government behind them, waiving regulations and waiving capital costs, then giving them a mandatory advantage to go for higher prices with less quality and say you still must buy it, and then have the gall to come to Congress and say we are trying to contract out. We are trying to save money for the Federal Government when, in fact, they are putting people in our districts out of work.

It does not make sense and it does not fit, and I hope more Members and staff will pay attention to this debate. It is pretty much of a no-brainer. I hope that the Department of Justice will turn around on this. They are projecting this as a growth industry. It is incredible to me that they would not be humiliated by this, and instead look at it as a growth industry.

Mr. HOEKSTRA. That is what is coming down the road. It has been a growth industry. It is going to continue to be a growth industry. I am optimistic with the kind of support that we have for the bill on a bipartisan basis, we have had a coalition of the gentleman from Massachusetts (Mr. FRANK), the gentlewoman from New York (Mrs. MALONEY), the gentleman from Wisconsin (Mr. SENSENBRENNER), the gentleman from Michigan (Mr. CONYERS) and myself, together for a number of years, and I am looking for-ward to this to move through the Committee on the Judiciary quickly, and am hopeful that we can get this bill to the floor and have a good debate.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1298, THE UNITED STATES LEADERSHIP AGAINST HIV/AIDS, TUBERCULOSIS, AND MALARIA ACT OF 2003

Mr. LINCOLN DIAZ-BALART (during Special Order of Mr. HOEKSTRA) from the Committee on Rules submitted a privileged report (Rept. No. 108-80) on the resolution (H. Res. 210) providing for consideration of the bill (H.R. 1298) to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes, which was referred to the House Calendar and ordered to be printed.

THE PRINCIPLES OF RESPONSIBILITY, INTEGRITY AND COMMON SENSE APPLIED TO FEDERAL BUDGET AND TAX POLICY

The Speaker pro tempore (Mr. BURNS). Under the Speaker’s announced policy of January 7, 2003, the gentleman from Washington (Mr. BAIRD) is recognized for 60 minutes as the designee of the minority leader.

Mr. BAIRD. Mr. Speaker, I am here today to talk about fundamental principles, principles of responsibility, integrity and common sense as they apply to the Federal budget and to tax policy. Over the past 2 weeks, we have had the opportunity to hear from our constituents, and we hosted an event with the Concord Coalition. We had people in several of my communities get together to try to balance the Federal budget, and we learned some very interesting things from that process.

We learned, among other things, that in spite of the majority’s recent claims that deficits do not matter, the American people say that common sense says deficits do matter. We cannot, year after year, run enormous deficits, pass those on to our kids and not expect somebody to have to pay the piper. With several of my colleagues tonight, we are going to talk about how we got into that deficit, how we ought to get out of it, and how the policies put forward by the majority and this administration will actually make the situation far worse rather than better.

The first speaker this evening is the gentleman from Texas (Mr. EDWARDS). He said to me tonight he has to speak first because he has to go home and tuck the kids in. It occurred to me that this is really why most of us serve here, we want to create a better America for our kids. And part of the way we create a better world is facing up to fiscal responsibility and not passing on an enormous burden of debt to those children in order to gain easy election or political advantage in the short term.

Mr. Speaker, I yield to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I thank the gentleman for yielding to me, and for his outspoken and consistent leadership in fighting for fiscal responsibility, not just for this generation of Americans, but for our children and their children, future generations of Americans.

Mr. Speaker, more and more Americans and certainly central Texans when I go home, are asking a very important question: Why has the Republican leadership in Washington, D.C. abandoned the values of fiscal responsibility and balanced budgets? That is a good question. Frankly, the party that used to pride itself and the party that fought for balanced budgets, led a fight for a balanced budget constitutional amendment has now become the party that is proposing the largest deficits in American history. Let me discuss some facts.

Fact number one, it is true that the administration in Congress this year are proposing the largest deficit in American history. Let me repeat that one more time because a lot of people do not believe it. The White House, President Bush and Republican leaders have endorsed the largest deficit in our Nation’s 200-year-plus history, $592 billion used to be the record for deficit spending. This year it could well be over $1 trillion, that is more of a deficit than we had during World War I, World War II, the Vietnam War or the Korean War.

Fact number two, this proposed Republican historically high deficit does not include one dime for the cost of the Iraqi war or building a national health care system for Iraq which they propose, or helping build new schools for Iraqi families.

Fact three, if we do not count the billions of dollars being taken out of the Medicare and Social Security trust funds to fund this huge deficit, the real deficit to the American people is actually this year going to be over $400 billion if Washington Republicans get their way.

Fact number four, the House-passed Republican budget supports deficits not just this year, but for as far as the eye can see. In fact, over 214 Members of this House, Republicans, voted to increase the national debt by $6 trillion by the year 2013.

Mr. Speaker, let me put this in perspective. It took two centuries, in fact, over 200 years for America to build up a $1 trillion national debt. Yet in 10 years, Republicans have been suc- cessful in increasing that national debt 6 times more than the amount that it took two centuries to create. $6 trillion in additional national debt in the next 10 years under their economic plans and schemes, versus $1 trillion develop- ed over the first 200 years of American history. That is the kind of history we do not hear Republicans in this Chamber and across Washington talking about very much.

Mr. Speaker, I think it is fair to ask the question who in America should worry about these Republican deficits? Do they really matter? Do they affect the average American citizen? I think
the answer is we should all care and be concerned about the historically high deficits for several reasons.

First, let us look at taxpayers. Taxpayers, according to Republican estimates, will have to pay $1 trillion in extra taxes over the next decade just to pay the interest extra on the national debt. That is money that could have been saved for our children and grandchildren’s homes and cars, for building their futures, educating their children. That is money that could have been used to provide college student loans and grants through federal programs.

Family businesses and farms ought to be concerned about the deficit because as thousands of economists and well-respected business leaders have said, once the economy gets back on its feet, having 3 and $400 billion deficits will increase the cost of doing business for family businesses and farms. When a farmer goes to borrow money to plant his crop or buy seed or fertilizer, that farmer will want to have the loan more attractive to him, more available to him, and they will pay thousands of dollars more for the cost of that loan because of higher interest rates.

Mr. Speaker, 2 years ago, not that long ago, Republicans in Congress passed, over my objection, a $1.3 trillion tax cut, and when they did it, they had no economist who spoke in the well of this House said we can have it both ways, we can have our cake and eat it too. We like the free-lunch philosophy. We can cut taxes by a massive amount and still balance the budget. These same economic gurus are now proposing $1 trillion more in tax cuts.

And let me clarify this point. The public debate is between $500 billion and $500 billion, but somebody needs to recognize that there are about six or seven or eight or nine other tax cuts that the administration and congressional Republican leaders have proposed. We add them all up and we are talking about more than $1 trillion of extra tax cuts despite the fact that we have got the largest deficit by far in American history.

I think before we buy into the next round of proposed trillion dollar free-lunch tax cuts, we must ask how accurate were our Republican colleagues and leaders in predicting just 2 years ago we could cut taxes by over $1 trillion and balance the budget. Fact: Republican leaders were off by $12 trillion. Not million, not billion. $12 trillion, because just 2 years ago they were predicting we would have no national debt by the year 2013. The budget that they just voted on in the House, that they have passed in the House, suggests we will have $12 trillion in national debt.

Mr. Speaker, I would suggest that if a business had an economist that was $12 trillion off, not to mention the 2.5 million jobs in the last couple of years, $12 trillion off, 2 million jobs off in the economic growth projections, most companies would fire those economists summarily. They certainly would not be rehired to make more proposals and more economic suggestions.

Finally, I hope we could examine two assertions we are hearing from our Republican colleagues. The first is this massive new tax cut is really a growth plan. That is not what the Congressional Budget Office said recently after an extensive report; and by the way, the CBO, Congressional Budget Office, is headed by a Democrat. This is Bush administration’s White House. What that report said was basically that whatever short-term stimulative effect any tax cut might have would probably be offset by the massive deficit that would result from it.

In fact, the report says: “The overall macroeconomic effect of the proposals in the President’s budget is not obvious.” Is not obvious. That is bad news for the free-lunch crowd that believes we can promise everything to the American people and they will be gullible enough to believe it. We could have massive tax cuts, fight a war in Iraq, rebuild Iraq, increase our defense spending significantly, provide prescription drugs for the elderly, and still, by the way, we will balance the budget for our children. Just trust us. The last time the American people trusted them with their predictions of that free-lunch philosophy, they were off $12 trillion. Our children and grandchildren cannot afford another $12 trillion mistake.

Mr. Speaker, I would point out that in today’s Washington Post, Alan Greenspan was basically quoted as saying that unless we offset these newest Republican tax spending cuts, it could well harm economic growth. The article in The Post said: “Greenspan endorsed the view of a recent study by Federal economists that rising budget deficits put upward pressure on long-term interest rates, which act as a drag on economic growth by raising the cost of borrowing for businesses and consumers.”

The fact is that in yesterday’s Washington Post there was a fascinating article. The article was entitled, “Bush Offers New Argument for His Tax-Cut Proposal.” It talks about the immediate short-term growth this might create. But it is interesting that the article goes on and says this: “Beyond 2007, the tax package would actually do more harm than good, warned Joel Prakken of Macroeconomic Advisers, LLC, which developed the computer model the White House used.” So the very economists that the White House depended upon to develop computer models to try to sell their tax cut admits that the administration’s growth plan could actually be an antigrowth plan, a job depressant in the years ahead because of the massive deficit spending.

Finally, the Republicans say that we will pay for those tax cuts with tough new spending cuts. We have heard some proposals cutting Medicare and Medicaid by $172 billion, veterans by $28 billion, Impact Aid for military children by $175 billion, and so on. But once pressured by the public, it took about 2 weeks for Republicans to back off from some of those cuts.
But let me just state for the record, and I will finish with this: when Republicans talk about courageous spending cuts, look at what they do, not what they say, because if we look at the five programs that represent about three-fourths of the Social Security, Medicare, Medicaid, defense, and interest on the national debt, the administration and the Republicans in Congress are wanting to increase, increase, spending on three of those five programs. Massive increase, $1 trillion more a decade on defense alone in the national debt; massive increase in defense spending, which I support, but I am willing to pay for; and they are proposing a $400 billion Medicare plan for prescription drugs, which I am afraid seniors will probably never see.

Mr. Speaker, through fiscal responsibility and balanced budgets, we can create the economic foundation for America to have tremendous growth. That is what we did in the 1990s. The proof was in the record. That can lead to 22 million new jobs in America. The latest growth plan resulted in 2.5 million lost jobs. Let us look at the track record of these economic gurus before we sell our children and grandchildren into a lifetime of paying taxes just to pay interest on the national debt.

Mr. Speaker, I thank the gentleman for yielding.

Mr. BAIRD. Mr. Speaker, I commend my colleague from Texas (Mr. Edward Royce) for an articulate defense and a clear-cut explanation of what is wrong with the tax proposals and the budget plans of the majority party and the administration. The gentleman was, I think, astute in observing that when the Democrats controlled the White House and the House of Representatives, it was literally about 10 years ago, almost 10 years ago today, they had the courage to step forward and confront budget deficits, not to pooh-pooh them, not to say this does not matter, but to confront the budget deficits and say we must enact fiscally responsible policies.

The other party, the majority party, claimed that if we did that, we would lose jobs, we would see interest rates skyrocket, we would see inflation go through the roof. What in fact happened? The longest economic expansion in the history of this country. More jobs were created. Unemployment went down. Healthcare was improved. Our education system was improved. The economy was improved.

If my colleagues want to make a judgment by history, look at the recent history. When the Democrats set the fiscal policy of this country, we saw sustained economic growth. In the Republican era, we have seen sustained unemployment and economic decline.

The gentleman from Virginia (Mr. Scott) is a member of the Committee on the Budget and will address precisely those issues, and I yield to the gentleman from Virginia.

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman for yielding so we can continue to discuss the budget situation we are in.

I like to use charts because one uses a lot of adjectives and uses a lot of spin. One cannot spin charts because they just show us what the numbers are. The chart, for example, shows the deficit year by year for the years of the most recent past. Johnson, Nixon, Ford, Carter. We all remember that deficits ran up under Reagan and Bush; and we also remember that when President Clinton came in with a Democratic majority, we cast our votes to create surplus for the first time in decades. We also know that during this administration, the Republican Congress, after they took over Congress, passed huge tax cuts that were vetoed time and time again. The Republicans passed the tax cuts; President Clinton vetoed them. They threatened to close down the government. He vetoed it anyway. They shut down the government. He vetoed it anyway, and we were able to have a balanced budget. Unfortunately, President Bush did not veto those irresponsible tax cuts, and we see what happened all of a sudden.

If anybody asks what is the Democratic plan now, just point to the green. The Democrats have control of the budget. With Clinton and enough Democrats in Congress to sustain his vetoes, this was the Democratic plan. This is the Republican plan. Once we run up all those deficits, we have to pay interest on the national debt. This chart shows we have paid the interest on the national debt would have been had we not messed up the budget. That is the green line showing what the interest on the national debt would have been. The red line is what the interest on the national debt will be as a result of messing up the budget. To put this in perspective, the blue line is the defense budget. By 2013 we will be paying almost as much interest on the national debt as we pay for defending the United States. We also can make this personal. This is what we call the debt tax. A family of four, take all the interest on the national debt, divide it by population, multiply it by four. Right now a family of four's proportional share of the interest on the national debt, about $4,400, $4,500. It was going to zero. But by 2013, $8,500 and rising. And how did we get in this mess? The tax cuts. And who got the tax cuts? We can say who got it, but let us look at the chart. The bottom 20 percent, the blue is the 2001 tax cut, the green is the proposed 2003 tax cut, and we see who got a little of the tax cut. There is a line right here that is hard to see, but it shows that one half of the tax cut went to the top 1 percent of the population.

As a result of these tax cuts, we also have to consider the effect that they had on Social Security. This is a chart of the Social Security trust fund.

[1853]

We are bringing in more money in Social Security than we are paying out right now because the baby-boomers are retiring shortly, and we need to save the money for Social Security. We cannot balance the budget with a $150 billion surplus in Medicare and Social Security. In 2017 it is going to change. Look at what we are going to have to come up with as we go along.

Now, the interesting thing is it is challenging, and this is the $900 billion, over $1 trillion a year we are going to have to come up with in cash to pay the debt.

The embarrassing thing about this is if you go back to the tax cut, one-half of the tax cut of 2001, one-half, that is what the upper 1 percent got, had we, instead of giving a tax cut, allocated that amount of money to Social Security, we could have paid Social Security without reducing any benefits for 75 years. But, instead, we did the tax cut.

So we have jeopardized Social Security, we have ruined the budget in this administration. Eisenhower-Nixon, Kennedy-Johnson, Johnson, Nixon, Ford, Carter. We all remember that when President Clinton came in with a Democratic majority, we cast our votes to create surplus for the first time in decades. We also know that during this administration, the Republican Congress, after they took over Congress, passed huge tax cuts that were vetoed time and time again. The Republicans passed the tax cuts; President Clinton vetoed them. They threatened to close down the government. He vetoed it anyway. They shut down the government. He vetoed it anyway, and we were able to have a balanced budget. Unfortunately, President Bush did not veto those irresponsible tax cuts, and we see what happened all of a sudden.

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We are bringing in more money in Social Security than we are paying out
Mr. BAIRD. Mr. Speaker, I thank my colleague. What a clear-cut explanation of the situation we are in.

When I had those forums and town hall meetings back home, people asked me precisely the kind of questions the gentleman was addressing. What does this tax cut do for jobs? What does it do to provide prescription benefits for our senior citizens?

When I asked people, which would you rather do, a tax cut for the wealthiest people in this country, or invest in our transportation infrastructure and put people back to work? They said put people back to work.

When I asked which would you rather do, a tax cut for the wealthiest people in this country or invest in a prescription drug program so our seniors can stay healthy and actually lower the cost of health care in the long run, they said take care of our seniors.

One of the charts I look at shows that with net growth of 1.5 percent, the Bush administration has done better at creating new jobs than the Eisenhower administration, except only the second term of the Eisenhower administration, has now job growth in this country. This has been a country where the economy has been strong, where it has been growing, even when we have had difficulty. But not in this administration.

Mr. BAIRD. If the gentleman will yield, when I look at that chart, you look and in the left hand corner which says, are you going up, that is putting people back to work. That is helping people take care of their families, buy homes, invest in this economy.

When you see that chart going down, which has happened in this administration, that is people losing their jobs, losing hope, losing health care, losing the ability to take care of their families.

These are not just numbers. As the gentleman knows, these are real life stories of people whose lives are being ruined by the economy.

Mr. ALLEN. That is exactly right. Like the gentleman, I have been in my home State of Maine doing community meetings and talking to people throughout my district, and these are not very good times for many, many people. We are suffering losses in agriculture, we are suffering losses in manufacturing, and, for more and more people, it is difficult.

I sat with a group of people at one company which is doing okay right now, but she was talking about the cost of her health care, trying to raise her daughter, she is a single mom, trying to make ends meet and how she said what a lot of people are echoing: "I never thought it would be this hard."

This is a difficult economy. Young people coming out of college today, coming out of school, are facing a very tough time finding jobs, and many people are being laid off and losing their health care along with their employment.

Mr. BAIRD. When I talk to those folks, they do not tell me, "We would like the President and Congress to do is give me a tax cut." What they say is, "We want jobs and we want health care."

Mr. ALLEN. Well, that is a different priority than the Republicans in Congress have. This is what the majority leader, the gentleman from Texas (Mr. DELAY), said just a few weeks ago: "Nothing is more important in the face of war than cutting taxes." "Nothing is more important in the face of war than cutting taxes."

What he meant by that is we are not going to ask anyone to sacrifice. We are certainly not going to ask anyone to sacrifice to improve the lives of their children and grandchildren.

So it is worth looking at what taxes he is actually talking about and who benefits.

This chart says how much of the 2003 proposed tax cuts do you get? Well, it is not very good times for many, many people.

For example, with their Medicaid expenses, because these folks are going to use that extra money for the necessities of life and they are going to pour it back into the economy.

If you help State governments, for example, with their Medicaid expenses, for every dollar you put into that you get $1.24 worth of stimulus.

What about dividend tax reduction? For every dollar of revenue you lose to dividend tax reduction, the stimulative effect on the economy is all of 9 cents. Nine cents.

So would the gentleman say these upper bracket tax cuts do very much to improve our economic situation?

Mr. ALLEN. I thank the gentleman for his comments, and clearly not. Clearly, when you look at the economists, the bulk of the economists who have commented on these proposals, this is not about economic growth at all. The President can travel across the country and say over and over again that we are trying to grow the economy, and the truth is it is not true. It is just not true. It is about something else.

I want to just conclude by saying a few things about what I believe that something else is.

The only thing that do you strike the jackpot, because if you are earning over $374,000 a year on average, you get $30,000 a year in tax reductions. That is who is benefiting from these tax cuts that the President is talking about.

Here is saying this is the economic growth. You have to ask, is this about growth, or is it just about greed? Is it about those people who benefited most in the 1990s, who saw their incomes soar, who are now getting the benefit of more economic growth, more money just funneled to them by the Republicans in Congress, the people who are the richest people in this country getting the benefits of this tax package? It gets to the point.

Mr. PRICE of North Carolina. Mr. Speaker, if I can interrupt for one second, I wonder if the gentleman could talk about the effect of these tax cuts on the economy?

It is often said this is the way to stimulate the economy and that particularly the President's new round of tax cuts is going to be the key to turning the economy around. I just saw some figures released today by the Center on Budget and Policy Priorities, and they talk about how different measures would stimulate the economy.

If you extended emergency Federal unemployment benefits, for example, for every dollar that you use for that purpose you get $1.73 of economic stimulus, because these folks are going to use that extra money for the necessities of life and they are going to pour it back into the economy.

If you help State governments, for example, with their Medicaid expenses, for every dollar you put into that you get $1.24 worth of stimulus.

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I want to just conclude by saying a few things about what I believe that something else is.
When the President said that after taking office, that it is not the government’s money, it is your money, he was encouraging every person in this country to think of themselves first; not to think about the children in this country who are going to public schools and need some funding in order to have the quality of schools that they should have. Not to think about those people who have lost their jobs and need some job training assistance to get back to work. Not to think about those who have to choose between prescription drugs and their food or their rent or their heating fuel. What he was saying to America was think of yourselves first.

When Republicans stand up and say we want people to keep more of their money, they are making the same pitch. Do not think about those things we have in common. Do not think about what it takes to build a strong country. Do not think about the resources we need to put into transportation, into health care, into education, into those things that will lift the country and make it strong. They want people to think of themselves first.

That is not what this country is about. This country is better than that. We have invested in ourselves before, since the Second World War. We need to keep investing in the American people, and, if we do that, we will be a stronger and better country in the future than we are in the past.

I have great hope that we will get there, but these Republican tax cut plans for the richest people in the country are leading us down the wrong path. We need to get back to a policy of investing in people and making sure that the government plays its role in strengthening this economy.

Mr. Speaker, I thank the gentleman for his time.

Mr. BAIRD. I thank the gentleman. The gentleman has summarized it so well. The irony is, and let me just ask the gentleman to respond to this for second. You had that chart up there that showed that the vast bulk of the tax breaks go to the very wealthiest. The majority party, the Republicans, say we are engaging in class warfare. Not at all. I admire and respect people who have made wealth in this country. But it is interesting, when I talk to those folks, they often say to me, “You know what? We are not asking for the tax cut.” This assumption that everyone is venal and self-serving and does not put the country before their own immediate needs, I am not sure it is true for most Americans.

I do not think so. I think most Americans say, we have to invest. I do not know about my colleagues, but I hear small business people saying, give me a little break so I can make ends meet, take care of my family and provide health care. I hear Mom saying, make sure that I have a job that pays a decent wage. I hear Dad saying, make sure that I can provide for my family and give my kids an education. I do not hear most Americans saying, let us make sure the people who have the most in this country get the most in the tax cut. I am hearing that from his constituents?

Mr. ALLEN. Mr. Speaker, I am really not. I do know some people in this upper 1 percent and none of them so far have said to me that we really need to have a tax cut of this magnitude. They are better off already.

So one has to wonder, what really is the underlying motivation. It seems to me that it is clearly not economic growth, because this is a plan that will not grow the economy. What is it? Mr. Speaker, that old hostility that so many Republicans have for Medicare and Social Security, we have to wonder whether or not something is going on here. If they succeed in stripping out revenues, billions, even trillions, of dollars from Medicare and Social Security in the next few years, then there will not be money to take care of the baby boom generation when we enter Medicare and Social Security. We cannot let that happen. It is the wrong thing.

But I asked the gentleman from Washington. Nobody, not one person in the 2 weeks I was back in Maine, not one person said to me, what we really need in this country is a tax cut weighted primarily to people earning $1 million a year. Nobody is for it.

Mr. BAIRD. Mr. Speaker, I agree. When the President asked rhetorically in his speeches, if a little bit of a tax cut is a good thing, what about a big tax cut, well, the answer is we have already had a pretty big darn tax cut; and the second answer is, most people are not going to get that tax cut. And the third answer is, that big tax cut comes with an awfully big debt, and there is something desperately wrong with an awfully big debt.

I would like to yield to the gentlewoman from Wisconsin (Ms. BALDWIN), a member of the Committee on the Budget, and an individual who has led efforts in this body on education, on health care, on social justice, making sure that all Americans share in the American dream and have an opportunity to benefit from the economic policies of this Congress.

Ms. BALDWIN. Mr. Speaker, in the spring of 2001, our country was better than that. Members of Congress told the American people that we could afford a $1.6 trillion tax cut that was custom designed by, and primarily for, our wealthiest citizens, and still we would have money left over to shore up Social Security and Medicare, make investments in our education system, so that no child would be left behind. And still, we would have enough money left over beyond that to pay down our national debt.

Well, today we know that that was not true. Except for the passage of the tax cut, none of the rest of those things happened. And to make matters worse, the tax cut left no room for unexpected events like the terrorist attacks on September 11 or the economic downturn that our country is still experiencing. Projected surpluses have been replaced by deficits as far as the eye can see.

Fast forward 2 years to today and this Congress is debating yet another tax cut. President Bush has made ending double taxation of corporate dividends the centerpiece of his $1.4 trillion package, because he says that this tax cut is necessary to stimulate the economy. Well, since January of 2001, our country has lost more than 2.3 million jobs, an average of 73,000 jobs per month. And the long-term unemployment level is the same as it was during the recession under the first Bush administration.

Now is not the time to have philosophical debates about economic models. Now is the time for this President and Congress to be acting on measures that would truly put America back to work.

The President said in an April 15 speech that Congress needed to take quick action on his proposal. And some people say we cannot wait 2 weeks, let alone 2 years. There is good reason why Americans are not sold on the President’s tax cut. They realize that it is cast in the same mold as the first one, which was too much for too few. The President is proposing to accelerate the reduction of the 4 top income tax rates that was part of his original tax package.

Well, if you are a policeman, a forest ranger, an average service or retail sector employee, or one of our Nation’s 400,000 enlisted servicemen or women, you would receive no tax relief from any sort of acceleration of these marginal tax rates. But consider yourself blessed if you are a professional athlete, for example, playing football, basketball, or hockey. Combined, these particular 4,000 professional athletes would get approximately $240 million in tax relief if this plan were signed into law.

The democratic economic stimulus plan is fast-acting, it is fair, and it is fiscally responsible. The entire $136 billion stimulus package would be injected into the economy right away, this year. It would also extend benefits for unemployed Americans whose emergency benefits right now are going
to expire on May 31. Most importantly, it would provide tax relief to all Americans. It was designed for average working families, not just the wealthiest investors.

Congress just had a 2-week break where we did not spend any time meeting with our constituents. I like to ask my colleagues after a recess if their constituents are concerned about the same issues that mine care about in Wisconsin. Most of the time, our constituents’ concerns are very similar. That is why it is hard for me to believe now that Congress can fathom this fiscally irresponsible and misguided tax cut.

When we talked to unemployed workers in my district, they certainly have not come up to me pleading for accelerated tax cuts. They have asked how Congress plans to help put them and the rest of America back to work. They have asked for help in getting temporary health care coverage for their families when they get sick. My constituents wonder if Medicare is going to be able to provide their parents health care or when their kids grow up, if they will be able to find a job that pays a livable wage. They are worried, and they should be. They should worry, because this budget places tax cuts for the wealthy ahead of job creation for families. They should worry, because this budget adds over $5 trillion to the national debt over the next 10 years.

This budget takes our country down the wrong path. While some Members of Congress complain about how long our budget and fiscal process is every year, I believe it is a good thing. It means we still have time to craft a better plan, one that does not put the fiscal health of our economy and the livelihood of our communities and our families and the ability of our children to have a better life in jeopardy. We must take that task seriously.

Mr. BAIRD. Mr. Speaker, I thank the gentlewoman for her comments.

One of the issues this budget does not address that I know is important to the people of Wisconsin, as it is to my own State of Washington and, in fact, to the Committee on the Budget chairman’s State of Iowa, is Medicare fairness. Many of our States are desperately underfunded in terms of Medicare compensation rates. This budget does nothing to fix that. My own State of Washington faces a terrible injustice, that we cannot deduct our sales taxes like other States can deduct their income tax. This budget does nothing to fix that. There are a host of problems with this budget. It was passed at 2 a.m. in the morning. The majority of the Members of this body who voted for it had never read it. They had seen summaries perhaps, but I guarantee they had not read it because it is 2,200 pages. When you pass a budget that spends $2.2 trillion that takes 24 hours to debate it and you have not read it, we have a problem on our hands and, unfortunately, our country has a much bigger problem.

We have heard from people from Maine tonight, from Texas, from my own State of Washington, Wisconsin, and Virginia. The distinguished ranking member on the Budget hails from South Carolina. I think it is arguable that very few people, if anyone, in this Congress have more knowledge about the intricacies and the importance of the budget process than my dear friend and colleague, the distinguished ranking member of the Committee on the Budget, the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, as my colleagues may surmise, we are here tonight because my Republican colleagues have put another round of tax cuts on a fast track. In fact, by next week, early next week there may be what we call a markup of a bill we have yet to see in the Committee on Ways and Means to go to the floor. After that, that markup, that bill may be on the House floor for fast track consideration, probably not amendable. And, in the blink of an eye, we could very well adopt another round of tax reduction equal to $500 billion to $600 billion even more, a reduction in the budget rammed through this House.

We have already seen taxes cut by $1.35 trillion. That happened in 2001. That was a historic tax cut, given its size. Let me ask, what are the results of that tax cut?

Well, let us look at the economy today, barely eking out positive growth at 1 percent to 1.3 percent annual growth, barely growing, 2.5 million jobs in the private sector lost since January of 2001. 4 million Americans have literally quit looking for jobs, the unemployment rate is between 5.8 and 6 percent; but that is only because 4 million people since 2001 have dropped themselves out of the job pool, quit looking for a job. All of this, and we had a tax cut which the administration said we needed to boost the economy. Where is the boost? Where is the economy? What were the effects?

The main effect was on the bottom line of the budget. We had the budget, when President Bush came to office, in the best shape in a generation. In 2000, the year 2000, the budget ran a surplus of $236 billion. It is hard to imagine today that just 3 years later, 2003, because today, all we have are debts as far as the eye can see. In 2001, when President Bush came to office, his Office of Management and Budget, his budget shop said we foresee surpluses equaling $5.6 trillion over the next 10 years. And on the basis of that estimate, despite our warnings that it was an inflated estimate, that there were storm clouds gathering over the economy that made us a blue sky estimate at best, he went ahead with a tax cut of $1.35 trillion and today, that is done.

Do not take my word for it. When the President sent his budget up this year, this year, OMB, the Office of Management and Budget said, the surplus over the same period that we projected 2 years ago, 2002 to 2011, the cumulative surplus over that period is no longer $5.6 trillion as we thought back in 2001. Today, it is $2.4 trillion. Now, that is still a big number, $2.4 trillion; but here is the bad news. OMB went on to say, and of that $2.4 trillion, Congress and the President have already committed $2.5 trillion. So we start the year in the hole, despite the fact that we had a budget surplus in 2000, the year 2000 for the first time in 30 years, we are now back in the soup, back in the red, deep in deficit; and the deficits are getting worse.

So what does the administration order up for these dire circumstances? In the face of rising deficits, we no longer have a surplus. There is nothing that will mitigate tax cuts that may be offered now. In the face of these circumstances, the President is proposing more of the same: additional tax cuts, tax cuts on a fast track. In fact, according to his budget this year of $1.45 trillion and a budget, as I said, that is in deficit.

There is no surplus anymore out of which to offset or mitigate those tax cuts.

Mr. PRICE of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from North Carolina.

Mr. PRICE of North Carolina. The situation the gentleman is describing reminds one of the old saying: if you find yourself in a hole, the first thing to do is to stop digging.

Well, this administration is digging deeper and deeper and deeper. As I said, do not take my word for it. We have our own budget shop. As someone earlier said, it is now run by a very able economist who came from the Bush administration. According to the projection of the President’s budget every year, if the President’s budget is implemented, every year from 2003 through 2013 there will be a deficit. If we do not include the surplus in Social Security, there will be a deficit of over $400 billion.

The cumulative deficit over that 10-year period of time, 2003 to 2013, if Social Security is not included, is $4.398 trillion. That is the Congressional Budget Office speaking, a neutral, non-partisan agency.

Mr. PRICE of North Carolina. Mr. Speaker, if the gentleman will again yield, that is simply an unprecedented situation. If we look back at previous Republican administrations, what is striking is that when they found themselves at a certain point in a deep enough hole, they did stop digging.

In the Reagan administration in 1982 under Senator Robert Dole’s leadership, some of the tax cuts of earlier times were reversed and some spending was cut, and the fiscal erosion was halted.

Then in 1990, under the first President Bush, despite his “read my lips”
pledge of no new taxes, when the fiscal hole got deep enough and the economy was in a severe downturn, the President, in a considerable act of statesmanship, worked with congressional Democrats and came up with a 5-year budget plan that set us on the path to more sensible fiscal policy. So in those past Republican administrations, when the hole got deep enough, some leadership was exerted and they stopped digging. In this administration, it seems there is no limit to the fiscal folly.

Mr. SPRATT. The gentleman will search the budget the President sent us in vain for any such direction or inclina-
tion. There is no plan and no process for rigging ourselves of these perpetual deficits. Back out Social Security, as I think we must, and we will find, according to the Congressional Budget Office, that every year from 2003 through 2013 there is a deficit over $400 billion a year.

When the Republicans brought their budget resolution to the House floor the night before we adjourned for the Easter break, 2 o’clock in the morning, we scrambled to go through it and understand it as much as we could.

I note that finally and coming upon page 93, page 93. It was a table summing up in their own figures the impact of the budget they were about to ram through the House in the early hours of that morning. It showed that the gross Federal debt this year will be $6.4 trillion. That is what it is today, because it is limited by statute at that level.

By voting for that particular budget resolution, they voted automatically to raise the debt ceiling by $893 billion, and they voted to put in train a budget with tax cuts that will lead to a debt accumulation of $6 trillion over the next 10 years.

The national debt, the gross national debt, subject to statutory limit, will grow from $6.4 trillion this year to $12.4 trillion in the year 2013. That is absolutely astounding, absolutely frightening, in my opinion, because I do not think the economy can possibly sustain that kind of increase in debt.

Not only do we see additional tax cuts proposed in the face of rising deficits, deficits, once again, as far as the eye can see. But if the White House would simply call next door to the Treasury and say in that hour, we are right now at this moment experiencing a tax cut, a revenue reduction. Let me give the numbers, because last year we had one of the biggest fall-offs in revenues we have seen in recent history. This year we are seeing that trend repeated.

Our budget office, the Congressional Budget Office, which is neutral and nonpartisan, projected the budget over the next year, next 10 years. They said this fiscal year Federal debt this year will be expected income taxes to be about $38 billion over last year, 2002. If we look at what we are thus far since April 15, or if we look at just until March 1, excuse me, we do not know April yet, we will find that the total tax take thus far this year is running $54 billion below last year, which means it is $92 billion below what CBO, the Congressional Budget Office, is projecting.

Even without doing this follow-up of another year on the heels of last year where we have a natural re-
duction due to the economy and the Tax Code, a realignment of revenues, the administration is still ignoring that annual mammoth tax cut which can do only one thing: it will make the budget deficits that we see here projected on paper virtually engraved in stone. They will be-

come so difficult to unwind, resolve, work out, that they will become all but intractable. I have seen that happen.

I came here in 1983 when we were deep in deficits. The deficits were getting worse and worse and worse. But there is one factor now that is dramat-
ically different from the 1980s. That is something called the baby boomers’ retirement. Seventy-seven million baby boomers are marching to their retire-
ment as we speak tonight. The first of them retires in 2008. By the time the peak retirement period is reached, the Social Security and Medicare will swell to 80 million, twice today’s level of beneficiaries. It will change the budget de-
mographically in ways we have only begun to imagine.

What we should be doing now is saving, not dissaving. That is what deficits are, it is dissaving, reaching into the private capital pool and spending that money that should be saved in preparation for facts, demographic facts that are going to occur when the baby boomers retire.

We have a package which we have presented since January and will present again next week which would stimulate the economy. If there is any case to be made for tax cuts, it would be to try to give this economy, this sluggish, slumping economy, some kind of a kick, some kind of a boost so we can put people back to work. Once they go back to work, it will make it easier for us to deal with some of these budget problems.

We have put forth a proposal which does that. But we do not need long-term, permanent tax cuts that have out-year consequences that mortgage the future. We can simply have a tax cut that is focused on 2003, the here and now, when we have the problem.

We have proposed such a tax cut: rebates to individual taxpayers, an immediate write-off of plant and equip-
ment for businesses large and small, going after all sectors of the economy, trying to give the economy a boost. For one-seventh the cost we get, according to well-established economic models, twice the effect in resulting output from our tax econ-
omic proposal, and we do not have any out-year consequences. We simply do something on a one-time basis. We give the economy a boost, get it going again; and we do not have any out-year consequences. As a result, we accumulate about $1 trillion, 400 billion less in debt in the budget we propose than the Republicans propose.

What they are proposing is not ne-
cessarily bad, but it is bad discussion. We have talked about responsibility, common sense, about jobs, about health care, and about getting this budget back on balance.

FOCUSING ON THE ECONOMY

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

Mr. CASE. Mr. Speaker, I want to thank my colleague, the gentleman from California (Mr. ROHRABACHER), for the accommodation. Perhaps after he hears the remarks, he may regret that; but as a consolation I will say to him that I share his passion for surfing and would be happy to show him a few waves in Hawaii, if that is agreeable.

We need to focus, as we have for some time, on what is clearly our number one national challenge, revitalizing our economy and balancing our Federal budget. I want to make two points and emphasize them up front.

First, I am happy that we all seem now finally to agree that it is all about the economy. There was some doubt in my mind, given the few months that I have been in Congress, but now there is no question about it.

There is also no question that the tragedy of September 11 and Operation Iraqi Freedom necessitated our full focus, our full energy on national secu-
rity. Before, during, and after those events, it was and is and will be about a stagnating economy and a de-
teriorating budget.

Now, this is an issue not only, as we all know, of jobs, of being able to care for our children, for our parents, for our communities, and of adequate re-
sources for our government to do what it must do for all of us. It is also, and this link is true, it is also about our basic ability to afford our national de-
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The sooner we say, it is our economy, it is our communities, we all know that is what is hurting us over the long run. That is the debate. Let us get to it real fast, and let us focus like a laser beam on the issue: fixing our economy and balancing our Federal budget.

Mr. Speaker, it goes without saying that we all need to get to that problem, the sooner we say, it is our economy, it is our budget, and how exactly do we fix it, the better. Maybe we are closing in on that, but I am not so sure. I can tell the Members one thing, if we are going to talk about a huge tax cut, we have to get there pretty fast.

We have to ask ourselves whether economic revitalization will result from a general, massive tax cut focused on the very upper-income levels or targeted to businesses. We have to ask ourselves whether that much deficit, that much debt, is good and whether it will hurt us over the long run. That is the debate. Let us get to it real fast, and let us focus like a laser beam on the issue: fixing our economy and balancing our Federal budget.

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Mr. Speaker, it goes without saying that we all need to get to that problem, the sooner we say, it is our economy, it is our communities, we all know that is what is hurting us over the long run. That is the debate. Let us get to it real fast, and let us focus like a laser beam on the issue: fixing our economy and balancing our Federal budget.
Our Founding Fathers understood this. They thought that there was divine province in the establishment of America and that gives us a very special responsibility to the world. And also a responsibility to those Founding Fathers who showed the way to us and made this gift that they have given us.

Our Founding Fathers were extraordinary people. And they had a profound understanding of human nature and of special history. The Declaration of Independence, to this day, is the most revolutionary of all national charters. It talks about God-given rights, about the consent of the governed, as these two things being the basis of freedom, of liberty. Later, our Constitution would detail a system of checks and balances and of limited and layered government that would protect the freedom of the people while ensuring our society stability and our society the type of government it would need to progress.

We were, back as long as our history started, back in 1776, through our history and on and on all the way till today, the home of the free. We were the hope to those people of the world who longed for liberty and justice, the people who hoped in the world that there was a better way, and we were there to show them a better way, and they could identify with us because we were the world. We are the people who represent every race and every religion. And we do not define ourselves by just a geographic area but instead by beliefs in liberty and justice for all. Beliefs that are at the heart of our system, instead of a religion or a race or even a locale.

This is not to say that the United States of America has been a perfect country. And I disagree with many of my liberal colleagues who criticize our government's failures and manipulation of government that match some of the very best in various parts of the world. But the fact is we also know that at the basis of America is a system of government that gives us the opportunity to correct the mistakes and to make things better and a system of government that would hold all Americans to respect each other and to work together to build a better country and to build a better world.

Constant vigilance on the part of our citizenry, and the American ideal, is required to make sure that our country continues to be free and that we continue to solve problems as they emerge, and that is something that sometimes is a little hard to do. I mean, when you talk about constant vigilance, sometimes it becomes nothing more than a slogan or some sort of a phase that may or may not have any meaning. But what we have to do, I mean by constant vigilance is we have to make sure our people focus on and focus on our government enough to make sure we are doing what is right.

And it is so easy for our citizens in a free country just to focus on their own lives because to do so, and they are free to try to improve the lives of their children. Thus, they are out with their children at ball games and they are helping their community, they give money, they do good, and decent people who make up America just rely on our government, and especially on our government and the people who work for our government to do what is right, to do what is right do what is right. And if we work, that is right, in those areas that our people really cannot focus on and know all the details on American foreign policy.

I would say that America has, at times, let the American people down, but the American people have not let us down. American people have remained the most charitable people in the word, bar none, and I know that. I am, by the way, just not talking about money, about the amount of money that we give, but about how we give money voluntarily as citizens to help people in other countries, and even more so when we are participating in peacekeeping operations. It is what we stand for and for what our government pushes for overseas and what we fight for at times.

In the last 100 years, we have saved the democratic world. We have saved western civilization in World War I in World War II. In the Cold War it was the American people that stepped forward to save civilization at a time of great peril. The threats that led to World War II and the threat of that Second World War and during the Cold War, of course, were much easier to understand than many of the challenges that we face today.

Today many of those challenges are less definable and they are less understandable. So today our role is much more complicated. But we must be willing to act just as our Americans moved in the last generation and the generations before were willing to act. In order to be a force in this world for the ideals that we laid forth back in 1776 by our country's founders and to make this world a more peaceful place and a place, because if this world is not
peaceful, America will pay a price. Because technology has shrunk this planet so that each of us are affected when a terrorist or a dictator has his way in different parts of this planet.

So we must be willing to pay the price and that price is engagement, and that price is, yes, there is an economic price in having the technology and the weapons and the military that is capable of defending the United States and having the foreign policy establishment educated and trained to the ideologies of the United States engaged in pushing the world in the right direction.

September 11, I believe, was a result of bad policy. What we faced, the disaster there, and it was not a disaster that was a natural disaster. It was a man-made disaster. And it was something that could have been averted had we had different policies. Yet, we had policies that led to 9–11. And in 9–11 we lost more people, there were more casualties and equipment, and they fought bravely against the Soviets. And we looked and asked, what would be happening in Afghanistan should have been focused on the consent of the governed, meaning the people of Afghanistan, and not a political power play among Pakistan, Saudi Arabia, and the Taliban.

So what ended up happening was that we simply left. We went and enjoyed our freedom and our prosperity at the expense of these people. What happened? Well, what emerged in Afghanistan was truly evil. It was a regime based on an extreme faction of Islam, based on the Wahhabi part of Islam, which is a very small faction of the Islamic religious faith. It was superimposed on them by Pakistan and Saudi Arabia.

Having been in Afghanistan during the war against the Soviets, and I was there working with the Afghans, fighting with the Afghans against Soviet troops back in 1988, I can tell you that those people were devout in their faith, but they are not fanatics like those that we picture when we think of the fanaticism of the Taliban. They were devout Muslims. They really hold God in their heart. They call God Allah, but it is their God and they are devout Muslims. They were not people who were insisting that everyone else pray the same way they did.

But the Taliban, as I say, is a derivative of the Wahhabis from Saudi Arabia they were superimposed on Afghanistan; and they had no help from us. The people of Afghanistan had no help from us, and the Taliban took over Afghanistan and turned it into a horror story for the people of Afghanistan and a grave danger for the rest of the Western world. But the Taliban, did, as I say, did not just emerge in power. It was there because the United States policy permitted it to be or even acquiesced to it or even supported the creation of the Taliban in agreement with Pakistan and Saudi Arabia.

I worked for years, after the fall of the Soviet Union, and after the Soviets left Afghanistan, to try to offer Afghan some help. I went to every country that could offer some help to get support for a return to Afghanistan of the old king, Zahir Shah, who had been overthrown by the Soviet puppets back in 1973. Zahir Shah had been king of that country for 40 years, and they had peace and they had prosperity. He was a very moderate force in that society. His wife actually took the burqa off and threw it into the street one day. So he was trying to bring more democratic government. He was trying to bring more liberalization of their society.

But the communists manipulated the forces in that society, overthrow Zahir Shah with those forces, and then murdered the people who overthrew Zahir Shah and came to power themselves. And that is when the Soviets invaded Afghanistan.

Zahir Shah is a fine man. The people of Afghanistan loved him. We could have helped him. He was going to the United States and asked if he could have the United States support him, had the United States supported bringing him back, he would have ushered in democracy into that country. That is what he was pledged to do. Yet our government wrote him off.

And when I personally went to the countries around Afghanistan to try to get support for him rather than the Taliban, I was followed by a representative of the State Department at each of my meetings. At each of the meetings that I had with different political leaders in these countries, a representative of our embassy, meaning the United States State Department, was there saying Dana Rohrabacher is speaking for himself. He is not speaking for the United States of America. In other words, do not listen to Dana Rohrabacher.

For anybody who wants to know who is to blame for 9–11, you can thank the State Department. They were one of the people who decided that the Taliban was better than King Zahir Shah and undercuts every effort to bring a moderate government to Afghanistan. They are the ones, whether they were in Pakistan or whether they were in Eastern Pakistan or whether they were in various countries of the world where meetings were taking place, who undercut those efforts of the Taliban's enemies, or let us say those people who would just offer an alternative to the Taliban. Every time the State Department interceded.

At one point, once the Taliban were in power, they became very vulnerable, because they had overstepped their bounds and their military had been defeated in the north and a swift reaction on the part of the anti-Taliban forces could have made the difference, could have eliminated them from power. President Clinton sent Bill Richardson, our United Nations ambassador, and Under Secretary of State Inderfurth to northern Afghanistan and convinced the anti-Taliban forces not to go into action but to seek a cease-fire, and to seek a cease-fire with an embargo of weapons, which would mean that they could talk out their differences.

Well, of course, with an emissary from the President and people at that high level to go up to talk to these so-called warlords in the northern part of Afghanistan, naturally they acquiesced. And, of course, immediately the resupply of weapons began to the Taliban and the cease-fire was immediately violated as soon as the Taliban were replete with their weapons supply by Saudi Arabia and Pakistan. And we could have eliminated the Taliban then, or we could have prevented the Taliban from coming to power had we supported an alternative, like Zahir Shah.
I was always so frustrated about this, because I knew that the United States Government had a policy of supporting or at least acquiescing to this monstrous regime. For years, I was asking for our Secretary of State Albright to provide the Congress, and as the then member of the Committee on International Relations to see about America’s support for the Taliban. And, no, I could not get hold of them. I will have to say that some people on the other side of the aisle were very condescendingly dismissive of this. We needed to see that there might be support for the Taliban.

Well, what happened recently? About 2 months ago the foreign minister of Pakistan came to visit in California and got up and publicly acknowledged that it was not just Pakistan and Saudi Arabia that created the Taliban, but it was the United States, your representatives were in the room, and so quit blaming Pakistan and Saudi Arabia.

Well, thank you, President Clinton.

Well, thank God we now have a President that under- stands that principle.

In the months after 9-11, the President rose to the occasion. But let me add that in the months after just being elected President, in his first few months, he had three separate discussions in the White House about a policy that might eliminate the Taliban. So I was involved in discussions with the White House, this White House, the Bush White House, prior to 9-11, trying to make sure that we would move forward. I was having a very receptive audience on how we could rid the world of the Taliban regime. The President was, as I say, and his staff, were very, very receptive. And then 9-11 happened.

In fact, let me note that on 9-11 I called the National Security Adviser to the President. I actually called on 9-10, the day before the attack. Because of my contacts in Afghanistan and my analysis of what was going on, I real- ized our country was about to be attacked. I did not know exactly what form it would take, but I called the White House to warn the National Security Adviser. I called and I said this is an emergency, it is a national security emergency. I need to talk to the President. He was in the White House and it was he and I operated got back to me and said, Congressman, she is so busy today, but she will see you. He said she will see you tomorrow at 2 p.m. so on 9-11 I had an appointment at 2 p.m. in the afternoon to see Condoleezza Rice to warn her that our country was about to be attacked.

But let me just say that after the attack on 9-11, our President rose to the occasion. He has been an incredibly impressive human being in the days since 9-11. He has pledged to the American people that he will hunt down every one of those terrorists, those murderers who killed our people on 9-11, and that we will do every- thing necessary to protect America’s national security, and that is just what he has been doing over this last year.

But he has been handicapped, however, by the same State Department that traveled around after me all those years and stonewalled my efforts to get rid of the Taliban and to prevent them from getting into power, the same entrenched elite State Department is at play, and our President has had to deal with them all of this time in achieving his goals. They undermine elected officials when they cannot control. And even with a world-class leader like Colin Powell at the helm, this entrenched foreign policy bureaucracy still seems to be in power and still has inordinate control over American foreign policy.

Afghanistan is an example. Even from the outside, the policy that we had towards Afghanistan seemed disjointed. It looked a little bit disjointed in the days after 9-11. It took our President and Secretary Rumsfeld to push aside a State Department that was committed, and get this, our State Department after 9-11 was still committed to keeping the Taliban in power, even after 9-11. It took all of the effort, as I said, our President and Rumsfeld to push that policy aside and trash-can it.

Let me note also, we were operating in Afghanistan after 9-11 almost blind. Members will hear that the CIA was involved in Afghanistan before the Green Berets, but let me tell Members and I cannot give the exact number but almost none, there was very limited CIA presence in Afghanistan. The State Department and the CIA did not know who the players were because they had poo-pooed all of the anti-Taliban forces for so long they did not know who they were.

The plan at that point that the State Department was pushing was to leave the Taliban in power and to send a huge military force, an American force in through the south using Pakistan as a base of operations, and then take control of perhaps Kabul or a city in southern Afghanistan and then to negotiate with the Taliban who controls the entire countryside for the return of bin Laden. That would have been a disaster, and it was being pushed by the CIA because they were believing that if the Taliban in power, people who hated us, people who turned their country into a staging area for a terrorist operation intentionally. They knew what was going on. They hated America and hated the west, and we were going to leave them in power?

Well, let us put it this way. The best that our State Department could do and the CIA could do is probably that plan because they did not know anybody in the anti-Taliban forces. There was a team of people who went shortly after 9-11 to the Department of Defense, to the State Department, to the CIA, and made sure that our govern- ment got the highest level knew the names and locations of those people who were fighting the Taliban who could provide thousands of fighters. We provided the names, the locations, the number of fighters available, and even people were kept track of the so-called warlords who were in charge of tens of thousands of troops who would do our bidding on the battlefield against the Taliban.
That small team that went there to advise our government were made up of people like Charlie Santos, Paul Behrends, Al Santoli, Dusty Rhodes and myself. Meeting after meeting took place, and all this information was taken to the DOI. We went to work immediately to try to put in place a plan that could dislodge the Taliban and destroy al Qaeda. The group in the DOI that took the ball and ran with it include Paul Wolfowitz, Peter Pursglove, Jody Bixby, and others who acted immediately on this opportunity to work with the people of Afghanistan to help them throw out their tyrants.

We helped them liberate themselves from the tyranny of the Taliban. Thus, we accomplished our own foreign policy objectives by working with people and promoting our own ideals of freedom and democracy.

What was put into place was Task Force 117, one of the most successful military operations in U.S. history. It was turned from a plan into an historical accomplishment by the courage, skill and hard work of unsung heroes, yes, some of them in the CIA, and yes, many of them in the special forces. Special Forces officers like Captain Nutsch became legendary in Afghanistan but unknown to the people of the United States. Thanks to people like Special Forces Captain Nutsch, we won an incredible victory in Afghanistan, losing only about 35 people to hostile fire. We should be proud of our defenders and grateful to the Afghans who fought with them and destroyed the Taliban and bin Laden's forces in Afghanistan. For a second time, these people in Afghanistan did our bidding, rose up and fought America's enemy and defeated that enemy.

I recently visited the grave of a CIA officer who was there on the scene and helped fight this battle and helped organize this magnificent victory. I went to the grave of Mike Spann who was buried in Mazar-e-Sharif. I was there about 10 days ago. The local people are so grateful to Mike Spann they had a ceremony to honor him. They built a monument to him. It is a very inspiring monument because they realize that the Taliban oppressors would have never been defeated had the special forces teams not been there to help them with the logistic supplies and the forces that they needed to defeat the Taliban.

But let us not forget that as the battle in Afghanistan progressed, voices were heard here that were less than supportive of what we were doing. This was even after 9-11. The pessimists and naysayers were at work. They were trying to create a quagmire in Afghanistan that drove the Taliban out of Afghanistan and defeated the al Qaeda forces. I will let Members know that the al Qaeda were the Taliban's old home people who were engaged in this in their old countries. We represented about 25 percent of the people of Afghanistan. We were Afghans, but al Qaeda was made up of foreigners, many from Pakistan but many Arabs as well, who had come into Afghanistan to use Afghanistan as a base of operations against the west. But also, anyone in Afghanistan that raised their head in opposition to the Taliban were brutally murdered by bin Laden and his thugs. They were grateful when we came to help free them from these radical fanatics who were coming from outside their country and murdering them to keep the Taliban in power.

Yes, we can be grateful to those people in Afghanistan. We can also be grateful to our special forces and CIA, for when we can be grateful to those people in the United States. Again, these things do not just happen. They happen because we have planned for them. What happened is we had the high-tech weapons system that we needed to do the job. And during his years did permit some of these weapons systems to be built. He dramatically cut the defense budget, but that is okay. These weapons systems were permitted within the budget left.

But with those high-tech weapons systems, we were able, with the courage and cooperation and alliance with those people in Afghanistan, to get this job done. But what has happened in Afghanistan is not over. We need to do what is right diplomatically and make the right political decisions if we are to make sure that this does not happen all over again, that Afghanistan does not get drawn back into a morass of evil.

What we must do first of all is help them rebuild their country. Our President has laid out a plan that has been very committed even through the Iraqi operation to make sure the people of Afghanistan have the help they need. We have been very successful as of today, and yet, there have been bureaucratic roadblocks to the rebuilding of Afghanistan. Although there has been about $1 billion spent and there are signs that things will be getting better, the pace has been inexcusably slow. We need to speed that up, and we need to make sure that they can rebuild their country and their aqueducts, rebuild their roads and hospitals and schools.

Mr. Speaker, ten days ago I was in Afghanistan. I spent the day up north. The distance of that country on back roads, and I will tell Members it was a sight to see. There were burned out Russian tanks everywhere and rubble strewn. I saw a gang of kids, probably about 100 of them, and I stopped the car and went over to see them. I had an interpreter with me. It was kids who had arranged the rubble of a building that had been destroyed so they could sit down, and they were teaching each other to read and write. They are teaching each other to read and write in the rubble. We need to work with those young people so they can learn to read and write, do their numbers, and so that they can be part of the community of nations, part of this new world that we are building rather than be manipulated in ignorance by some extremist religious sect.

We also need to really make solid and right decisions about what is going on politically. Let me note that those people who helped us defeat the Taliban were basically from the northern part of the country where there are five different ethnic groups. These are not warlords and warlord armies, these are groups that, when they knew they had to arm themselves to be safe, just like our forefathers armed themselves and had their militias. That represents about half of the country in the north. That represents 50 percent of the Afghan population, and 50 percent of the Afghan population are Pashtuns. Their territory is along the Pakistani border. Because they represent 50 percent of it, they represent a much bigger portion. Thus, in a central government we can expect that the Pashtuns will have much more influence than those other ethnic groups in the north.

But it was the ethnic groups in the north that were America's friends. They were the ones who put their lives on the line for us, and to a certain degree the Pashtuns did not fight very much at all; and, in fact, many of them were relatively sympathetic in one way or the other or at least acquiesced to the Taliban because they were cousins or whatever. This is what is happening today. Unfortunately, I am sad to report after my trip to Afghanistan, our government is again siding with those people who are not our friends, and they are trying to undercut our friends. The people who fought for us and helped liberate Afghanistan from the Taliban, those forces in the north, are being undermined, and they are doing everything they can to try to disarm those people even as skirmishes with the Taliban still occur in the southern part of the country.

And of course our government, the United States Government, the State Department, if I can put in a more correct term, is pushing to have a system in Afghanistan totally out of sync with the American experience. In fact, they are using the French model in Afghanistan. In Afghanistan what they are doing is asking for a strong central government that is going to be dominated by local leaders. That is not what we do in the United States. We have layered government. We have federalism. We have
State and local people elected; thus, if someone takes over Washington, whether it is Bill Clinton or whoever, the whole country does not go crazy. They just say okay, we have different people in different parts of the country. We have a presidential system and a federal system, with checks and balances and separations of power. They want none of that in Afghanistan. They want a strong government that will be dominated by Pashtuns who were sympathetic to Taliban or dominated by an ethnic group that has sympathetic leaders in their armies, to totally demobilize and to disarm, to trade in their bullets in exchange for ballots. Is that not a won-derful accomplishment? And of course I am pushing that as a compromise, and I would hope that our government, just as I know we had to shame the State Department into giving up its notion that the Taliban would stay in power, I hope that the State Department is made to understand that we are going to have a democratic system in Af-ghanistan that permits all the people guaranteed rights through the same sort of guarantees we have in the United States. We want to use the American model, not the French model, in Afghanistan. That is what will work. That is what we need to do, and I would hope that we do not have a corrupt deal with Pakistan again to try to force one group into a controlled situation of all of Afghanistan.

That is the type of immoral decision-making, of wheeling and dealing that does not work. What works, fascinatingly enough, and makes it a more peaceful world and works for the security of our country is not wheeling and dealing pragmatism, which the State Department talks about, but, instead principled, prin-cipled and moral decision-making. How about that? Pragmatism does not work. It does not make a better world. Principled and moral decision-making does.

So, by the way, just let me just suggest that I think that we too can make it work not only in Afghanistan, but that same idea works with Iraq. Our President showed his incredible leadership and his strength and resolve in liberating Iraq. And as I say, we can help bring those people to a more demo-cratic society and a society where they can elect their provincial leaders. That is our policy in Iraq to let political leaders be elected, their governors and their mayors, but not in Afghanistan.

Whether or not Iraq under Saddam Hussein had weapons of mass destruc-tion is not relevant. Keep getting asked this and my liberal friends keep pushing on this, when are we going to find the weapons of mass destruction? I do not care if we never find weapons of mass destruction. The fact is Saddam Hussein had a Blood grudge against the people of the United States for what we did in eliminating him from power when he invaded Kuwait. We humiliated him in front of the world. He would have done everything possible to hurt and kill the people of the United States, the more power he got in his hands. And Iraq has vast new oil resources that are becoming avail-able to it. Within a 5-year period had Saddam had, he could be the most economically powerful person not only in that region but in the world.

And is there any doubt he would have used that power to overthrow the weak and the fat Saudi regime and thus would have become even more powerful, perhaps the most powerful man on the Earth, and we were going to let that happen? A man who hated us and had a blood grudge against us? Maybe he did, maybe he didn’t. He had a clear weapons program; but with the tens of billions of dollars available to him, 5 years down the road he would have bought as many nuclear weapons from China or Korea as he wanted to buy. That was definitely a threat. And unlike President Clinton, our great Presi-dent, George Bush, decided not just to pass it on to a future generation. Now that the people of America were fo-cused and willing to do what was neces-sary for our security, President Bush prudently decided that taking Saddam Hussein out and working with the peo-ple of Iraq to build a democratic Iraq was the most important thing we could do for our national security, and I am sure that President Bush is going to leave to the next generation of Ameri-cans a world that is safer and more se-cure and with more opportunity than what his predecessor left the world. And that was one of the reasons I pushed it, which was that he did not solve. I mean, President Clinton left us with the Talibain and al Qaeda; and, by the way, he also left us with a Korea that we now find has what we call a nuclear weapons program. The Clinton pro-posal that stopped the crisis over the nuclear weapons program in Korea was that President Clinton agreed to give lots and lots and lots of money to North Korea, including the Clinton Doctrine to let dicta-torships in the world; and over the last 7 years, I guess it has been, over my ob-jection and the gentleman from Cali-fornia’s (Mr. Cox) and others, North
Korea has been the largest recipient of American foreign aid of any country in Asia; and now they tell us, guess what, we fed their people, and they use their own money to develop a nuclear bomb. Surprise, surprise.

If I have any complaint of our President during this crisis in our lead-up to Iraq was that he did not immediately talk about the moral basis for his decision-making. He was playing lots of games, and I am sure the State Department made him play those political power games at the United Nations and with NATO, but it took him a long time to do that, and he jumped through a lot of hoops trying to prove he was sincere; but I think that was a waste of our time, and, instead, it took him a while to get there, but when he gave a speech at the American Enterprise Institute, he laid the moral case out, and from that moment on we were out to liberate the people of Iraq, to work with them, to stand by them in building a more peaceful and a democratic society and to free them from this monster, Saddam Hussein, who not only had a blood grudge against the people of the United States but was an aggressor and the murderer of their people. So thus the moral case that the President made at AEI, I think it was a historic speech. I would recommend it to all of my colleagues, and I would suggest that this was an opportunity in Iraq took off. That was when the momentum was created that was unstoppable.

And sometimes I am asked why did the Iraqis not just jump up and start supporting us as we predicted? What had happened was 10 years before under President Bush, Sr., we had let the Iraqis down. They were not sure whether when our forces came in that we would stay there and actually help them liberate themselves from their tyrannical regime. But I think there is every evidence now that that country is going in the right direction and that country will fight for democracy, and we will use this victory to spread democratic government and peace throughout this troubled region, a region that was handed to us by George Bush’s predecessor in flames. The Shiite demonstrators that we see are much smaller than the people can see on TV. The Shiite people of Iraq are Arab-speaking people. The Shiites of Iran are Persian. They are not the same group of people. And also the people of Iraq just freed themselves, the Shiites, of a monstrous dictatorship. They are not going to replace it with another dictatorship of clerics or anybody else.

Our job in Iraq, as the President has stated, is to help those people build democracy, and we will not let anyone pressure their way into that government. I know the President has the respect of the people of the world now; and when he makes that statement, they listen to him unlike they would any other President.

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So I have every confidence that we will not permit anti-democratic forces to pressure their way into power, and that we will work with the good people of Iraq in building the infrastructure of a system that will permit them to democratically elect their leaders. And, when they do, they will leave, if that is what they want us to do. We will be happy to leave. The President has made that clear. The people of the United States have made that clear. Because in building democracy in Iraq and helping the other people of that region to have a democratic government, it helps in our own security.

We are, with our commitment to freedom and democracy, building a better and more peaceful world. This is a world consistent with the dream of our founding fathers. This is a world that, again, is based on decision making, morally, in principle, based on decision making. That is the way to make a better world, not pragmatism that is making sort of power compromises and deals with people and regimes and gangsters.

It is when we stand up for our principles and we try to build democratic societies, that is when things get better. That is what works in this world.

So I am very grateful tonight to have had this opportunity to go into these details. We have challenges ahead of us, because there will always be people in the State Department and elsewhere who are thinking they are being pragmatic, but really are not living up to our principles. There always will be people who undercut our efforts and just do not believe that America can be a force for freedom overseas. That happened to President Reagan too, when he tried to fight the Soviets. But we can, with courage, with a commitment from our people, we can build a world that is more prosperous, we can build a world at peace, and we can build a world that is more free. And our greatest allies are the people of Iraq, the people of Afghanistan and the people everywhere in those Third World countries and other developing countries that long for democratic process and for a better life for them and their children.

HELPING THE PEOPLE OF HAITI

The SPEAKER pro tempore (Mr. BURNS). Under the Speaker’s announced policy of January 7, 2003, the gentelwoman from California (Ms. Lee) is recognized for 60 minutes.

Ms. LEE. 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 their speech.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. LEE. Mr. Speaker, tonight is another opportunity to once again highlight the ongoing humanitarian crisis in Haiti and the urgent need for action. Many of us together have worked to send a message to this administration whose time is time to United States policy toward Haiti. We have become increasingly aware of the humanitarian crisis which is brewing in Haiti. Much of this crisis can be directly pinned to the fact that the United States has spent eight regulations violations which we are part of are blocking social sector resources from reaching that small island nation. In fact, the United States representative to the InterAmerican Development Bank directed the bank’s president to block disbursal of four social sector loans to Haiti. These loans had already been approved by the bank’s board of directors and were ratified by the Haitian parliament over 3 years ago.

Now, considering Haiti’s current crisis, this action is inexcusable. While our government levies our political weight with the international financial institutions and the Organization of American States, Haitians continue to suffer. Further, this delayed delivery of international humanitarian aid to Haiti is fostering instability and anarchy in their struggling democracy.

Haiti’s miserable poverty is indisputable. We can no longer bury our heads in the sand on this issue. With the existing leadership, the crisis will continue to spiral out of control. Already, the national rate of persons infected with HIV and AIDS in Haiti has risen to 300,000, or 4 percent of the entire population, leaving 163,000 children orphaned. Haiti makes up 90 percent of all HIV-AIDS cases in the Caribbean. And Haiti’s health problems go well beyond HIV and AIDS. The infant mortality rate has increased to 74 deaths out of every 1,000 babies born, and now five mothers will die out of the same 1,000 babies born.

We must remember that many diseases know no boundaries, so it is in our strategic interest to help Haiti heal itself. The doctor-to-patient ratio has fallen to 1 to 11,000, leaving very little chance that sick persons in the rural areas will ever get even the basic health care. 125 Haitians die daily of illnesses. While most of the western world has eradicated diseases like polio, health officials report that many Haitians do not have the resources to pay for life-saving vaccinations for their children.

This is just morally unacceptable. Together, we must urge the President to do the right thing in Haiti. Jared Johnson, the IDB branch director for Haiti, said you cannot run a country through non-governmental organizations. What does this mean? It means we cannot continue to funnel money into USAID and then blame the government of Haiti for lack of resources and poor social services.

Our government and the international financial institutions should
not continue to raise the political bar in order for Haiti to receive basic humanitarian assistance. It is unacceptable to simply stand by and watch a season of misery inflict pain, suffering and death on human beings right here in our neighborhood.

We must address this injustice. We must release the IDB funds to Haiti and direct the international financial institutions to reengage and reengage now. It is our moral imperative, and it is our commitment.

Mr. Speaker, I yield to the gentleman from Florida (Mr. MEEK) a member of the Committee on Armed Services, a Member of the Haitian Task Force, and one who has led our efforts in terms of immigration issues and other issues that he so passionately cares for.

Mr. MEEK of Florida. Mr. Speaker, I thank the chairperson of the Congressional Black Caucus Task Force on Haiti for yielding.

Mr. Speaker, I must say that I concur with the gentlewoman’s comments. I know that many of us in this Congress feel very strongly about U.S. involvement as it relates to the way of life in Haiti. What I can tell you is what this Bush administration has done. It has created an atmosphere of conflict.

What I mean by that is the fact that we are saying we want Haitians to stay in Haiti, but we are not creating an environment for Haitians to be in Haiti with a democracy that is functional because it has the resources to be able to work towards providing the kind of services that Haitians need.

I will say this: Haiti is the poorest country in the Western Hemisphere, and it is very disturbing to see this democracy in our hemisphere, the poorest country, and we are standing in front of dollars that were committed years ago to Haiti.

I would also say something else that is very disturbing, and that is why I cannot understand the policy. If we want Haitians to stay in Haiti, if we want to be able to have a strong government in Haiti, if we want to be able to provide drinking water and humanitarian efforts in Haiti, then we should not be standing in front of these dollars.

On the other hand, we should not have unfair immigration policies when Haitians are trying to seek political asylum. It is quite disturbing, that fact that Haiti is struggling right now, and we have conflict there, political conflict in Haiti.

General Ashcroft, the U.S. Attorney General, put forth a decision just this past week saying that when Haitians are migrating to the United States, that they would be indefinitely detained. This goes against decisions that have been made in the past. Immigration, the INS in Miami, has said we should detain Haitians, even though an immigration judge said they should be paroled while they are waiting for their political asylum case to be heard. But we decide to detain and incarcerate Haitians, thinking that that will stop a mass migration to Florida or to the United States under the auspices of homeland security.

I just want to share tonight with my colleagues that being on the Committee on Homeland Security, being on the Armed Services, I have not yet heard or seen an FBI report or a CIA report to show any level of or any indication of terrorism in Haiti, or any member of its government that condones terrorism in Haiti, or the Haitian people in general.

I can say quite confusing, since we have a situation in South Florida that could very well, if we are going to live by that policy and use that policy to detain Haitians unfairly, this may very well set forth a policy as it relates to those that are trying to seek political asylum from the island of Cuba. If the Cuban Readjustment Act was brought onto this floor today I would vote for it, because it is the right thing to do. A dictatorship is in Cuba, and I important that we should allow people who want to migrate towards liberation to be able to have that chance.

But Castro sided with Saddam Hussein. Cuba is also a communist country, and their efforts of the individuals that are migrating to South Florida.

We should be very careful as a country when we start using homeland security against individuals who cannot harm this government. I think it is very important for not only the Attorney General’s office to hear this, but the Bush administration to hear this, that we cannot do nothing on both ends. We must do something on one of the ends, and provide aid now for Haiti, humanitarian efforts for Haiti.

I voted on a voice vote for the supplemental for Iraq. I feel that it is our obligation to go in and do the things we are doing in Iraq right now. But I think it is our obligation to do some of the same things here and the Haitian people have had to hold off.

Mr. Speaker, I would just say to the gentlewoman from California (Chairman LEE), I just want to say representing the largest concentration of Haitians in the United States, I think it is so very, very important for this government to realize not only its humanitarian effort, but its effort towards fairness and equality. I think it is important that this administration stop saying, stop front of the dollars that have already been committed. These are not new dollars, the dollars that have already been committed to Haiti.

General Ashcroft’s decision did more than stop those dollars that should have been going to Haiti years ago. He has also put questions in the minds of the humanitarian community that has been doing work there. They may feel Haiti is a terrorist state, which is not true. It is important that we fight against this.

So, I want to thank the gentlewoman from California (Ms. LEE) for yielding me time tonight, but I just want to say that our efforts have to continue. I want to commend the gentlewoman’s efforts for being a stalwart in standing up on behalf of not only what America stands for, but being able to help those countries and individuals, those countries that are democracies, those countries that need, and Haiti is one of them.

So the message tonight is to release the dollars to Haiti or the resources to Haiti that have already been committed, and, two, fairness in immigration policies.

Mr. Speaker, I would like to yield to my good friend the gentleman from North Carolina (Mr. BALLANCE). The gentleman serves as a member of the Committee on Small Business and a member of the Committee on Agriculture and has been involved in many, many issues since he has been in Congress. He is a new Member who has hit the ground running.

Mr. BALLANCE. Mr. Speaker, HIV and AIDS infections represent acripping medical crisis worldwide, and it is for that reason I want to sort of focus my remarks on that particular subject in the context of the subject we are discussing this evening. This problem is so pervasive around the world, but as we focus the microscope on the tiny Nation of Haiti, it is indeed an epidemic. I regret very much that the Bush administration has not done its share to address this issue. In fact, for so long, most of us have been missing in action.

But there is a soldier who has been standing and fighting this battle for so many years. She is the chair of the CBC Brain Trust on Global AIDS and HIV, and that is the distinguished gentlewoman from California (Ms. LEE). I say to the gentlewoman, I do not wear a hat this time of year, but I take my hat off to you for standing so tall.

A lot of people, as we look back on this issue, were afraid to even speak out, were afraid to get involved. As I look back on my own career and my own life and the life of my fore parents, I recall that it is a long journey from Africa to America. It is a long journey from slavery to freedom. But history tells me that my ancestors got on a boat involuntarily somewhere on the West Coast of Africa. We have been sojourning in America now for more than 400 years. Is it not amazing that the descendants of those who were taken, now find ourselves in a position to provide some help and, hopefully, to provide some financial assistance and,
Mr. MEEKS of New York. Mr. Speaker, today I want to thank my colleagues in the Congressional Black Caucus, the Chair, the gentleman from Maryland, (Mr. Cummings), for organizing today's Special Order on Haiti. I want to salute the members of the Haitian Task Force and my good friend from California, (Ms. Lee), for her outstanding leadership and tireless commitment to the people of the Nation of Haiti and in combating the HIV/AIDS pandemic wherever it raises its ugly head. The Nation indeed owes the gentlewoman from California (Ms. Lee) a debt of gratitude.

There is a saying that all politics are local. And for me, Haiti is a local political issue. I am proud to represent the constituency of the sixth congressional district of New York which has one of the largest Haitian American communities in America.

But that is not the only reason why the Haitian people are important to me and why the Nation of Haiti is important to America. Haiti is important to me because America cannot and should not continue to have a foreign policy toward Haiti which is out of the poorest nations, if not the poorest nation, in our hemisphere, a foreign policy which, in many ways, fails to support the rights of the Haitian people for democracy, human rights, and economic opportunity. This administration cannot talk with credibility and moral clarity about willingness to use our political, economic, military, and diplomatic foreign policy instruments in the name of spreading America's universal values globally. Yet, we only apply it selectively when it is in our national interests.

Mr. Speaker, the people of Haiti are a proud people, a people who have a long history of being at the forefront of struggles against slavery and for independence against European colonialism in this hemisphere; a history which connects the people of Haiti with African Americans. In 1791, Haitian slaves initiated a successful slave revolt against France. The Haitian slaves ousted Napoleon and by 1804, the island became the first black independent nation. At first, our Nation did not recognize Haiti as an independent Nation out of fear that Haiti could serve as an example of a successful revolt against a country which practiced slavery. It was not until 1962 that the United States finally granted Haiti diplomatic recognition and sent noted abolitionist Frederick Douglass as America's Consular Minister to Haiti.

But as we know today, for many developing nations, political independence from their former colonial masters did not automatically translate into stable democracies, economic independence, and sustainable development. Like many post-colonial developing nations, Haiti, like many post-colonial developing nations, has struggled with internal civil wars and political instability. The people of Haiti have been dripped in decades of structural violence, dictatorship, human degradation, and economic poverty the likes of which are an affront to humanity.

While the reasons for such sufferings are complex, the fact that it exists in our own hemisphere, right here in our hemisphere is something that we cannot ignore. We cannot ignore that our immigration policy treats Haitians differently from other immigrants seeking to escape political violence. We cannot ignore that our foreign policy regarding Haiti has become tied to partisan politics. We cannot ignore that Haiti faces an HIV/AIDS epidemic and this administration has played a role in hindering international economic assistance to Haiti because we cannot come up with a policy approach that balances the needs of the Haitian people with our requirement that assistance be used properly.

So, Mr. Speaker, I stand here today to say that if America can muster the political will and expend billions of dollars in resources to wage a war thousands of miles away from our shores, what about Haiti? When will America mobilize the same kind of resources and political will to wage a war against poverty, against disease, against human suffering right here in our hemisphere? If such rights and values are truly universal, Haitians deserve no less. We can do more to support the people of Haiti so that they can reclaim their human dignity. We can, and we must.

Again, I thank the gentlewoman from California (Ms. Lee), my friend, for her tireless effort, commitment, and hard work.

Ms. LEE. Mr. Speaker, I thank the gentleman from New York (Mr. MEEKS) for his very eloquent statement and his kind remarks, and also for reminding us of the history in terms of the connection to our own country and the fact that we do have many Haitian Americans here in the Joint Committee on the State of California, and one whose wisdom and counsel we all look to on so many issues.

Ms. WATSON. Mr. Speaker, I thank the gentlewoman from California. We are also very proud of the gentlewoman and her leadership.

Mr. Speaker, I see next to her the gentlewoman from the Virgin Islands (Mrs. Christensen), who was part of our entourage that went to Haiti, and had been there before. She helped to point out the problems and to analyze them while we were there.
I want to give another thanks, too, to the gentleman from California (Mr. ROHRABACHER). I was sitting in my office listening to his presentation. He talked about American democracy and that we were not really ready yet, because he said that one of the vehement problems in this country. We had enslaved a large group of people who make up a tremendous part of our population today.

He also said that we are going to have to correct that which is broken. This is not a country we are talking about, a nation that is broken in our own hemisphere.

Mr. Speaker, I am appalled by the unsubstantiated allegations made by the United States Attorney General, John Ashcroft, with respect to Haiti. He claimed that the Pakistanis, the Palestinians, and others are using Haiti as a staging point for trying to get into the United States. What a ridiculous statement.

I would ask him, has he been there, Mr. Attorney General? If not, he needs to go. He needs to scour every single part of that island nation. After what he is going to see he will be declaring to the world that the people there have nothing; and we are allowing that to continue in this hemisphere.

Even the State Department's consular officers and officials are puzzled by his remarks. Jorge Martinez, a spokesman for Ashcroft's office, could not immediately say where the Attorney General got the information. Martinez then directed inquiries to the Department of Homeland Security, and a Homeland Security spokesman redirected questions right back to Martinez.

Mr. Speaker, according to the State Department, Haiti is not on the United States' terrorist watch list. Why is, then, the Justice Department and the State Department, our Department of Homeland Security, amending this list?

Haiti, a nation of 8.3 million people, is one of the most impoverished nations in the Western Hemisphere and the fourth poorest country in the world. The unemployment rate is estimated to be around 60 percent, the literacy rate is approximately 45 percent, and 90 percent of all HIV and AIDS infections are found in Haiti.

The current U.S. policy towards Haiti is one that discourages travel between the two countries. There is a fact embargo on loans and grants from the multilateral development banks. Assistance from the United States Government has been put on hold in order to leverage change in the present political structure of the Haitian Government.

I say to the Attorney General, he needs to correct what is broken. He needs to understand why he sent his fiscal people over here to Washington, D.C. to explain how they have developed their budget. He needs to understand why he is working on getting a police force put together, and why he has not formulated a court.

Remember, the past regimes were corrupt and there are many corrupt people still lurking around, so he has to realize that he has a lot of power to put together. That, indeed, takes time.

In effect, our current policy towards Haiti in the name of humanity promotes poverty and inhumanity. For example, on July 21, 1998, the Haitian Government received a $22.5 million loan for phase 1 of a project to decentralize and reorganize the Haitian health care system. The funds would be used to construct low-cost community health centers, train community health agents, and purchase medical equipment and essential medicines. The ultimate objective of phase 1 was to reduce the high infant mortality rate, reduce the high juvenile death rate, and reduce birth rates.

This health loan, as well as close to $150 million of other loans, has been blocked by the United States-led embargo against Haiti. This in itself is an inhumane policy.

It is time to stop this war on Haiti. External aid is essential to the future survival and development of this nation. Comparative social and economic indicators show Haiti falling behind other low-income developing countries since the 1990s.

Mr. Speaker, we cannot let our neighbor continue in this downward spiral.

Ms. LEE. Mr. Speaker, I thank the gentlewoman from California for her comprehensive statement, for her clarity on our government's policy as it relates to Haiti, and for bringing forth the facts of some very recent revelations with regard to the Attorney General which hopefully we will get some answers to.

Mr. Speaker, I yield to my colleague, the gentleman from Baltimore, Maryland (Mr. Cummings), the Chair of the Congressional Black Caucus who has demonstrated for many, many years prior to coming to Congress, and now here in the United States Congress, his leadership on a myriad of issues.

I thank the gentleman for pulling this Special Order together and for ensuring that the Congressional Black Caucus is central to all of the policy debates that we engage in here in the United States House.

Mr. Speaker, I thank the gentlewoman for yielding to me. I also thank her for consistently standing up.

I thank the Congressional Black Caucus, a group of 39 men and women, as I have often said, who are ordinary people called to an extraordinary mission. In the process of doing the extraordinary, they have become extraordinary and have made it clear, Mr. Speaker, to God that the lives they live are not in vain.

Consistent with that, we come here tonight to speak on behalf of Haiti. I thank the gentlewoman from California (Ms. LEE) for her leadership in initiating and organizing the Congressional Black Caucus's Special Order tonight urging the international community to let Haiti live.

Mr. Speaker, for several years now the Members of the Congressional Black Caucus have had the honor of this great House to speak out on behalf of the 8.3 million people of Haiti, to draw attention to the unnecessary and horrible circumstances that they are forced to endure every day.

Haiti, the poorest country in the Western Hemisphere, is one of the most impoverished nations in the world. The unemployment rate is estimated to be around 60 percent. The infant mortality rate is 74 deaths for every 1,000 live births. Ninety percent of the HIV/AIDS infections in the Caribbean are in Haiti. There are
over 200,000 children orphaned by HIV/AIDS. I could go on and on and on.

The fact is, Mr. Speaker, we have to do better. We must release those humanitarian assistance loans, and we must begin a new relationship with the country and the people of Haiti. The Congressional Black Caucus will not rest until we do. We will continue to advocate for justice at home and abroad.

Ms. LEE. Mr. Speaker, I thank the gentleman from Maryland once again for his leadership, but also for laying out the facts in terms of why we are here tonight. I thank the gentleman for putting his all into making sure that we understand that this is an emergency, that we should do the right thing, and that our policies are really resulting in the dire humanitarian crisis that we are seeing in Haiti.

I thank the gentleman again for his leadership. I appreciate his being here this evening.

Mr. CUMMINGS. Mr. Speaker, if the gentlewoman would yield for one second further, we see the President talk about the urgent situation in Iraq and how he wanted to do all that he did. As the gentlewoman probably well knows, we just allocated some $80 billion. Here we have a small country simply trying to survive, having drinking water, trying to educate. It makes us wonder sometimes. As one author said, it makes me want to holler and throw up both my hands.

Ms. LEE. I would say that $346 million is a mere drop in the bucket, and we need many lives. We are going to get the country of Haiti back on track in terms of its development.

Mr. Speaker, I yield to my colleague, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), a leader on many issues; a woman who is a physician who chairs our Congressional Black Caucus Health Brain Trust, and who is leading the charge for universal health care.

Mrs. CHRISTENSEN. Mr. Speaker, I thank the gentlewoman for yielding to me. It is a pleasure to be here with her. I just had to come over and join the gentlewoman on the floor here tonight because of the problems of Haiti and the obstacles that we have been facing altogether that the gentlewoman has led us through so steadfastly continue to plague that country and cause suffering to the millions of people who live there. So it is important for us as a caucus to stand here with the gentlewoman tonight and once again to call on our colleagues and the President of these United States to let Haiti live.

Last week I traveled to the eastern end of Hispaniola and there on that side, and it is so different, even when you just fly over the island. It turns from gray to green. There I found a struggling but overcoming people, where jobs were being created, standard of living was being raised, children were being educated, the health care system was ever improving.

It was my second time in the Dominican Republic but I have been to Haiti many times, and it troubles me deeply that this situation is so startling different compared to that of the neighbor on this same island in the Caribbean of which I am a part. And yet it appears that the people of Haiti have accepted democracy that we helped to bring to their nation, and they have accepted its promise. Though imperfect, that democracy is new, and building democracies take time.

As I am sure this country will find out in Iraq, but perhaps we will be a bit more patient there than with the people of Haiti because we certainly have not been patient or supporting of their efforts to make democracy work. The reason for the difference is clearly that our country, the United States of America, has stood in the way of allowing the people of Haiti to grow, to thrive and to actually allow the democratic policy to be carried out in this country of poor but proud, hard-working and spirited people of African decent.

We are here tonight again to say let Haiti live, first, by releasing the loans that are needed to build their sanitation, transportation, health and educational infrastructure, and also by fully supporting the OAS mission there, whose responsibility it is to ensure the changes that we claim to seek in their judiciary and their police system and in their electoral process.

Mr. Speaker, I want to say thank you to the gentlewoman from California (Ms. LEE) and the gentleman from Michigan (Mr. CONYERS) who have both led this fight for their faithfulness and steadfastness and the support of Haiti and their work on its behalf. We have under their leadership talked to people at Treasury. We have talked to leaders at USAID. We have talked to folks at the OAS. We have talked to the international lending institutions. I think we have done what we can. I guess we could do more. But we have done the things that have been open to us to do. There is no excuse for what this country is doing by holding back these so badly needed funds. As the gentlewoman said, 140 something million dollars is nothing to this country, but it means everything to the people of Haiti.

What Haiti is asking for is what has been done for every other country in this region that has been similarly situated. There is no reason for it to be treated different. Mr. President, our brothers and sisters are suffering, in many areas of the country. And we are asking you once again to do that many things to let our brothers and sisters go and let Haiti live.

Ms. LEE. Mr. Speaker, I would like to thank the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) for putting forth this very clear statement, and also for making sure that on all of our HIV/AIDS initiatives, that the Caribbean is part of that effort. And it is because of the gentlewoman that now we hear the President and others talk about sub-Saharan Africa and the Caribbean and other parts of the world as being in need in terms of our resources and our assistance. So we are going to get those things that we have done something just now our small efforts. We are going to move forward. Hopefully we can do more. And I believe tonight with her help and with all of those here, with the CBC and other Members of Congress, sooner or later the administration is going to wake up and realize that this is a political fight that they really do not need to have. Haitian-Americans care about this. All Americans care about this and we have got to get those loans released.

I would like to yield to the gentlewoman from Detroit, our dean and the chair of the Haitian task force, one who has provided leadership on so many issues and who has beat the drum for so many years on Haiti and our very cruel policy towards that country, the gentleman from Detroit, Michigan (Mr. CONYERS).

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

Mr. CONYERS. Mr. Speaker, I would like to report a new bill that has been introduced by 16 Members of the House and the Senate to create employment in the Haitian textile industry by giving that country the opportunity to become a garment production center. It amends the Trade and Development Act of 2000 by granting duty free status to Haitian apparel articles if the articles are assembled or knit to shape from countries with which the United States has a free trade agreement or a regional agreement. And it departs from current law, which only allows duty free status to Haitian apparel articles if the articles are made from U.S. fabrics or yarn.

It would be a win/win proposition for our American workers because it would encourage the immigration of jobs from other parts of the world back to our hemisphere. I would like Members to know that this measure has been referred to our House Committee on Ways and Means. And at this point, Members should know that in addition to the junior Senator from Ohio, Mr. DeWINE, the senior Senator from Florida, Mr. Graham, we have in the House the gentleman from California (Mr. Berman), myself, the gentleman from Florida (Mr. Jim Davis), the gentleman from Florida (Mr. Goss), the gentlewoman from Texas (Ms. Jackson-Lee), the gentleman from Florida (Mr. Mee, the gentlewoman from the District of Columbia (Ms. Norton), the gentleman from New York (Mr. Rangel), the gentlewoman from the Virgin Islands (Mrs. Christensen), the gentlewoman from Illinois (Mr. Crane), the gentlewoman from Florida (Ms. Foley), the gentleman from Florida (Mr. Hastings), the gentlewoman from California (Ms. Lee), the gentlewoman from California (Ms. Millender-
The Congressional Black Caucus and other Members of Congress want to see Haiti live and want to see Haiti move forward into the 21st Century as a new democracy in which we who know the way that we should.

First of all, Haiti is the most impoverished nation in the Western Hemisphere. Haiti accounts for 90 percent of all HIV/AIDS cases in the Caribbean. HIV and AIDS infections have approached epidemic proportions. Over 300,000 infected people have been identified and deaths from HIV and AIDS have left 200,000 children orphaned. It is estimated that over 12,000 people in Haiti are living with HIV/AIDS. Between 150,000 to 350,000 children are AIDS orphans.

Haiti’s infant mortality rate is staggering. It is 93 deaths per 1,000 live births. For every doctor in Haiti, there are 10,000 people. Tuberculosis remains a major cause of adult mortality and there is only one doctor for every 10,000 people in Haiti.

Although Haiti is located in our backyard, we continue to endorse a policy that prevents the return of economic stability and democracy of Haiti. Instead of supporting the flow of aid to Haiti in order to resolve the political impasse, the U.S. has adopted a policy of embargo to punish the Haitian government and people. The U.S. government has the power to veto the disbursement of loans to Haiti from financial institutions such as the World Bank, IMF, and Inter-American Development Bank. To the detriment of the people of Haiti, the Department of State, Treasury, and the Departments of Treasury and State, has exercised this authority. For example, the Inter-American Development Bank has not released $146 million in aid to Haiti, which was initially approved by the IDB Board of Directors. It is more distressing that in the interim, Haiti has been forced to pay exponential payments to maintain its status with the IDB.

The Congressional Black Caucus as well as many Members of Congress are concerned about the humanitarian crisis and political situation in Haiti. Particularly, the caucus has worked to pass in the people of Haiti by introducing legislation such as the Haitian Economic Recovery Opportunity Act, the Haiti Aid in Transition Initiative, and the Access to Cap-

MCDONALD), the gentleman from New York (Mr. OWENS) and the gentle-

April 30, 2003

woman from California (Ms. WATSON).

in Transition Initiative, and the Access to Cap-

We will be conferring with the ranking member of the Committee on Ways and Means promptly and hope that we can move it forward. It is sponsored in both bodies of the legisla-
ture and we feel very confident that this measure will be an important be-
ginning economic legislative initiative of which there will be more to come.

Tonight, I also rise with the rest of the Con-
gressional Black Caucus to encourage my col-
leagues in Congress to support the Haitian people as they struggle to rebuild their nation.

Not only does Haiti play an important role in the world community, but it is also strategically significant to the United States; particularly because it is located only 410 miles from the nearest U.S. shores. Further, historically the Haitian people’s fight for freedom has been an inspiration to oppressed people throughout the globe. In 1804, the people of Haiti triumphed over their oppressors by gaining their inde-

dependence and establishing the first black na-
tion in the Western Hemisphere.

Nearly two hundred years later, the people of Haiti are engaged in a battle to preserve their way of life and their nation. Haiti is one of the most impoverished nations in the Western Hemisphere and the fourth poorest country in the world, where life expectancy is only 49 years.

The unemployment rate is approximately 60%, only 45% of the population is literate, and half of the population earns $50 or less per year. Haiti is suffering badly from the AIDS epidemic. 90% of all HIV and AIDS infections in the Carib-
bean are in Haiti, and due to the spread of the disease, 183,000 children have been left orphaned. Furthermore, the infant mortality rate is alarming, with 75 deaths per 1,000 births. Given the statistics I have mentioned, it is not surprising that tuberculosis remains a major cause of adult mortality and there is only one doctor for every 10,000 people in Haiti.

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I think I have a couple more minutes, Mr. Speaker, I would like to yield to my colleague from Maryland (Mr. CUMMINGS) who has an additional statement he would like to make in the short time we have left.

Mr. CUMMINGS. Mr. Speaker, I would like to again thank the gentle-
woman and thank the caucus. It has been said over and over again that the Congressional Black Caucus is the con-
science of the Congress. But I have often said that we are the conscience of the country and of the world. And what we are doing tonight is pleading with the President and those who control the purse strings of this country to stand up and lift Haiti from the country that is merely trying to survive.

I have often said that the most pow-
erful thing that we can do is help chil-
dren become all that God meant for them to be. And we heard speeches from this floor over and over again coming from the Bible about what we are doing for our neighbors, in fact, to simply perish and live in the way that they are liv-
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ing the heat up on this. We have been doing it, we have played many roles in trying to let Haiti live. And we are going to become even more aggres-
sive on this because I think after what we have heard tonight, I think the peo-
ple in our country are going to begin to question our policies and why we are holding up $146 million. What that means in light of the fact that we are, yes, we should be doing this, building a universal health care system in Iraq and providing quality public education for people in Iraq. And yet, here in our own country right next door and in our own country we cannot find the resources to help people of African descent. And that is a very important point, I think, that I want to leave tonight with in this body.

Ms. WATERS. Mr. Speaker, I thank the gentle-
woman [Representative BARBARA LEE] for the time, and I applaud her efforts to draw at-
tention to the needs of the Haitian people.

Haiti is the fourth poorest country in the world. Half of the population of the country earns no more than $60 per year. Haiti has an

So with those kind of statistics, there is no way that our country can morally do what it is doing in terms of blocking the release of the $146 million. There is no way with these kinds of numbers and this kind of data, this kind of human misery and tragedy right next to us, that our efforts should be about blocking the release of loans that had been negotiated 3 years ago. That is outrageous. I do not even un-
derstand how we can believe that could even be half way right to do.

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derstand how we can believe that could even be half way right to do.
unemployment rate of about 60% and an illiteracy rate of only 45%. Only 40% of all Haitians have access to potable water. Tuberculosis cases in Haiti are ten times as high as those in other Latin American countries, and 90% of all HIV infections in the Caribbean are in Haiti. The Inter-American Development Bank (IDB) is denying Haiti any access to loans for development assistance. Haiti has already had $145.9 million in development loans approved by the IDB. These loans include $50 million for rural road development, $22.5 million for reorganization of the health sector, $37 million for potable water and sanitation and $19.4 million for basic education programs. Haiti could also qualify for an additional $317 million in new loans for development projects, as well as a $50 million investment sector loan. However, the IDB is refusing to consider Haiti for any additional loans and has not even disbursed the loans that have been approved. The IDB is effectively denying Haiti access to critical development assistance. Furthermore, Haiti is deeply in debt and has also been denied the opportunity to receive any debt relief for its existing debts. The reasons provided by the IDB and the U.S. government concerning the suspension of lending and assistance to Haiti shift from day to day. None of the purported explanations require any further qualification for withholding this vitally needed aid. While the IDB and the Administration dither, the people of Haiti suffer and continue to live in poverty.

On March 5, 2003, I introduced H.R. 1108, the Access to Credit for Haiti’s Development Act. This bill would require the United States to use its voice, vote and influence to urge the Inter-American Development Bank to immediately resume lending to Haiti, disperse all previously approved loans, assist Haiti with the payment of its existing debts and consider providing Haiti debt relief. The Access to Capital for Haiti’s Development Act would allow Haiti to build roads and infrastructure and provide basic education and health care services to the Haitian people. This bill currently has 24 cosponsors.

The United States is now spending billions of dollars to rebuild Iraq. Earlier this month, this Congress passed a Supplemental Appropriations Act that contained $1.7 billion to rebuild Iraq’s infrastructure. That bill included funds for health care services for 13 million Iraqis and financed the repair or reconstruction of 25,000 schools, 20,000 houses and 3,000 miles of roads in Iraq. The bill also contained assistance for Colombia, Afghanistan, Israel, Jordan, Turkey, and the Eastern European countries of Poland, Hungary, the Czech Republic, Slovakia, Estonia, Latvia, Lithuania, Romania, Slovenia and Bulgaria. Debt relief for Iraq is being discussed by officials of the Paris Club of creditor countries. Some Members of Congress have even suggested that France, Germany, and Russia can best contribute to the reconstruction of Iraq by the forgiveness of Iraq’s debts.

Haiti is a deeply impoverished country on an island just off our shores. We cannot provide assistance to countries all over the world while ignoring the needs of people so close to our border. It is time for the United States and the Inter-American Development Bank to resume lending to Haiti and provide debt relief and development assistance to this impoverished country.

Mr. RANGEL. Mr. Speaker, today, like many members of the Congressional Black Caucus, I am moved to speak about the humanitarian and economic situation of the people of Haiti. It is no secret that the people there are suffering greatly. Haiti is the poorest country in the western hemisphere. About 70 percent of its 7.5 million population unemployed and 80 percent living in poverty. HIV/AIDS is devastating the country, with roughly 1 in 12 Haitians infected with HIV and the Center for Disease Control predicting 44,000 new HIV/ AIDS cases this year. Additionally, AIDS has orphaned over 200,000 children, and that number is expected to increase to 350,000 over the next ten years.

While there are many explanations for the current situation in Haiti, it is clear that the leadership in government and the obstinate community disagree as to the cause and the solution. Regardless of who is to blame, the people of Haiti continue to suffer and I believe that it is time for their suffering to end. We must provide assistance to provide jobs and hope for the people of Haiti.

It is for this reason that I, in conjunction with Congressman JOHN CONyers, Jr., introduced the Haitian Economic Recovery (HERO) Act, which would help in moving Haiti towards economic stability by providing labor and trade opportunities, through investment in the apparel and other assembly industries. For similar reasons, I cosponsored the Haiti Aid in Transition Initiative and Access to Capitols for Haiti bills offered by my colleagues Congresswoman BARBARA LEE and MAXINE WATERS. Both of these bills urge that previously approved loans, totaling $146 million dollars in humanitarian assistance, be released to Haiti.

I sincerely believe that the opportunity for change is ripe in Haiti and that an opportunity still exists to overcome the obstacles that have blocked the economic assistance so desperately needed by Haiti to relieve its humanitarian crisis. I know that this requires that the Haitian government resolve the alienation of the international community by further demonstrating that it is on the road to resolving its political and human rights concerns. I believe that it is still possible for both the U.S. and Haitian governments to work together to meet these goals. I will continue to do what I can to support the delivery of food, medicines, and other essentials to Haiti that I know are desperately needed.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in solidarity with my colleagues on the Congressional Black Caucus, to speak against the United States’ unfair treatment of the people of Haiti.

Haiti is one of the most impoverished countries in the western hemisphere and the fourth poorest country in the world. There are 8.3 million people living in Haiti.

The people of Haiti are also facing a severe medical crisis as a result of their poverty. Haiti is the home of 90% of all HIV/AIDS patients in the Caribbean. Over 200,000 Haitian children will be orphaned by HIV/AIDS. Child mortality rates in Haiti are also extremely high. For every 1,000 births in Haiti, 74 infant deaths will occur.

The social conditions in Haiti are as deplorable as the medical condition. Of the millions of Haitian residents, only 46% have access to clean drinking water. Furthermore, 53% of all Haitian residents are malnourished. Despite our close proximity to Haiti, and the widespread publication of the social and medial plight of Haitian residents, the U.S. government has insisted on blocking humanitarian aid. The U.S. government is attempting to shape the political landscape in Haiti to the severe detriment of the innocent people of Haiti.

The United States government owes Haiti substantial funds in foreign aid. Substantial loans have been negotiated for the people of Haiti. Some estimates have the loans valued at as much as $146 million dollars. The United States government is delaying the disbursement of these funds to advance their political aims. While the U.S. government stubbornly maintains these restrictive policies the people of Haiti are suffering and dying.

The U.S. government has promised Iraq $80 billion in aid to rebuild their war torn country. The people of Haiti have suffered as well. But instead of providing much needed aid, the U.S. government blocks humanitarian efforts and refuses to honor outstanding loans.

Mr. Speaker, it is a disgrace that our Congress stands by while the people of Haiti suffer and die. I join my colleagues on the Congressional Black Caucus in imploring the U.S. government to let Haiti live.

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

SPECIAL ORDERS GRANTED

By unanimous consent, leave of absence was granted to:

Mr. KINGSTON (at the request of Mr. DELAY) for today on account of attending a memorial service for 34 members of the Third Infantry Division based at Fort Stewart, Georgia, who were killed in Operation Enduring Freedom.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. OSBORNE, for 5 minutes, today.

Mr. CASE, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. HINCHey, for 5 minutes, today.

Mr. JOHNSON of North Carolina, for 5 minutes, today.

Mr. BISHOP, for 5 minutes, today.

The following Members (at the request of Mr. VAN HOLLEN) to revise and extend their remarks and include extraneous material:

Mr. PALLONE, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

Ms. JACKSON-LEE, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. OSBORNE, for 5 minutes, today.

Mr. CASE, for 5 minutes, today.

SENATE BILL REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker’s table and, under the rule, referred as follows:
## EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for speaker-authorized official travel during the third and fourth quarters of 2002 and the first quarter of 2003, pursuant to Public Law 95–364 are as follows:

### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, HON. RICK BOUCHER, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN FEB. 15 AND FEB. 23, 2003

<table>
<thead>
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<th>Name of Member or employee</th>
<th>Arrival</th>
<th>Departure</th>
<th>Country</th>
<th>Per diem 1</th>
<th>Transportation</th>
<th>Other purposes</th>
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1. Per diem constitutes lodging and meals.
2. If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
3. In Euro currency.
4. Military air transportation.

### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND THE WORKFORCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002

<table>
<thead>
<tr>
<th>Name of Member or employee</th>
<th>Arrival</th>
<th>Departure</th>
<th>Country</th>
<th>Per diem 1</th>
<th>Transportation</th>
<th>Other purposes</th>
<th>Total</th>
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1. Per diem constitutes lodging and meals.
2. If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
3. To participate in Congressional delegation of Hon. David L. Hobson.
4. Military air transportation.

### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2002

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<th>Transportation</th>
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1. Per diem constitutes lodging and meals.
2. If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
3. Military air transportation.
### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002

<table>
<thead>
<tr>
<th>Name of Member or employee</th>
<th>Arrival</th>
<th>Departure</th>
<th>Country</th>
<th>Per diem</th>
<th>Transportation</th>
<th>Other purposes</th>
<th>Total</th>
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<td>11/26</td>
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<td>1/18</td>
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<tr>
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<td>587.00</td>
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<td>Hon. Anthony Weiner</td>
<td>1/12</td>
<td>1/18</td>
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<td>1/12</td>
<td>1/18</td>
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**Notes:**
1. Per diem constitutes lodging and meals.
2. If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
3. Military air transportation.

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### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2003

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<th>Per diem</th>
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<td>1/20</td>
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**Notes:**
1. Per diem constitutes lodging and meals.
2. If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
3. Military air transportation.

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### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2003

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<th>Transportation</th>
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<td>Australia</td>
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**Notes:**
1. Per diem constitutes lodging and meals.
2. If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

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REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2003


REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON RESOURCES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2003


REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2003

RICHARD POMBO, Apr. 9, 2003.
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<th>Name of Member or employee</th>
<th>Arrival</th>
<th>Departure</th>
<th>Country</th>
<th>Per diem 1</th>
<th>Transportation</th>
<th>Other purposes</th>
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1 Per diem constitutes lodging and meals.
2 If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
3 Returned $1,676.
4 Returned $1,494.

**REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2003—Continued**

**REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SMALL BUSINESS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2003**

**REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2003**

**REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, JOINT COMMITTEE ON TAXATION, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2003**

**REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2003**

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1 Per diem constitutes lodging and meals.
2 If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
3 Military air transportation.

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1 Per diem constitutes lodging and meals.
2 If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
3 Returned $1,676.
4 Returned $1,494.
EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker’s table and referred as follows:

1938. A letter from the Assistant Secretary, Department of Education, transmitting Final Priority — Rehabilitation Engineering Research Centers Program, pursuant to 20 U.S.C. 1230f; to the Committee on Education and the Workforce.


1951. A letter from the General Counsel, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1952. A letter from the General Counsel, Office of Management and Budget, transmitting a report pursuant to the Federal Vacancies Reform Act of 1996; to the Committee on Government Reform.

1953. A letter from the President and CEO, Overseas Private Investment Corporation, transmitting copies of several reports from the Corporation; to the Committee on Government Reform.


1955. A letter from the Acting Chair, Federal Subsistence Board, Fish and Wildlife Service, Department of the Interior, transmitting the Department’s final rule — Subsistence Management Regulations for Public Lands in Alaska, Subpart D — Subsistence Taking of Fish, Customary Trade (RIN: 1018-A131) received April 24, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1956. 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 the West Yakutat District of the Gulf of Alaska.

April 30, 2003

CONGRESSIONAL RECORD — HOUSE

H3569

[Submitted April 30, 2003]

Mr. LINCOLN DIAZ-BALART of Florida: Committee on Rules. House Resolution 210. Resolution providing for consideration of the bill (H.R. 1859) to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes (Rept. 108-80). Referred to the House C:

Mr. SMITH of New Jersey: Committee on Veterans' Affairs. H.R. 100. A bill to restate, clarify, and revise the Soldiers' and Sailors' Civil Relief Act of 1940 (Rept. 108-81). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. MANZULLO (for himself and Ms. VELAZQUEZ of Illinois): H.R. 1873. A bill to amend the Internal Revenue Code of 1986 to provide that the deduction for the health insurance costs of self-employed individuals be allowed in determining self-employment tax; to the Committee on Ways and Means.

By Mr. MARKEY of Massachusetts (for himself and Mr. SMITH of New Jersey): H.R. 1874. A bill to establish a demonstration project to clarify the definition of eligibility for persons determined for purposes of determining eligibility for home health services under the Medicare Program, and to conditionally authorize that clarification; referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. By Mr. LANTOS (for himself, Mr. HYDE, Mr. BERMAN, Mr. BERETTA, and Mr. ACKERMAN): H.R. 1875. A bill to strengthen the missile proliferation laws of the United States, and for other purposes; referred to the Committee on International Relations.

By Mr. ANDREWS: H.R. 1876. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to provide, in the case of an employee welfare benefit plan providing benefits in the event of disability, retirement, or death, no preemption under such title for State tort actions to recover damages arising from the failure of the plan to timely provide such benefits; to the Committee on Education and the Work:

By Mr. ANDREWS: H.R. 1877. A bill to amend chapter 99 of title 5, United States Code, to make available to Federal employees the option of obtaining health benefits coverage for dependents to the Committee on Government Reform.

By Mr. ANDREWS: H.R. 1878. A bill to amend the Federal Election Campaign Act of 1974 to provide for public funding for House of Representatives elections, and for other purposes; to the Committee on House Administration.

By Mr. ANDREWS: H.R. 1879. A bill to direct the National Highway Transportation Safety Administration to promulgate standards for the use of motorized skateboards; to the Committee on Transportation and Infrastructure.

By Mr. ANDREWS: H.R. 1880. A bill to amend title XVIII of the Social Security Act to provide certain Medicare beneficiaries living abroad a special

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper committee:

[Omitted from the Record of January 2, 2003]

Mr. NUSSELE: Committee on the Budget. Activities and Summary Report of the Committee on the Budget During the 107th Congress (Rept. 107-81). Referred to the Committee of the Whole House on the State of the Union.
Medicare part B enrollment period during which the late enrollment penalty is waived and a special Medigap open enrollment period during which no underwriting is permitted; referred to the Committee on Ways and Means, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BURRESS:
H.R. 1883. A bill to amend the Internal Revenue Code of 1986 to simplify certain provisions applicable to real estate investment trusts; to the Committee on Ways and Means.

By Mr. PAUL:
H.R. 1901. A bill to amend the Clean Air Act to prohibit liability for the effects of emissions and discharges resulting from or caused by an act of nature, and for other purposes; referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAYNE:
H.R. 1902. A bill to provide authorizations of appropriations for fiscal years 2004 to 2006 for the activities to end the continuing menace of polio; referred to the Committee on Energy and Commerce, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PETRI (for himself, Mr. KIND, Ms. SENSENBRENNER, Mr. GREEN of Wisconsin, Ms. BALDWIN, and Mr. RYAN of Wisconsin):
H.R. 1903. A bill to amend the Age Discrimination in Employment Act of 1967 with respect to voluntary early retirement benefits; to the Committee on Education and the Workforce.

By Mr. RANGEI (for himself, Mr. STARK, Mr. MATSUI, Mr. LEVIN, Mr. CARDIN, Mrs. MCPERMUTT, Mr. KLECZKA, Mr. LEWIS of Georgia, Mr. NEAL of Massachusetts, Mr. JEFFERSON, Mr. BECERRA, Mr. POMEROY, Mr. SANDLIN, Mrs. JONES of Ohio, and Ms. DELAURO):
H.R. 1904. A bill to prohibit the implementation of discriminatory precertification requirements for the earned income tax credit; to the Committee on Ways and Means.

By Mr. ROTHMAN (for himself, Mr. HOLT, Ms. NORTON, Mr. PALLONE, Ms. MCPERMUTT of Florida, Mr. WEXLER, Ms. KILPATRICK, Ms. SLAUGHTER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MCNULTY, Ms. BALDWIN, Mrs. CAPPS, Mr. BROWN of Ohio, Mr. SERRANO, Mr. MCGOVERN, Mr. RANGEI, Ms. MCCULLUM, Mr. MILLER, Mr. KLEIN, Mr. LINDA T. SANCHEZ of California, Mr. DOGGETT, Mr. UDALL of New Mexico, and Mr. CUMMINGS):
H.R. 1905. A bill to amend Federal crime grant programs relating to domestic violence to encourage States and localities to implement gun confiscation policies, reform stalking laws, establish domestic violence courts, and hire additional personnel for entering protection orders, and for other purposes; to the Committee on the Judiciary.

By Mr. SHAW (for himself, Mr. MATSUI, Mr. MCINNIS, and Mrs. JONES of Ohio):
H.R. 1906. A bill to amend the Internal Revenue Code of 1986 to provide for S corporation reform, and for other purposes; to the Committee on Ways and Means.

By Mr. WEINER:
H.R. 1907. A bill to amend the Internal Revenue Code of 1986 to repeal the inclusion in gross income of social security benefits; to the Committee on Ways and Means.

By Mr. WEINER:
H.R. 1908. A bill to amend the Low-Income Home Energy Assistance Act of 1981 to extend energy assistance to households headed by certain senior citizens; referred to the
CONGRESSIONAL RECORD—HOUSE

H3571

April 30, 2003

Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska:
H.R. 1899. A bill to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act of 1971; to the Committee on Natural Resources.

By Mr. MENENDEZ:
H.R. 1266. Mr. Gary G. Miller of California, Mr. Skelton, Mrs. Kelly, Mr. Duncan, and Mrs. Capito.

By Mr. DOGGETT:
H.R. 1276. Mr. Val Zabala of Texas, Mr. Meehan, Mr. Newhouse, and Mrs. 思・총.

By Mr. NITTI:
H.R. 1287. Mr. Hoyer and Mr. Ackerman.

By Mr. DEFIANCE:

By Mr. STARK:
H.R. 1294. Mr. Holt, Mr. Bishop of Utah, Mr. Miller of Florida, Mrs. Christensen, Ms. Harris, Mr. Frelinghuysen, Ms. Murphy, Ms. Moran of Virginia, Mrs. McCarthy of New York, Mrs. Capito, Mr. Thompson of Mississippi, and Mrs. Stupak.

By Mr. BISHOP of New York (for himself, Mr. WAXMAN, Mrs. CHRISTENSEN, Mr. GRIJALVA, Mr. MEEHAN, Ms. JACKSON-LEE of Texas, Mr. WATT, Mr. LEHTINEN, Mr. LICOLN DIAZ-BALART of Florida, Mr. FATTAH, Ms. MAJETTE, Mr. TANNENBAUM, and Mr. BEREUTER).
H.R. 1323: Mr. Cummings and Mr. Goode.
H.R. 1340: Mr. Meehan and Mr. Olver.
H.R. 1367: Mr. Etheridge.
H.R. 1372: Mr. Inslee, Mr. Bishop of Utah, Mr. Doolittle, Mr. Royce, Mr. Walden of Oregon, and Mr. Flake.
H.R. 1373: Mr. Pitts, Mr. Tancredo, and Mr. Doolittle.
H.R. 1385: Ms. Lee, Mr. Lucas of Kentucky.
H.R. 1387: Mr. Pitts, Mr. Tannen, Mr. Doolittle.
H.R. 1393: Ms. Velazquez, Mr. Frost, Mr. Allen, and Ms. Eddie Bernice Johnson of Texas.
H.R. 1414: Mr. Brown of Ohio.
H.R. 1422: Mr. Hoeft, Mr. Engel, Mr. Jeffers, Ms. Kaptur, Mr. Green of Wisconsin, Mr. Dick, Mr. Crenshaw, Mr. Payne, and Mr. Peterson of Minnesota.
H.R. 1426: Mr. Renzi, Mr. Stupak, Mr. Towns, Mr. Pallone, and Mr. Faleomavaega.
H.R. 1443: Mr. Boehner.
H.R. 1472: Ms. Ros-Lehtinen, Mr. McNulty, Mr. Lipinski, Mr. Wamp, Mr. Udall of Colorado, and Mr. LaHood.
H.R. 1479: Mr. McCaul, Mr. Kieferm, Mr. Gordon, Mr. Coleman, Mr. Franks of Arizona, and Mr. Brown.
H.R. 1516: Mr. Mica, Mr. Issa, Mr. Filner, Ms. Brown-Waite of Florida, Mr. Farr, Mr. Walsh, and Mr. Rohrabacher.
H.R. 1536: Mr. Neal of Massachusetts.
H.R. 1576: Mr. Bell and Ms. Lee.
H.R. 1615: Mr. Crowley.
H.R. 1634: Ms. Johnson of Illinois, Mr. McHugh, Mrs. McCarthy of New York, Mr. Hinchey, Mr. Andrews, Mr. Tancredo, Mr. Vitter, Mr. Jefferson, Mr. Nethercutt, and Mr. Calvert.
H.R. 1635: Mr. Garamendi.
H.R. 1638: Mrs. Jo Ann Davis of Virginia, Mr. Sandlin, and Mr. Ryan of Ohio.
H.R. 1647: Mr. Houghton and Mr. Frank of Massachusetts.
H.R. 1652: Mr. Brown of Ohio, Ms. Corrine Brown of Florida, Mr. Kildee, Mr. Grijalva, Mr. Michaud, Ms. Norton, Mr. Olver, Mr. Ryan of Ohio, Ms. Baldwin, Ms. Kilpatrick, Ms. Schakowsky, Ms. Woolsey, Mr. Owens, Mr. Blumenauer, Mr. Waxman, Mr. Sherman, Mr. Deutch, Mr. Bishop of New York, Mr. Rodriguez, Mr. Gordon, Mr. Costello, Ms. Delauro, Mr. Udall of Colorado, and Mr. Cardozzo.
H.R. 1674: Mr. King of Iowa, Mr. Hinojosa, Mr. Gordon, Mr. Costello, Mr. Camp, Mr. Otter, Mr. Cramer, Ms. Emerson, Mr. Latham, Mr. Frost, Mr. Peterson of Minnesota, Mr. Rahall, and Mr. Turner of Texas.
H.R. 1676: Mr. Davis of Illinois and Mr. Sandlin.
H.R. 1708: Mr. Matheson, Mr. Langevin, Mr. Young of Alaska, Mr. Ney, Mr. Baca, Mr. Hayes, Mr. Simmons, Mr. Mchugh, Ms. Ginni Brown-Waite of Florida, Mr. Farr, Mr. Walsh, and Mr. Rothman.
H.R. 1723: Mr. Faleomavaega and Mr. Owens.

PETITIONS, ETC.
Under clause 3 of rule XII, 11. The SPEAKER presented a petition of Board of Supervisors of Rockingham County, Virginia, relative to a Resolution petitioning the United States Congress to recognize the sacrifices being made by our citizens to protect the cause of freedom throughout the world; which was referred to the Committee on Armed Services.
The Senate met at 10 a.m. and was called to order by the Honorable LINDSEY O. GRAHAM, a Senator from the State of South Carolina.

The PRESIDING OFFICER. Our morning prayer will be offered by the Reverend Canon Martyn Minns, Truro Episcopal Church of Fairfax, VA.

PRAYER

The guest Chaplain offered the following prayer:

Almighty God, You have given us this good land for our heritage, and You have blessed us with freedom, peace, and prosperity. Save us from pride and arrogance that we may be a people of peace among ourselves and a blessing to other nations of the Earth.

We ask that You direct the women and men of this Senate as they take counsel together and enact laws to govern this Nation. Give them wisdom to discern what is pleasing in Your sight and the courage to follow Your will. Remind them of Your love for the poor and oppressed, for those in prison, for children who are at risk, for refugees, and for those whose lives are without hope because of ill health or joblessness.

Protect them from selfish desires and petty divisions. Grant them the desire to do only those things that will glorify Your name and provide for the welfare of all Your people.

All this we pray because of the love first shown to us in the call of Abraham and Sarah and now revealed to us in the life and witness of Jesus the Christ. Amen.

PLEDGE OF ALLEGIANCE

The Honorable LINDSEY O. GRAHAM 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.
to a similar competition here in the Senate between my good friend and colleague, Senator Gregg. As to that outcome, let me just say I am looking forward to my lobster and maple syrup. I will be presenting this very stylish Minnesota men’s hockey Golden Gopher colors to my good friend, the senior Senator from New Hampshire, for him to wear proudly as a sign of the great triumph for the people of Minnesota over the folks from New Hampshire. On behalf of all Minnesotans, I am pleased to add his colors to his wardrobe and, again, I look forward to his wearing this good-looking gopher tie on one of his many high profile days in the Senate.

I am proud to stand today to commend the Golden Gophers hockey team for winning the national championship and to recognize the outstanding achievements of all the team players, their coach Don Lucia and his staff.

I yield.

The acting President pro tempore, the Senator from Minnesota.

Mr. DAYTON. I rise with my colleague on the morning after a difficult night for Minnesota sports fans with both of our teams, the Timberwolves and the Wild, losing playoff games at home. This is a way to remind ourselves of days of former glory, and certainly with my distinguished colleague, Senator COLEMAN, who was instrumental and probably deserves more credit than any other person in Minnesota for bringing professional hockey back to St. Paul and Minnesota. The Minnesota Wild, which is now in its third year, is performing so well, it is fitting that we can rise together here for the second time this year to pay tribute to a Minnesota team, its collegiate hockey team; in this case, the Golden Gophers of the University of Minnesota, who have repeated now as national champions for the second time, the men’s championship, the second straight year. Once again, they accomplished this with almost entirely Minnesota talent.

Some people ask why it took 23 years—from 1979 to 1992—when the CCHA—recruited extensively in Minnesota, and even eastern hockey spent heavily on Canadian talent. In my days of playing, in the 1960s, for example, in Division I hockey, it was used to be said that Canadian boys dominated the National Hockey League, and if those hopes and dreams were dashed, they went on to college in the United States.

Despite all that fierce competition for the talent and the pressures on that team, Coach Don Lucia has built, in just 5 years, an extraordinary program, a world class program in Minnesota that has restored collegiate hockey to its rightful place, at the very top in Minnesota. It is a real tribute to Coach Lucia and his entire team, all the players who performed extraordinarily well under the circumstances, and who are now, once again, the national collegiate champions.

It is Senator COLEMAN’s and my hope that the President will be gracious enough to invite our two teams, the University of Minnesota Golden Gophers men’s team and the University of Minnesota Duluth women’s team, to the White House for lunch as he had in the previous year with both teams, and before that with the women’s team.

I went to college with the President. He was a year ahead of me, and he was not a hockey player. He was a rugby player. He was a sports fan. He roomed in college with a college All-American from Minnesota, Jack Morrison. He was a frequent attendee at our hockey games at Yale University. Two years ago when the Timberwolves won the first championship, the President was gracious and responded instantaneously and invited the women’s team, as he had previously invited the men’s championship team from Boston College, to be feted at the White House. It could not have been a more exciting moment for the players, their families, friends, and the coaches at the University of Minnesota Duluth. Last year, we had the good fortune of having both coaches brought to the White House. The President was gracious enough to invite them both, along with the families, friends, and coaches, to the White House.
Senator COLEMAN and I have put in our request and soon expect that the President will be gracious enough to once again invite the teams and commends all those who play sports throughout the Nation, such as hockey, as they should be played—with all the enthusiasm and the best of their talent and ability, learning the values of sportsmanship, teamwork, competition. Sometimes they don’t come out as well as they would like, but every once in a while they may reach the pinnacle or we do not succeed together, and that Americans. Ultimately, we all succeed reminded that at our core all of us are Democrats, but occasionally we need to be conscious of our leaders, his poise, and his presence when facing the heads of state when we had those meetings in China, South Korea, and Taiwan.

Mr. DAYTON. Mr. President, I want to share some of my experiences over the last 2 weeks as part of a bipartisan delegation of Senators who traveled to Japan, Taiwan, South Korea, and China. Upon my return to Minnesota last week, directly from Beijing, I never had so many inquiries from people meeting with me as to my health and well-being. Fortunately, I assured them I was not carrying SARS, which is something to be taken obviously very seriously.

The trip was led by our Senate majority leader BILL FRIST, and was led extraordinarily well by him. I cannot say enough to reflect my respect and admiration for his demeanor, his leadership, his poise, and his presence when facing the heads of state when we had these meetings in China, South Korea, and Taiwan.

We may be Republicans and Democrats, but occasionally we need to be reminded that at our core all of us are Americans. Ultimately, we all succeed or we do not succeed together, and that was certainly the spirit of this bipartisan delegation of five Republican Senators and three Democratic Senators. We got along very well. I do not think there was a cross word among us. We enjoyed very much the privilege of representing the United States of America as we did, and I believe under Senator Frist’s leadership we did so responsibly and hopefully honorably.

After careful consideration, at the end of our trip, the principal reason we decided to go through with our plans to go to China was the opportunity it presented to meet with the new Chinese leaders, particularly to discuss the situation concerning North Korea’s nuclear weapons program. We certainly carefully considered and Senator Frist, of course, being a doctor, was in the forefront of considering very carefully the exposure we would have, the risks that would be entailed in regard to SARS. We took every possible precaution. I washed my hands and face more often than I usually do in about 2 weeks in Minnesota. So far, knock on wood, it seems to have been effective.

As I said, we believed the opportunity to converse directly with the new President of China, Hu Jintao, as well as the other new Chinese leadership, and to press upon them the urgency we felt about resolving the nuclear situation in North Korea was worth that trip, and it proved to be true. I was pleasantly surprised to learn that, in fact, China shares our goal, as their leadership expressed several times, to bring about a nuclear-free Korean peninsula, and that position which was stated by them was corroborated by our Ambassador, Clark T. Randt, Jr., who apparently was a classmate of the President who appointed him, President Bush. Both of them, it turns out, were fraternity brothers of mine back in college.

I had a chance to reminisce with him. He reassured all of us that the Chinese Government had been very influential in bringing North Korea to the negotiating table. Last week, the trilateral talks that commenced in Beijing. They could have been more timely but at least the talks are underway. Hopefully, they will continue actively with the top-level attention they certainly need. It was a signal of a great opportunity to work in partnership with the new Chinese Government to reach the shared objective of ridding North Korea of its nuclear weapons and to create a nuclear-free Korean peninsula. What a great way to build a partnership for the next 10, 20 years, which is what this Government in China now professes it wants to do. With President Hu said himself their primary objective for the next two decades is to increase and expand the economic progress that has been made in their country, to raise the standard of living of more and more of their citizens through the United States and other foreign investment through additional trade and economic growth there which has been staggering in the last 10 to 15 years. As they pointed out, especially with the middle and western parts of the country, so much more needs to be done to bring those areas up to the eastern seaboard, mainland of China.

That, hopefully, will be their priority and one that will serve to increase the likelihood of peace and economic and international security throughout the world. There would be nothing we could do that would be any more beneficial to our national interests than to encourage their economic progress and to build a relationship that is economic and cultural. As they have resolved their current health crisis, and also provide the strong influence of both countries for peaceful resolution of the situation in North Korea and others that will arise inevitably in that part of the world.

They also stressed, as did the South Korean and Taiwanese Governments, the importance of peacefully resolving the situation in North Korea. Anyone who believes a military resolution would be advisable should go over and meet with the leaders of those three respective countries—South Korea, Taiwan, and Japan, as well. From the leadership with whom we met there, there is no one in that part of the world in responsible positions who wants to see a military threat or military action initiated there.

There has been a great deal of economic progress in the areas of South Korea and Taiwan. While claiming to suffer from the worldwide economic slowdown, they are realizing in those countries, from 3.5– to 5-percent growth annually, something that certainly this country and other nations in the world would be delighted to achieve. Furthermore, that is a situation that, if kept in perspective, they have not had heretofore and economic and social problems and welfare and safety net problems they have not had to deal with for the last decade. They also have a vital stake in having North Korea’s nuclear program eliminated, as the President has said properly so, but continued so in a way that does not threaten the security and the stability of the region of the world.

We also had the opportunity to travel to the demilitarized zone between North Korea and South Korea and had dinner with the 2nd Army Division—"second to none" is one of their mottos, and appropriately so. They are second to none in their dedication and courage and commitment for being there. We stood right there on the DMZ and looked, as they do night after night, across the border. Another motto of theirs is "fight tonight." They are in a constant State of readiness and alert, and all Americans should be mindful and respectful and enormously grateful to those brave men and women who put their lives on the line day and night, one after the other, without the kind of recognition their compatriots get in other parts of the globe—just as well trained, just as well prepared, every bit as willing to stand and defend the beacon of freedom in Korea as our forces have done so outstandingly in Iraq and previously in Afghanistan and anywhere else in the world.

That is a reminder, once again, that freedom is priceless, but it is not free. It has to be won and preserved through dedication of the brave men and women in the 2nd Army Division. And to all of them, and their leader, GEN Leon LaPorte, commander of the United Forces in Korea, we all have the utmost respect and admiration. It reminded me why I introduced, along with Senator SESSIONS last year,
legislation that would provide for financial incentive for troops involved, particularly those who reenlist in areas of the world such as Korea where they are separated from their families for long periods of time. It is one of the most difficult places in the military, we are told, by the commanders, in which to recruit and especially re-recruit men and women to serve terms of duty because of the hardships, because of the additional costs that have to be borne because usually their families are left behind that involves two parallel tracks of expenses—separation and phone bills. Senator Sessions and I proposed an income tax exemption for troops who serve in far-flung areas of the world such as Korea. I will renew my efforts this year to see that legislation enacted because it is the least we can do and the least that is deserved by these brave men and women.

The commanders in those areas have asserted it would be invaluable in recruitment efforts. I see the real leader and the commander of the Senate when it comes to the Armed Services, my very distinguished chairman of the committee on which I am proud to serve, the chairman of the Senate Armed Services Committee, the Senator from Virginia, I yield the floor.

Mr. WARNER. Before my colleague departs, I commend him for the interest the Senator has taken in the men and women of the Armed Forces, the national security policy of this country as a Member of the Senate Armed Services Committee. Well done, sir.

I have been privileged to be on that committee for every year of my 25th year in the Senate, and the personal rewards from it for the association that the Senator has as a member of the committee with the men and women in uniform is beyond expectation. I thank the Senator and the service.

The remarks of Mr. WARNER and Mr. DAYTON pertaining to the introduction of S. 951 are located in today’s RECORD under “Statements on Introduced Bills and Joint Resolutions.”

Mr. WARNER. I thank the Presiding Officer for his courtesies, and I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the amendment numbered 532 be agreed to.

Mr. ALLEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To ensure that the assistance is focused on supporting science, mathematics, engineering, and technology at eligible institutions, and provide for appropriate review of grant proposals.)

On page 2, strike lines 2 and 3, and insert the following:


On page 3, strike lines 1 through 5, and insert the following:

(2) to develop and provide educational services, including faculty development, related to science, mathematics, engineering, or technology;

On page 3, line 18, after ‘development’ insert ‘in science, mathematics, engineering, or technology’.

On page 4, line 18, after ‘accept’ insert ‘and review’.

On page 4, line 21, strike ‘section 3.’ and insert section 3, and for reviewing and evaluating proposals submitted to the program.”

On page 5, line 7, after ‘issues.’ insert ‘Any panel assembled to review a proposal submitted to the program shall include members from minority serving institutions. Program review criteria shall include consideration of—’

(1) demonstrated need for assistance under this Act;

(2) diversity among the types of institutions receiving assistance under this Act.”.

Mr. ALLEN. Mr. President, I ask unanimous consent that the managers’ amendment be agreed to on S. 196.

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

The amendment (No. 532) was agreed to.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 1 hour for debate to be equally divided by the Senator from Virginia, Mr. ALLEN, and the ranking member, with 5 minutes of the time under majority control for the Senator from Arizona, Mr. MCCAIN.

The Senator from Virginia is recognized.

Mr. ALLEN. Mr. President, Senator McCain, the chairman of the Commerce Committee, is tied up right now, but I thank him for his thoughtful leadership and his continued effort and dedication on this important bipartisan measure.

I rise today to respectfully urge my colleagues to support S. 196, the minority-serving institutions Digital and Wireless Technology Opportunity Act of 2003. This legislation will provide vital resources to address the technology gap that exists at many minority-serving institutions. It establishes a new grant program within the National Science Foundation that provides annually for 5 years up to $250 million to help historically black colleges and universities, Hispanic serving institutions, and tribal colleges to close what is often called the digital divide, which, in fact, what it really is an “economic opportunity divide.”

Since the days before I was elected to the Senate, my goal was to look for ways to improve education and empower all our young people, regardless of race, ethnicity, gender, religious beliefs, or their economic background, so that they can compete and succeed in life.

Additionally, I strongly believe we need to embrace the advancements and innovations in technology—especially as a means to provide greater opportunities or security for Americans.

In my view, increasing access to technology provides our young people with an important tool for success, both in the classroom and in the workforce.

We all know that the best jobs in the future will go to those who are the best prepared. However, I am increasingly concerned that when it comes to high-technology jobs, which pay higher wages, this country runs the risk of economically limiting many college students in our society. It is important for all Americans that we close this opportunity gap.

Now, we know the demand for workers with skills in science and technology continues to grow. Unfortunately, since 1986, the number of bachelor degrees awarded in the physical sciences has dropped 29 percent, mathematics is down 19 percent, and engineering is down 21 percent.

We also know that information technology companies are still relying on H-1B visas and using foreign workers to fill important IT jobs and positions. I want to be clear that I am not against legal immigration, but I say let’s properly educate and train Americans so that they can get those good high-technology jobs.

Now, minority-serving institutions, when one looks at them, still lack desired information and digital technology infrastructure in many cases. I encourage my colleagues to read the Commerce Committee report findings on minority-serving institutions’ technology deficiencies.
I will share with you some of the pertinent facts from this report and, in particular, a study completed by the Department of Commerce and the National Association for Equal Opportunity in Higher Education, which indicated that minority-serving historically black colleges and universities or a university requires computer ownership for their undergraduate students; 13 HBCUs reported having no students—not one—owning their own personal computer; over 50 percent of the students at historically black colleges and universities rely on the college or the university to provide computers, but only 50 percent of those universities can provide their students with access to computers and computer labs, libraries, classrooms, or other locations; most of these minority-serving colleges do not have the private foundation resources to provide financial support to upgrade their network infrastructure.

So it is not surprising that most HBCUs do not have high-speed Internet access, especially the desired ATM or asynchronous transfer mode technology and that only 3 percent of historically black colleges and universities have financial aid available to help students close the computer ownership gap.

Access to the Internet is no longer a luxury, it is a necessity. Because of the rapid advancement and growing dependence on technology, being technologically proficient has become essential to educational achievement. The fact is, 60 percent of all jobs require information technology skills. Jobs in information technology pay significantly higher salaries than jobs in the noninformation technology fields. Thus, students who lack access to these information technology tools are at an increasing disadvantage. Consequently, it is vitally important that all institutions of higher education provide students with access to the current IT and digital equipment. It would also help those universities to attract professors if they have that equipment to help them impart that knowledge to their students.

This proposed technology program will allow eligible historically black colleges and universities, Hispanic-serving institutions, and tribal institutions the opportunity to acquire equipment, networking capability, hardware and software, material, network technology, and wireless technology and infrastructure, such as wireless fidelity, or Wi-Fi, to develop and provide educational services. Additionally, the funds in this bill could be used to offer students much needed universal access to campus networks, dramatically increasing their connectivity rates or make necessary infrastructure improvements.

At the request of some of my colleagues, we recently added provisions to assure that diversity among those minority-serving institutions includes public and private colleges and universities, both 2-year and 4-year institutions, and public and private postsecondary technical institutions.

Under Chairman McCain’s leadership, and with the ranking member, Senator Hollings, and colleagues from across the aisle, the Commerce Committee heard the presentations of several representatives of various colleges and universities representing each of the major national associations—the Hispanics Association of Colleges and Universities, the American Indian Higher Education Consortium, and the United Negro College Fund—and various colleges and universities for Equal Opportunity in Higher Education, the United Negro College Fund, and also we heard specifically from former Congressman Floyd Flake, who is president of Wilberforce University; and Dr. Marie McDonough, president of Norfolk State University; Dr. William DeLauer, president of Delaware State; Dr. Ricardo Fernandez, president of Herbert Lehman College in New York; and Dr. Cary Monette, president of Florida A&M University at Tallahassee Community College testified in support of S. 156.

In testimony before the committee, it was estimated that in 10 years minorities will comprise nearly 40 percent of all college-age Americans, and three-fourths of all African Americans with undergraduate degrees, earned them from an HBCU. According to the Hispanic Association of Colleges and Universities, their institutions educate two-thirds of the 1.6 million Hispanic Americans enrolled in higher education today.

There are over 200 Hispanic Serving Institutions: over 100 Historically Black Colleges and Universities and 31 tribal colleges throughout our country. It is clear that minority-serving institutions in the United States are providing a valuable service to the educational strength and future growth of our Nation. And these institutions must upgrade their technology capabilities for their students.

I am proud to say Virginia is home to five HBCUs—Norfolk State University, St. Paul’s College, Virginia Union University, Hampton University, and Virginia State University.

I will continue to look for ways to improve education, create new jobs, and seek out new opportunities to benefit the people of my Commonwealth and indeed our entire Nation. By improving technology-education programs in minority-serving institutions, we can accomplish all of these goals for students throughout our Nation.

S. 156 is also supported by the technology industry—The Information Technology Association of America; Computer Associates International; Oracle; Gateway Computers; BearingPoint Technologies; and Motorola.

We all recognize the technology requirements on the 21st century workforce call for tangible action, not rhetoric. Our future economic and national security needs depend on and demand that all of our eager young students have the highly technical skills needed to compete and succeed in the workforce.

We must tap the underutilized talent of our minority serving institutions to ensure that America’s workforce is prepared to lead the world.

I thank my colleagues for joining me today. I thank the chairman of our committee, Senator McCain, and other sponsors of this measure, including Senators Stevens, Hollings, Miller, Warner, DeWine, Santorum, Talent, Cochran, Grassley, Hutchinson, Sessions, Graham of South Carolina, the ranking member, Senator Fitzgerald, Lott, Domenici, Campbell, Kerry, Bingaman, Daschle, Murkowski, and Johnson.

I also thank our former colleague, Mac Cleland, for his work last year on a measure that is similar to what we will soon be voting on. I thank Floyd DesChamps of the Commerce Committee staff, who has done a great job, and my staff, Frank Cavaliere.

Mr. Warner. Mr.President, I wish to applaud my distinguished colleague, Senator Allen, for his leadership. We are privileged in Virginia, primarily in the northern area, and then to an extent in the Tidewater and Richmond areas, to have a very heavy concentration of technology firms.

Under the leadership of Senator Allen and other Senate colleagues we are addressing the needs of the technology improvements at historically black colleges and universities. Sixty percent of all jobs require information technology skills, and jobs in information technology can pay significantly higher salaries than jobs in other fields.

At the same time, many of our historically black colleges and universities often lack the resources and the capital to offer an educational program and assistance to their students to bridge the digital divide that exists in many places in America.

The bill will establish a grant program for these institutions of higher learning to bring increased access to computer technology and the Internet to their student populations.

In Virginia, there are five historically black colleges and universities that will be given an opportunity for grants and/or matching funds to achieve this most noble goal of bridging the digital divide.

The Acting President pro tempore. The Senator from Arizona.

Mr. McCain. Mr. President, I begin by congratulating Senator Allen for his very important work on this legislation. Senator Allen has long been an advocate of equal opportunity, but he has also displayed a great deal of expertise and knowledge on a number of
high-tech issues. As a member of the Commerce Committee, he has continuously displayed that leadership and worked actively, particularly on telecommunications and high-tech issues. So I commend him for his leadership and his commitment to this important legislation. A lot of Hispanics think the fact is that Senator ALLEN was the leader in this legislation, and I thank him for his outstanding work. This legislation could provide an opportunity for those who would never have an opportunity to grow and prosper and to take advantage of incredible opportunities that this legislation provides.

The Digital and Wireless Network Technology Act of 2003 would establish a $220 million per year program within the National Science Foundation for fiscal years 2004 to 2008. The purpose of the grant program is to help strengthen the ability of minority-serving institutions, which includes Historically Black Colleges and Universities, Hispanic-Serving Institutions, and tribal colleges and universities, to provide educational instructions through digital and wireless network technologies.

As we look at the scenes of the war in Iraq, we are amazed at the technological capabilities of our Armed Forces. They are able to do things that we simply were not available to do just a few years ago. Nevertheless, this superiority must be supplied with a constant flow of new technologies, which are the result of the Nation’s investment in a research and development infrastructure.

During these times of economic slowdown and global threat, it is imperative that our Nation’s institutions of higher education are prepared to produce a technologically advanced workforce. As the demographics of the Nation become more and more diverse, minority institutions of higher education have an even greater relevance. It is estimated that in 10 years, minorities will comprise 40 percent of the college-age Americans, the pool from which the Nation’s future engineers and scientists will emerge. Rita Colwell, Director of the National Science Foundation, stated in a letter earlier this year to new members of Congress that, “... American science and technology is failing to tap a vast pool of talent among our women and ethnic minorities.” In an effort to enable the Nation to tap this underutilized pool of future engineers and scientists, it is essential to provide assistance to minority institutions. The hundreds of MSI’s should be provided with the resources to ensure that we are indeed utilizing their large student populations.

The legislation before us is not the result of any special interest groups or highly financed lobbying efforts. It is based on data provided by the National Science Foundation, “HBCU Technology Assessment Study,” funded by the U.S. Department of Commerce and conducted by a national black college association and a minority business.

The study assessed the computing resources, networking, and connectivity of HBCUs and other institutions that provide educational services to predominately African-American populations.

The study concluded that during this era of continuous innovation and change, continual upgrading of networking and connectivity systems is critical. If the trend continues to cross the digital divide and not fall victim to it. Failure to do this may result in what is a manageable digital divide today, evolving into an unmanageable digital gulf tomorrow. Based upon testimony provided during the February hearing held by the Commerce Committee, we concluded that the findings from the study also would apply to Hispanic-serving institutions, and tribal colleges and universities.

This legislation builds upon the work begun by Senator Cleland and many others during the last Congress. In testimony before the Commerce Committee last year, the President of the United Negro College Fund, Congressman William Gray, stated that we can ill afford to lose the graduates who enter the workforce without mastering the basic computer skills and understanding how information technology applies to their work or profession. This point was further illuminated by the Dr. Marie McDonnald, President of Norfolk State University, when she testified at the Commerce Committee’s February hearing that over 175,000 foreign nationals have come to our country in efforts to fill quality, high paying jobs in science and technology, mainly because our own workforce does not possess the skills and training necessary to fill these essential jobs.

At the same hearing, other college presidents from the Nation’s HBCU’s Hispanic-serving institutions and Native-American schools also testified about the daunting task of building their technology infrastructure. While these problems apply to all of our Nation’s universities, they are more severe at many of our minority-serving institutions. Within the State of Arizona, for example, many of the tribal colleges and universities and Hispanic-serving institutions are facing daily technical challenges of the millennium. They must continually do many other institutions, to keep up with an ever-changing networking technology environment.

I again thank Senator ALLEN for his leadership on this important issue. I think he had it right when he said this bill is about closing an economic opportunity divide. In this case, it is a divide that exists primarily because of the difference in the educational base of our citizens which affects economic opportunity.

I especially thank Senator ALLEN for including the Hispanic and tribal institutions in this legislation. I remind my friend from Virginia that in my State of Arizona, one of the poorest areas of our Nation exists in northern Arizona on the Navajo Reservation, the largest Indian reservation by far in America. These Native Americans have been left behind, as well as have African Americans, Hispanics. Senator ALLEN for including especially our Native Americans but also our Hispanic populations and institutions in this legislation.

Again, I congratulate him for his commitment in this time of economic difficulties and perhaps less opportunities, and because of that, he is making, I believe, a significant step forward.

I yield the floor.

Mr. HOLLINGS. Mr. President, I would like to thank Senator ALLEN for bringing this legislation, S. 196, to the floor today. As many of you know, this bill had its genesis with our former colleague, Senator Max Cleland.

Senator Cleland knew that access to the Internet is no longer a luxury, but a necessity, and he wanted to make sure that all of our institutions of higher learning could provide their students with access to the most current technologies. That is why he introduced this legislation and I am glad that Senator ALLEN and I can bring Senator Cleland’s vision to fruition today.

After all, according to a 2000 study, African Americans, Hispanics, and Native Americans constitute one-quarter of the total U.S. workforce and 30 percent of the college-age population. Yet, members of these minorities comprise only 7 percent of the U.S. computer and information science labor force; 6 percent of the engineering workforce; and less than 2 percent of the computer science faculty. These statistics are all the more important because 60 percent of all jobs require information technology skills. Furthermore, jobs in information technology pay significantly higher salaries than jobs in non-information technology fields.

So you can see, technology is rapidly advancing and we are increasingly growing dependent on it. Being digitally connected is becoming ever more critical to economic and educational advancement. Now that a multitude of Americans regularly use the Internet to conduct daily activities, people who lack access to these tools are at a disadvantage. Consequently, it is crucial that all institutions of higher education provide their students with access to the most current information technology.

Unfortunately, however, due to economic constraints, many minority-serving institutions are unable to provide adequate access to the Internet and other information technology tools and applications. According to a 2000 study completed by the Department of Commerce and the National Association for Equal Opportunity in Higher Education, while 98 percent of Historically Black Colleges and Universities, HBCUs, have a campus network, half of
those surveyed did not have computers available in the location most accessible to students, their dormitories. Additionally, most HBCUs do not have high-speed connectivity to the Internet, and only 3 percent of these colleges indicated that financial aid was available to help their students close the computer ownership gap.

While minority-serving institutions are making progress in upgrading their network infrastructure, progress is not quick enough. In his testimony before the Commerce Committee on February 13, 2003, Dr. Ricardo Fernandez, president of Herbert H. Lehman College in New York City explained the challenge these institutions face:

At my own institution . . . we are struggling to provide network access to students and faculty. Providing fiber and copper cabling, switches, and routers to every building and classroom is simply very expensive for us and cost prohibitive. . . . At the pace that we are moving, the technology we are installing will be obsolete before the project is finished.

S. 196, the Digital and Wireless Technology Program Act of 2003, seeks to help institutions such as Lehman College or the eight eligible South Carolina HBCUs and a few by authorizing a program at the National Science Foundation to bring digital technologies to minority-serving institutions. These funds could be used for a variety of activities from campus wiring, upgrades, or technology training. We need to pass this bill now so these colleges and universities— and their students—don't have to wait until the technology is obsolete before they get it.

Working with Senator ALLEN and Senator MCCAIN, we have made several changes to the bill before we brought it to the floor. At the request of the HELP Committee, we have clarified that training grants under S. 196 would be used for technology-related training and professional development. By narrowing the scope of the training, however, we do not think we would narrow the scope of the bill. Infrastructure projects like wiring classrooms or dorms could still be eligible for funding under this bill if they fit into an overall program to strengthen an institution's technological capacity.

We have also tried to address some concerns about the NSF's peer review process. The bill before us has a review process that is different from the NSF's peer review process. We hope that NSF, working with an advisory council established under section 4, will develop a fair and equitable process for reviewing these grants. To that end, we have added a requirement that any peer review panel should include members from eligible institutions.

Finally, we have instructed NSF to review the program with an eye toward insuring that grant recipients have demonstrated the need for this assistance so that we can address the most trenchant problems first. In addition, the grants should go to a wide variety of institutions, large and small, throughout the country.

I thank Senator ALLEN and Senator MCCAIN for helping to develop this legislation. I thank the staff who worked on this bill, particularly Allison McMahon, Chan Lieu, and Jean Toal Eisen of my Commerce Committee staff and Floyd DesChamps of the majority staff. Moreover, I commend my colleagues for bringing this issue to the Senate's attention. I look forward to the passage of S. 196.

Mr. REID, Mr. President, the Senator from Iowa is yielded such time as he may consume. Rather, the Senator from Illinois.

Mr. MCCAIN. It is all the same.

Mr. DURBIN. I thank the Senator from Nevada, and I assure the Senator that Iowa and Illinois are not the same, as my friend from Iowa does grow more corn, but we grow more soybeans. I make that clear now.

I support this bill. This bill is introduced by Senator ALLEN and cosponsored by many of my colleagues, and I am sure it will pass with flying colors. It is a great bill, addressing the technology gap that exists at many minority-serving institutions across America. I commend Senator ALLEN for his leadership on this bill. I am sure that it is going to make a difference. I also recognize a man who is not here today. His name is Max Cleland. Max Cleland, during the 107th Congress, introduced S. 414, the Digital Network Technology Program Act. The bill was a work product that Senator Cleland put together with Atlanta University Center, as well as national organizations such as the Historically Black Colleges and Universities, Hispanic-serving institutions, tribal colleges and universities, and other minority-serving institutions.

Senator Cleland pushed for the Commerce Committee to hold a hearing on the bill which he chaired on February 27, 2002. After that, the committee reported the bill favorably. The bill was held on the floor by another Member of the Senate, as Senator Cleland was up for reelection. It is not uncommon when a Senator is up for reelection that people in the Senate want to try to hold back passage of legislation so the Senator can take credit in that way for them in the campaign. So Senator Cleland fell victim to that particular strategy. He was not a vengeful or spiteful man. I am sure he understands it, but this concept underlying this bill meant a lot to him personally.

I stand here today to make sure, as Senator ALLEN has mentioned, Senator MCCAIN mentioned, that Max Cleland's name be part of this debate. I think it should be much more than just an acknowledgment. The CONGRESSIONAL RECORD is an example of that in just a few minutes. Most modern colleges and universities,
where it is more important to be up to
date than the area of information tech-
nology. That is the situation with Har-
ris-Stowe. Their resource center is 5
years old. It is greatly in need of a
technology upgrade. Without Federal
legislation of this type, as a practical
matter there is simply not going to be
possible on an ongoing basis.
But with this support it will be pos-
sible, not only because of the Federal
dollars we can help provide but also be-
cause the money will be lever-
aged by these institutions with founda-
tions, with State money, and will be an
important way for them to gather re-
sources from around the community
and help serve their students and their
communities with information tech-
nology.
I am grateful the Senator from Vir-
ginia has taken up this legislation and
pushed it. A lot of what we do here is
to try to use our technical advantage
and help serve their students and their
communities of which they are a part. That is
the reason this bill is so important and
why I am pleased to cosponsor it and
pleased to speak for just a few minutes
today on its behalf.

Most of the background has been
given here and I appreciate very much
the work of the chairman and Senator
Allen in supporting this bill and as-
sembling this information. They had a
great hearing.

Let me talk about a couple of histori-
cally black colleges in Missouri that
would benefit from this bill. One is Lin-
coln University in Jefferson City. Lin-
coln was founded in 1866 by former offi-
cers and soldiers of the Union Army. It has
2,500-odd students, 200 faculty and
students. David Henson, the president of
Lincoln University, told us that the pas-
 sage of the bill would give Lincoln
the opportunity to acquire equipment,
Networking capability, digital network
 technologies, wireless technology, and
infrastructure to develop and provide
educational services to its students, its
faculties, and its staff, and also give
Lincoln students universal access to
campus networks around the country.

Another historically black college is
Harris-Stowe State College with a rich
tradition in the St. Louis area. Henry
Givens, Jr., the president of Harris-
Stowe State College, said this would
en able their students and faculty to
 take advantage of a variety of services
such as distance learning, online serv-
ices, and continuing education.

I mentioned before that the colleges
are very important parts of the com-
munities they serve. Harris-Stowe
helps educate young kids from the
community. This kind of a grant would
benefit the local public elementary
school. It sends its children ranging from
first to fifth grade to learn at the
School Center at Harris-
Stowe College. Harris-Stowe got a
grant to build the center, but the
technology is now very much out of date.
This is another aspect that this bill
will help address, and I think it is im-
portant.

Of course, most historically black
colleges and minority-serving institu-
tions have not had a lot of money and
do not have access to a lot of money
to build these kinds of information tech-
nology centers in the first place. But
even when they can get the money to
do that, it is extremely difficult for
them to maintain and upgrade and up-
date that technology. There is no area
and in my own State, which has been
one that has struggled for years to
have advancement in education and
economic opportunity.

I think this legislation is really im-
portant in helping to provide the up-to-
date technological education that to-
day’s society demands. As we focus on
education, not only at the higher edu-
cation level where the Federal Govern-
ment plays a critical role, but also when
we look at what we need to do in
kindergarten, and elementary, and sec-
ondary education—if you are going to
have the whole package, you have to
make sure our young people have ac-
cess to a good education that allows
them to read and also to do basic
arithmetic. Furthermore, they must be
able to perform these basic skills at
the fifth grade level, at the eighth
grade level, and in high school, but
then be able to get into a community
college or vocational training program, or our colleges and
universities, and when they get there
that they will have the tools and re-
sources that they need.

I want to say I am not coming from the genera-
tion that has been struggling with
technology and computers. We are sort
of computer illiterates. Yet we see our
children who are able to do astonishing
things because they have had the expo-
nce of the new technology.

We have to make sure that the Na-
tion’s focus applies not only to our
major colleges and universities in
America that primarily get the stu-
dents who make very high scores on
the SATs, but we also have to make
sure all students—whether they attend
a private university or college or a
State university or our historically
Black or other minority institutions—
have access to good education and
what is needed in the technology field.
Not just computers, but the whole
high-tech area.

My own State of Mississippi is home
to roughly 9 percent of the Nation’s
Historically Black Universities.
My State of Mississippi I de-
cided a few years ago we were trying to
shot at too many targets and we were
not hitting many of them. We were
missing them or we were not doing
enough to make a difference. So I con-
cluded the best thing to do was try to
target a focused on where we were
going to put our efforts and where we
were going to put our money. Those
targets have been education, transpor-
tation—which can also be referred to as
infrastructure, and jobs. That is an
important way for them to gather re-
sources from around the community
and help serve their students and their
communities that historically black
institutions in my state. In fact,
earlier this year, I cosponsored an
amendment to the omnibus propria-
stions bill for fiscal year 2003 that au-
thorizes additional funding for grants
to preserve and restore historic build-

WHEREFORE, the Committee recom-
mands that the bill be passed into
law.

May 1, 2003.
Additionally, I would like to note an example of my ongoing commitment to assist Mississippi’s Historically Black Colleges and Universities in bridging the technology gap. In 2001, I worked with Allstate Insurance in their $17 million Jackson State initiative to establish the Mississippi e-Center at Jackson State. The e-Center is an impressive state-of-the-art complex with advanced computing and network infrastructure, and information technology faculty and support staff. Through the e-Center, Jackson State is able to fulfill its educational mission and leverage its unique strengths in the areas of remote sensing, engineering, and science and technology. I am also pleased to report that Jackson State is the only Historically Black College or University in the Nation with three supercomputers. We are making strides in Mississippi to provide all our students with access to information technology, but the Nation still has much progress to make when it comes to providing opportunities to our minority serving institutions of higher learning and all Americans.

It is clear that while our minority serving institutions of higher learning stand ready to drive from the “on ramp” onto the Information Superhighway, they still lag far behind other universities in America when adjusting to new technological innovations and changes on the forefront, such as third generation technology. I urge the passage of this legislation today so that we can hand some of America’s best institutions of higher learning the technology keys they need to compete with their peers.

I yield the floor.

The PRESIDING OFFICER (Ms. Murkowski). Who yields time?

Mr. ALLEN. Madam President, we were supposed to vote on this measure at noon. There is a question of whether or not we could vote at noon. This is a Holocaust Memorial Service at noon. At this moment, until we determine how we are going to correlate all of that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLEN. Madam President, I ask unanimous consent that the order for the question of the quorum be rescinded.

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

Mr. LEAHY. Madam President, I rise today in support of S. 196, the Digital and Wireless Technology Program Act, which will provide $250 million annually for the next 5 years to address the technology needs of Historically Black Colleges and Universities, as well as colleges and universities that serve substantial numbers of Hispanic and Native American students. The digital divide is the subject of much discussion in both the public and private sectors, and this bipartisan bill, introduced by Senators ALLEN and HOLLINGS, will help to bridge that divide.

Internet access is an increasingly critical part of the educational process. The Internet provides a critical research tool, especially for students at institutions that cannot afford to offer world-class libraries and other facilities. Indeed, internet access can be a great democratizing force if we can make it universal.

Although almost all Historically Black Colleges and Universities have a campus network in place, only about half have computers available to students in their dormitories, and only 3 percent offer financial aid to students looking to buy a computer. In addition, a majority of these schools do not use high-speed connections, even when those connections are available in their areas. Additional funding for these colleges should make a difference.

The schools struggling most mightily are those that serve Native American Nations, whose students at tribal colleges live at or below the poverty level, so few if any students can afford their own computers. But at Dull Knife Memorial College in Montana, 240 students must share two computers. Fewer than half of the 32 tribal colleges have access to a T-1 line. There are some success stories, however, and with additional Federal assistance we can create more.

While I am concerned about the lack of internet access among minority students, I do hope that these colleges and universities will work closely with their local communities in siting wireless facilities. The 1996 Telecommunications Act regrettably cut out local communities in deciding where new towers for wireless devices are located. The new grant program created by this bill should not be used to exacerbate this problem.

The bill is not new to the Senate. Senator Cleland introduced very similar legislation in the last Congress, and his bill was reported by the Commerce committee. Regrettably, it was held up by the Republican leadership in the Senate, presumably in order to deny Senator Cleland any victory as he sought re-election. Given the dire state of many of the schools this bill seeks to help, it is quite frustrating that Senator Cleland’s bill fell victim to political machinations. It is doubly unfortunate that Inskeep was rebuffed by the Republican side.

It would have been a fitting tribute to the Senator who brought this and many other issues to the Senate’s attention.

Despite my disappointment about that issue, however, I still believe that this is a good bill that deserves every Senator’s support. It will help institutions around our Nation provide the education that their students need and deserve.

Mr. ALLEN. Madam President, I ask unanimous consent that all time be yielded back on S. 196. I believe all Senators—and I thank those who have spoken in favor of this legislation: Senators MCCAIN, TALENT, DURBIN, and LOTT, as well as myself—who wanted to speak on the legislation have spoken. Madam President, I yield back all time on S. 196. I also ask unanimous consent that the vote occur on passage at 1:30 p.m. today.

Mr. REID. Madam President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, it is my understanding the distinguished Senator from Virginia has spoken with the majority leader, and the majority leader is going to let this vote go for some time. It is my understanding there are people on both sides who are doing other things—early and late—and this vote may have to be dragged for some time.

Is that right?

Mr. ALLEN. I say to the Senator from Nevada, that is correct. Due to the Holocaust Memorial and a variety of other things that have arisen at noon, the vote will be at 1:30. But it will be held open. It will not be a 15-minute vote. The vote will undoubtedly stay open for at least a half an hour. And at 2 o’clock there is the top-secret briefing with those officials from Defense.

Mr. REID. Madam President, further reserving the right to object, as I indicated early today, I certainly think we should be in recess during the Wolfowitz briefing, but there is a ranking member’s meeting, for example, that does not end until 2 o’clock. So I ask that there be some consideration given to extending the vote for 5 or 10 minutes past 2 o’clock.

Mr. ALLEN. Madam President, I think that would be the intention. It is not just a Republican or Democrat voting conflict, and it will not be a 15-minute vote as such. It will be held open until all Members who are going to be here have an opportunity to vote on this measure.

Mr. REID. Madam President, I am wondering if my friend would also allow me to modify the unanimous consent request, that following the closure of the vote the Senate stand in recess until 3 o’clock.

Mr. ALLEN. Madam President, I say to the Senator from Nevada that is under consideration. I do not have the authority to make that decision. I suspect there will not be many people here. There are a variety of things people need to do. And I certainly want to listen to Secretary Wolfowitz, but at this point I do not have the authority to make that decision. All I can say is, being patron of this measure, I want to make sure everyone is allowed to vote on it, and the vote will be held open.

Mr. REID. I have no objection.

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

Mr. ALLEN. Madam President, I ask for the yeas and nays on final passage.
The PRESIDING OFFICER. Is there a sufficient second?
There appears to be a sufficient second.
The yeas and nays were ordered.

MORNING BUSINESS
Mr. ALLEN. Madam President, I ask unanimous consent that there now be a period of morning business until 1:30 p.m., with Senators permitted to speak for up to 10 minutes each.

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

Mr. ALLEN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.
The assistant legislative clerk proceeded to call the roll.

Mr. KYL. Madam President, I ask unanimous consent that the order for the morning business be rescinded.

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

The remarks of Mr. KYL are printed in today’s RECORD under “Morning Business.”

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

The PRESIDING OFFICER. The clerk will call the roll.
The assistant legislative clerk proceeded to call the roll.

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

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

The bill (S. 196), as amended, was passed, as follows:

YEAS—97

Mr. REID. I announce that the Senate of the United States of America in Congress assembled,

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 “Minority Serving Institutions and Wireless Technology Opportunity Act of 2003”.

SEC. 2. ESTABLISHMENT OF OFFICE.
(a) IN GENERAL.—There is established within the National Science Foundation an Office of Minority Serving Institution Digital and Wireless Technology to carry out the provisions of this Act.

(b) PURPOSE.—The Office shall—
(1) strengthen the ability of eligible institutions to provide for capacity for instruction in digital and wireless network technologies by providing grants to, or executing contracts or cooperative agreements with, those institutions to provide such instruction; and
(2) strengthen national, digital and wireless infrastructure by increasing national investment in telecommunications and technology infrastructure at eligible institutions.

SEC. 3. ACTIVITIES SUPPORTED.
An eligible institution shall use a grant, contract, or cooperative agreement awarded under this Act—

(1) to acquire the equipment, instrumentation, networking capability, software and hardware, digital network technology, wireless technology, and other infrastructure;
(2) to develop and provide educational services, including faculty development, related to science, mathematics, engineering, or technology;
(3) to provide teacher education, library and media specialist training, and preschool and teacher certification to individuals who seek to acquire or enhance technology skills in order to use technology in the classroom or instructional process;
(4) to implement pilot projects and consortia to provide education regarding technology in the classroom with a State or State education agency, local education agency, community-based organization, national non-profit organization, or business, including minority businesses;
(5) to provide professional development in science, mathematics, engineering, or technology to administrators and faculty of eligible institutions with institutional responsibilities for science education;
(6) to provide capacity-building technical assistance to eligible institutions through remote technical support, technical assistance workshops, distance learning, new technologies, and other technological applications;
(7) to foster the use of information communications technology to increase scientific, mathematical, engineering, and technology instruction and research; and
(8) to develop proposals to be submitted under this Act and to develop strategic plans for information technology investments.

SEC. 4. APPLICATION AND REVIEW PROCEDURE.
(a) IN GENERAL.—To be eligible to receive a grant, contract, or cooperative agreement under this Act, an eligible institution shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require. The Director, in consultation with the advisory council established under subsection (b), shall establish a procedure by which the Director will review such applications and publish an announcement of such procedure, including a statement regarding the availability of funds, in the Federal Register.

(b) ADVISORY COUNCIL.—The Director shall establish an advisory council to advise the Director on the best approaches for involving eligible institutions in the activities described in section 3, and for reviewing and evaluating proposals submitted to the program. In selecting the members of the advisory council, the Director may consult with representatives of appropriate organizations, including representatives of eligible institutions, to ensure that the membership of the advisory council reflects participation by technology and telecommunications institutions, minority businesses, eligible institution communities, Federal agency personnel, and other individuals who are knowledgeable about eligible institutions and technology issues. Any panel assembled to review a proposal submitted to the program shall include members from minority institutions. Program review criteria shall include consideration of—

(1) demonstrated need for assistance under this Act; and
(2) diversity among the types of institutions receiving assistance under this Act.

(c) DATA COLLECTION.—An eligible institution that receives a grant, contract, or cooperative agreement under section 2 shall provide the Office with any relevant institutional statistical or demographic data required by the Office.

(d) INFORMATION DISSEMINATION.—The Director shall convene an annual meeting of eligible institutions receiving grants, contracts, or cooperative agreements under section 2 for the purposes of—

(1) fostering collaboration and capacity-building activities among eligible institutions; and
(2) disseminating information and ideas generated by such meetings.

SEC. 5. MATCHING REQUIREMENT.
The Director may not award a grant, contract, or cooperative agreement to an eligible institution under this Act unless such institution agrees that, with respect to the costs to be incurred by the institution in carrying out the program for which the grant, contract, or cooperative agreement was awarded, such institution will make available (directly or through donations from or other contributions from public or private entities) non-Federal contributions in an amount equal to ¼ of the

[Rollcall Vote No. 136 Leg.]
amount of the grant, contract, or cooperative agreement awarded by the Director, or $500,000, whichever is the lesser amount. The Director shall waive the matching requirement of this subsection or consortium with no endowment, or an endowment that has a current dollar value lower than $50,000,000.

SEC. 6. LIMITATIONS.

(a) ANNUAL REPORT REQUIRED FROM RECIPIENTS.—Each institution that receives a grant, contract, or cooperative agreement under this Act that exceeds $2,500,000, shall not be eligible to receive another grant, contract, or cooperative agreement under this Act until every other eligible institution that has applied for, or been awarded a grant, contract, or cooperative agreement under this Act has received such a grant, contract, or cooperative agreement.

(b) AWARDS ADMINISTERED BY ELIGIBLE INSTITUTION.—Each grant, contract, or cooperative agreement under this Act shall provide an annual report to the Director on its use of the grant, contract, or cooperative agreement.

(c) EVALUATION BY DIRECTOR.—The Director, in consultation with the Secretary of Education, shall—

(1) review the reports provided under subsection (a) each year; and

(2) evaluate the program authorized by section 3 on the basis of those reports every 2 years.

(d) CONTENTS OF EVALUATION.—The Director, in the evaluation, shall describe the activities undertaken by those institutions and shall assess the short-range and long-range impact of activities carried out under the grant, contract, or cooperative agreement on the students, faculty, and staff of the institutions.

(e) REPORT TO CONGRESS.—The Director shall submit a report to the Congress based on the evaluation. In the report, the Director shall include such recommendations, including recommendations concerning the continuing need for Federal support of the program, as may be appropriate.

SEC. 8. DEFINITIONS.

In this Act:

(1) ELIGIBLE INSTITUTION.—The term ‘eligible institution’ means an institution that is—

(A) a historically Black college or university that is a part B institution, as defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1062(2)), an institution described in section 322(e)(1)(A), (B), or (C) of that Act (20 U.S.C. 1063(b)(1)(A), (B), or (C)), or a consortium of institutions described in this subparagraph;

(B) a Hispanic-serving institution, as defined in section 502(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)(5));

(C) a tribally controlled college or university, as defined in section 316(b)(3) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)(3));

(D) an Alaska Native-serving institution under section 317(b) of the Higher Education Act of 1965 (20 U.S.C. 1059d(b));

(E) a Native Hawaiian-serving institution under section 317(b) of the Higher Education Act of 1965 (20 U.S.C. 1059d(b)); or

(F) an institution determined by the Director, in consultation with the Secretary of Education, to have enrolled a substantial number of historically low-income, low-income, low-income, low-income students during the previous academic year who received assistance under part I of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a et seq.) for that year.

(2) DIRECTOR.—The term ‘Director’ means the Director of the National Science Foundation.

(3) MINORITY BUSINESS.—The term ‘minority business’ includes HUBZone small business concerns (as defined in section 3(p) of the Small Business Act, 15 U.S.C. 637(p)).

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Director of the National Science Foundation $250,000,000 for each of the fiscal years 2004 through 2008.

The PRESIDING OFFICER. The majority leader.

RECESS

Mr. FRIST. Mr. President, I ask unanimous consent the Senate now stand in recess until 3 p.m. today.

There being no objection, the Senate, at 2:11 p.m., recessed until 3 p.m. and reassembled when called to order by the Presiding Officer (Mrs. DOLE).

EXECUTIVE SESSION

NOMINATION OF PRISCILLA RICHMAN OWEN, OF TEXAS, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT

The PRESIDING OFFICER. The Senate, by unanimous consent, is in executive session to consider the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Madam President, I wish to speak about the nomination of Priscilla Owen. I thank the Senator from North Dakota for allowing me to go first.

I rise in opposition to the nomination of Priscilla Owen to the U.S. Court of Appeals for the Fifth Circuit. I know the President has the constitutional responsibility to appoint Federal judges. I respect that right. In fact, I have voted for President Bush’s judicial nominations 97 percent of the time. Yet the Senate also has the constitutional responsibility to advise and consent. We cannot rubberstamp nominations. Our courts are charged with safeguarding the very principles on which our country was built: justice, equality, individual liberty, and the basic implicit right of privacy. When I look at a nominee, I have three criteria: judicial competence, personal integrity, and a commitment to core constitutional principles.

I carefully reviewed Judge Owen’s rulings and opinions. I read the dissenting opinions of other judges and the views of legal scholars. I have concluded that Judge Owen does not meet my criteria. Her decisions appear to be driven by ideology—not by law. She appears to be far outside the mainstream of judicial thinking, and her extreme and ideological agenda would make her unsuitable to sit on the Court of Appeals for the Fifth Circuit.

What we are considering with an appellate nomination is a lifetime appointment for a court that only one President will ever have the chance to select. The decisions made by this court have a lasting impact on the lives of all Americans for generations to come. This court’s decisions will affect America’s fundamental protections involving civil liberties, individual property rights, health, and safety, and the implicit right of privacy. We need to be very careful about what we do.

That is why President Bush and all Presidents should nominate competent, moderate judges who reflect broad American values. No President should try to place ideologues on the court. If they do, I am concerned that it will slow the pace of confirmations, backlog our courts, and deny justice for too many Americans. Yet in nominating Judge Owen, the President has chosen someone with an extreme ideological agenda on civil rights, individual rights, and the rights of privacy.

Judge Owen has pursued an extreme agenda. On contraception, Judge Owen has suggested that the Court should eliminate the basic implicit right of privacy. When President Bush discussed what would be his criteria for nominating judges, he said his standard for judicial nominees would be that they ‘‘share a commitment to follow and apply the law, not to make law from the bench.’’ We applaud that criteria from the President. But I must say when we look at Priscilla Owen, that is exactly what she does. She makes law and does not limit herself to interpreting law, and, therefore, falls the President’s own criteria.

The Texas court-watching journal, Juris Publici, said that Owen is a ‘‘conservative judicial activist.’’ That means she has a consistent pattern of putting her ideology above the law and ignoring statutory language and substituting her own views.

She has offered over 16 significant activist opinions and joined 15 others. Even White House counsel Judge Alberto Gonzales, who served with Judge Owen on the Texas Supreme Court, once called her dissent in the case ‘‘unconscionable’’ judicial activism.

In a different case, Judge Gonzales called a dissent by Judge Owen an attempt to ‘‘judicially amend’’ a Texas statute. A number of dissents she wrote or joined in would have effectively rewritten the law, and disregarded the law, usually to the detriment of an angry citizen.

An example: Quantum Chemical Corp. v. Toennies was a case concerning age discrimination based on a civil rights statute. The majority of the Texas Supreme Court found in favor of the plaintiff. One dissent stated that the law didn’t need to show that discrimination was a motivating factor. Her dissent would have changed Texas law and

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Weakened Texas civil rights protections.

On the issue of individual rights to seek justice, I think we all believe the courthouse door must always be open. When you walk through that door, you must be treated the same. Yet Owen’s rulings show a bias against the rights of consumers, victims, and individuals. She has consistently ruled against workers, accident victims, and victims of discrimination. These decisions strip the rights of ordinary people from having access to the courts to obtain justice.

In Montgomery Independent School District v. Davis, a case concerning a teacher whose contract was not renewed, the teacher requested a hearing, which is allowed under the Texas Education Code. The hearing examiner found that the school district didn’t have a justification to fire the teacher and said her contract should be renewed. The school board ignored the decision of the hearing examiner. The majority of the Texas Supreme Court found the school board went over its legal authority, and Judge Owen’s dissent ignored the law and it would result in the rewriting of Texas law.

Owen’s rulings show how she is seeking to rewrite law. In Jane Doe, the majority actually agreed with that. But Owen dissented. Had her opinion prevailed, it would have overturned a jury verdict.

I could give example after example after example. I am not going to go on just for the sake of going on. There are other Senators who believe we should have full debate on the Owen nomination.

Let me conclude by saying that the President does have the right to nominate judges, but I cannot consent to the nomination of Judge Owen. My advice to the President is to give us moderate judges. We have approved of many of them. We want to be supportive. But in this instance, she is so far outside the mainstream of judicial thinking.

My advice to the President is to withdraw the nomination and appoint a nominee who will fairly interpret the law for all Americans, and follow the Bush test of interpreting the law and not making the law.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I listened to my colleague from Maryland and appreciate her comments. Let me make a couple of additional comments with respect to this issue of judgeships.

I have spoken previously on the floor of the Senate about the Estrada nomination. What I indicated then was that Mr. Estrada, who aspires to have a lifetime seat on the second highest court in the country, the DC Circuit Court, did not answer basic questions put to him by the Judiciary Committee at his hearing.

The administration has not released the information that has been requested by Members of the Senate with respect to Mr. Estrada’s work at the Solicitor General’s Office. That is information that has been requested of him and the administration, so we might understand a bit more about Mr. Estrada and his qualifications. Despite the fact that Mr. Estrada did not answer the basic questions at his hearing, the administration has not released the information that has been requested of his nomination.

There are some in the Senate—and perhaps some in the country—who believe there is a requirement for the Senate to proceed in any event to give Mr. Estrada his vote. There is no such requirement.

The Constitution provides the mechanism by which we give citizens of this country lifetime appointments to the judiciary on the Federal bench. And that Constitution provides two steps: One, the President shall propose, by sending a nomination to the Senate; and, second, the Senate shall advise and consent, by deciding whether they wish this candidate to have a lifetime appointment on the Federal bench. It is not some entitlement that any President—Republican or Democratic—has to be able to send a nomination to the Senate and have that nomination automatically considered. In fact, in recent years, this particular circuit court, the DC Circuit Court, has had a number of nominations sent to the Senate from another President of a different party, and the Senate not only did not bring it to the floor, the candidates did not even get a hearing—not a 5-minute hearing—let alone a hearing and a vote in the committee and then going to the floor and having a vote. Those candidates never even got a hearing. Mr. Estrada is different. He received the hearing I think he should have received, but he did not answer the questions at the hearing. And the administration and Mr. Estrada have not provided information requested of him. Therefore, Mr. Estrada’s nomination is not proceeding.

The Members of the Senate have the right, and perhaps the obligation, if they choose, to stop a nomination they think represents a nomination offered by a President trying to stack the judiciary or pack the judiciary with those of a certain extreme philosophy. It is not out of bounds for any group of Senators to decide to say to the President: This is a partnership. You propose, we dispose. You nominate; we provide advice and consent.

In order to have candidates on the Federal bench, they have to be candidates who are going to be approved by the Senate. I expect a Republican President will nominate Republican judges. In North Dakota, we have had two recent open judgeships—one in Bismarck, one in Fargo. Both judgeships have now been filled by Republican judges. I am a Democrat. I supported both candidates. Both are exceptionally well qualified. I am proud of both of them. They have both assumed their duties. I voted for both. I told the President I fully supported both. That is the way this process should work. Regrettably, it is not working that way with respect to some nominations. The White House, instead, is saying: We intend to strain candidates through a philosophical filter, and notwithstanding what we think might or might not happen in the Senate, we are going to send people to the bench who are to the far edge of the philosophical spectrum. If the Senate does not like it, tough luck: we are somehow going
to auger up a lot of noise around the country that says the Senate has an obligation to proceed. We have no such obligation. The President and the Senate have an obligation in this partnership to make sure we get good judges on the Federal bench.

I just want everyone to be clear, I have voted for almost all of the nominations for Federal judges sent to us by the President. I voted, I believe, for 112 of them. I have only voted against a very few. I intend to support most of the President’s nominees.

But when the President sends us the nomination of a candidate whose positions are well off the norm, way off to the side of the philosophical chart, we have every right—in fact, an obligation—to make our judgment known in the Senate. That is what is going to happen if Mr. Gonzales and President Bush decide they are going to try to stack or pack, as it were, circuit judgeships with candidates for those judgeships who philosophically are far from where the center of Republican and Democratic philosophies in this country.

In any event, I just wanted to make that point. I think the comments made by the Senator from Maryland are right on point, and I hope at some point we are able to move ahead.

We have another Hispanic judge who has been waiting who has been cleared on the Judiciary Committee. We are wondering why that judge is not on the floor. He should be on the floor. Perhaps his nomination is coming to the floor, but we have been calling for that. I believe the minority leader yesterday asked unanimous consent to bring that judgeship to the floor. He has the support of just about everyone.

FREE TRADE AGREEMENT WITH SINGAPORE

Mr. DORGAN. Madam President, on Thursday of next week, U.S. officials will sign a trade agreement with Singapore. The first free trade agreement that is negotiated under so-called fast track. Fast track, incidentally, is a procedure that the Senate adopted in a Byzantine way. They did it without my vote, but enough Senators did it so that we have a fast-track procedure, which is a guarantee that your trade negotiators can go overseas, go in a closed room, close the door, keep the public out, and then you reach a negotiation with another country.

When you bring it back to the Senate, we will agree that none of us will be able to offer any amendment at any time. What we have said is, bring us a straitjacket so we can put it on and we can all grin.

It makes no sense. That is what the Senate has done. So now we will have a free trade agreement coming back to the Senate, the first one under the so-called fast-track procedure, and it is done with the country of Singapore.

Let me read what is in the trade agreement, just one piece. There are many, and I will talk about them in future days. All of this is cloaked in language that is hard to understand, but the implications are not hard to understand because it is related to American jobs. It all relates to waving goodbye to American manufacturing jobs. Article 32, treatment of certain products, under chapter 3: A party shall consider listing in annex 2 when imported into its territory from the territory of another port to be an originating good. Within 6 months after entry into force of the agreement, the parties shall meet to explore the expansion of the product origin.

This sounds like six or eight people sitting around drinking, but these are pretty smart people who have reached a trade agreement. This is the way they write it: A party shall consider a good listed in annex 2 when imported into its territory from the territory of another party to be an originating good.

What does that mean? What that means is that, in the circumstances of Singapore, products such as semiconductors, computers, telecommunications equipment, cell phones, fiber cables, optical cables, photocopy equipment, medical instruments, appliances, a whole range of high-tech products can come in through the free trade agreement with Singapore, even if they are not produced there. If they are produced elsewhere, they come through Singapore and come into this country under a free trade agreement. It is fascinating to me that in the last 12 years we have lost 2 million jobs. I am not talking about decreasing the rate of growth of jobs. This country has lost over 2 million jobs. We are off negotiating new trade agreements—and, incidentally, proposing new fiscal policies that will exacerbate the loss of jobs with huge Federal deficits—and we say to other countries, by the way, we will give you a special deal. We don’t give our domestic producers the same protection of fair competition for America’s domestic manufacturers. We will give you a special deal.

The special deal is this, Singapore: You can move goods through Singapore, high-tech goods, the product of high-skilled labor, good jobs. You can move them through Singapore through a free trade agreement into the United States and displace American jobs. That is what this says.

In every circumstance we have negotiated trade agreements—United States-Canada, NAFTA, the WTO—in agreement after agreement, we have said to American workers and companies producing goods, we want you to compete with others overseas that don’t have to meet any basic standards. It doesn’t matter if the country will not allow them to organize as workers, if they don’t have worker rights, if they hire kids, work them 16 hours a day, pay them 16 cents an hour. It doesn’t matter. They should be able to produce those products, these agreements say, and run them through Singapore, some other country, run them through Mexico, for that matter, and move them into Toledo and Pittsburgh and Bismarck and Los Angeles and Pierre, and then have American workers and businesses compete with that labor.

What does it mean? It means we can send American worker who decides they can compete against 16-cents-an-hour labor performed by a 14-year-old who works 16 hours a day in a plant where they don’t have basic safety standards, where they can pump pollution into the air, and water; is there anybody who can compete with that? The answer is no. And they should not be expected to.

This Singapore free trade agreement is coming here under fast track. We cannot offer amendments. There isn’t one single parliamentary step that will be missed as we move to try to consider this. When they sign this next Thursday—and they certainly should not sign it with this provision in it; this is a loophole big enough to drive a semi truck through—let them understand that there will be no unanimous consent agreement for anything under any circumstance at any step of the way to get this considered by the Senate.

They will get it considered, no doubt, and no doubt those Senators who decided they would like to put themselves in the straitjacket and prevent themselves from offering an amendment—God forbid they should try to correct this—they will vote for it. And no doubt the Senate will ratify this free trade agreement. I am just serving notice that it is going to take some time. We will have some lengthy discussion about it.

There is no justification, in my judgment, for this kind of nonsense. I will come to the floor in a day or so to also talk about China. We did a bilateral trade agreement with them 2 years ago that has not meant a thing. It is like spitting in a high wind. They agreed to everything so they could join the World Trade Organization. We have a $7 trillion bilateral trade deficit with China. Our jobs have been exported.

The fact is, China has not done what they said they would do in the bilateral agreement. And nobody seems to care. We have all these bureaucrats running around, most of them negotiating in some corners of the trade agreements. We have a few of them down at the Department of Commerce who are supposed to enforce the trade agreements.

Take a look at what we have. We have this miserable skeleton of an enforcement unit. We have no more than a dozen people who are supposed to enforce the trade agreements in China. If you gave them a pop quiz, they would not have the foggiest idea of what is in the agreements, let alone enforce them. I think we have a growing scandal in the Chinese trade, especially since we had a bilateral agreement 2 years ago with them and they have complied with none of it.
Madam President, I want to talk for a moment about the front-page issue every day these days, and that is how big will be the tax cut. That misses the point that almost always reports all this as a horse race. It is never much about the horse or jockey; it is about who is ahead down the stretch. Does he or doesn't he have the support to get 350, 550, or 750? What would be much more important would be to have a report that really talks about: What does this really mean for our country? What are the experts really saying? What are the consequences? Where will this come from? Now, a tax cut.

Well, we have lost slightly more than 2.6 million jobs in the last nearly 2 ½ years, and that is unusual because in the last 50 years every single administration has seen a growth in jobs—some less than others; nonetheless, a growth. We have, in this circumstance, lost jobs in 2 ½ years. You can make a case—and I think part of it is valid—that we had 9/11, the war on terror, the war in Iraq, the technology bubble bust, the collapse of the stock market, the bursting of the tech bubble, and we had the largest corporate scandals in the history of the country. So you can make a pretty good case that all of these things intersecting at the same time have caused a lot of havoc with this country and our economy.

But it is the easiest lifting in American politics for any politician at any time to say: Do you know what I stand for? I stand perpetually for reducing the tax cuts. Just sign me up. Then I think the very first priority might be to reduce the Federal debt and get our fiscal house in order; second, to invest in those things that make life worthwhile, improve our schools, do a range of things like that. In addition to that, we should, as many colleagues say, cut spending in areas where we spend too much—and there are plenty of them.

I find it bizarre that we are having a national discussion about this without any requirement for their being spent. If you want, when we have very large budget deficits, to reduce the tax revenue by $550 billion or $750 billion over 10 years, then what don't you want to do? Do you want to increase defense spending? That is going to happen. Increase homeland security spending? That is going to happen. Have very large tax cuts? That is going to happen. So what don't you want to do? What is it in domestic discretionary spending? Educating our kids? Making sure grandma and grandpa have access to adequate health care? Having safe neighborhoods? What is it you don't want to do in that batch? How about building roads and bridges to make sure we have a good infrastructure? What is it you don't want to do?

Take a look at the best economic thinkers in this country, 10 Nobel laureates, and ask them what they think of this country's economic future if we don't have some basic fiscal responsibility. I come from a small town, with 380 people or so. It has shrunk a bit since then. But most people in America's towns and cities think about all this in practical, candid terms, making sure it adds up. They say let's handle this as a business or a family. Well, let's do that then. If you are short of revenue, do you want to cut your revenue further and increase spending? How do you? I didn't take higher math, but I learned that 1 plus 1 equals 2 in Kansas, in North Dakota, in New York, and all over the country—except in fiscal policy in Washington, DC, where 1 plus 1 equals 3, and apparently $12 trillion in additional debt. That is not a fiscal policy, in my judgment, that is good for my kids, your kids, or America's kids.

I am not saying one party is all right or wrong. I am saying this: There isn't any way we can reconcile this with what is happening in the country today. We have turned the largest surplus in American history into the largest deficits. Yes, you can make a case that a lot of things have happened that have intervened to make that happen that are outside of the control of the Congress and the President; yes, that is true. But if that is the case, then should we not recognize that? If 9/11 says we need more spending for homeland security spending? That is going to happen. Increase homeland security spending? That is going to happen. Have very large tax cuts? That is going to happen. So what don't you want to do? What is it in domestic discretionary spending? Educating our kids? Making sure grandma and grandpa have access to adequate health care? Having safe neighborhoods? What is it you don't want to do in that batch? How about building roads and bridges to make sure we have a good infrastructure? What is it you don't want to do?
money for defense spending, we say, let's just charge that and we will have tax cuts, too. One way or another this has to be reconciled. I am in favor of some tax cuts. I would like to see some tax cuts. I think the people would like tax cuts. But when someone says let's have the American people keep more of their own money, the answer to that on the reverse side of the same coin is let's charge more to the American people before we go to pay for it. One can argue trade deficits are going to have to be paid by a lower standard of living in this country, but our kids and grandkids are going to pay for a fiscal policy deficit. It is a selfish fiscal policy, in my judgment, and one we ought to reverse.

We ought to try to call on the best of what both parties have to offer this country, not the worst of each. In my judgment, the best both parties have to offer is some basic conservative values of saying let's do what is right to invest in what makes this a good country and at the same time let's pay for that which we want to consume as a fiscal policy that says to every American, this adds up. Let's say to our kids we are not going to have them shoulder the burden of what we are doing today. That is what our fiscal policy ought to do.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I will speak to the pending business, which is the confirmation of Priscilla Owen to the circuit court of appeals. She is a highly qualified person who really needs to be recognized. We need to move through this rapidly.

The last 2 years, I was honored to be able to serve on the Judiciary Committee. We held extensive hearings on Priscilla Owen to be a circuit court judge. She went through those hearings in an extraordinary fashion. It was a learning experience. It is if professors were teaching and going through with us, here is how I decided this case, here is hornbook law on this, here is how this should be decided, here is how I viewed the issue. She really has a fine-tuned legal mind. I was impressed by the legal mind she has.

I was impressed by the common sense she had with it as well. It was as if this was a highly trained legal mind well adapted to being able to judge, but also with some common values of the people, which is as one would expect because she was elected to the Texas Supreme Court. She has been around the public. She knows how people think.

When a lot of people look at the judiciary desire and want to have in somebody on the judiciary.

What I am most distressed about is it appears as if now we are going to get our second filibuster of a circuit court judge from the Democratic Party. In the past, we have not had filibusters of judges. We have had them at a Supreme Court level but not the circuit or district court level. Now it appears as if we are going to get our second filibuster of a couple of months. This, of course, is to raise the vote standard so she does not have to get 51 votes, she has to get 60 votes to be able to go on the circuit court of appeals.

This is not advice and consent of the Senate, which is what our standard is held to. We are to give advice and consent on judges. They should be appointed by the administration and then there should be advice and consent. That should be a 51-vote margin. It should not be a 60-vote margin that now the other side is attempting to establish. This is a very distressing situation we are getting into.

How many more judges are we going to see like this are nominated for the circuit court? Are we going to continue to put them forward and the other side will say we are going to filibuster for whatever reason? How many of these is it to be?

I recognize what the strategy is. It is to keep the circuit court reduced of judges, not to allow this President to appoint his judges, not to allow him to put his print upon the judiciary. I recognize that is what is happening on the other side. Whenever they do that, one needs to recognize the long-term policy implications of so doing. Now they are saying a President cannot appoint his or her judges to the bench; that when they were elected and selected by the people of the United States, now they cannot appoint people to the court; that the other party, if they can control 51 votes, can block the President. This is not about advice and consent. It is about blocking a President from appointing his judges to the Federal courts.

We have not seen this strategy before. It was always the President puts forward his nominees, we hold hearings, and then if they can be blocked with 51 votes, they are blocked, but not filibustering of circuit court judges. This is a dangerous area.

On the other hand, we could say the other party is looking at this saying like it that way because then two circuit court judges can pick a third one—maybe it is two liberal circuit court judges can pick a district court judge, bring them up to a three-judge panel to have a liberal-leaning panel and we can set policy and set law that way. But that is not the way the system is set to operate; even though that is what we should be focused on in the Senate. That is not a useful way for us to conduct business in the Senate.

I urge the other side of the aisle to please step forward and end the filibuster of circuit court judges. That is not the way we need to operate to be able to get the business done.

On top of that, we have circuit courts around the country that in some cases have only half of the judges that are necessary. The other half have resigned or left office and so we have enormous vacancies. Some people would say they like it that way because then two circuit court judges can pick a third one—maybe it is two liberal circuit court judges can pick a district court judge, bring them up to a three-judge panel to have a liberal-leaning panel and we can set policy and set law that way. But that is not the way the system is set to operate that way. We really need to move forward in this area.

I do not normally come to the floor to harangue about what is taking place in the judiciary, but in this case this is beyond the pale. This is not what should be taking place. It is hurting us and it is hurting the country.

Growing the Economy

I will take a minute or two to address some of the topics that came up about the economy. We need to get this economy growing and going. I will make a couple of brief observations.

At the Federal level, we have two major tools to grow the economy. We have monetary policy and fiscal policy. Monetary policy is set by the Fed, not by the Congress but by the Fed. The Fed can set interest rates high or low, control the supply of money. The Fed is doing the exact opposite of growing the economy today with low interest rates. That is as it should be.

On the other side of that is fiscal policy, and that is what the Congress does. We have tools at our disposal to try to grow the economy. One of the major tools is tax policy. Do we increase taxes, do we decrease taxes, in a way to stimulate the economy?
The most stimulative tool that is available to us is to lower tax rates. That grows the economy. It grew the economy when President Reagan cut taxes. It grew the economy when President Kennedy cut taxes. That is the way the economy grows.

Some people would say, look at the deficit we are in now; we cannot afford to reduce the taxes at this point in time. I would answer, we cannot afford not to reduce taxes to stimulate the economy. In the last 2 years, we have seen a reduction in Federal receipts of 9 percent, and an increase of Federal expenditures of around 12 percent. Quick math tells us we are going to be in a real problem when we have those two trend lines.

The Federal receipts have gone down 9 percent. That is not as a result of changes of tax policy. That is a result of the economy being soft and not producing the economic lift and push we need. And, frankly, the rest of the world is not the strong and robust U.S. economy as well.

How do we get the economy going again? We need to stimulate growth with tax cuts. I will give one quick fact. Last year we saw a reduction in capital gains tax receipts of about $30 billion. There has been $80 billion in loss in capital gains tax receipts. That is not the result of a tax policy shift. That is primarily the result of the stock market falling dramatically the last couple of years, the tech boom going bust, problems and fears of what has taken place around the world, 9/11, a series of things where people pulled funds out of the market; instead of having capital gains, they had capital losses.

Some say the stock market does not affect most people. Yet half of Americans have some investment or retirement tied into the stock market. What can we do there? We can do away with capital gains tax receipt cuts. We can do away with cuts on investment tied into the stock market. What about balancing the budget? I think we have found the formula for doing it. We grow the economy and we restrain your growth in Federal spending until the lines intersect and you get the economy growing strong, and then you restrain your growth in Federal spending to those intersected lines. That is how we balance the budget. We had a growing economy, but instead of spending this increase in Federal receipts, we restrained the growth of Federal spending and those intersected lines. We have unfairly balanced, done by a Republican Congress. That is how you get it done.

What is our key now? Our key now is to get the economy growing, cut taxes and stimulate the growth, and restrain the growth of Federal spending. I put forward a bill with several people as one way of restraining Federal spending, to create a domestic program equivalent to the Base Closure Commission that has been very successful saying we have too many military bases; we need to eliminate some of those, consolidate them in fewer areas. To remove one or two at a time is an impossible task. A commission that recommends 50 closures taking place and gives Congress one vote up or down whether to eliminate the bases altogether. It has been very successful in consensus.

What about doing that in domestic discretionary programs where we have thousands of domestic discretionary programs? Have a commission to say these 100 were good when they started, but the reason for their creation has gone. They are effective but not yielding as much as they should. These 100 should be eliminated. The commission reports to Congress and requires Congress to vote up or down whether they agree or disagree, eliminate all 100 or keep all 100. It is a domestic Base Closure Commission equivalent type of program, so we can try to restrain some of the growth in Federal spending, consolidating fewer areas. Those are the sorts of things we need to do to balance the budget and get our spending under control.

We also need trade agreements to take place. I point out that Presidents of both parties have requested trade promotion authority and trade agreements. You cannot negotiate with another country and say, OK, give us your best offer and then do that, and then say we will take it to the Congress, which may agree or disagree, and they will amend it and we will come back to you again. That sort of trade agreement does not work. The other country says: We want to wait and see your final offer. That is why the trade promotion authority is in place.

Trade has been good for this country and has expanded jobs and economic opportunity throughout the United States. It has been the right thing for us to do.

Mr. LEAHY. Mr. President, I ask unanimous consent that the roll call be rescinded. The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I begin by thanking the Democratic leader and assistant Democratic leader for going to bat for Judge Edward Prado. They
apparently are now working on an arrangement, that I understand is close to being worked out with the Republican leadership, so this nomination can be considered without further delay. I appreciate the fact that the majority leader and the deputy majority leader, Senator McConnell, are going to work with us to do that.

As I have noted on the floor before, basically before the recess, and since, we had checked on our side of the aisle and we had not been objected to going forward with a vote on Judge Prado. In fact, I suspect most are going to vote for him. I was not quite able to figure out why there was objection on the Republican side to going forward with his nomination. So I thank the leaders for now getting together so he will be allowed to go forward.

I also thank the Congressional Hispanic Caucus for its support for this nomination, working with the Senate to go forward.

I noted on the floor on Monday that Judge Edward Prado, being nominated to the United States Court of Appeals for the Fifth Circuit, was cleared by all of us on this side; all Democratic Senators serving on the Judiciary Committee. I am pleased to report the nomination favorably. That is why we were concerned when it was held up on the other side.

We have worked hard to find judges who might be consensus judges, as he is. Interestingly enough, Judge Prado was originally appointed by Ronald Reagan. He is not a Democrat. He is a Republican. He considers himself a conservative Republican, but has a judicial record where he fits the test that I and many of us on both sides of the aisle certainly thought a judge should meet: When you walk into a courtroom, you should be able to look at that judge and say, Whether I am a Republican or a Democrat, rich or poor, White or Black, plaintiff or defendant, whatever, that judge is going to give me a fair hearing.

The current occupant of the chair has served as attorney general and justice of the Texas Supreme Court and he knows whereof I speak. Anyone who spends time in a court knows, looking at a judge, if they are going to get a fair shake with the judge or not. We all know there are some judges you want to avoid, other judges about whom you say, I have to grope my memory, but I feel I have a fair chance. I think that is the kind of judge Judge Prado will be.

When the Democrats took over the majority of the Senate in the summer of 2001, we inherited 110 judicial vacancies, primarily because during the last few years of President Clinton’s term Republicans had blocked an unprecedented number of judges from going forward. But during the next 17 months, we confirmed 100 of President Bush’s nominees. Some who had been rated as not qualified by the ABA, several who were divisive and controversial.

Forty new vacancies occurred during the normal course of deaths and resignations at that time. We still took the 110 vacancies we inherited and brought that down to 60, which is considerably less than what the Republicans have always referred to as being full employment.

On the Senate executive calendar, we also have the nomination of Cecilia M. Altonaga, of Florida, to be a Federal judge in Florida. She will be the first Hispanic woman of Cuban heritage to serve on the Federal bench—experienced at the request of Senator Graham of Florida. I might say this is another case where we are ready to go forward any time he wants. The decision has not been made to go forward yet on the Republican side of the aisle. We hope to go forward soon. We have cleared that. We have cleared her and are happy to go forward.

Mr. President, we have another nomination before us—again from the State of Texas. Judge Priscilla Owen is nominated to the Fifth Circuit. Today I would like to talk about a variety of legal issues, which I hope you will find interesting.

We have never had a case where President submitted a circuit court nominee that had already been rejected by the Senate Judiciary Committee for the same vacancy. Until a few weeks ago,Judge Priscilla Owen was cleared by all the Senate Judiciary Committee proceeded for a second time on a nominee.

I have spoken about my concerns relating to Priscilla Owen. I have detailed some of the cases in which Judge Owen’s views were sharply criticized by her colleagues on the Texas Supreme Court. I explained why I believe she should not be confirmed to the seat on the Fifth Circuit. Today I would like to talk about some more of the cases, including one case which show Priscilla Owen to be a judicial activist, willing to make law from the bench rather than follow the language and intent of the legislature.

I heard Senator CORNYN say the other day that just because you disagree with the outcome of a particular case does not give you the right to call the judge who wrote it an activist. I agree. I wish more Republicans had followed that rule when President Clinton was in office. We nominated qualified people to the Federal bench and a Republican majority was holding them up anonymously and voting against them. There are many cases before the courts of this Nation where reasonable people, reasonable lawyers and judges, could disagree on the outcome, could have a difference of opinion about interpreting a statute. There are many times when a statute is ambiguous, or a legal precedent unclear, and there is no right or wrong result. I could not agree more with our colleague, Texas senator, and I hope he will agree with this fundamental point. I wish more Republicans had followed that rule when President Clinton nominated qualified people to the Federal bench and anonymous hold after anonymous hold was made on the Republican side.

It is interesting when we talk about political background of judges. Vermont is allowed one seat by tradition on the Second Circuit Court of Appeals. New York and Connecticut have the rest of the seats.

I went to President Clinton when there was a vacancy to recommend a sitting Federal judge in our State. He had been a Republican Deputy Attorney General—a conservative. I disagreed with some of his decisions. I disagreed with his legal reasoning. I thought he did a careful and reasoned job. I went to President Clinton knowing that there were a number of people who might be considered for that position—a number of them leading Democrats in our State. I told the President I thought this would make a good person, and it involved the nomination which he could rest easy on and not have to worry about. Shortly before he was about to make his decision, the Federal judge ruled against a position of President Clinton. And when the President asked me about that, I said he could have made the ruling a week after you sent his nomination up, that I thought he was honest. The President admired his courage, honesty and ability, and he nominated him. And this Senate voted as I recall unanimously to put him on the Second Circuit Court of Appeals where he does very, very well.

I voted on hundreds of hundreds of Republicans nominated by Republican Presidents. But just as I voted against those nominated by Democratic Presidents, I will vote against those nominated by Republican Presidents when they show that they are going to be activists who are not going to follow the law but rather follow the dictates of their own philosophy.

That is why I will continue to oppose Priscilla Owen. If President asked when I was chairman, I held a hearing for her. We had a very fair hearing, according to her, and actually put her on the agenda for markup on the day the President of the United States requested that she be put on. She was put over at a Republican request, but then she was voted down by the committee.

When I look at Justice Owen’s record, I am not looking at the outcome of the case. Justice Owen ruled, and criticizing her as an activist just because I do not agree with a ruling or even a couple of rulings. I am looking at the substance of a number of her decisions, how she approaches those cases and the propriety of her legal analysis. The conservative justices on the other sides of these cases, in many, many of those cases, are themselves extremely critical of her approach, her reasoning, her judgment, her dissent. I have called her an activist, said one of her opinions was just “inflammatory rhetoric,” noted in other cases that she
went beyond the language of the law, ignored legislative intent, and gutted laws passed by the people’s elected representatives. Like them, I disagree with Priscilla Owen’s methods and activist judging.

In my first statement, I touched on some of the criticism received from the majority in the series of parental notification cases. In addition to cases dealing with parental notification, Justice Owen’s activism and extremism is noteworthy in a variety of other cases, including those dealing with business interests, malpractice, access to public information, employment discrimination and Texas Supreme Court jurisdiction, in which she rules against individual plaintiffs time and time again.

In one case that is perhaps the exception that proves the rule, Justice Owen wrote a majority opinion that was bitterly criticized by the dissent for its activism. In In re City of Georgetown, 33 S.W.3d 201, Justice Owen wrote a majority opinion finding that the city did not have to give the Austin American-Statesman a report prepared by a consulting expert in connection with pending and anticipated litigation. By contrast, in her dissent, Justice Owen criticized the majority for failing to establish policy decisions. The dissent is extremely critical that certain aspects of the Code and the factors surrounding its implementation weighed against the delegation of power, including the lack of meaningful government review, the lack of legal action when providers and others affected by the private owners’ actions, the breadth of the delegation, and the big landowners’ obvious interest in maximizing their own profits and minimizing their own costs.

The majority offered a strong opinion, detailing its legal reasoning and explaining the dangers of offering too much legislative power to private entities. By contrast, in her dissent, Justice Owen argued that, “[w]hile the Constitution certainly permits the creation of mechanisms that preserve and conserve the State’s natural resources, there is nothing in the Constitution that requires the Legislature to exercise that power in any particular manner,” ignoring entirely the possibility of an unconstitutional delegation of power. Her view strongly favored large business interests to the clear detriment of the public interest, and against the persuasive legal arguments of a majority of the Court.

When I asked her about this case at her hearing in July, I found her answer perplexing. In a way that she did not argue in her written dissent, at her hearing Justice Owen attempted to cast the F.M. case not as, “a fight between and City of Austin and big business, but in all honesty, . . . a really a fight about . . . the State of Texas versus the City of Austin.” In the written dissent however, she began by stating the, “importance of this case to private property rights and the separation of powers between the judicial and legislative branches . . .”; and went on to decry the Court’s decision as one that, “will impair all manner of property rights.” That is 22 S.W. 3d at 869. At the time she wrote her dissent, Justice Owen was certainly clear about property rights for corporations.

At her second hearing, I know that Chairman Hatch tried to deviate the F.M Properties v. City of Austin case in an effort to make it sound innocuous, just a struggle between two jurisdictions over some unimportant regulations. I know how, through a choreography of leading questions and short answers, they tried to respond to my question from last July, which was never really answered, about why Justice Owen thought it was proper for the legislature to grant large corporate landowners the power to regulate themselves. Again, I am unconvinced. The majority in this case, which invalidated a state statute favoring corporations, does not describe the case or the issues as the chairman and the nominee have. A fair reading of the case shows no evidence of a struggle between governments. This is all an attempt at after-the-fact justification where there really is none to be found.

Justice Owen and Chairman Hatch’s explanation of the case also lacked even the weakest effort at rebutting the criticism of her by the F.M. Properties majority. As I mentioned, the six justice majority said that Justice Owen’s dissent was, “nothing more than inflammatory rhetoric.” They explained away the majority’s lack of evidence of a struggle by stating, “nothing whatever to exercise that power in any particular manner,” ignoring entirely the possibility of an unconstitutional delegation of power. Her view strongly favored large business interests to the clear detriment of the public interest, and against the persuasive legal arguments of a majority of the Court.

Another case that concerned me is the case of GTE Southwest, Inc. v. Bruce, 990 S.W.2d 605, where Justice Owen wrote in favor of GTE in a lawsuit by employees for intentional infliction of emotional distress. The rest of the Court held that three employees were entitled to the jury verdict in
their favor. Despite the Court’s recitation of an exhaustive list of sickening behavior by the supervisor, and its clear application of Texas law to those facts, Justice Owen wrote a concurring opinion to explain her difference of opinion on legal issues that were necessarily judged by the same case—whether the behavior in evidence met the legal standard for intentional infliction of emotional distress.

Justice Owen contended that the conduct was not, as the standard requires, “so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency.” The majority opinion shows Justice Owen’s concurrence advocating an inexplicable point of view that ignores the facts in evidence in order to reach a predetermined outcome in the corporation’s favor.

At her first hearing, in answer to Senator Edwards’ questions about this case, Justice Owen again gave an explanation found in her written views. She told him that she agreed with the majority’s holding, and wrote separately only to make sure that future litigants would not be confused and think that out of context, any one of the outrages suffered by the plaintiffs were shielded from public view. Moreover, to avoid liability if the plaintiff could not show discrimination was “the motivating factor.” The employer corporation argued, and Justice Hecht and Owen agreed, that the plain meaning could be discarded in favor of a more tortured and unnecessary reading of the statute, and that the plaintiff must show that discrimination was “the motivating factor,” in order to recover damages.

The portion of Title VII on which the majority relies for its interpretation was part of Congress’s 1991 fix to the United States Supreme Court’s opinion in the Price Waterhouse case, which held that a court should avoid liability if the plaintiff could not show discrimination was the motivating factor. Congress’s fix, in Section 107 of the Civil Rights Act of 1991, does not specify whether the motivating factor standard applies to both sorts of discrimination cases, the so-called “mixed motive” cases as well as the “pretext” cases.

The Texas majority concluded that they must rely on the plain language of the statute as amended, which could not be any clearer that under Title VII discrimination can be shown to be “a motivating factor.” Justice Owen joined Justice Hecht in claiming that federal case law is clear—in favor of their view—and opted for a reading of the statute that would turn it into its polar opposite, forcing plaintiffs into just the situation legislators were trying to avoid. This example of Justice Owen’s use of the law for the bench, instead of interpreting it, fits Justice Owen’s desire to change the law from statute to rewrite the law was simply wrong. As she did in answer to questions about a couple of other cases at her July hearing, Justice Owen tried to explain away this problem with an after the fact justification. She told Senator Cantwell that the reference to religion was not to be found in Casey after all, but in another U.S. Supreme Court case, H.L. v. Matheson. She explained that in “Matheson they talk about privacy, and in, ‘Matheson they talk about religiosity.”

Justice Owen has also demonstrated her tendency toward ends-oriented decision making quite clearly in a series of dissenting opinions both kinds of cases. The Texas majority insisted that under Title VII discrimination can be shown to be “a motivating factor.” As Justice Owen joined Justice Hecht in claiming that federal case law is clear—in favor of their view—and opted for a reading of the statute that would turn it into its polar opposite, forcing plaintiffs into just the situation legislators were trying to avoid. This example of Justice Owen’s use of the law for the bench, instead of interpreting it, fits President Bush’s definition of activism to a “T.”

Justice Owen has also demonstrated her tendency towards ends-oriented decision making in a series of dissenting opinions that support her views to the court that she is well informed. Her reliance on Matheson for her proposed rewrite of the law is just as faulty as her reliance on Casey. Neither one supports her reading of the law. She simply supports her views to the court that she is well informed. The most striking example is Justice Owen’s expression of disagreement with the majority’s decision on key legal issues in Doe 1. She strongly disagreed with the majority’s holding on a minor to acknowledge religious or moral and religious concerns, and they’re talking about the desirability or the State’s interest in these kinds of considerations in making an informed decision. Because Justice Owen is the only voice of the majority on which the Court was supported by a majority of the United States Supreme Court opinion to rewrite Texas law was simply wrong. As she did in answer to questions about a couple of other cases at her July hearing, Justice Owen tried to explain away this problem with an after the fact justification. She told Senator Cantwell that the reference to religion was not to be found in Casey after all, but in another U.S. Supreme Court case, H.L. v. Matheson. She explained that in “Matheson they talk about privacy, and in, ‘Matheson they talk about religiosity.”

Specifically, Justice Owen insisted that the majority’s requirement that the minor be “aware of the emotional and psychological aspects of undergoing an abortion” was not sufficient and that among other requirements in the Doe 1 case, the minor should not be held to the knowledge standard. That is In re Doe 1, 19 S.W.3d 249, 256, Tex. 2000. In her written concurrence, Justice Owen indicated, through legal citation, that support for this proposition could be found in a particular page of the Supreme Court’s opinion in Planned Parenthood v. Casey. However, when one looks at that portion of the Casey decision, one finds no mention of requiring a minor to acknowledge religious or moral considerations in making an informed decision. That is Casey at 972. Justice Owen alleged a justification to rewrite Texas law was simply wrong. As she did in answer to questions about a couple of other cases at her July hearing, Justice Owen tried to explain away this problem with an after the fact justification. She told Senator Cantwell that the reference to religion was not to be found in Casey after all, but in another U.S. Supreme Court case, H.L. v. Matheson. She explained that in “Matheson they talk about privacy, and in, ‘Matheson they talk about religiosity.”

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She still does not satisfactorily explain why she infuses the words of the Texas legislature with so much more meaning than she can be sure they intended. She adequately describes the precedents of the Supreme Court of the United States. But she simply does not justify the leaps in logic and plain meaning she attempted in those decisions.

As I have mentioned with regard to some specific cases, Justice Owen’s responses at her second hearing failed to allay these serious concerns nor did Senator HATCH’s “testimony” at her second hearing, where he attempted to explain away cases about which I had expressed concern.

The few explanations offered for the many other examples of the times her Republican colleagues criticized her were unavailing. The tortured reading of Justice Gonzales’ remarks in the Doe case were unconvincing. He clearly said that to construe the law in the way Justice Owen’s dissent construed the law would be activism. Any other interpretation is just not credible.

Or why in Montgomery Independent School District v. Davis, the majority criticized her for her disregard for legislative language, saying that, “the dissenting opinion misconceives the hearing examiner’s role in the . . . process,” which it said stemmed from “its disregard of the procedural elements the Legislature established to ensure that the hearing-examiner process is fair and efficient for both teachers and school boards.” Or why, in Collins v. Ison-Newsome, a dissent joined by Justice Owen was so roundly criticized by the Republican majority, which said the dissent agrees with one proposition but then “argues for the exact opposite proposition . . . [defying] the Legislature’s clear and express limits on our jurisdiction.”

I have said it before, but I am forced to say it again. These examples, together with the unusually harsh language directed at Justice Owen’s position by the majority in the Doe cases, show a judge out of step with the conservative Republican majority of the Texas Supreme Court, a majority not afraid to explain the danger of her activist views. No good explanation was offered for these critical statements last year, and no good explanation was offered this year. Politically motivated rationalizations do not negate the plain language used to describe her activism at the time.

I would like to explain again that Justice Owen has been nominated to fill a vacancy that has existed since January, 1997. In the intervening 5 years, President Clinton nominated Judge Jorge Rangel, a distinguished Hispanic attorney from Corpus Christi, to fill that vacancy. Despite his qualifications, and his rating of well qualified by the ABA, Judge Rangel never received a hearing on his nomination. His hearing was returned to the President without Senate action at the end of 1998, after a fruitless wait of 15 months.

On September 16, 1999, President Clinton nominated Enrique Moreno, another outstanding Hispanic attorney, to fill that same vacancy. This Harvard educated attorney, who received a unanimous well qualified from the ABA, did not receive a hearing on his nomination either—for more than 17 months.

President Bush withdrew the nomination of Enrique Moreno to the Fifth Circuit and later sent Justice Owen’s name to the Senate. It was not until May of last year, at a hearing chaired by Senator SCHUMER, that the Judiciary Committee heard from any of President Clinton’s three unsuccessful nominees to the 5th Circuit. Last May, Mr. Moreno and Mr. Rangel testified along with a number of other Clinton nominees about their treatment by the Republican majority. Thus, Justice Owen was the third nominee to this vacancy but the first to be accorded a hearing before the committee.

In fact, when the committee held its hearing on the nomination of Judge Edith Clement to the Fifth Circuit in 2001, it was the first hearing on a Fifth Circuit nominee in seven years. By contrast, Justice Owen was the third nomination to the Fifth Circuit on which the Judiciary Committee, under my chairmanship, held a hearing in less than one year. In spite of the treatment by the former Republican majority of so many moderate judicial nominees of President Bush, we proceeded last July with a hearing on Justice Owen and, for that matter, with hearings for Judge Charles Pickering. We proceeded with committee debate and votes on all three of President Bush’s Fifth Circuit nominees despite the treatment of President Clinton’s nominees by the Republican majority.

President Bush has said on several occasions that his standard for judging judicial nominees would be that they “share a commitment to follow and apply the law, not to make law from the bench.” Priscilla Owen’s record, as I have described it today, and as we described it a few weeks ago in committee and last September, does not qualify her for a lifetime appointment to the Federal bench.

As I have demonstrated many times, I am ready to consent to the confirmation of consensus, mainstream judges, and I have on hundreds of occasions. But the President has resented the Senate’s nominee who raises serious and significant concerns. I oppose this nomination.

Mr. President, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I come to the floor today to join my colleagues to discuss the nomination of Priscilla Owen to the Fifth Circuit Court of Appeals.

Mr. President, someone watching this debate on C-SPAN today might wonder why the Senate is spending so much time on a judicial nomination. They may watch all our discussions with circuit courts and wonder, how does this affect me? Well, the truth is that it affects all of us. Our Federal courts impact the opportunities, rights, and lives of every citizen, and that is why the appointments to our courts must be made with great care.

Since the founding of our Nation, our courts have changed our history, helping us to live up to our ideals as a society by protecting our rights and defending our freedoms. Our courts affect us at the broadest level, from interdicting environments of clean air and water, to guarding important safety and consumer protections.

Our courts have changed millions of lives at the individual level by knocking down barriers. The courts have freed prisoners, freed schools, worked to stop discrimination, and protected the voting rights of our citizens.

Mr. President, these decisions don’t just happen. They are made by people. Every Senator is familiar with the filibuster. Those people are appointed by the President and confirmed by the Senate. Today, we are at an important step in that constitutional process. I care about our judges because I was elected to ensure that the people of my State have opportunities and to protect their rights. That is why I work on issues such as health care, education, economic development, to give Washingtonians opportunities. But those opportunities would be nothing if the rights and freedoms of our citizens were undermined by judicial decisions.

This debate is also about the legacy that we leave. As Senators, our legacy is not just in the bills we pass or the laws we change, it is in the people we approve to interpret those laws. Those judges serve lifetime appointments. The precedents they set or break will impact the opportunities of American citizens long after all of us are gone.

Some say debate we are having today is part of a process that impacts the rights and freedoms of every American, and we have a responsibility under the Constitution to carry out our role in this critical process. Now, some in the majority may suggest this filibuster is something new or unique. It is neither. Every Senator is familiar with the filibuster process. It is one of the many tools available to every Senator. It has been used for decades. It has been used on judicial nominations, and even on Supreme Court nominees.

In fact, a filibuster has been used on judicial nominees by members of the current majority party. This is nothing
new. At the same time, a filibuster is not a step we take often or lightly, especially on judicial nominations, but I believe in this case it is clearly warranted.

As I look at what Americans expect from our judges, I see that this particular nominee fails the test. Not only that, but this nominee’s confirmation poses such a risk that the Senate must send a signal we will not confirm judges who represent an attack on the basic freedoms which the courts themselves must safeguard.

What are those qualities we look for in those who serve on the Federal bench? Qualities such as fairness, trustworthiness, temperament, and the ability to represent all Americans, and safeguard their rights. It is our duty in the Senate to defend these principles. We are setting no new precedent with this debate. We are simply exercising our right as Senators to defend the principles we believe we must defend.

Why do we feel so strongly about the nomination of Priscilla Owen? Justice Owen’s record clearly illustrates she fails the test of meeting the requirements that she be fair, that she engender trust, that she has the proper experience and temperament, or that she has the ability to represent all Americans, and safeguard their rights.

Throughout her career, Justice Owen has frequently ignored current Supreme Court precedent and State law in favor of imposing her own personal moral and religious beliefs from the bench.

Do not take my word for it. Let’s examine what others, including White House counsel Alberto Gonzales, have said about some of Justice Owen’s decisions. Justice Owen is a vigorous dissenter, and her colleagues, including Justice O’Connor and Justice Souter, have had a lot to say about her opinions. In one, her colleagues described her dissent as “nothing more than inflammatory rhetoric.” In another instance, Justice Gonzales wrote that Owen’s dissenting opinion, if enacted, “would be an unconscionable act of judicial activism.”

These are pretty strong statements and they provide a window into what kind of judge Priscilla Owen would be on the Fifth Circuit.

It is the judgment of this Senator that Priscilla Owen cannot render impartial justice to the people who appear before her court, that she will not seek to safeguard individual rights, and that her temperament is incompatible with serving on the Fifth Circuit.

This is not an easy decision for me. Thus far, the Senate has confirmed, if not on a step we take often or lightly, especially on judicial nominations, but I believe in this case it is clearly warranted.

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This is a critical debate. It is worth noting that the American people deserve judges who interpret the laws over a lifetime. The American people deserve judges who hold the mainstream values of our country and our legal system. They deserve a Federal judiciary willing to interpret the laws as they are, rather than as the judges might want them to be.

The American people believe that the Senate needs to do our job. Not to be a rubberstamp on nominees, but to thoroughly evaluate judicial nominees and determine whether they will continue the tradition of the Federal judiciary by being balanced and impartial, and serving as a countercheck for the executive branch and for us, the legislative branch. That was the role the Founding Fathers gave to the Senate, and I believe that is a role the American people think we should play.

That is why I don’t think it is surprising, that 74 percent of the public believes that the question of judicial views and judicial philosophy should be something we consider in the Senate confirmation process. That is, we should get answers to questions about judicial philosophy from nominees.

More importantly, a majority of Americans also believe we should not vote to confirm a nominee who might otherwise be qualified if we don’t think their views on these important issues reflect mainstream American view.

I believe that the nominee we are debating, Justice Priscilla Owen, fails to meet this test.

As a former member of the Judiciary Committee, I attended a hearing on Priscilla Owen that lasted a full day. During that hearing, Owen’s record showed a particular disregard for precedent and the plain meaning of the law.

Anyone who walks into a courtroom as a plaintiff or a defendant in this country should do so having the full confidence that there is impartiality on the part of the judge on the bench. They should have the confidence that the rule of law will be followed, and believe the issues will be judged on their merits rather than viewed through the prism of an individual judge’s personal values or beliefs.

There is reason to be concerned about the record of Priscilla Owen. Time after time, even her own Republican colleagues, on a predominantly Republican Texas Supreme Court bench, criticized her for failing to follow precedent or interpreting statutes in ways that ignore the clear intent of the law. Just yesterday a key newspaper in her State, the Austin American Statesman, wrote:

Owen is so conservative that she places herself out of the broad mainstream of jurisprudence. She seems all too willing to bend the law to fit her views.

I ask unanimous consent to have that editorial printed in the RECORD.

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

[From American-Statesman, Apr. 29, 2003] OWEN DESERVES A NOTE BUT NOT A CONFIRMATION

The U.S. Senate is expected to debate the filibuster over President Bush’s nomination of Texas Supreme Court Justice Priscilla Owen to the 5th U.S. Circuit Court of Appeals, which hears federal appeals from Texas, Louisiana and Mississippi. We have argued before that she deserved a hearing, and she finally got one from the Senate Judiciary Committee. That said, however, she should not be confirmed.

There’s no question that Owen is qualified for the 5th Circuit by her legal training and experience. She was a standout at the top of her class at Baylor University Law School; she became a partner at a major Houston law firm, Andrews & Kurth, where she practiced commercial litigation for 17 years; and she was elected in 1994 to the Texas Supreme Court, and re-elected in 2000. She received the highest rating, “well-qualified,” from an American Bar Association committee that reviews judicial nominations.

But Owen is so conservative that she places herself out of the broad mainstream of jurisprudence. She seems all too willing to bend the law to fit her views, rather than the reverse.

One example was the state Supreme Court’s interpretation of the then-new Parental Notification Act regarding abortions sought by minors. In early 2000, the nine justices, all Republicans, took a series of `wink, wink’ cases to avoid telling a parent that what circumstances a girl could get a court order to avoid telling a parent that she intended to get an abortion.

Owen was joined by Justice Nathan Hecht. Consistently argued for interpretations of the law that would make it virtually impossible for a girl to get such an order.

Finally, in one Jane Doe case, another justice complained that “to construe the Parental Notification Act so narrowly as to eliminate bypasses, or to create hurdles that simply must be found in the words of the statute, would be an unconscionable act of judicial activism.”
The justice who wrote that was Alberto Gonzales, who is now Bush’s general counsel. Owen also could usually be counted upon in any important case that pitted an individual against business interests to side with business.

Owen is being appointed to a lifetime position in the judicial branch of government, not to the office which her duty is to carry out the will of the president. And given the narrowness of his 2000 election victory, Bush is not in a position to argue that the public has said it wants ultra-conservative judges.

If the Senate Democrats invoke their power to filibuster, Owen would be the second judge nominated by Bush to be blocked in such a way. The other is Miguel Estrada, who was nominated to the U.S. Circuit Court of Appeals for the District of Columbia, and who Democrats suspect is a radical, ideological conservative.

Democrats are not blindly opposing all of the president’s judicial nominees. Many have been confirmed by the Senate, and others have won committee approval without controversy, including Edward Prado of San Antonio, a federal district judge who was nominated to the 5th Circuit.

But Owen should not be confirmed.

Ms. CANTWELL. What some of Owen’s colleagues on the bench have said about her opinions I think is important. In a case dealing with a developer seeking to evade Austin’s clean water code, Owen dissented, writing “nothing more than inflammatory rhetoric.”

In another case, her statutory interpretation was called “unworkable.” In yet another case, the dissent she joined was called a “monstrously unconscionable act of judicial activism.”

Some of our other colleagues have already mentioned that particular quote. One of the reasons we all find it somewhat unbelievable is the fact that it was made by her then-colleague on the Texas Supreme Court, now the White House General Counsel Alberto Gonzales, who is in charge of pushing her nomination.

But the criticism of Owen comes not only from her colleagues but from across the country. The San Antonio Express calls her nomination misguided. The Atlanta Journal called the Judiciary Committee’s original objection to her nomination “the right decision for the American people.” The New York Times wrote last week that it was abundantly clear at her hearing that her ideology drives her decisions.

The Kansas City Star even said there are better nominees and better ways for the branch to spend its time than re-fighting these battles.

There is another reason this nomination is so important. I believe this is critical to all the nominees we are considering for appointment to the Federal bench. That is, what is the judicial philosophy and commitment to upholding current law as it relates to a citizen’s right to privacy. I asked Justice Owen at her hearing about her beliefs on the right to privacy. I asked her if she believed there was a constitutional right to privacy and where she found that right in the Constitution.

She declined at the time to answer that question without the relevant case information and precedents before her. When Senator FEINSTEIN followed up with a similar question, Owen again would not answer whether she believes a right to privacy does exist within the Constitution.

The question of whether a nominee believes that the right to privacy exists with regard to the ability to make decisions about one’s own body is only the tip of the privacy iceberg. I believe that we are in an information age that poses new challenges to the right to privacy. We are facing difficult issues including whether U.S. citizens have been treated as enemy combatants in a prison without access to counsel or trial by jury, whether business interests have access to some of your most personal information, whether the Government has established a process for eavesdropping or tracking U.S. citizens without probable cause, and whether the Government has the ability to develop new software that might track the movements of all your computer and places where you might go on the Internet without your consent or knowledge.

There are a variety of issues that are before us on an individual’s right to privacy and how that right to privacy is going to be interpreted. A clear understanding of a nominee’s willingness to follow precedent on protecting privacy is a very important criteria for me, and it should be a concern for all Members. However, we seem to find skepticism about Justice Owen’s views on privacy results from the opinions she wrote in a series of cases interpreting the Texas law on parental notification. In 2000 the State of Texas passed a law requiring parental notification. But then she also included a bypass system for extreme cases.

Eleven out of 12 times Owen analyzed whether a minor should be entitled to bypass the notice requirement, she was either on the majority or was among the dissenters. In one important case that pitted an individual against business interests to side with business.

Owen wrote in dissent that she would require a minor to demonstrate that she had considered religious issues surrounding the decision and that she had received specific counseling from someone other than a physician, her friend, or her family. Requirements, I believe, that go far beyond what the Texas law requires.

In interpreting the “best interest” arm of the statute, Owen held that a minor should be required to demonstrate that the abortion itself—not avoiding notification—was in the individual’s best interests. In this particular case, I think she went far beyond what the statute required.

Where does that put us? Women in this country rely on the right to choose. It is an issue on which we have had 30 years of settled law and case precedent. In the Fifth Circuit, there are three States that continue to have unconstitutional laws on the books, and legislatures that are hostile to that right to choose. The Federal courts are the sole protector of women’s right to privacy in these states. I do not believe that the rights of the women of the Fifth Circuit can be trusted to Justice Priscilla Owen.

Owen’s rulings on privacy and not following precedent raise grave concerns. This is not an area where Justice Owen has been criticized. She also has been criticized in areas of consumer rights and environmental law.

The Los Angeles Times singles her out as the only one who has issued opinions against workers’ rights, civil liberties and abortion rights. And even a predominantly Republican court—one considered by legal observers and scholars to be one of the most conservative in this country—Justice Owen still seems to go further than a majority on that court. Time after time, Justice Owen has ruled in favor of business interests over working people, against women, against victims of crime and negligence, and against the environment.

Owen has a career as a judge in many controversial cases. But, as the Austin Statesman points out, Justice Owen is widely known as a nominee that “could usually be counted on to side in any important case that pitted an individual against business interests to side with business.”

I don’t think that is the type of representation that we want to have on our courts. Her controversial rulings include an opinion that a distributor could fail to conduct a background check on a salesman who was not liable for the rape of a woman by that salesman.

In a case challenging the ability of Texas cities to impose basic clean water control, she held the legislature had the power to exempt a single developer from city water pollution controls by allowing the developer to write their own water pollution plan. The majority called her dissent “nothing more than inflammatory rhetoric.”

Owen also commented on Texas public information law which I think are important for all of us, for all of our citizens to have access to public information.

She wrote that a memo prepared by a city agency about an employee should not be subject to disclosure under the Texas Public Information Law because it discussed “policy,” an exemption that a majority of others on the board said would be “the same as holding there is no disclosure requirement at all.”

In another similar case about public information laws, she held that a report prepared by the city of Houston and financed by taxpayers could not be disclosed under the Texas Public Information Act. Again, her colleagues criticized her decision not only as “contradicting the spirit and language of the statute, but gutting it.” It is possible to find cases or points to argue in the record of almost any judge, but because of the reaction of her own colleagues to her decisions, I find the constant criticism and rebukes that run through the opinions of
Owen’s colleagues surprising. They consistently indicate that they think she has overstepped or misinterpreted the law to such a degree that they have used the words “gutting” or “judicial activism” or “overreaching.”

As do my colleagues, I believe that we should move off this nomination and on to more important matters. We in the Northwest have an economy that has failed to recover. We in America are looking for an economic recovery to our country forward. There are many issues of national security that we must continue to debate.

I think that we could do better than renominate Priscilla Owen, and others who have already been rejected by a previous Senate Judiciary Committee. The fact that we are even debating this nominee is unprecedented.

While I respect the President’s right to renominate her, I find his decision to do so on the basis of opposition from such genuine questions that have been raised by her troubling.

The American public cares about us doing our job on nominees. It cares about the right questions. It cares about making sure that judicial nominees are following important laws that are already on the books. I believe the majority of Americans are becoming more and more concerned about their right to privacy and how it might be protected in the future.

With all the issues that we are facing on our judicial nominees, I say to my colleagues that it is time to move off this motion to proceed to a vote on this nomination and on to more important matters that needs to be done for this country and specifically for the Northwest.

I ask my colleagues to oppose the motion to proceed to a vote on this nomination and turn instead to the business that the people of America want us to address: our economic livelihood and how we can all work together to provide better opportunities for Americans.

I yield the floor.
The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Thank you, Madam President.

I think it was a young kid who turned to “Shoeless Joe” Jackson when members of the Chicago White Sox were charged with corruption in baseball and said, “Say it ain’t so, Joe.”

Tell me that we are not back again in these hallowed halls visiting the issue of a nomination of a circuit court judge, trying to do what the Constitution has given us the authority to do since the birth of this magnificent country, the right to advise and consent but ultimately to choose, to advise and consent and cast your vote up or down for a judicial nomination.

I am here to talk about the nomination of Texas Supreme Court Justice Priscilla Owen to sit on the U.S. Court of Appeals for the Fifth Circuit in support of that nomination.

The American public is going to hear these facts again and again. They are going to hear about Judge Owen, who has been unanimously rated well qualified by the American Bar Association, which my colleagues on the other side have called the gold standard in the past; they want to measure you by political affiliation, you don’t want to measure them by an interest group thinks.

The American Bar Association, certainly not a bastion of conservative American values, unanimously has rated Justice Owen as well qualified. She comes before us with a history of serving presently as a justice on the Texas Supreme Court. She has been partner at a law firm and has handled a broad range of legal matters. She has been admitted to practice at various State and Federal trial courts.

She is a leader in her community. I understand she teaches Sunday school. She serves as an altar guild. She is a great American. She is well qualified. She has an opportunity now to serve on the Federal bench. And all that is being sought is for this Senate to do its constitutional duty.

I have made some of these remarks in regard to the Estrada nomination, and we may well be getting back to that. I fear we are getting back to another filibuster, with my colleagues on the other side not allowing the Senate to do its business.

We have a lot of business to do in America. These are difficult times and challenging times. We have just seen the miracle of the American military do great things in Iraq. But there is work to be done, and our citizens at home are worried about jobs and worried about health care, worried about the future. We need to get to those issues. We can get to those issues if we simply do our business and move on.

Now, if you do not think she has the qualifications, if you do not agree with her principles, vote against her, but give us a chance to have a vote. That is my concern.

What we are doing here, and what we saw first happen with the Estrada nomination—and I fear we are stepping into the same swampland—is we are undermining the Constitution of this great country. The Constitution is one of the certifiable miracles of the modern age. It has flourished and survived for 214 years. And I think providence has inspired it. When you think how many constitutional amendments, some wise and unwise attempts to amend it, and many constitutional crises. That is our strength. I think our adversaries do not understand the strength of this country lies in this remarkable document and the care of our leaders to live within its boundaries.

That is why an attempt to tamper with this delicate balance of power must be met with suspicion, and repelled with conviction. I said that in regard to Miguel Estrada. I say that in regard to Priscilla Owen: An attempt to tamper with the delicate balance of the Constitution must be met with suspicion and repelled with conviction.

We have the opportunity to have end-lessemberate in this body, but, in the end, in the history of this country, we have had circuit court nominees getting a chance to be voted on. The Estrada nomination set a terrible new trend, one I hope we overcome. Never before have we had a partisan filibuster of a circuit court nominee, and now it appears we have not one but two. Say it ain’t so. Say it ain’t so.

I told a story in regard to the Estrada nomination. I want to repeat that story. It is a true story. A friend of mine who worked here for many years gave it to me. He told me, many years ago, when the Senate was the Supreme Court’s upstairs neighbor in this building, a significant event took place which provides us with a further warning. As an architect of the Capitol, I wanted to improve the sight lines in the Supreme Court Chamber on the first floor.

Calculating that one of the supporting pillars was unnecessary, he brought in a crew and removed it from that Supreme Court Chamber. Halfway through the project, the ceiling fell in on the Supreme Court Chamber, which was also the floor of the Senate above, destroying both Chambers for a while.

This lesson is why we do not tamper with one branch of Government. It can affect the others in ways you cannot anticipate. That is what is really going on here.

The Constitution of the United States gives this Senate the important authority to advise and consent, and we do it by a majority vote. Treaties, on the other hand, require a supermajority. But when you have a filibuster, as we have seen with Estrada, and now, I fear, Priscilla Owen—and I hope not and again say: Say it ain’t so—what happens is we are changing the constitutional standard.

You have to think about some of the consequences. Some of the obvious ones. There may be some we do not see today. One of them is if this is now the standard, that you need 60 votes, we are not going to get qualified and talented people to serve on our highest court in the land. It is time to make it through. I dare say, Justice Scalia would probably not make it through. Ruth Bader Ginsburg, a liberal Supreme Court Justice, who graduated from the same high school I graduated from, in Brooklyn, New York, James Madison High School, may not have made it through. Anybody who has been out there articulating a particular position, a perspective, would not make it through.

Here is the fallacy of the argument of my distinguished colleagues on the other side. They want fealty to their judicial philosophy. They want the candidate to say: Here is a principle in
where I believe, and you have to tell me you believe in that. But that is not what our system is supposed to be. What judges are supposed to do is not to say this is their own vision and their own view and their own philosophy, and what they consider says, that is what they are going to apply. What the Constitution requires, what rules of court require, what we as Americans should require is that judges simply uphold the Constitution and follow established case law, that they will follow established precedent, by the way, even if they do not agree with it.

That is what we require of judges. It is not about taking your own judicial philosophy and kind of driving it forward, come heck or high water. It is about a willingness and a commitment to uphold judicial precedent. That is what Justice Owen understands. That is what a wise person would do. That is what Miguel Estrada represents.

We have business to pursue, important business. But of all the things we do, if we take this Constitution and we disperse in the halls of this Senate Chamber, in the year 2003 simply say we are going to cast the Constitution aside, we are going to set a new standard—not a majority but a supermajority, 60 votes—that we on one side—and this time it is my distinguished colleagues across the aisle; they are going to turn down folks because they are not pledging abeyance, not giving fealty to their philosophy; and down the road, if there is a Democrat who has some philosophies different than our own—our country is going to be in deep trouble.

I hope I get to serve in this institution a long time. The people of the State of Minnesota have given me an opportunity. They have given me at least 6 years. But I will tell you, I will try to conduct myself in a way that when a candidate comes forward, I apply the same standard, whether that candidate is being put forth by a Republican President or a Democratic President. That standard is pretty simple: Are they willing to commit themselves to follow established case law. Do they have the right kind of judicial temperament. And—again, we have the American perception giving the gold standard—then we should not be having these debates right now. Again, let us be very wary of efforts to change the constitutional standards.

Let us discuss the merits of these nominees, their qualifications, judicial temperament, but then let us follow the constitutional process we have followed for two centuries and vote yes or no on our advice and consent to the President’s nominee to the court of appeals.

I hope, Madam President, we give Justice Owen that right. I am going to be voting yea. My colleagues on the other side may disagree and vote nay, but let’s make sure we get a vote, that we do not change the constitutional standard.

Madam President, I yield the floor.

The PRESIDENTING OFFICER (Mr. ALEXANDER). The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise to discuss the nomination of Priscilla Cia Olla to the Circuit Court of Appeals. I begin by saying, as have others, that the Senate has a constitutional obligation to advice and consent on a Federal judicial nominee. This is a responsibility I take seriously, as do my Senate colleagues from both sides of the aisle. Unlike other nominations that come before the Senate such as ambassadorships or executive nominees, Federal judicial nominations are lifetime appointments. These are not own personal values that will affect our courts for 3 years or 4 years but, rather, 30 years or 40 years, making it even more important that the Senate not act as a rubber stamp.

Having said that, to review the record of where we are under this President and his judicial nominations, to date the Senate has confirmed 119 Federal justices and rejected two—not exactly a partisan example of how we are moving forward on judgeships: 119 approved; two rejected. Ironically, one of those already rejected is the person now in front of the Senate again.

As a part of the important responsibility we have, I have examined Justice Owen’s opinions to determine that this is a nominee who has repeatedly disregarded the language of the law and has instead substituted her own political and personal views. This is a nominee who has been criticized by her own Republican colleagues for not standing up for the court for being a judicial activist. She is one who has consistently overreached in her decisions to justify her extreme personal positions.

I begin by talking briefly about the Texas Supreme Court. In Texas, Supreme Court judges are elected for 6-year terms. They run as party candidates, as they do in many States, as Republicans or Democrats. This is a conservative court and currently an all-Republican court. This is important because when one reads Texas Supreme Court opinions, Justice Owen is outside of the mainstream even among those of her own party who have been recognized as serving on a conservative court.

In fact, a review of the court’s opinions shows that since Justice Owen joined the court in January of 1995 through June of 2002, just prior to her July 2002 judicial committee hearing, she was the second most frequent dissenter among the justices then serving on the court. The content of these dissents also shows that she is often out of touch with the law and significantly more extreme than other Republican colleagues on the court.

For example, in the 12 cases before her involving minors seeking judicial bypass to obtain an abortion under Texas parental notification laws, Owen joined the majority in granting a bypass only once. That was a case which was decided after her nomination to the Fifth Circuit.

In re Jane Doe 1, where a bypass was granted, the Republican majority opinion sharply rebuked Owen and the other dissenter’s attempts to substitute their own personal views for the law instead of interpreting the law itself. They stated:

‘‘To recognize that judges’ personal views may inspire inflammatory and irresponsible rhetoric. Nonetheless, the issue’s highly charged nature does not excuse judges who impose their own personal convictions into what must be a strictly legal inquiry.

Those are harsh words.

As judges, we cannot ignore the statute or the record before us. Whatever our personal feelings may be, we must respect the rule of law.

How many times have we heard colleagues speak about respecting the rule of law? Here was someone rebuked by her own Republican colleagues for not respecting the rule of law.

In a concurring opinion on the same case, then Justice Alito, now Gonzales, the Bush administration’s current White House counsel, described the dissenters, including Justice Owen, as attempting to engage in “an unconscionable act of judicial activism.” These are the words of the White House counsel when he was serving with her, that she attempted to engage in “an unconscionable act of judicial activism.” Those are very powerful words.

This criticism is very serious. It does not come from Senators. It comes from Justice Owen’s own Republican colleagues. That is significant. In another parental notification case, in re Jane Doe 3, the minor testified that her father can who would take out his anger toward his children by beating the mother. Justice Owen once again substituted her own personal views for the law and would have required a higher evidentiary standard for showing the possibility of abuse under the law. Republican Justice Enoch wrote, specifically to rebuke Justice Owen and her fellow dissenters for misconstructing the definition of the sort of abuse that may occur under the bypass law—a Republican colleague on the bench—‘‘Abuse is abuse. It is neither to be trifled with nor its severity to be second-guessed.’’

Justice Owen’s judicial activism extends way beyond these cases. Justice Owen has been out of step with Republican justices of the Texas Supreme Court on everything from environmental cases to consumer protection to workplace discrimination cases. In Read v. Scott Fetzer, Kristi Read was raped in her home by a door-to-door salesman hired by the Kirby vacuum company. If the company conducted a background check or even checked the salesman’s employment references, they would have learned
that women at his previous places of employment had complained about his sexually inappropriate behavior and that he had pled guilty to a charge of sexual indecency with a child and was fired as a result of that incident.

The majority in this case ruled that the victim was entitled to damages from the distributor that hired the salesman. Justice Owen, however, joined a dissenting opinion saying the victim was not entitled to any damages from the distributor, arguing that since the salesman was considered an independent contractor, the distributor had no duty to perform any background checks. This is yet another example where Priscilla Owen is out of step with even her colleagues on the Texas Supreme Court, much less mainstream America.

President Bush has said he wants judges who are not judicial activists and who will interpret the law, not make the law. Justice Owen fails this test by any measure. When one examines Justice Owen's record, her pattern of judicial activism becomes clear.

During her tenure on this conservative court—and I say that only to say that these were Republican colleagues on the court who were making the statements about the inappropriate judicial activism—Justice Owen has dissented in 66 cases and has been critical of her colleagues, including White House Counsel Alberto Gonzales, on the bench for her judicial overreaching.

This is a nominee who has been divisive on the Texas Supreme Court but in the U.S. Senate. I have received over 2,500 letters and e-mails from my constituents in Michigan opposing Priscilla Owen's nomination. I have received letters from over 60 different organizations, including civil rights groups, advocacy groups, women's groups, environmental groups, and other citizens opposing this nomination.

In addition, Justice Owen's nomination was rejected last year by the Senate Judiciary Committee, and her reconsideration is unprecedented. Never before has a nominee been voted on and rejected by the committee or the Senate and subsequently renominated for the same seat.

Mr. President, I urge my colleagues to say yes to a balanced Federal judiciary. Justice Owen fails this test by any measure. When one examines Justice Owen's record, her pattern of judicial activism becomes clear.

Mr. President, I urge my colleagues to say yes to a balanced Federal judiciary that will interpret and not make the law, and to say no to the Owen nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I want to share some comments about Priscilla Owen. I could not disagree with my distinguished colleague more. Priscilla Owen, I believe, is one of the great justices in America. She has served on the Texas Supreme Court with distinction. She has received support from all the Texas Supreme Court judges. They like and admire her. She has an extraordinary record—a record of public service and private litigation.

Her background and study capabilities have been reviewed by the American Bar Association—the gold standard, the Democrats tell us, for whether or not a person should be confirmed. They have—15 lawyers—reviewed her private litigation. They are lawyers in the community and others who review the record. They interviewed litigants who come before Judge Owen. They interviewed her law partners in the firm where she worked privately. They interviewed opposing lawyers in cases she was on, judges in the community who know her, leaders of the bar association and presidents of the bar association. They evaluate whether or not a judge is a fair and objective judge. After a complete evaluation of this excellent jurist's career, they have unanimously voted that she is “well qualified,” which is the highest rating they can give.

So to come in here and say she is an “extremist” who will not follow the law and abuses the law is simply not correct. To just say that she dissents on cases is not fair. Great judges who love the law and care about the law tend to dissent more. It is easy just to pretend that she offers either opinions or objections. Oftentimes, that is a great compliment—that the jurist is concerned about the law and wants to do it right.

Prior to her election in 1994 to the Supreme Court of Texas, she was with the Houston law firm of Andrews and Kurth, where she practiced commercial litigation for 17 years. In private practice, she handled a broad range of civil matters at both the trial and appellate levels. She was admitted to practice before various State and Federal courts, as well as U.S. courts of appeals—namely, the Fourth, Fifth, Eighth, and Eleventh Circuits. She is nominated to be a member of what I call the old Fifth Circuit. Alabama and Georgia used to be in the Fifth and they split.

Priscilla Owen is a member of the American Law Institute, American Judicature Society, American Bar Association, and a Fellow of the American and Houston Bar Foundations. She was elected to the Supreme Court of Texas in 2000, garnering 84 percent of the candidates, having been endorsed by every major newspaper in Texas. A pretty good record. Is this the record of some sort of extremist? No, it is not.

She served as a liaison to the Supreme Court of Texas’s Court-Annexed Mediation Task Force, and that is a good thing. We need to have more mediation and conciliation and less litigation, frankly. I am glad to see that she is concerned with that. She has been on statewide committees on providing legal aid to the poor and to bona fide public and private legal services. She was part of a committee that successfully encouraged the Texas Legislature to enact legislation that has resulted in millions of dollars a year in additional funds for providers of legal services to the poor.

Priscilla Owen also served as a member of the board of the A.A. White Dispute Resolution Institute. Additionally, she served on the board of the Texas Institute for the Study of Family Law—another interesting group. It seeks to find ways to educate parents about the effects of dissolution of a marriage can have on children, and to lessen the adversarial nature of legal proceedings while a marriage is being dissolved. This is a lady who cares about children, who cares about families, and wants to do the right thing for them.

Among her community activities, Justice Owen served on the Board of Texas Hearing and Service Dogs for the Disabled. She is a member of the St. Barnabas Episcopal Mission in Austin, TX, where she teaches Sunday school and serves as head of the altar guild. I grant some might think she is too religious. We are hearing complaints about that today. I, frankly, think that being a member of the Episcopal mission, serving on the altar guild, and being a Sunday school teacher is an honorable thing to be recognized and is a positive contribution to the community. I suggest it demonstrates certain values.

She has a tremendous academic record. She earned her bachelor’s degree cum laude from Baylor University, where she also graduated from law school, in 1977, cum laude with honors. She was a member of the Baylor Law Review, for graduating seniors or juniors to participating in the school’s law review, is the highest honor a good law student can receive. It goes beyond grades, but grades are an important part of it. She was honored as the Baylor Young Lawyer of the Year and received the Baylor University Outstanding Young Alumna award.

If anybody has any doubts about her abilities—and you cannot always tell from grades—she made the highest score in the State of Texas on the bar exam. I am telling you, they have people from Harvard, Yale, the University of Texas, and all of those schools taking this exam. She made the highest score on the Texas bar exam. I suggest to you there were some talented people taking that exam. She made the highest possible score. She has the intellectual capabilities that everybody who knows her says she has.

So what does this boil down to? It boils down to a complaint about her interpretation of a poorly written—because I was at the committee hearing—Texas statute dealing with parental notification. The Supreme Court of the United States and 80 percent of the American people believe that if a young minor, a child, is contemplating an abortion, she ought not to be able to go to the abortion doctor and have that done without at least notifying her parents.

Mr. President, I want to share some comments about Priscilla Owen. I could not disagree with my distinguished colleague more. Priscilla Owen, I believe, is one of the great justices in America. She has served on the Texas Supreme Court with distinction. She has received support from all the Texas Supreme Court judges. They like and admire her. She has an extraordinary record—a record of public service and private litigation.
Parents love children. I know there are some parents who are abusive and there are difficult circumstances, but most parents are not that way. Most parents love their children. Most parents would be helpful to a child who has difficulties and most parents would be able to discuss that with them in a rational way.

The Texas law was attempting to provide that. It was not a bad law, but it was not written with sufficient clarity that a group of judges could get together and agree on every example of what it meant. Anybody here knows if someone practices law that those circumstances happen. So this is basically what the complaint about her is, over this one subject.

A parental notification law says a parent of a young minor child seeking an abortion should be notified if the teenager is going to have the abortion. Notification does not mean a parent has to agree to the abortion, or to even say in this notification, would be a consent requirement. Parental notification laws do not require consent. Notification is simply telling a parent a child is about to undergo a major medical procedure.

School teachers will not allow a child to take an aspirin without calling the parent, and yet the pro-abortionists think it is perfectly all right for a 13, 14 or 15-year-old, who has gotten themselves in trouble, gotten themselves pregnant, that they should not even tell their parents and go off with some older man perhaps and conduct this procedure. That is the sad reality of it.

So even if a parent were to object to this abortion, the teenager could still go forward with it. It would not stand in the way of them going to an abortion clinic.

Eighty percent of Americans believe that it is appropriate that parents should get notification. Let me explain how we work in Texas. If a teenage girl becomes pregnant and does not want to follow the notification law to give her parents an FYI, she is allowed to petition the court for a waiver. If the court grants the waiver and says you do not have to notify your parents, she can get an abortion without notifying either one of her parents. If the trial court denies that waiver after a hearing and says she should tell her parents, the teenager can either notify one of the parents or can appeal to the court of civil appeals.

At the court of civil appeals level, a minimum of at least three judges reviewed the record of the trial judge to determine whether or not the judge made an error and whether or not the teenager should be able to have an abortion without notifying either parent. The judges look again at the reason behind the request for security of the teenager and her decision-making process. After a complete review of the trial judge's decision, the appeals court either grants the waiver and allows the abortion to go forward without notification or affirms the trial court's denial.

If the court of appeals denies the waiver, the girl either notifies one of her parents or can appeal to the state supreme court, such as the Texas Supreme Court where Justice Owen sits. So by the time this case reaches the supreme court where Justice Owen sits, at least four judges will have either seen the teenager or reviewed the record carefully and ruled a notification should be made to at least one parent before an abortion takes place. So that is how the system works. By the time the case reaches the Texas Supreme Court, two other lower courts will have already said the girl should provide the parents the courtesy of telling them what she wants to do. That is the way the system works. By the time the case reaches the Texas Supreme Court, two other lower courts will have already said the girl should provide the parents the courtesy of telling them what she wants to do. That is the way the system works.

So this is what the issue is all about. This is what the opponents are unhappy about, and they talk about it aggressively.

Justice Owen has never made an initial decision to deny a waiver. Her position on the Texas Supreme Court does not permit that. Her position only allows her to review denials of waivers already made by lower courts. In upholding the lower court's denial of a waiver, Justice Owen is only agreeing with the trial judge, the judge who had the opportunity to see the teenager and to observe her, and also the judges on the court of appeals, the intermediate level court. Justice Owen simply did what appellate judges do. Appellate judges allow the trial court to be the trier of fact and in most instances only review their decisions on abuse of discretion grounds.

So to break it down, Justice Owen merely ruled in a few parental notification cases that a trial judge and at least three judges on the court of civil appeals did not abuse their discretion by having a teenage girl notify her parents she intended to have an abortion. That is, I submit, far from being some sort of judicial activism, like a judge who does not adhere to the law.

An FYI to a parent before a major surgery, that is what this filibuster is all about. Some of my colleagues are really strongly committed to an absolutist position on abortion. They oppose limiting partial-birth abortion. They oppose any limitation whatever.

Now we are at the point of seeing this filibuster. This is filibuster. This is filibuster. This is filibuster. This is filibuster. Some of my colleagues are really strongly committed to an absolutist position. We are not talking about requiring parental consent for abortions. We are only talking about notice. If a parent objects, a doctor is still required to perform the abortion and allowed to perform the abortion if the child wants. In Justice Owen's State of Texas, the law does not allow a teenager to get an aspirin in school without parental consent. If a teenager wants to get a tattoo, the law requires parental consent. If a teenager wants to get her ear pierced, parental consent is required. So if a girl wants to take an aspirin in school, get a tattoo or have her ear pierced, her parents not only have to have notification, they have to consent. They have to examine it. That is not the case with abortion. In my view, giving a parent notice about an abortion for a teenage girl is nowhere outside the mainstream of American policy or American law.

Justice Owen is one of the finest nominees this Senate has ever had the opportunity to consider. For her nomination to be filibustered is an atrocity.
of the confirmation process and to the tradition of this Senate. I strongly sup-
port her confirmation. I believe it is in the best interest of the American people to confirm her. She has performed as one of Texas’s finest litigators and has won election to the Supreme Court of Texas with 80 percent of the vote, having the support of every major newspaper in her State. I find it hard to see how we could not confirm her, not even allowing her to have a vote in this body.

They say she was rejected once. I was on the committee. That was when the Democrats were in the majority. They voted a straight party-line vote in committee after I thought she testified brilliantly in examination. That never happened in the 8 years President Clinton was President.

Never did we vote down a nominee in committee on a party-line vote. They say, well, only two of them have been blocked here. In 8 years, there were 377 confirmations of President Clinton’s judges. One was voted down. None were voted down in committee. She was voted down on a party-line vote in the Senate Judiciary Committee, but she had not been rejected by the full committee.

If they think she is going to be re-
jected again, why don’t they let us have a vote? Let’s vote on it. I suggest this nominee is going to win a majority of the votes in this Senate.

The Constitution makes clear that the Senate has an advice and consent power. It notes, with regard to treaties, that the Senate shall advise and consent provided two-thirds agree. Then with regard to the confirmation of all other offices, it just says the Senate shall advise and consent.

Since the founding of this country, we have understood that to mean the Senate will have a majority vote on the confirmation. There is no other logical thing it could mean. So now we have ratcheted up the game.

I recall distinctly a little over 2 years ago when my Democrat colleagues went to a private retreat. A number of law professors, Lawrence Tribe, Cass Sunstein, and Marsha Greenberg went there, professors all who advised them to change the ground rules on the judicial nominations. I believe that is written in the New York Times. Since then, there has been a systematic change in the ground rules of judicial confirmations. When they had the majority, they attempted to kill nominees in committee on a party-line vote, which had never been done before. And now, amazingly, they are going to the filibuster.

The American people need to understand something important. In the his-
tory of this country, there has never been a filibuster of a circuit or district judge. Never. It has always been an up-or-down vote.

I remember when some did not like some of President Clinton’s judges and they said we should filibuster; Chairman HATCH said, No, we do not fili-
buster judges.

When holds went on too long—the way you defeat a hold is to file a mo-
tion for cloture—and a cloture vote would be required by Republican leader TREAT LOTT to bring up Democratic Bill Clinton’s judges. I voted for cloture on each one of them. Sometimes I voted against the judge, but I voted for cloture to bring the vote up because I did not want to participate in a fili-
buster.

We have a big deal here. Why some one would seek out this magnificent nominee, this person who is not only qualified for the Fifth Circuit Court of Appeals but qualified to sit on the U.S. Supreme Court, and filibuster their nomination, is beyond me. It is just be-
yond me.

I conclude by saying I spent over 15 years of my professional career trying cases in Federal court as a U.S. attor-
ney and assistant U.S. attorney. I ap-
peared before courts of appeal. I wrote briefs to courts of appeal. I appeared before Federal judges. I think I have looked at her record carefully. I have heard the explanations she has made in committee. I am convinced her qualifications are im-
mediately sound and reasonable. I think President Bush could not have found a finer nominee. I have every confidence that she would be a superior judge on the court of appeals, and I am abso-
lutely confident, were she given an up-
or-down vote, she would be confirmed.

We need to take seriously our responsi-
ibilities here. Let’s have an up-or-
down vote. Let’s confirm this fine no-
minee. She will serve us and Ameri-
ica well.

I yield the floor and suggest the ab-
scence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk pro-
cceeded to call the roll.

Mr. FRIST. Mr. President, I ask uni-
animous consent that the order for the quorum call be rescinded.

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

UNANIMOUS CONSENT REQUEST — EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, for the past 2 days, we have been working on an agreement looking for an orderly, systematic process by which we could consider some of the pending judicial nominations. It had been our hope we could reach an agreement to consider these nominations this week and early next week. Unfortunately, after a lot of discussions—and we worked on both sides of the aisle in good faith—but after a lot of discussion, it does not appear we will be able to reach the con-
sent agreement.

On our side, we have been prepared to consider and vote on all of the circuit court nominations that are on the cal-
endar. I am confident that my Democratic colleagues, at this point, are prepared to vote on just one of these judges. Therefore, unless we can reach a con-
sent agreement tomorrow, following the cloture vote in the morning on the pending Owen nomination, it will be my intention to proceed to the Prado nomination. And following disposition of the Prado nomination, it would be my expectation to vote on the Cook nomination. I hope both of these nomi-
 nations, which have received, by the way, bipartisan support, will be consid-
ered and confirmed this week.

I think at this point I will go ahead and put forth the unanimous consent request. And then we will have some comment and discussion about where we are.

Mr. President, I ask unanimous con-
sent that on Thursday, at a time deter-
mined by the majority leader, after consultation with the Democratic leader, the Senate proceed to executive ses-
sion and the consideration of calendar No. 105, the nomination of Edward Prado, of Texas, for the Fifth Circuit; further, that there be 3 hours for de-
bate, equally divided between the chairmen and ranking member or their designees; I further ask consent that following the use or yielding back of time, the Senate vote, without inter-
vening action, on the confirmation of calendar No. 105; I further ask consent that following the vote, the President be immediately notified of the Senate’s action.

I further ask unanimous consent that on Monday, May 5, at a time to be de-
termined by the majority leader, after consultation with the Democratic leader, the Senate proceed to executive ses-
sion for the consideration of calendar No. 34, the nomination of Deborah Cook, of Ohio, to be a U.S. circuit judge for the Sixth Circuit; provided further, that there be 4 hours for de-
bate, equally divided between the chairmen and ranking member or their designees; further, I ask consent that following the use or yielding back of that time, the Senate proceed to a vote on the confirmation of the nomination, again, with no intervening action or de-
bate.

Finally, I ask unanimous consent that when the Judiciary Committee re-
ports the Roberts nomination, it be in or-
der for the majority leader to pro-
cceed to its consideration, and it be con-
sidered under a 2-hour time limitation, and that following that time, the Sen-
ate proceed to a vote on the confirm-
ation, with no intervening action or de-
bate.

The PRESIDING OFFICER. Is there objection?

The Senator from Nevada.

Mr. REID. Mr. President, reserving the right to object, I have, along with Senator DASCHLE, worked very hard on this request the majority leader has read into the RECORD. Senator MCCON
NELL and the majority leader have also worked very hard. Over the years I have been involved in other matters where we have had very complicated, substantive issues we have been able to work out. I am very disappointed we
cannot work this out because this really does not compare to some of the difficult issues we have been able to resolve previously. But we have not been able to resolve this.

I am really disappointed for a number of reasons. It involves individual Senators who have all devoted a lot of time on this issue, both Democrats and Republicans. But if there were ever an effort in good faith by the two sides, this has been it.

I hope my objection, which I will enter in just a few moments, will not be the end of this. I hope we can, with a night’s rest, work something out. For the last two nights we have come within a whisker of an agreement on these three judges. But in the Senate sometimes a whisker stops us, and it has done that.

So I reluctantly object.

The PRESIDING OFFICER. Objection is heard.

The assistant Democratic leader and I, Mr. MCCONNELL. Mr. President, I say to my friend from Nevada, I share his frustration. These are three nominations that are being approved, one of them probably unanimously. The assistant Democratic leader and I have wrestled around with this now for the last 2 days, and we find ourselves still not in a position to lock in a vote on Cook and Roberts.

So tomorrow is another day, and we will try again. But it is sort of an indication of where the Senate stands these days, that even in a situation where you have three judges we know are going to be confirmed, we have not been able to reach an agreement after 2 days’ work to conclude the inevitable, which is confirmation of these three judges.

Hopefully tomorrow will bring better results.

I yield the floor.

Mr. MCCONNELL. Mr. President, I am very hopeful we will be able to make progress. Again, the three Senators who are speaking now, with Senator DASCHLE, have been working very hard with our colleagues to try to reach an agreement. But we have been unsuccessful. We will keep moving ahead, and I am optimistic these three nominees will be confirmed shortly.

I do want to add, really for the benefit of those who see these discussions being made. As my colleagues know, one of the nominees, Roberts, went back to committee, and the understanding was that with him going back to committee, we would have votes, up-or-down votes, on both Roberts and Cook. That is the background. We have been working on that for actually several weeks, and that process is underway. So we look forward to having that become a reality.

The final step, with Roberts going back to committee, was taken. And now the expectation is, and the general agreement is, we are moving in the direction that we will, at some point in time—we have not been able to lock in the time—have votes on both Roberts and Cook.

Mr. REID. Mr. President, if the majority leader will yield, I know the hour is late. I don’t want to talk longer than necessary. I just want the record to be spread with the fact that we have a couple of Senators who have a different understanding as to what the majority leader and the minority leader and Senator MCCONNELL and I thought had been agreed to. Senator McCauliffe or, just for the three of us thought it had been agreed to. There is an honest dispute as to a fact or two. This is just me speaking personally, not for my colleagues. I really think we should be able to work our way through this. It should not be as difficult as it is.

The Democratic leader and I acknowledge that the majority leader intervened right before the recess to get Roberts back for a hearing. We know that wasn’t easy for him to do. We acknowledged that. We appreciate that. And we hope we can resolve this procedural quagmire. There certainly has been no bad faith by the leadership on the Republican side or the Democratic side.

Mr. FRIST. Mr. President, let me say, once again, that we will have a cloture vote on Owen tomorrow. And if cloture fails, we will go to Prado and, once Prado is completed, go to the Cook nomination. That will be the general plan.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

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

NOMINATION OF PRISCILLA OWEN

Mr. KYL. Mr. President, I rise in morning business for a moment to speak about the nomination of Priscilla Owen of Texas to the Federal bench.

This is really an extraordinary nomination. It is very troubling to me that it appears most of our colleagues on the other side of the aisle are willing to keep Justice Owen from getting a vote. In the past, even with very controversial votes on Justices to the Supreme Court—and I have, for example, Justice Clarence Thomas in mind, and there was significant opposition to the confirmation of Justice Thomas, primarily by Members of the other side of the aisle—the leaders of the Democratic Party understood that tradition called for a vote—probably knowing they would lose the vote. They, nevertheless, refused to support any kind of filibuster and they voted against Justice Thomas’s confirmation. But he was confirmed 52-48.

I always respected the things they said at or about the time of that confirmation—that they would not ever support a filibuster, regardless of their particular feelings about the nominee.

I thought that took courage, and I respected it, coming, as it did, from some of the key leaders of the Democratic side of the Senate. It confirmed to me what I’ve always thought to be true—no matter what the partisan relationship of comity we have with the President in dealing with his nominees, and the importance of our responsibilities with respect to confirming Justice of the Supreme Court and members of the Federal bench, such that partisanship and tactical advantage could be laid to the side for the good of the country and these nominations could be voted on.

Now, there have been votes—sometimes—where the nominee lost. Most of the time, when votes are allowed to happen, the nominees prevail. But the new situation we have in this body, starting out with the President’s nomination of Miguel Estrada—and now, I think, with the nomination of Priscilla Owen—we are going to require that unless 60 Members of the Senate agree to allow a vote, we don’t get a vote. A filibuster, in other words, becomes the benchmark, the standard for confirmation of judicial nominations.

It has never been that way. There has only been one successful filibuster, and that was a very strange situation. There has never been a partisan filibuster in this body until now. It is especially remarkable because, in the case of Justice Owen, for example, one cannot claim, as has been claimed with regard to Miguel Estrada, that her record is unknown or unclear, or that there is more information that needs to be gleaned. She appeared not once but twice before the Judiciary Committee. The reason I wanted to take the floor briefly today is to say to my friends I don’t think I have ever seen a nominee who handled herself or himself better than Justice Owen did at those hearings. She was, in the estimation of many, a brilliant in her exposition of the law, measured, and she clearly has the temperament to be a good judge.

She has been serving as a Justice of the State Supreme Court of Texas. She has the support of another former Justice of that court, Judge Gonzales, who obviously is now acting as the President’s counsel, and the support of Democrats and Republicans alike. She has two former American Bar Association, as with Miguel Estrada, has recommended her for confirmation. She stayed at the hearing for as long as Members wanted her to stay. She answered all of the questions. So the same arguments cannot be made that has been made about Miguel Estrada.

In fact, one of my colleagues on the other side of the aisle made it clear, in discussing the nomination of Miguel Estrada, that the only thing standing in the way of a vote was the Senate would not necessarily commit to voting on him but at least allowing a vote on him—was producing this information which they say they want from the Justice
Department about his prior employment. But for that, that vote could occur, seeming to suggest that the same thing would be the case with any other nominee—that as long as the information was forthcoming and they knew about the individual, that therefore they would vote.

In fact, the last line, after this colleague talked to others in the Democratic Party, states: Look, if we can just get this information, do you think we can vote? And the answer was: Affirmatively, for requiring 60 votes to confirm, but we have some philosophical disagreement with the President who nominates these candidates.

I urge my colleagues to think carefully because in the case of Priscilla Owen, as the bar association found, as the Judiciary Committee concluded in its most recent action by passing her out on the Executive Calendar, she is a fine jurist, and that is a fine member of the Federal bench. There is no legitimate reason to oppose her. I urge my colleagues to think about this as we focus on her qualifications, on the relationship between the Senate and the nominee, on the delegation we have to the courts and to the American people. This is serious and we ought to be acting in a serious way. I urge my colleagues to support the nomination of Justice Priscilla Owen.

TRIBUTE TO EMILIE WANDERER

Mr. REID. Mr. President, I would like to pay tribute to Emilie Wanderer, of Henderson, NV, on the occasion of her 101st birthday, which she celebrated earlier this month.

Emilie Wanderer is the oldest member of the Nevada bar, but her significance goes well beyond her longevity. She both contributed to, and exemplifies, the progress our society has made in terms of quality. She broke down barriers for herself and for others. During a time when many women were discouraged from pursuing higher education and many were excluded from professions, Emilie Wanderer embarked on a legal career in addition to raising her children.

Her noteworthy accomplishments include becoming the first woman to practice law in Las Vegas, being the first woman to run for district judge in Nevada, and, jointly with her son John Wanderer in the first mother-son legal practice in the State. She has been an inspiration and a role model for Nevadans, especially for women pursuing careers in fields traditionally dominated by men.

Through her legal work and through her life, she has made our State a better, kinder, fairer, and more just place. Emilie Wanderer is considered a legend in the southern Nevada civil rights community. Several decades ago, racism and segregation plagued Las Vegas like so many places throughout America. Earlier this year when we celebrated African American History Month, it is right that we give credit that Black leaders played in the civil rights movement, but I think it is important also to recognize that some whites—not only famous and prominent people but also those who never received much attention or credit—were committed to the pursuit of justice and fairness.

Emilie Wanderer is one such person who helped bring about progress in race relations in Nevada. Early in her career, she served as legal counsel for the Nevada chapter of the National Association for the Advancement of Colored People, and she held NAACP meetings within her own home, even at the risk of harassment, threats and intimidation. She believed it was the right thing to do, and she had the courage of her convictions.

Emilie Wanderer’s commitment to, and contributions to, promoting social justice and securing equal rights for all the people of Nevada deserve to be recognized and praised. On behalf of our State, I thank her and send my best wishes.

COMMEMORATING THE 37TH ANNIVERSARY OF THE DEATH OF MARTIN LUTHER KING, JR.

Mr. DURBIN. Mr. President, 35 years ago on April 4, 1968, Martin Luther King, Jr.’s life was tragically cut short by an assassin’s bullet. Dr. King was just 39 years old. In 1963, Dr. King delivered a funeral eulogy for the children who were killed by a firebomb at the 16th Street Baptist Church in Birmingham, Alabama. Dr. King said: ‘‘Your children did not live long, but they lived well. The quantity of their lives was disturbingly small, but the quality of their lives was magnificently big.’’ Dr. King’s own words could be said about himself.

Only three Americans have ever had a Federal holiday named for them by Congress. Two were presidents George Washington helped create our Nation and Abraham Lincoln helped preserve it. The third, Martin Luther King, Jr., never held an elected office but he redeemed the moral purpose of the United States. He reminded us that since we are all created equal, all of us are equally entitled to be treated with dignity, fairness, and humanity.

Last month I had an opportunity to visit the State of Alabama for the first time. I went there with Democratic and Republican Members of Congress, on a delegation led by Republican John Lewis from Atlanta, GA. We paid a visit to some of the most important spots in American civil rights history. Dr. King’s fingerprints are on these and countless other watershed events in American civil rights history.
We went to Montgomery and stood on the street corner where Rosa Parks boarded the bus in 1955 and refused to give up her seat to a white rider, as was required by city law. After Rosa Parks was arrested, Dr. King led a bus boycott in Montgomery, where he had just moved to pastor a church.

We went to Birmingham and visited the 16th Street Baptist Church. Before the tragic bombing in 1963, the church had been used for civil rights rallies and desegregation protests, and Dr. King had spoken there and throughout Birmingham on many occasions. He wrote his famous “Letter from a Birmingham Jail” 40 years ago after being arrested for leading a protest in April 1963. We went to Selma and stood at the spot on the Edmund Pettus Bridge where, in 1965, a young John Lewis was beaten unconscious by Alabama State troopers, at the time the 52-mile voting rights march from Selma to Montgomery was being blocked. In response, Dr. King led a second march, and these brave actions led to Congressional passage of the Voting Rights Act of 1965. Dr. King is the pre-eminent civil rights figure in our Nation’s history, but he would not have been as successful had it not been for a handful of courageous federal judges who despite death threats to themselves and family members used the judiciary to help dismantle the legacy of Jim Crow. For example, Alabama Judge Frank Johnson was a judge-picked mediator that struck down Montgomery’s bus-segregation law, holding that separate but equal facilities were violations of the due process and equal protection clauses of the Fourteenth Amendment. And after Governor George Wallace banned the Selma-to-Montgomery march, Judge Johnson issued the order that allowed Dr. King and Rep. Lewis to conduct the march, calling the right to march “commensurate with the enormity of the threat that we are protesting.” Dr. King called Judge Johnson a jurist who had “given true meaning to the word ‘justice.’”

Dr. King was keenly aware of the importance of the federal judiciary to ensure equality and justice in our society. In a 1968 speech at Beth Emet synagogouge in Evanston, Illinois, Dr. King said: “As we look to Washington, so I look back with so much gratitude at the sacrifices the men and women of our Army, Navy, Air Force, Marines, and Coast Guard have made for our security and the security of the world.

In my service in the Senate and on the Senate Armed Services Committee, I have heard countless stories of the heroism of those who protect us. But just when you think nothing can deepen your conviction about the extraordinary character of these men and women, you are confronted with the sacrifice of Dr. King’s parents from CT, Bristol. They passed on to me a letter written on February 15, 2003, by their daughter, Barbara. She is an Operations Specialist Second Class in the U.S. Navy who was with her uniform uniform who risked her life and the lives of her companions and other soldiers and gave her lives to liberate the Iraqi people. They performed bravely and brilliantly, proving once again that there has never been a fighting force in the history of the world as well trained, well equipped, and well motivated as the United States of America’s.

Of course, their work is not done. Far from it: serious danger remains. Winning the peace will take a sustained commitment and generally look back with such gratitude at the sacrifices. I was present at the moment when the men and women of our Army, Navy, Air Force, Marines, and Coast Guard have made for our security and the security of the world.

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do anything to protect the lives of our fellow countrymen. This is our mission.

I believe every American has a responsibility to America. I don’t mean that everyone should fight in the military. The military is a hard one, and not a path easily trod. However, I have fulfilled at least a part of what I owe America. Everyone has a part to play, be it military, politics, being an activist, or even just helping an elderly neighbor rake their lawn. Each American has a responsibility to every other person in our country, and we have a responsibility to every other person in this world. And DiFranco wrote “the world owes me nothing, but we owe each other the world.” I believe this to be one of the most true statements I’ve ever heard. We, as a species, could not survive without each other, even though it seems at times that we are hell-bent on destroying ourselves.

I want every person in America to know this: I stand for you. I will take your place in line when the final bell tolls, and I will do it gladly, for I believe that your life is worth it. You are worth every hardship, every effort, and every last breath in my body. I love you. Even if I do not know you, have never seen your face, have never heard your voice, I love you. I do this today and every day for you. So please, do not wave off my gift to you. Don’t say you don’t want it, just accept that I love you and will defend you, even if it means my life.

May your life be blessed.

BARBARA MARIE O’REILLY

LOCAL LAW ENFORCEMENT ACT
OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred October 9, 2001 in Los Angeles, CA. While a Sikh traditioninalist clothing out on an evening walk close to his home, four men attacked, beat, and punched him. The attackers yelled “terrorist” as they beat him.

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

VOTE EXPLANATION

Mr. LIEBERMAN. Mr. President, I unfortunately had to miss the vote yesterday on the nomination of Jeffrey Sutton to serve on the U.S. Court of Appeals for the Sixth Circuit, but I would like to explain why. I had been here, I would have voted against the nomination.

I take very seriously the Senate’s constitutional duty to review presidential nominees, especially those to the Federal bench. Once confirmed by the Senate, judges have lifetime tenure, meaning that there is no real opportunity to correct poor choices for judicial positions. Given the nature of a judge’s job, they hold power not only over the cases that appear on the court, but over the lives of those before them—Members of the Senate must be convinced that the nominee is right for the job before offering our consent to their nominations.

This does not mean that we should confirm only those whose views comport precisely or even largely with their own; indeed, the President must be given broad leeway to nominate those who he believes are right for the job, which is why I have supported most of this President’s nominees, to the bench or otherwise, regardless of whether I would consider them the best candidates for the job. But the Senate has a constitutional obligation to review, and, wherever possible, serve as a check on the President’s choices, and when a nominee’s views and positions lie far from the mainstream or are so at odds with what I consider to be needed for the job, I must respectfully withhold my consent from their nomination, especially when the stakes are as high as they are for the bench.

After reviewing Mr. Sutton’s record, I have concluded that I cannot support his nomination. Although his professional credentials are impressive and I have little doubt that he is a good lawyer, I believe that his legal views lie far out of the mainstream and that his presence on the Federal bench could do serious harm to the values about which our Nation cares deeply, particularly when it comes to our national desire to fight discrimination and protect individual rights. Mr. Sutton has devoted a significant part of his legal career to advancing an extreme vision of federalism that restricts the power of Congress under civil rights laws and the ability of individuals who have been harmed by discriminatory acts of State governments to seek redress. He has used that vision of federalism to convince activist judges to reject congressional enactments. He has argued against the Americans with Disabilities Act, the Age Discrimination in Employment Act and the Violence Against Women Act. These were laws with strong, mainstream support, and the record clearly shows they were strong. I have deep concern that when future civil rights and similar laws come before him, he will argue against them on federalism grounds as well. I cannot in good conscience support putting him in a position where he will be able to further restrict these good laws.

VA FINDS FLU SHOTS PROTECT ELDERLY

Mr. GRAHAM of Florida. Mr. President, throughout its history, the Department of Veterans Affairs, VA, has made great strides in medical research. At a time when VA’s medical and prosthetic research program is being starved of vital funding, as ranking member of the Committee on Veterans’ Affairs, I would like to draw attention to a significant discovery the program recently made that could confer significant protection from the disease, but also reduce their risk of hospitalization from pneumonia, cardiac disease and stroke. The VA study, published in the April 5, 2003, issue of The New England Journal of Medicine, also found that during a given flu season, vaccinated elderly patients were half as likely to die as their unvaccinated peers.

Since its inception, the VA research program has made landmark contributions to the well-being of seniors and the Nation as a whole. Past VA research projects have resulted in the first successful kidney transplant performed in the U.S., as well as the development of the common antibiotic, ampicillin, and the CAT and MRI scans. This new discovery is yet another example of the crucial research work done by the VA, and of why we must keep the research program sufficiently funded.

I ask unanimous consent that the article from The Washington Post highlighting the VA research study on the benefits of the flu vaccine be printed in the Record.

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

From The Washington Post, Apr. 22, 2003

FLU SHOTS SAVE LIVES

(By Jennifer Huget and Associated Press)

Seniors who get vaccinated against the flu not only protect themselves from that deadly disease but also reduce their risk of hospitalization for pneumonia, cardiac disease and stroke. Plus, a study in the April 3 issue of the New England Journal of Medicine shows, vaccinated elderly patients were half as likely to die as their unvaccinated peers during a given flu season. However, the study, conducted by the Department of Veterans Affairs at the Minneapolis VA Medical Center, tracked 266,000 men and women age 65 and over through two flu seasons. Although the vaccinated folks were on average older and in worse overall health than the unvaccinated, they were about third less likely to have pneumonia and about a fifth less likely to be hospitalized for cardiac care of suffer a stroke during the flu season.

Influenza kills about 36,000 people of all ages each year, according to the Centers for Disease Control and Prevention (CDC); about 90 percent of those deaths are among the elderly. Yet the CDC says that only 68 percent of those over age 65 got flu shots in 2001. Flu shots confer benefits for one flu season only. This year’s flu vaccine is now becoming available, and some experts suggest that seniors start seeking new shots in October.

IDEA FULL FUNDING

Mr. ROBERTS. Mr. President, today I am proud to cosponsor the Hagel...
I do believe that Congress is on the right path to fully funding IDEA, and I am pleased that education funding has been a top priority over the last few years. Since 2000, Federal special education funding has increased by approximately 58 percent and title I funding has increased by 45 percent.

I am proud of this support for education funding, and I urge my colleagues to continue on the course to fully funding IDEA. It is our duty to once and for all meet the promise we made nearly 30 years ago.

MORATORIUM ON EXECUTIONS IN ILLINOIS

Mr. FEINGOLD. Mr. President, I want to take a moment to comment on Governor Rod Blagojevich’s recent decision to continue the moratorium on executions in Illinois initiated by former Governor George Ryan. The leadership we have now seen from two successive Illinois Governors—one Republican and one Democrat—sends the right message for the Nation. This is not a partisan issue. All Americans who value fairness and justice can agree that executions should not take place—whether in Illinois or in the Nation—under a flawed death penalty system, a system that risks executing the innocent.

Three years ago, Governor Ryan, a death penalty supporter, made national headlines when he was the first Governor in the Nation to place a moratorium on executions. He did so after considering irrefutable evidence that the system in Illinois risks executing the innocent. Since the death penalty was reinstated in Illinois in 1977, Illinois had executed 12 people. But, during this same time, another 13 death row inmates were found to be innocent and to have been wrongfully sentenced to death.

Governor Ryan did not stop there. He created an independent, blue ribbon commission, including former U.S. Attorney Thomas Sullivan, one of our former colleagues, Senator Paul Simon, and lawyer and novelist Scott Turow. He instructed the commission, composed of death penalty proponents and opponents, to review the State’s death penalty system and to advise him on how to reduce the risk of executing the innocent and to ensure fairness in the system.

After an exhaustive 2-year study, the commission issued a comprehensive report and set forth 85 recommendations for reform of the Illinois death penalty system. These recommendations address difficult issues like inadequate defense counsel, executions of the mentally retarded, coerced confessions, and the problem of wrongful convictions based solely on the testimony of a jailhouse snitch or a single eyewitness. The commission’s work is the first and, I believe, the only step toward a death penalty system undertaken by a State or Federal Government in the modern death penalty era.

Earlier this year, the Illinois legislature responded with a bill that included some of the recommendations of the commission. Governor Blagojevich, however, rightly reviewed the legislature and determined that the bill did not go far enough. And last week, he emphasized that executions should not resume.

But, the series of mistakes that led to a moratorium are not unique to Illinois. Death penalty systems across the country are fraught with errors and the risk that an innocent person may be condemned to die is far too high. Since 1973, there have been over 800 executions in the United States in the modern death penalty era. During that same period, 107 people who were sentenced to death were later exonerated. That means that for approximately every eight persons executed, an innocent person has been wrongly condemned to die.

Evidence that race plays a role in who is sentenced to death continues to mount. A recent report on race and the death penalty released last week by Amnesty International tells us that while African Americans comprise 12 percent of the U.S. population, they are more than 40 percent of the current death row population and one in three of those executed since 1977. The U.S. could soon carry out the 300th execution of an African American inmate since executions resumed in 1977. The report also highlighted that 80 percent of people executed in the modern death penalty era in the U.S. were executed for murders involving white victims, even though blacks and whites are murder victims in almost equal numbers in our society.

We should all be startled by this statistic. There is something particularly insidious, particularly un-American about the racial disparities that tend to result under the application of the death penalty. A system that treats people differently in administering the ultimate punishment based on their race or the race of the victim is immoral.

In the face of these and other startling pieces of evidence that the death penalty is broken, our Nation is not, as it should be, ceasing or slowing the use of capital punishment. Instead, executions are being carried out at an alarming pace. Already this year, 28 people have been executed, and over the last 6 years, the average annual number of executions is well above that of previous years in the modern death penalty era. In 1999 alone, 99 people were executed in America.

It is my hope that we do not break any records this year. With an eight-to-one executed-to-exonerated ratio, however, we are clearly in a race—a race against time. Because with 107 death row inmates exonerated to date, I do not think any American can be sure that an innocent person has not already been executed in the past and we most certainly cannot guarantee that it will never happen. We must suspend executions and study the flaws in the
Mr. BIDEN. Mr. President, on April 11, 2002, I sent the Department of Justice a letter requesting an opinion for enforcement of the Sarbanes-Oxley Act of 2002, P.L. 107–204. At the end of that statement, the full text of a letter to me from the United States Department of Justice, dated December 26, 2002, should have appeared. In that letter, Assistant Attorney General Daniel J. Bryant confirms my view that the Department may use existing criminal provisions to prosecute corporate executives who fail to file a certification attesting to the accuracy of a company’s financial reports, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. Unfortunately, the letter was inadvertently excluded from the RECORD, so I now resubmit it and ask unanimous consent that its text be printed in the RECORD.

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


Hon. Joseph R. Biden, Jr., U.S. Senate, Washington, DC.

DEAR SENATOR BIDEN: This is in response to your letter of October 16, 2002 to the Attorney General and the Chairman of the Securities and Exchange Commission regarding enforcement of section 906 of the Sarbanes-Oxley Act of 2002 (“the Act”). The Department thanks you for your leadership in corporate governance reform and, in particular, commends your efforts as primary author of section 906 of the Act (18 U.S.C. §1350), which requires corporate executives to make certain certifications with respect to their financial statements.

The Department is fully committed to using the tools provided in the Act in our continuing efforts to uncover and punish corporate fraud. As the President noted when he signed the Act, “this law gives my administration new tools for enforcement. We will use them to the fullest.” In keeping with the President’s statement, Attorney General Ashcroft has directed all United States attorneys and FBI Special-Agents-in-Charge to review the Act and to take all appropriate steps to implement its provisions fully and expeditiously.

The Department continues to consult with the Commission staff regarding certain legal issues raised in implementing section 906. In particular, questions have arisen regarding the form, location, and method of filing the certifications required under section 906. We want to assure you that the Department will continue to work closely with the Commission and we are confident that these questions will be resolved to your satisfaction and with the full input of all affected parties in the near future.

The Department does believe that it is in a position to respond to one question you raised in your letter. You have inquired whether covered individuals who willfully fail to file the certifications required by 18 U.S.C. §1350(a) are subject to the penalties provided in 15 U.S.C. §78ff. While the facts and circumstances determine which tools our prosecutors utilize in each individual case, we believe that section 78ff’s criminal penalties are significant and an individual willfully fails to file the required certification under section 906. Section 1350 of the Act mandates that each periodic report containing financial statements filed by an issuer with the Securities and Exchange Commission (17 C.F.R. §240.13a-14) contain a certification from the chief executive officer and principal financial officer that “any person who willfully violates any provision of this Act, any rule or regulation under this Act, or any rule or regulation issued under the Act, shall be guilty of...” If an issuer’s certifications are false, the issuer’s executives and officers who willfully cause the falsity may be subject to a criminal penalty under section 78ff.

The criminal provisions of the Securities Exchange Act of 1934 (15 U.S.C. §78ff) state that “any person who willfully violates any provision of this chapter (other than section 78l(d)), or any rule or regulation thereunder, consistent with the provisions of this Act, and any such person shall be subject to the same penalties, and to the same extent, as for a violation of that Act or such rules and regulations.”

The Department believes that it is critically important to work with the Commission to resolve the remaining issues you have raised in a timely and thoughtful manner, and we are committed to moving forward expeditiously to achieve consensus on those issues. We also will continue, where appropriate, to provide guidance to our prosecutors and investigators who must enforce the new law and to provide clarity for the corporate community which must comply with it.

We appreciate your attention to these issues, and look forward to continuing to work with you and others in Congress on the implementation of the Sarbanes-Oxley Act.

Sincerely,

Daniel J. Bryant, Assistant Attorney General.
career in the United States Senate and the House of Representatives.

His legacy should not be forgotten, particularly since in recent months, the war has dominated discussions in our Chamber and throughout the world. Sixty years ago, circumstances compelled Senator Matsunaga to become a warrior, and he acted with bravery and valor that resulted in our country awarding him the Bronze Star and two Purple Hearts. Even as a war hero, however, Senator Matsunaga knew the importance of peace and believed that the peaceful resolution of disputes should always be our primary goal.

"After serving as a soldier, he went into public service to find a way to end war," his son, former Hawaii State Senator Matt Matsunaga, once said.

Like other prominent Americans such as Woodrow Wilson, Jennings Randolph, and Everett Dirksen, Senator Matsunaga envisioned a "Department of Peace" that ideally would be on equal footing with the Department of Defense. In 1979, he was successful in having a provision added to an education appropriations bill that called for the establishment of the Commission on Proposals for the National Academy of Peacemakers and Conflict Resolution.

Senator Matsunaga chaired the newly created nonpartisan panel, which became known as the Matsunaga Commission. It was composed of prominent public officials, scholars and representatives from religious and ethnic organizations. The Commission recommended the creation of a national academy. Subsequently, Senator Matsunaga spearheaded a bipartisan drive that led to the passage of a bill that was signed into law by President Reagan establishing the United States Institute of Peace in Washington, D.C. "From that beginning, we have seen the development, transmission, and use of knowledge to promote peace and curb violent international conflict."

Following Senator Matsunaga's death in 1990, the University of Hawaii paid tribute to him by establishing the Matsunaga Institute for Peace, where scholars could study and advise on international disputes without turning to violence.

Senator Matsunaga's belief in peace began early. In 1930, as a student at the University of Hawaii, he wrote a short essay, titled "Let Us Teach Our Children to Want Peace":

"Wants are the drives of all human action. If we want peace we must educate people to want peace. We must replace attitudes favorable to war with attitudes opposed to war. Parents should protect the child from experiences of warfare. Teachers should let the generals fall into the background and bring into the foreground leaders in social reform as heroes. We must help our young men to see that there are other types of bravery than that which is displayed on the battlefield. If in our teaching we emphasize the life and work of out great contributors instead of our great destroyers, people will come to realize that moral courage is bravery of the highest type, and America will be called the Champion of Peace."

Senator Matsunaga lived by those words throughout his life. I ask my colleagues to join me in paying tribute to the late Senator Matsunaga.

THE DISTINGUISHED CAREER OF JAY CUTLER

Mr. KENNEDY. Mr. President, I welcome this opportunity to pay tribute to the distinguished career of Jay Cutler, who is retiring this year as the Director of Government Relations and Special Counsel for the American Psychiatric Association, where he has served for 25 years. During that quarter century he has been a powerful advocate for America's psychiatrists, for the patients they serve, and for the broader cause of mental health. He is well known to virtually every Senator as an outstanding advocate and a fine human being.

I first came to know Jay many years ago, when he served on what was then known as the Senate Resources Committee and is today our Health, Education, Labor, and Pensions Committee. Jay was Senator Jacob Javits' top staff person on the committee. I worked closely with him on a wide range of issues, especially on health care.

Jay's career has had a remarkable breadth and depth. There is no cause in which he has been more deeply involved than better treatment for persons suffering from mental illness and substance abuse. Over the course of his career, there has been a remarkable shift in the perception of mental illness and substance abuse by policymakers and the public. The Nation has made a revolution from a long held and destructive view that mental illness and substance abuse are character flaws, and has achieved a new understanding, that they are diseases which can and should receive the best treatment that medical science can provide. In many ways, Jay's tireless dedication to the cause of mental illness reform and substance abuse treatment has been at the core of this profound shift in public awareness and understanding of these disorders.

Among the many accomplishments during Jay's years in the Senate tenure, he had played the central staff role in the drafting, introduction and passage of the landmark Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, P.L. 91-616, that established the National Institute on Alcohol Abuse and Alcoholism. He worked side by side with Senator Javits and Senator Harold Hughes to change the perception of national policymakers towards alcoholism and the effects of alcoholism.

As a Senate aide and later as APA's Director of Government Relations, Jay had a direct impact on virtually every major bill on health policy and mental illness and substance abuse treatment legislation over more than 30 years. Even a selective list of the policies and laws that bear Jay's imprint includes: the landmark Mental Health and Anti Drug Abuse, and Mental Health Administration; the exemption of psychiatric hospitals and units from the Medicare prospective payment methodology, ensuring their fiscal viability for nearly 20 years; the expansion of Medicare's limited coverage of outpatient treatment for mental illness, first by lifting the $250 annual dollar limit to $500, then to $1,200, and ultimately repealing the discriminatory dollar limit altogether; enactment of the landmark 1996 Federal Mental Health Parity Act; increased funding for veterans'; children's, and Indian mental health services; medical records privacy legislation, especially assuring the confidentiality of medical records for psychiatric and substance abuse treatment.

The historic decision by President Clinton to issue an Executive Order requiring non-discriminatory coverage of treatment for mental illness, including alcohol and substance abuse disorders, in the Federal Employees' Health Benefits Program; the APA's successful efforts to enact "parity" laws in some 30 States; the bipartisan national campaign to double the NIH research budget, including the budgets on mental illness and substance abuse disorders.

For more than 30 years, Jay has dedicated his professional career to the eradication of any stigma against persons with mental illness, including those struggling with substance abuse disorders. He has greatly assisted in educating the public and key national policymakers on these vital issues. He has also been at the forefront of efforts to eliminate discrimination against persons with mental illness. He has a record that few can match as an advocate for education, research, and treatment of all mental disorders.

Jay's personal qualities have not only contributed immeasurably to his success but have made him countless friends in the Senate, the House, administrations of both parties, and the health policy community. All his interactions are marked by an extraordinary degree of candor and openness and by the inclusive intellect and political skill that has made him a valuable counselor to so many of us.

Jay has always fought hard and effectively for the interests of the physicians represented by the American Psychiatric Association. Jay's closest counsel to the APA was to place the public policy needs of its patients first. To his enduring credit, throughout
Jay’s service as Director of Government Relations, APA could be relied upon to fight just as hard for its patients as its members.

No tribute to Jay can fail to mention Jay’s beloved wife and lifelong partner, Randy. When the APA hired Jay Cutler, it got Randy as part of the deal. Her generosity of spirit, keen intellect, and strong commitment have meant the world to Jay, to his colleagues at the APA, and to the nation.

Throughout his remarkable career, Jay and Randy, with Marc Deism, have worked diligently to reach the national finals. Through their experience, they have gained a deep understanding of the constitutional principles and values of our constitutional democracy.

I am proud to announce that a class from Smyrna High School will represent the State of Delaware in this national event. These students, with the leadership of their teacher Marc Deism, have worked diligently to prepare for their next generation to understand the values and principles that serve as the foundation in our ongoing effort to preserve and realize the promise of democracy.

Administered by the Center for Civic Education, the We the People... program has provided curriculum materials at upper elementary, middle and high school levels for more than 26.5 million students nationwide. The program affords students a working knowledge of our Constitution, Bill of Rights, and the principles of democratic government.

It is inspiring to see these young people advocate the principles of our Government. These principles identify us as a people and bind us together as a Nation. It is important for our next generation to understand the values and principles that serve as the foundation in our ongoing effort to preserve and realize the promise of democracy.

Mr. BINGAMAN. Mr. President, I rise today to recognize the celebration of El día de los niños, a day for parents, families, and communities to celebrate, value, and uplift all children in the United States. As chair of the Senate Democratic Hispanic Task Force, I believe it is important that we set aside a time to commemorate the essential role of children in the future of every nation. On this day, April 30, cities throughout the United States are promoting the well-being of children by hosting a variety of special events, including parades, book festivals, and health fairs. In my own State, for example, the New Mexico State University Library, in conjunction with the Southern New Mexico Engaging Latino Communities for Education Collaborative, ENLACE, is hosting an exhibit of bilingual, Spanish-English, children’s books. This activity serves to help children celebrate and promote the importance of reading in many languages.

As we continue to discuss the well-being of our children, I invite my colleagues to join me in taking time on this day, El día de los niños, to re-dedicate ourselves to working together and acting on behalf of our children throughout the year.

PREPARING FOR NATIONAL COMPETITION ON CONSTITUTIONAL KNOWLEDGE

Mr. CARPER. Mr. President, this May, more than 1,200 students from across the United States will visit Washington, D.C. to compete in the national finals of the We the People... The Citizen and the Constitution program. It is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights.

I am proud to announce that a class from Smyrna High School will represent the State of Delaware in this national event. These students, with the leadership of their teacher Marc Deism, have worked diligently to prepare for the national finals. Through their experience, they have gained a deep understanding of the fundamental principles and values of our constitutional democracy.

This 3-day national competition is modeled after hearings in the United States Congress. The hearings consist of oral presentations by high school students before a panel of adult judges on constitutional topics. The students’ testimony is followed by a period of questioning by the judges who probe their depth of understanding and ability to apply their knowledge.

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These students from Smyrna High School, the We the People... program has provided curriculum materials at upper elementary, middle and high school levels for more than 26.5 million students nationwide. The program affords students a working knowledge of our Constitution, Bill of Rights, and the principles of democratic government.

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It is inspiring to see these young people advocate the principles of our Government. These principles identify us as a people and bind us together as a Nation. It is important for our next generation to understand the values and principles that serve as the foundation in our ongoing effort to preserve and realize the promise of democracy.
I commend the Oncology Nursing Society for all of its hard work to prevent and reduce suffering from cancer and to improve the lives of those 1.3 million Americans who will be diagnosed with cancer in 2003.

MESSAGE FROM THE PRESIDENT
Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED
As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations and two treaties which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE
At 3 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 274. An act to authorize the Secretary of the Interior to acquire the property in Cecil County, Maryland, known as Garrett Island for inclusion in the Blackwater National Wildlife Refuge; to the Committee on Interior and Insular Affairs.

The message also announced that the House has passed the following bill, with amendments:

S. 162. An act to provide for the use and distribution of certain funds awarded to the Gila River Pima-Maricopa Indian Community, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 149. Concurrent resolution expressing the support for the celebration of Patriots’ Day and honoring the Nation’s first patriots; to the Committee on the Judiciary.

MEASURES READ THE FIRST TIME
The following bill was read the first time:

S. 14. A bill to enhance the energy security of the United States, and for other purposes.

The following joint resolution was read the first time:

H.J. Res. 51. Joint resolution increasing the statutory limit on the public debt.

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

EC–1982. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Weighted Average Interest Rate Update Notice (Notice 2003–23)” received on April 22, 2003; to the Committee on Finance.

EC–1983. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Special Estimated Tax Payments (Rev. Rul. 2003–34)” received on April 22, 2003; to the Committee on Finance.

EC–1984. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Abusive Offshore Deferred Compensation Arrangements (Notice 2003–22)” received on April 22, 2003; to the Committee on Finance.


EC–1986. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Application of Federal Rates—May 2003 (Rev. Rul. 2003–45)” received on April 22, 2003; to the Committee on Finance.

EC–1987. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Action on Decision: Contingent Liabilities (AOD 2003–17)” received on April 22, 2003; to the Committee on Finance.

EC–1988. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Notice of Significant/Determined Issue: Rate of Future Benefit Accrual (1954–BA08)” received on April 22, 2003; to the Committee on Finance.

EC–1989. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Guidance Regarding the Active Trade or Business Requirement under Section 355(b)” received on April 22, 2003; to the Committee on Finance.

MEASURES REFERRED
The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 274. An act to authorize the Secretary of the Interior to acquire the property in Cecil County, Maryland, known as Garrett Island for inclusion in the Blackwater National Wildlife Refuge; to the Committee on Environment and Public Works.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 149. Concurrent resolution expressing support for the celebration of Patriots’ Day and honoring the Nation’s first patriots; to the Committee on the Judiciary.

EC–1991. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Depreciation of Advanced Nuclear Power Reactors—Term and Condition (Rev. Proc. 2003–34)” received on April 22, 2003; to the Committee on Finance.

EC–1992. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Preservation of 510(b) relief for 338 elections (Rev. Proc. 2003–33)” received on April 22, 2003; to the Committee on Finance.

EC–1993. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Depreciation of Tires (Rev. Proc. 2002–27)” received on April 22, 2003; to the Committee on Finance.

EC–1994. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Modification of Class E Airspace; Jefferson City, MO; CORRECTION (2120–AA66)” received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.


EC–1996. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Airbus Model A300B2 and B4 Series Airplanes; and A300 B4–600, B4–600R, and F4–600R Series Airplanes; docket no. 2001–NM–378 (2120–AA64) (2003–0169)” received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1997. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Raytheon Model Hawker 800XP and 800 Airplanes; docket no. 2001–NM–18 (2120–AA64) (2003–0170)” received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.


EC–2000. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Modification of Class E Airspace; Emmetsburg, IA; Docket no. 03–ACE–18 (2120–AA64) (2003–0172)” received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2001. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Establishment of Class E Surface Area Airspace and Modification of Class E Airspace; Jefferson City, MO; CORRECTION (2120–AA66) (2003–0073)” received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2002. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Modification of Class E Airspace; Emmetsburg, IA; Docket no. 03–ACE–18 (2120–AA64) (2003–0074)” received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC-2029. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled “Special Anchorage Zones, Anchorage, Alaska; Part 5 (CGD01-03-001) (1625-A.A00) (2003–0011)” received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.


EC-2031. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled “Safety/Security Zone Regulations: (Including 3 Regulations) [COTP San Juan 03–047] [COTP Southeast Alaska 03–001] [CGD01-03-028] (1625-A.A00) (2003–0011)” received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC-2032. A communication from the Attorney General, pursuant to law, transmitting, pursuant to law, the report of a nomination for the position of Administrator, Federal Motor Carrier Safety Administration, to the Committee on Commerce, Science, and Transportation.


EC-2034. A communication from the General Counsel, Office of the General Counsel, Consumer Product Safety Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Parts 2, 73, 74, 80, 90, and 97 of the Commission’s Rules to Implement Decisions from World Radiocommunication Conferences Concerning Frequency Bands Below 20,000 kHz” (ET Doc. 02–16, FCC Number 03–39) received on April 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-2035. A communication from the Chairman, Federal Maritime Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Parts 2, 73, 74, 80, 90, and 97 of the Commission’s Rules to Implement Decisions from World Radiocommunication Conferences Concerning Frequency Bands Below 20,000 kHz” (ET Doc. 02–16, FCC Number 03–39) received on April 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-2036. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report relative to the certification that Moldova is committed to the courses of action described in section 1203 (d) of the Cooperative Threat Reduction Act of 1995, received on April 28, 2003; to the Committee on Armed Services.

EC-2037. A communication from the Assistant Secretary for Defense, Reserve Affairs, transmitting, pursuant to law, the Department of Defense STARBASE Program Management Report, received on April 22, 2003; to the Committee on Armed Services.

EC-2038. A communication from the Assistant Secretary of Defense, Health Affairs, transmitting, pursuant to law, the report relative to providing benefits to Veterans, received on April 16, 2003; to the Committee on Armed Services.

EC-2039. A communication from the Assistant Secretary of Defense, International Security Policy, transmitting, pursuant to law, the report relative to the Early Threat Reduction to Congress Fiscal Year 2004* received on April 22, 2003; to the Committee on Armed Services.

EC-2040. A communication from the Assistant Secretary of Defense, Health Affairs, transmitting, pursuant to law, the report relative to the Veterans Affairs Department furnishing care to members of Armed Forces of active duty during and immediately following a national disaster as declared by the President of the United States, received on April 22, 2003; to the Committee on Armed Services.

EC-2041. A communication from the Secretary of Labor, transmitting, pursuant to law, the report entitled “Department of Labor’s 2002 Finding on the Worst Forms of Child Labor” received on April 24, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC-2042. A communication from the Director, National Science Foundation, transmitting, pursuant to law, the report entitled “FY 2002 Management and Performance Highlights” received on April 22, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC-2043. A communication from the General Counsel, Department of the Treasury, transmitting, pursuant to law, the report of proposed legislation relative to providing permanent, indefinite appropriation to allow the Permanent Working Group on Financial Institutions, which were opened for signature at Brussels on March 26, 2003, to the Committee on Banking, Housing, and Urban Affairs.

EC-2044. A communication from the Chairman, Federal Trade Commission, transmitting, pursuant to law, the Twenty-Fifth Annual Report of the Federal Trade Commission (FTC Doc. 01–423, 68 FR 7072) received on April 16, 2003; to the Committee on Commerce, Science, and Transportation.

EC-2045. A communication from the Assistant General Counsel, Banking and Finance, Departmental Offices, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “31 CFR Part 50–Terrorism Risk Insurance Program (1505–AA98)” received on April 16, 2003; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 26. A concurrent resolution condemning the punishment of execution by stoning as a gross violation of human rights, and for other purposes.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:


(1) Reaffirmation that United States membership in NATO remains a vital National Security interest of the United States.

(2) Strategic Rationale for NATO Enlargement. The Senate finds that:

(A) notwithstanding the collapse of communism in most of Europe and the dissolution of the Soviet Union, the United States and its NATO allies face threats to their stability on their territorial lines;

(B) an attack against Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, or...
Slovenia, or their destabilization arising from external subversion, would threaten the stability of Europe and jeopardize vital United States national security interests; (C) the development of democracies in Latvia, Lithuania, Romania, Slovakia, and Slovenia, having established democratic governments and having demonstrated a willingness to meet all requirements for NATO membership, including those necessary to contribute to the defense of all NATO members, are in a position to further the principles of the North Atlantic Treaty and to enhance the security of the North Atlantic area; and (D) extending NATO membership to Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia, will strengthen NATO, enhance security and stability in Central Europe, deter potential aggressors, and advance the interests of the United States and its NATO allies.

(3) Full Membership for New NATO Members. The Senate understands that Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia, in becoming NATO members, will have all the rights, obligations, responsibilities, and protections that are afforded to all other NATO members.

(4) The Importance of European Integration. (A) The central purpose of NATO is to provide for the collective defense of its members; (B) the Organization for Security and Cooperation in Europe is an institution for the promotion of democracy, the rule of law, crisis prevention, and post-conflict rehabilitation and reconstruction; (C) NATO is an essential forum for the discussion and resolution of political disputes among European members, Canada, and the United States; and (D) the European Union is an essential organization of the economic, political, and social integration of all qualified European countries into an indivisible Europe.

(B) Policy of the United States. The policy of the United States is (i) to utilize fully the institutions of the Organization for Security and Cooperation in Europe to reach political solutions for disputes in Europe; and (ii) to encourage actively the efforts of the European Union to continue to expand its membership, which will help to strengthen the democracies of Central and Eastern Europe.

(5) Future Consideration of Candidates for Membership in NATO. (A) Senate Findings. The Senate finds that (i) Article 10 of the North Atlantic Treaty provides that NATO members by unanimous agreement may invite the accession to the North Atlantic Treaty of any other European state in a position to further the principles and aims of the Alliance and contribute to the security of the North Atlantic area; (ii) in its Prague Summit Declaration of November 21, 2002, NATO stated that the Alliance (I)(aa) will keep its door open "to European democracies willing and able to assume the responsibilities and obligations of membership, in accordance with Article 10 of the Washington Treaty"; (bb) will consider review through the Membership Action Plan (MAP) the progress of those democracies, including Albania, Croatia, and the Former Yugoslav Republic of Macedonia; (cc) NATO members will continue to use the MAP as the vehicle to measure progress in future round of NATO enlargement; (dd) will consider the MAP as a means for those nations that seek NATO membership to develop military capabilities to enable such nations to undertake operations ranging from peacekeeping to high-intensity conflict, and help aspirant countries achieve political reform that includes strengthened democracy, market structures, and progress in curbing corruption; (ee) concurs that Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia have successfully used the MAP to address issues important to NATO membership; and (ff) maintains that the nations invited to join NATO at the Prague Summit "will not be the last"; (B) Requirement for Consensus and Ratification. The Senate acknowledges that no action or agreement other than a consensus decision by the full membership of NATO, reflected by the national procedures of each NATO member, including, in the case of the United States, the requirements of Article II, section 2, clause 2 of the United States (relating to the advice and consent of the Senate to the making of treaties), will constitute a commitment to collective defense and consultations pursuant to Article 4 and 5 of the North Atlantic Treaty.

(6) Partnership for Peace. The Senate declares that (A)(i) the Partnership for Peace between NATO members and the Partnership for Peace countries with countries from Central Asia, the Caucasus and eastern and southeastern Europe is an important and enduring complement to NATO in maintaining and enhancing regional security; and (ii) the Partnership for Peace is a critical role in promoting common objectives of NATO members and the Partnership for Peace countries, including (i) increasing the transparency of national defense planning and budgeting processes; (ii) ensuring democratic control of defense forces; (iii) maintaining the capability and readiness of Partnership for Peace countries to contribute to operations of the United Nations and the Organization for Security and Cooperation in Europe; (iv) developing international alliances with NATO; (v) enhancing the interoperability between forces of the Partnership for Peace countries and forces of NATO members; and (vi) facilitating cooperation of NATO members with countries from Central Asia, the Caucasus and eastern and southeastern Europe.

(7) The NATO-Russia Council. The Senate declares that (A)(i) in the interest of the United States for NATO to continue to develop a new and constructive relationship with the Russian Federation as the Russian Federation is a major power in the Euro-Atlantic area, and where appropriate for consensus building, consultations, joint decisions and joint actions; and (ii) permit the members of NATO and Russia to work as equal partners in areas of common interest; (B) the NATO-Russia Council, established by the Heads of State and Government of NATO and the Russian Federation on May 28, 2002, will provide an important forum for strengthening peace and security in the Euro-Atlantic area, and where appropriate for consensus building, consultations, joint decisions and joint actions only after NATO members have consulted, in advance, among themselves about
what degree any issue should be subject to the NATO-Russia Council; (iv) provide the Russian Federation with a vote or veto in NATO’s decisions or freedoms through the North Atlantic Council, the Defense Planning Committee, or the Nuclear Planning Committee; and (v) provide the Russian Federation with a veto over NATO policy.

(b) Compensation for victims of the Holocaust and of Communism. The Senate finds that

(A) individuals and communal entities whose property was seized during the Holocaust or the communist period should receive appropriate compensation;

(B) Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia have made clear their openness to compliance with the norms and requirements established by Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia for the protection of intelligence sources and methods; and

(C) the governments of Bulgaria, Latvia, Lithuania, Romania, Slovakia, and Slovenia have each established active historical commissions or other bodies to study and report on their governments’ role in the Holocaust or the communist era; and

(E) the governments of Bulgaria, Latvia, Lithuania, Romania, Slovakia, and Slovenia have each made clear their openness to active dialogue with other governments, including the United States Government, and with non-governmental organizations, on the victims of the Holocaust or the communist era.


Sec. 3. Conditions.

The advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia in NATO will not have the effect of increasing the overall percentage share of the United States in the common budgets of NATO; and

(ii) the incorporation of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia into NATO will not have the effect of increasing the overall percentage share of the United States in the common budgets of NATO; and

B. Annual Reports. Not later than April 1 of each year during the 3-year period following the date of entry into force of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia, the President shall submit to the appropriate congressional committees a report, which may be submitted in an unclassified and classified form, and which shall contain:

(a) the amount contributed to the common defense budgets of NATO by each NATO member during the preceding calendar year;

(b) the proportional share assigned to, and paid by, each NATO member under NATO’s cost-sharing agreement with the United States; and

(c) the national defense budget of each NATO member, the steps taken by each NATO member to meet NATO force goals, and the national defense budget of each NATO member in meeting common defense and security obligations.

Sec. 4. Definitions.

In this resolved:

(a) the term “congressional intelligence committees” means the Senate Intelligence Committee and the Permanent Select Committee on Intelligence of the House of Representatives;

(b) the term “NATO” means the North Atlantic Treaty Organization;

(c) the term “NATO member” means any country that is a party to the North Atlantic Treaty;

(d) the term “NATO” means the North Atlantic Treaty Organization; and

(e) the term “NATO members” means all countries that are parties to the North Atlantic Treaty.


(6) Protocols to the North Atlantic Treaty. The term “North Atlantic Treaty of 1949 on the Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia” refers to the following protocols, as permitted by the President:


INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DOMENICI:
S. 14. A bill to enhance the energy security of the United States, and for other purposes; read the first time.

By Mr. ENZI (for himself, Mr. DORGAN, Mr. BAUCUS, Mr. DAYTON, Mr. BINGMAN, Mr. CHAFEE, Mr. CRAIG, Mr. JOHNSON, and Mrs. MURRAY):
S. 950. A bill to allow travel between the United States and Cuba; to the Committee on Foreign Relations.

By Mr. WARRICK (for himself, Mr. DAYTON, and Ms. COLLINS):
S. 951. A bill to amend the Internal Revenue Code of 1986 to allow Medicare beneficiaries to use the credit against income tax for the purchase of outpatient prescription drugs; to the Committee on Finance.

By Mr. CORZINE:
S. 952. A bill to amend title XVIII of the Social Security Act to reduce the work hours and increase the supervision of resident-physicians to ensure the safety of patients and resident-physicians themselves; to the Committee on Finance.

By Ms. LANDRIEU:
S. 953. A bill, in chapter 8 of title 5, United States Code, to provide special pay for board certified Federal Employees who are employed in health science positions, and for other purposes; to the Committee on Governmental Affairs.

By Mr. SHELBY (for himself, Mr. MILLER, Mr. LANGLEY, Mr. SESSIONS, Mr. COCHRAN, and Mr. CHAMBLISS):
S. 954. A bill to amend the Federal Power Act to provide for the protection of electric utility customers and enhance the stability of wholesale electric markets through the clarification of State regulatory jurisdiction; to the Committee on Energy and Natural Resources.

By Mr. ALLEN:
S. 955. A bill to provide liability protection to nonprofit volunteer pilot organizations flying for public benefit and to the pilots and staff of such organizations; to the Committee on Energy and Natural Resources.

By Mr. FEINGOLD (for himself, Mr. JEFFORDS, Mr. DAYTON, and Mr. LEAHY):
S. 956. A bill to amend the Elementary and Secondary Education Act of 1965 to permit States to use high quality assessments of student academic achievement, to permit States and local educational agencies to develop the capability and willingness to use such assessments to measure and increase student academic achievement, to permit States and local educational agencies to obtain a waiver of certain testing requirements, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. ROXXER:
S. 957. A bill to amend title 49, United States Code, to improve the training requirements for and the certification of cabin crew members, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KOHL (for himself, Mr. REID, Mr. NELSON of Florida, Mr. ROCKEFELLER, Mrs. LINCOLN, Ms. LANDRIEU, Mr. BINGMAN, Mr. MILLER, and Mr. SHAUB):
S. 958. A bill to amend titles XVIII and XIX of the Social Security Act to prevent abuse of recipients of long-term care services under the Medicare and Medicaid programs; to the Committee on Finance.

By Mr. INHOFE (for himself, Mr. KYL, Mr. BURNS, Mr. THOMAS, and Mr. GRASSLEY):
S. 959. A bill to limit the age restrictions imposed by the Administrator of the Federal Aviation Administration for the issuance or renewal of certain airman certificates, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA:
S. 960. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii and to amend the Hawaii Water Resources Study Act to clarify the water resources study; to the Committee on Energy and Natural Resources.

By Ms. MURKOWSKI:
S. 961. A bill to expand the scope of the HUBZone program to include difficult development areas; to the Committee on Small Business and Entrepreneurship.

By Mrs. JACOBSON (for herself, Mr. ROCKEFELLER, Mr. BINGMAN, and Mr. SHAUB):
S. 962. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the child tax credit and to expand refundability of such credit, and for other purposes; to the Committee on Finance.

By Ms. STABENOW (for herself and Mr. LEVIN):
S. 963. A bill to require the Commandant of the Coast Guard to convey the United States Coast Guard Cutter BRAMBLE, upon its decommissioning, to the Port Huron Museum of Agriculture and the Arts, Port Huron, Michigan, for use for educational and historical display, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LOFF: (for himself and Mr. ROCKEFELLER):
S. 964. A bill to reauthorize the essential air service program under chapter 471 of title 49, United States Code, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. COLEMAN (for himself and Mr. DAYTON):
S. Res. 126. A resolution commending the University of Minnesota Golden Gophers for winning the 2002–2003 National Collegiate Athletic Association National Collegiate Men’s Ice Hockey Championship; considered and agreed to.

By Mr. COLEMAN:
S. Res. 127. A resolution expressing the sense of the Senate that the Secretary of Agriculture should reduce the interest rate on loans to processors of sugar beets and sugar beets by 1 percent to a rate equal to the cost of borrowing to conform to the intent of Congress; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FRIST (for himself and Mr. DASCHEL):
S. Res. 128. A resolution to commend Sally Gofrin for thirty-one years of service to the United States Senate; considered and agreed to.

By Mrs. MURRAY (for herself and Ms. CANTWELL):
S. Res. 129. A resolution recognizing and commending the members of the Navy and Marine Corps who served in the U.S. Army at Fort Lincoln and welcoming them home from their recent mission abroad; to the Committee on Armed Services.

By Mrs. CLINTON (for herself and Mr. HAGEL):
S. Con. Res. 40. A concurrent resolution designating August 7, 2003, as ‘‘National Purple Heart Recognition Day’’; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. CORZINE, and Mr. FEINGOLD):
S. Con. Res. 41. A concurrent resolution directing Congress to enact legislation by October 2005 that provides access to comprehensive health care for all Americans; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 56

S. 138

At the request of Mr. JOHNSON, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 56, a bill to restore health care coverage to retired members of the uniformed services.

S. 138

At the request of Mr. ROCKEFELLER, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 138, a bill to temporarily increase the Federal medical assistance percentage for the Medicaid program.
At the request of Mr. Allen, the names of the Senator from Washington (Ms. Cantwell), the Senator from Delaware (Mr. Carper) and the Senator from California (Mrs. Feinstein) were added as cosponsors of S. 196, a bill to establish a digital and wireless network technology program, and for other purposes.

At the request of Mrs. Lincoln, her name was added as a cosponsor of S. 196, supra.

At the request of Mr. Allen, the name of the Senator from Idaho (Mr. Crapo) was added as a cosponsor of S. 243, a bill concerning participation of Taiwan in the World Health Organization.

At the request of Mr. Campbell, the name of the Senator from Connecticut (Mr. Lieberman) was added as a cosponsor of S. 253, a bill to amend title I, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

At the request of Mr. Inhofe, the name of the Senator from Vermont (Mr. Leahy) was added as a cosponsor of S. 269, a bill to amend the Lacey Act Amendments of 1981 to further the conservation of certain wildlife species.

At the request of Mr. Kerry, the name of the Senator from Montana (Mr. Burns) was withdrawn as a cosponsor of S. 300, a bill to award a congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation, and to express the sense of Congress that there should be a national day in recognition of Jackie Robinson.

At the request of Mr. Kerry, the names of the Senator from Mississippi (Mr. Lott), the Senator from California (Mrs. Feinstein), the Senator from Missouri (Mr. Bond), the Senator from Utah (Mr. Hatch) and the Senator from Pennsylvania (Mr. Santorum) were added as cosponsors of S. 300, supra.

At the request of Mr. Thomas, the names of the Senator from Nebraska (Mr. Hagel) and the Senator from Maine (Ms. Collins) were added as cosponsors of S. 310, a bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, and for other purposes.

At the request of Ms. Mikulski, the name of the Senator from Rhode Island (Mr. Reed) was added as a cosponsor of S. 363, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

At the request of Mr. Baucus, the names of the Senator from Idaho (Mr. Craig) and the Senator from Nevada (Mr. Reid) were added as cosponsors of S. 374, a bill to amend the Internal Revenue Code of 1986 to repeal the occupational taxes relating to distilled spirits, wine, and beer.

At the request of Mr. Grassley, the name of the Senator from Florida (Mr. Graham) was added as a cosponsor of S. 395, a bill to amend the Internal Revenue Code of 1986 to provide a 3-year extension of the credit for producing electricity from wind.

At the request of Mr. Dodd, the names of the Senator from Michigan (Mr. Levin) and the Senator from New Jersey (Mr. Lautenberg) were added as cosponsors of S. 448, a bill to leave no child behind.

At the request of Mr. Leahy, the names of the Senator from Michigan (Ms. Stabenow), the Senator from Massachusetts (Mr. Kennedy) and the Senator from Minnesota (Mr. Dayton) were added as cosponsors of S. 459, a bill to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits.

At the request of Mrs. Feinstein, the name of the Senator from Virginia (Mr. Allen) was added as a cosponsor of S. 460, a bill to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2004 through 2010 to carry out the State Criminal Alien Assistance Program.

At the request of Mr. Daschle, the name of the Senator from Minnesota (Mr. Dayton) was added as a cosponsor of S. 466, a bill to provide financial assistance to State and local governments to assist them in preventing and responding to acts of terrorism in order to better protect homeland security.

At the request of Mr. Sarbanes, the name of the Senator from New Jersey (Mr. Corzine) was added as a cosponsor of S. 470, a bill to extend the authority for the construction of a memorial to Martin Luther King, Jr.

At the request of Mrs. Murray, the name of the Senator from Washington (Ms. Cantwell) was added as a cosponsor of S. 517, a bill to amend title 38, United States Code, to provide improved benefits for veterans who are former prisoners of war.

At the request of Mr. Kennedy, his name was added as a cosponsor of S. 544, a bill to establish a SAFER Firefighter Grant Program.

At the request of Mr. Craig, the name of the Senator from North Dakota (Mr. Conrad) was added as a cosponsor of S. 560, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

At the request of Mr. Ensign, the names of the Senator from Washington (Ms. Cantwell) and the Senator from Maryland (Ms. Mikulski) were added as cosponsors of S. 569, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

At the request of Mr. Ensign, the name of the Senator from Oregon (Mr. Wyden) was added as a cosponsor of S. 596, a bill to amend the Internal Revenue Code of 1986 to provide energy tax incentives.

At the request of Mr. Santorum, the name of the Senator from North Carolina (Mr. Dole) was added as a cosponsor of S. 626, a bill to reduce the amount of paperwork for special education teachers, to make mediation mandatory for all legal disputes related to individualized education programs, and for other purposes.

At the request of Mrs. Lincoln, the names of the Senator from Minnesota (Mr. Coleman) and the Senator from South Carolina (Mr. Graham) were added as cosponsors of S. 641, a bill to amend title 10, United States Code, to suspend the Federal Excess Personal Property program of the Forest Service by making it a priority of the Department of Defense to transfer to the Forest Service excess personal property of the Department of Defense that is suitable to be loaned to rural fire departments.

At the request of Ms. Snowe, the name of the Senator from Arkansas (Mrs. Lincoln) was added as a cosponsor of S. 654, a bill to amend title XVIII of the Social Security Act to enhance the access of medicare beneficiaries who live in medically underserved areas to critical primary and preventive health care benefits, to improve
the Medicare+Choice program, and for other purposes.

At the request of Mr. GRASSLEY, the names of the Senator from Oregon (Mr. SMITH), the Senator from Minnesota (Mr. COLEMAN) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 665, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for farmers and fishermen, and for other purposes.

S. 666

At the request of Mr. DEWINE, the name of the Senator from Kentucky (Mr. Bunning) was added as a cosponsor of S. 686, a bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers.

S. 756

At the request of Mr. THOMAS, the name of the Senator from Idaho (Mr. Crapo) was added as a cosponsor of S. 756, a bill to amend the Internal Revenue Code of 1986 to modify the qualified small issue bond provisions.

S. 764

At the request of Mr. LEAHY, the name of the Senator from Michigan (Ms. Stabenow) was added as a cosponsor of S. 764, a bill to extend the authorization of the Bulletproof Vest Partnership Grant Program.

S. 774

At the request of Ms. SNOWE, the name of the Senator from Connecticut (Mr. Dodd) was added as a cosponsor of S. 774, a bill to amend the Internal Revenue Code of 1986 to allow the use of completed contract method of accounting in the case of certain long-term naval vessel construction contracts.

S. 776

At the request of Ms. COLLINS, the name of the Senator from Hawaii (Mr. Akaka) was added as a cosponsor of S. 776, a bill to provide for the appointment of a Director of State and Local Government Coordination within the Department of Homeland Security and to transfer the Office for Domestic Preparedness to the Office of the Secretary of Homeland Security.

S. 822

At the request of Mr. KERRY, the name of the Senator from California (Mrs. Feinstein) was added as a cosponsor of S. 822, a bill to create a 3-year pilot program that makes small, non-profit child care businesses eligible for SBA 504 loans.

S. 827

At the request of Mr. SARRANES, the name of the Senator from Pennsylvania (Mr. Santorum) was added as a cosponsor of S. 827, a bill to amend the Federal Water Pollution Control Act to provide assistance for nutrient removal technologies to States in the Chesapeake Bay watershed.

S. 829

At the request of Mr. SARRANES, the name of the Senator from Pennsylvania (Mr. Santorum) was added as a cosponsor of S. 829, a bill to reauthorize and improve the Chesapeake Bay Environmental Restoration and Protection Program.

S. 838

At the request of Ms. COLLINS, the names of the Senator from Ohio (Mr. Voinovich), the Senator from Vermont (Mr. Leahy), the Senator from Hawaii (Mr. Akaka) and the Senator from Arkansas (Mr. Pryor) were added as cosponsors of S. 838, a bill to waive the limitation on the use of funds appropriated for the Homeland Security Grant Program.

S. 847

At the request of Mr. SMITH, the names of the Senator from New Jersey (Mr. Lautenberg) and the Senator from California (Mrs. Boxer) were added as cosponsors of S. 847, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low income individuals infected with HIV.

S. 862

At the request of Mr. ROCKEFELLER, the name of the Senator from Hawaii (Mr. Inouye) was added as a cosponsor of S. 862, a bill to promote the adoption of children with special needs.

S. 888

At the request of Mr. GREGG, the names of the Senator from New Jersey (Mr. Lautenberg), the Senator from South Carolina (Mr. Graham), the Senator from Rhode Island (Mr. Chafee), the Senator from California (Mrs. Feinstein) and the Senator from West Virginia (Mr. Rockefeller) were added as cosponsors of S. 888, a bill to reauthorize the Museum and Library Services Act, and for other purposes.

S. 890

At the request of Mrs. MURRAY, the name of the Senator from North Dakota (Mr. Conrad) was added as a cosponsor of S. 890, a bill to amend the Individuals with Disabilities Education Act to provide grants to State educational agencies to establish high cost funds from which local educational agencies are paid a percentage of the cost of providing a free appropriate public education to high need children and other high costs associated with educating children with disabilities, and for other purposes.

S. 896

At the request of Mrs. MURRAY, the name of the Senator from Maine (Ms. Snowe) was added as a cosponsor of S. 896, a bill to establish a public education and awareness program relating to emergency contraception.

S. 908

At the request of Mr. SARRANES, the name of the Senator from Pennsylvania (Mr. Santorum) was added as a cosponsor of S. 908, a bill to establish the United States Consensus Council to provide for a consensus building process in addressing national public policy issues, and for other purposes.

S. 939

At the request of Mr. HAGEL, the name of the Senator from Kansas (Mr. Roberts) was added as a cosponsor of S. 939, a bill to amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part, to provide an exception to the local maintenance of effort requirements, and for other purposes.

S. CON. RES. 14

At the request of Mr. SMITH, the name of the Senator from Maryland (Ms. Mikulski) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution expressing the sense of Congress regarding the education curriculum in the Kingdom of Saudi Arabia.

S. CON. RES. 26

At the request of Ms. LANDRIEU, the name of the Senator from New Jersey (Mr. Lautenberg) was added as a cosponsor of S. Con. Res. 26, a concurrent resolution condemning the punishment of execution by stoning as a gross violation of human rights, and for other purposes.

S. RES. 75

At the request of Mr. CAMPBELL, the name of the Senator from New York (Mr. Schumer) was added as a cosponsor of S. Res. 75, a resolution commemorating and memorializing the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

S. RES. 75

At the request of Mr. LEAHY, the name of the Senator from Wisconsin (Mr. Kohl) was added as a cosponsor of S. Res. 75, supra.

S. RES. 125

At the request of Mr. GREGG, the name of the Senator from Tennessee (Mr. Frist) was added as a cosponsor of S. Res. 125, a resolution designating April 23, 2003, through May 2, 2003, as “National Charter Schools Week”, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI.

S. 14. A bill to enhance the energy security of the United States, and for other purposes; read the first time.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 14

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

SECTION 1. SHORT TITLE.

This Act may be cited as “The Energy Policy of 2003”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

S. 14

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

SECTION 1. SHORT TITLE.

This Act may be cited as “The Energy Policy of 2003”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

S. 14

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

SECTION 1. SHORT TITLE.

This Act may be cited as “The Energy Policy of 2003”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

S. 14

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

SECTION 1. SHORT TITLE.

This Act may be cited as “The Energy Policy of 2003”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

S. 14

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,
"PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS":
(3) by striking section 273(e) (42 U.S.C. 6289(e)); relating to the expiration of summer fill and fuel budgeting programs; and
(4) by striking part 2 (42 U.S.C. 6289); relating to the expiration of title II of the Act.
(c) TECHNICAL AMENDMENTS.—The table of contents for the Energy Policy and Conservation Act is amended—
(1) by amending the items relating to part D of title I to read as follows:
"PART D—NORTHEAST HOME HEATING OIL RESERVE
"Sec. 181. Establishment.
"Sec. 182. Authority.
"Sec. 185. Exemptions."
(2) by amending the items relating to part C of title II to read as follows:
"PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS
"Sec. 273. Summer fill and fuel budgeting programs."
and
(3) by striking the items relating to part D of title II.
(d) NORTHEAST HEATING OIL.—Section 183(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6260(b)(1)) is amended by striking "the States" and inserting "the United States".
(b) STUDY.—The Secretary of Energy shall conduct a study of petroleum and natural gas storage capacity and operational inventory levels, nationwide and by major geographical regions.
(c) CONTENTS.—The study shall address—
(1) historical normal ranges for petroleum and natural gas inventory levels;
(2) historical and projected storage capacity trends;
(3) estimated operation inventory levels below which outages, delivery slowdown, rationing, interruptions in service or other indications to approach in mid-October through March and inserting "by more than 60 percent over its 5-year rolling average for the months of mid-October through March (considered as a heating season average)");
(b) STUDY.—The Secretary of Energy shall conduct a study of petroleum and natural gas storage capacity and operational inventory levels, nationwide and by major geographical regions.
(c) CONTENTS.—The study shall address—
(1) historical normal ranges for petroleum and natural gas inventory levels;
(2) historical and projected storage capacity trends;
(3) estimated operation inventory levels below which outages, delivery slowdown, rationing, interruptions in service or other indications to approach in mid-October through March and inserting "by more than 60 percent over its 5-year rolling average for the months of mid-October through March (considered as a heating season average)");
(1) No later than September 30, 2005, the Secretary shall provide a report to Congress on the results of the study, including findings and any recommendations for preventing future shortages.
(b) STUDY.—The Secretary of Energy shall conduct a study of petroleum and natural gas storage capacity and operational inventory levels, nationwide and by major geographical regions.
(c) CONTENTS.—The study shall address—
(1) historical normal ranges for petroleum and natural gas inventory levels;
(2) historical and projected storage capacity trends;
(3) estimated operation inventory levels below which outages, delivery slowdown, rationing, interruptions in service or other indications to approach in mid-October through March and inserting "by more than 60 percent over its 5-year rolling average for the months of mid-October through March (considered as a heating season average)");
(2) Any royalty oil or gas taken in kind from onshore oil and gas leases may be sold at not less than market price to refineries under subsection (h), the Secretary shall provide a report to Congress describing the methodology or methodologies used by the Secretary to determine compliance with subsection (d), including performance standard for comparing amounts received by the United States associated with taking royalties in kind to amount likely to have been received had royalties been taken in value;
(b) an explanation of the evaluation that led the Secretary to take royalties in kind from a lease or group of leases, including the expected revenue effect of taking royalties in kind;
(c) actual amounts received by the United States derived from taking royalties in kind and cost and savings incurred by the United States associated with taking royalties in kind, including but not limited to administrative savings and any new or increased administrative costs; and
(d) an evaluation of other relevant public benefits or detriments associated with taking royalties in kind.
(f) DEDUCTION OF EXPENSES.—
(1) Before making payments under section 332 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)) of revenues derived from the sale of royalty production taken in kind from the lease, the Secretary shall deduct amounts paid or deducted under subsections (b)(4) and (c), and shall deposit such amounts to miscellaneous revenue accounts.
(2) If the Secretary allows the lessee to deduct transportation or processing costs under subsection (c), the Secretary shall not reduce any payments to recipients of revenues derived from any other Federal oil and gas lease as a consequence of that deduction.
(g) CONSULTATION WITH STATES.—The Secretary shall consider—
(1) with a State before conducting a royalty in-kind program under this section within the State, and may delegate management of any portion of the Federal royalty in-kind program to such State except as otherwise prohibited by Federal law; and
(2) annually with any State from which Federal oil or gas royalties are taken in kind to ensure to the maximum extent practicable that the royalty in-kind program provides revenues to the State greater than or equal to those likely to have been received had royalties been taken in value.
(h) PROVISIONS FOR SMALL REFINERIES.—
(1) If the Secretary determines that sufficient supplies of crude oil are available in the open market to refineries not having their own source of supply for crude oil, the Secretary may grant preference to such refineries in the sale of any royalty oil accruing or reserved to the United States under Federal oil and gas leases issued under any mineral leasing law, for processing or use in refineries at private sale at not less than the market price.
(2) In disposing of oil under this subsection, the Secretary may prorate such oil among such refineries in the area in which the oil is produced.
(i) DISPOSITION TO FEDERAL AGENCIES.—
(1) Any royalty oil or gas taken by the Secretary in kind from onshore oil and gas leases may be sold at not less than market price to any department or agency of the United States.
(2) Any royalty oil or gas taken in kind from Federal oil and gas leases on the outer Continental Shelf may be disposed of only under section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1347).
(j) PREFERENCE FOR FEDERAL LOW-INCOME ENERGY ASSISTANCE PROGRAMS.—In disposing of oil...
of royalty oil or gas taken in kind under this section, the Secretary may grant a preference to any person, including any State or Federal agency, for the purpose of providing additional, to any Federal low-income energy assistance program.

SEC. 104. MARGINAL PROPERTY PRODUCTION IN CENTRAL SUBSECTION.

(a) MARGINAL PROPERTY DEFINED.—Until such time as the Secretary of the Interior rules under subsection (e) that prescribe a different definition, for purposes of this section, the term ‘marginal property’ means an onshore unit, communityization agreement, or lease not within a unit or communityization agreement that produces on average less than 15 barrels of oil per well per day or 90 million British thermal units of gas per well per day calculated based on the average over the three most recent production months, including only those wells that produce more than half the days in the three most recent production months.

(b) CONDITIONS FOR REDUCTION OF ROYALTY RATE.—Until such time as the Secretary of the Interior promulgates rules under subsection (e) that prescribe different thresholds or standards, the Secretary shall reduce the royalty rate on—

(1) oil production from marginal properties as prescribed in subsection (c) when the spot price of West Texas Intermediate crude oil at Cushing, Oklahoma, is, on average, less than $15 per barrel for 90 consecutive trading days;

(2) gas production from marginal properties as prescribed in subsection (c) when the spot price of natural gas delivered at Henry Hub, Louisiana, is, on average, less than $2.00 per million British thermal units for 90 consecutive trading days.

(c) REDUCTION OF ROYALTY RATE.—When a marginal property meets the conditions specified in subsection (b), the royalty rate shall be the lesser of—

(A) 0 percent;

(B) the applicable rate under any other statutory or regulatory royalty relief provision that applies to the affected production.

(2) The reduced royalty rate under this subsection shall be effective on the first day of the production month following the date on which the applicable royalty rate is met.

(d) TERMINATION OF REDUCED ROYALTY RATE.—A royalty rate prescribed in subsection (c) shall terminate—

(1) on oil production from a marginal property, on the first day of the production month following the date on which—

(A) the spot price of West Texas Intermediate crude oil at Cushing, Oklahoma, on average, exceeds $15 per barrel for 90 consecutive trading days, or

(B) the property no longer qualifies as a marginal property under subsection (a); and

(2) on gas production from a marginal property, on the first day of the production month following the date on which—

(A) the spot price of natural gas delivered at Henry Hub, Louisiana, is, on average, exceeds $2.00 per million British thermal units for each lease in water depths of greater than 1,600 meters.

(e) RULES PRESCRIBING DIFFERENT RELIEF.—

(1) The Secretary of the Interior, after consultation with the Secretary of Energy, may by rule prescribe different parameters, standards, and requirements for, and a different degree or extent of, royalty relief for marginal properties in lieu of those prescribed in subsections (a) through (d).

(2) The Secretary of the Interior, after consultation with the Secretary of Energy, and within 1 year after the date of enactment of this Act, shall, by rule—

(A) prescribe standards and requirements for, and the extent of royalty relief for, marginal properties for oil and gas leases on the Outer Continental Shelf; and

(B) define and describe a different marginal property on the Outer Continental Shelf for purposes of this section.

(3) In promulgating rules under this subsection, the Secretary of the Interior may consider—

(A) oil and gas prices and market trends;

(B) production economics;

(C) abandonment costs;

(D) Federal and State tax provisions and their effects on production economics;

(E) other royalty relief programs; and

(F) other relevant matters.

(4) Saving Clause. Nothing in this section shall prevent a lessee from receiving royalty relief or a royalty reduction pursuant to any other law or regulation that provides for amounts greater than the amounts provided by this section.

SEC. 105. COMPREHENSIVE INVENTORY OF OCS OIL AND NATURAL GAS RESOURCES.

(a) IN GENERAL.—The Secretary of the Interior shall conduct an inventory and analysis of oil and natural gas resources beneath all of the waters of the United States Outer Continental Shelf (‘‘OCS’’). The inventory and analysis shall—

(1) use available data on oil and gas resource inventories in the United States and Canada that will provide information on trends of oil and gas accumulation in areas of the OCS;

(2) use any available technology, except drilling, but including 3-D seismic technology to obtain accurate resources estimates;

(3) analyze how resource estimates in OCS areas have changed over time in regards to gathering geological and geophysical data, initial exploration, or full field development, including areas within deeper water and subsea areas of the Gulf of Mexico;

(4) estimate the effect that underexplored and gas resource inventories have on domestic energy investments; and

(5) identify and explain how legislative, regulatory, and administrative programs or processes restrict or impede the development of identified resources and the extent that they affect domestic supply, such as moratoria, lease terms and conditions, operational requirements, approval delays by the federal government and coastal states, and local zoning restrictions for onshore processing facilities and pipeline landings.

(b) REPORTS.—The Secretary of Interior shall submit a report to the Congress on the inventory of estimates and the analysis of restrictions or impediments, together with any recommendations, within six months of the date of enactment of this section. The report shall be publically available and updated at least every five years.

SEC. 106. ROYALTY RELIEF FOR DEEP WATER PRODUCTION.

(a) IN GENERAL.—The Secretary of Agriculture, the Secretary of the Interior shall work cooperatively with the Secretary of Agriculture and the States within which the Federal lands are located and consult with the Secretary of Energy and the Interstate Oil and Gas Compact Commission.

(b) PLAN.—Within 1 year after the date of enactment of this Act, the Secretary of the Interior, in cooperation with the Secretary of Agriculture, shall prepare a plan for carrying out the program established under this section. The plan shall transmit copies of the plan to the Congress.

(c) TECHNICAL ASSISTANCE PROGRAM FOR NON-FEDERAL LANDS.—The Secretary of Energy shall establish a program to provide technical assistance to the various oil and gas producing States to facilitate State efforts over a 10-year period to ensure a practical and economic remedy for environmental problems caused by orphaned or abandoned oil and gas wells that is orphaned or abandoned.

(1) The Secretary shall work with the States, through the Interstate Oil and Gas Compact Commission, to assist the States in quantifying and mitigating environmental risks of onshore orphaned or abandoned oil and gas wells or other entities currently providing a bond or other financial assurance required under State or Federal law for oil or gas wells that is orphaned, abandoned or idled.

(2) The Secretary shall prepare a plan for carrying out the program established under this section. The plan shall—

(A) identify and explain how legislative, regulatory, and administrative programs or processes restrict or impede the development of identified resources and the extent that they affect domestic supply, such as moratoria, lease terms and conditions, operational requirements, approval delays by the federal government and coastal states, and local zoning restrictions for onshore processing facilities and pipeline landings;

(B) define and describe a different marginal property on the Outer Continental Shelf for purposes of this section.

(1) provides more relief than the amounts provided to any other law or regulation that provides for amounts greater than the amounts provided by this section.

(f) SAVINGS PROVISION.—Nothing in this section shall prevent a lessee from receiving royalty relief or a royalty reduction pursuant to any other law or regulation that provides for amounts greater than the amounts provided by this section.

(g) RULES PRESCRIBING DIFFERENT RELIEF.—The Secretary of the Interior, after consultation with the Secretary of Agriculture, shall establish rules that prescribe different royalty relief provisions for oil and gas leases on the Outer Continental Shelf (43 U.S.C. 1337), is amended with the following—add: “and in the Planning Areas offshore Alaska” after “West long- distance” and before the Secretary.

SEC. 107. ALASKA OFFSHORE ROYALTY SUSPENSION.

Section 8(a)(3)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337), is amended with the following: add “and in the Planning Areas offshore Alaska” after “West long-
SEC. 109. INCENTIVES FOR NATURAL GAS PRODUCTION FROM DEEP WELLS IN THE SHALLOW WATERS OF THE GULF OF MEXICO.

(a) Royalty Incentive Regulations.—Not later than 90 days after enactment, the Secretary shall promulgate regulations establishing royalty incentives for natural gas produced from deep wells, as defined in subsection (d), issued under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and issued prior to January 1, 2001, in shallow waters of the Gulf of Mexico, wholly west of 87 degrees, 30 minutes West longitude that are less than 200 meters deep.

(b) The Royalty Incentive Regulations for Ultra Deep Gas Wells.—

(1) No later than 90 days after the date of enactment of this Act, in addition to any other royalty incentive offered or may provide incentives for natural gas produced from deep wells on oil and gas leases issued pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary of the Interior shall promulgate new regulations granting royalty relief suspension and tax incentives outlined in this subsection if the Secretary finds the average annual NYMEX natural gas price exceeds for one full calendar year the average annual NYMEX natural gas price used for activities authorized under this Act.

(2) The Secretary shall not grant the royalty incentives outlined in this subsection if the average annual NYMEX natural gas price exceeds for one full calendar year the average annual NYMEX natural gas price used for activities under subsection (d).

(c) Consideration of the coastal zone management program being developed or administered by a coastal State pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454, 1455); and

(d) Consultation with the Secretary of Defense and other appropriate agencies prior to the issuance of an easement or right-of-way under this subsection concerning issues related to national security and navigational obstruction.

(3) The Secretary shall require the holder of an easement or right-of-way granted under this subsection to furnish a surety bond or other form of security, as prescribed by the Secretary, and to comply with such other requirements as the Secretary may deem necessary to protect the interests of the United States.

(4) This subsection shall not apply to any area within the exterior boundaries of any unit of the National Park System, National Wildlife Refuge System, or National Marine Sanctuary System, or any National Monument.

(5) Nothing in this subsection shall be construed to amend or repeal, expressly or by implication, the applicability of any other law, including but not limited to, the Coastal Zone Management Act (16 U.S.C. 1451 et seq.) or the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) Coastal Impact Assistance.—The text of the heading for section 8 of the Outer Continental Shelf Lands Act is amended to read as follows: "LEASES, EASEMENTS, AND RIGHTS-OF-WAY ON THE OUTER CONTINENTAL SHELF.".

SEC. 110. ALTERNATE ENERGY-RELATED USES ON THE OUTER CONTINENTAL SHELF.

(a) Amendment to Outer Continental Shelf Lands Act.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following new subsection:

"(p) Easements or Rights-of-Way for Energy and Related Purposes.—

(1) The Secretary may grant an easement or right-of-way on the outer Continental Shelf for activities not otherwise authorized in this Act, the Deepwater Port Act of 1974 (33 U.S.C. 1301 et seq.), or the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9101 et seq.), or other applicable law when such activities—

(A) support exploration, development, or production of oil or natural gas, except that such easements or rights-of-way shall not be granted where oil or natural gas is already being produced; or

(B) support transportation of oil or natural gas;

(2) The term 'support exploration, development, or production of energy from sources other than oil and gas' or 'use facilities currently or previously used for other purposes' includes the use of a leased tract or an easement or right-of-way granted for purposes of this paragraph; and

(3) The term 'support transportation of oil or natural gas' or 'use facilities currently or previously used for other purposes' includes the use of an easement or right-of-way granted for purposes of this paragraph; and

(4) The term 'easement or right-of-way granted for purposes of this paragraph' includes the term 'easement or right-of-way granted under the Coastal Zone Management Act (16 U.S.C. 1451 et seq.)."

SEC. 111. COASTAL IMPACT ASSISTANCE.

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end:

"SEC. 22. COASTAL IMPACT ASSISTANCE FAIRNESS PROGRAM.

(a) Definitions.—When used in this section:

(I) The term "coastal political subdivision" means a county, parish, or any equivalent subdivision of a Producing Coastal State in all or part of which subdivision lies within the coastal zone (as defined in section 304 of the Coastal Zone Management Act (16 U.S.C. 1453(1))) and within a distance of 200 miles from the geographic center of any leased tract.

(II) The term "coastal population" means the population of all political subdivisions as determined under paragraph (1) shall be paid

(III) The term "coastal political subdivisions" as determined under paragraph (1) shall be paid

(IV) The term "coastal political subdivisions" as determined under paragraph (1) shall be paid

(b) Authorization.—For fiscal years 2004 through 2009, an amount equal to not more than 12.5 percent of qualified Outer Continental Shelf revenues generated off the coastline of any Producing Coastal State and revenues from existing leases that occurs after January 1, 2003, and used for activities authorized under this Act shall be appropriated for the purposes of this section.

(c) Impact Assistance Payments to States and Political Subdivisions.—The Secretary shall make payments for the remaining amounts available under this section to Producing Coastal States with an approved Coastal Impact Assistance Plan, and to coastal political subdivisions as follows:

(I) Of the amounts appropriated, the allocation for each Producing Coastal State shall be calculated based on the ratio of qualified Outer Continental Shelf revenues that occurred off the coastline of the Producing Coastal State to the qualified Outer Continental Shelf revenues that occurred off the coastlines of all Producing Coastal States for each fiscal year. Where there is more than one Producing Coastal State within 200 miles of a leased tract, the amount of each Producing Coastal State's allocation for such leased tract shall be inversely proportional to the distance between the nearest point on the coastline of such State and the geographic center of the leased tract (to the nearest whole mile) that is within 200 miles of that coastline, as determined by the Secretary.

(II) The term 'producing Coastal State' means a Coastal State with a moratorium on new leases in effect as of January 1, 2002, unless the lease was issued prior to the establishment of the moratorium and was in production on January 1, 2002.

(III) The term 'producing Coastal State' means a Coastal State with a moratorium on new leases in effect as of January 1, 2002, unless the lease was issued prior to the establishment of the moratorium and was in production on January 1, 2002.

(IV) The term 'producing Coastal State' means a Coastal State with a moratorium on new leases in effect as of January 1, 2002, unless the lease was issued prior to the establishment of the moratorium and was in production on January 1, 2002.

(III) The term 'producing Coastal State' means a Coastal State with a moratorium on new leases in effect as of January 1, 2002, unless the lease was issued prior to the establishment of the moratorium and was in production on January 1, 2002.
directly to the coastal political subdivisions by the Secretary based on the following formula:

(A) Twenty-five percent shall be allocated based on the ratio of such coastal political subdivision's coastal population to the coastal population of all coastal political subdivisions within the Coastal State.

(B) Twenty-five percent shall be allocated based on the ratio of such coastal political subdivision's coastline miles to the coastline miles of a coastal political subdivision in the Producing Coastal State except that for those coastal political subdivisions in the State of Louisiana without a coastline, the coastal population for purposes of this element of the formula shall be the average length of the coastline of the remaining coastal subdivisions in the State.

(C) Fifty percent shall be allocated based on the relative distance of such coastal political subdivision from any leased tract used to calculate the Producing Coastal State's allocation using ratios that are inversely proportional to the distance between the point in the coastal political subdivision closest to the geographic center of each leased tract or portion, as determined by the Secretary.

Any amount allocated to a Producing Coastal State or coastal political subdivision but not disbursed because of a failure to have an approved Coastal Impact Assistance Plan under this section shall be allocated equally by the Secretary among all other Producing Coastal States in a manner consistent with this subsection except that the Secretary shall hold in escrow until the final resolution of any appeal regarding the disapproval of a plan submitted under this section.

The Secretary may waive the provisions of this subsection and hold a Producing Coastal State’s allocable share in escrow if the Secretary determines that such State is making a good faith effort to submit or update, or a Coastal Impact Assistance Plan.

For purposes of this subsection, calculations for fiscal years 2007 through 2009 shall be made using qualified Outer Continental Shelf revenues received in fiscal year 2003, and calculations of payments for fiscal years 2007 through 2009 shall be made using qualified Outer Continental Shelf revenues received in fiscal year 2006.

1. The Governor of each Producing Coastal State shall prepare, and submit to the Secretary, a Coastal Impact Assistance Plan. The Governor shall solicit local input and shall provide for public participation in the development of the plan. The plan shall be submitted to the Secretary by July 1, 2004, and by Producing Coastal States and coastal political subdivisions may be used only for the purposes specified in the Producing Coastal State's Coastal Impact Assistance Plan.

2. The Secretary shall approve a plan under paragraph (1) prior to disbursement of amounts provided under this subsection. The Secretary shall approve the plan if the Secretary determines that the plan is consistent with the uses set forth in subsection (f) of this section and if—

(A) the name of the State agency that will have the authority to represent and act for the State in dealing with the Secretary for purposes of this section;

(B) a program for the implementation of the plan which describes how the amounts provided under this section will be used and approved;

(C) a contact for each political subdivision and description of how coastal political subdivisions will use amounts provided under this subsection, including certification by the Governor that such uses are consistent with the requirements of this section;

(D) certification by the Governor that planning and design for the project has been completed for public participation in the development and revision of the plan; and

(E) if taking into account other relevant Federal resources and programs.

3. The Secretary shall approve or disapprove each plan within 90 days of its submission.

4. Any amendment to the plan shall be prepared in accordance with the requirements of this subsection and shall be submitted to the Secretary for approval or disapproval.

5. AUTHORIZED USES.—Producing Coastal States and coastal political subdivisions shall use amounts provided under this section, including any such amounts deposited in a State or coastal political subdivision administrative trust fund, to use such amounts for purposes consistent with this subsection, in compliance with Federal and State law and for one or more of the following purposes:

(1) projects and activities for the conservation, protection or restoration of coastal areas including wetlands;

(2) protecting or restoring the habitat of fish, wildlife or other natural resources;

(3) planning assistance and administrative costs of complying with the provisions of this section;

(4) implementation of Federally approved cooperative programs; and

(5) mitigating impacts of Outer Continental Shelf activities through funding onshore infrastructure and public service needs.

6. COMPLIANCE WITH AUTHORIZED USES.—If the Secretary determines that any expenditure made by a Producing Coastal State or coastal political subdivision is not consistent with the uses authorized in subsection (e) of this section, the Secretary shall not disburse any further amounts under this section to that Producing Coastal State or coastal political subdivision until the amounts used for the inconsistent expenditure have been repaid or obligated for authorized uses.

SEC. 112. NATIONAL ENERGY RESOURCE DATA BASE.

(a) SHORT TITLE.—This section may be cited as the "National Energy Data Preservation Program Act of 2003".

(b) PROGRAM.—The Secretary of the Interior (in this section, referred to as "Secretary") shall carry out a National Energy Data Preservation Program in accordance with this section.

(1) to archive geologic, geophysical, and engineering data and samples related to energy resources including oil, gas, coal, and geothermal resources;

(2) to provide a national catalog of such archival materials;

(3) to provide technical assistance related to the archival material.

(c) ENERGY DATA ARCHIVE SYSTEM.—

(1) The Secretary shall establish a component of the Program, an energy data archive system, which shall provide for the storage, preservation, and archiving of subsurface and surface geologic, geophysical and engineering data and samples. The Secretary, in consultation with the Association of American State Geologists and interested members of the public, shall develop guidelines relating to the energy data archive system, including the types of data and samples collected.

(2) The system shall be comprised of State agencies and agencies within the Department of the Interior that maintain geologic, geophysical and engineering data relating to energy resources and that are designated by the Secretary in accordance with this subsection. The Program shall provide for the storage of data and access to data repositories operated by such agencies.

(3) The Secretary may not designate a State agency as a component of the energy data archive system unless it is the agency that acts as the geological survey in the State.

(4) The energy data archive system shall provide for the archiving of relevant subsurface data and samples obtained during energy exploration and production operations on Federal lands—

(A) in the most appropriate repository designated under paragraph (2), with preference being given to archiving in a data in the State in which the data was collected; and

(B) consistent with all applicable law and requirements relating to confidentiality and proprietary data.

(d) AUTHORITY.—(5)(A) Subject to the availability of appropriations, the Secretary shall provide financial assistance to a State agency that is designated under paragraph (2) for providing facilities to archive energy material.

(2) The Secretary, in consultation with the Association of American State Geologists and interested members of the public, shall establish procedures for providing assistance under this paragraph. The procedures shall be designed to ensure that such assistance promotes the public interest in supporting the expansion of data and material archives and the collection and preservation of new data and samples.

National Catalog.

1. As soon as practicable after the date of the enactment of this section, the Secretary shall develop and maintain, as a component of the Program, a national catalog that identifies—

(A) energy data and samples available in the energy data archive system established under subsection (c); and

(B) the repository for particular material in such system; and

(C) means accessing the material.

2. The Secretary shall make the national catalog accessible to the public on the site of the Survey on the World Wide Web, consistent with standards related to confidentiality and proprietary data.

3. The Secretary may carry out the requirements of this subsection by contract or agreement with appropriate persons.

(e) TECHNICAL ASSISTANCE.—(1) Subject to the availability of appropriations, as a component of the Program, the Secretary shall provide financial assistance to any State agency designated under subsection (c) to enhance understanding, interpretation, and use of materials archived in the energy data archive system established under subsection (c).

(2) The Secretary, in consultation with the Association of American State Geologists and interested members of the public, shall develop procedures for providing assistance to a State agency as a component of the Program, which shall provide for the participation of representatives of relevant Federal and State agencies, for the approval of financial assistance to State agencies under this subsection.

(f) COSTS.—

(1) The Federal share of the cost of an activity carried out with assistance under subsections (c) or (e) shall be no more than 50 percent of the total cost of that activity.
(2) The Secretary—
   (A) may accept private contributions of property and services for technical assistance and archive activities conducted under this section; and
   (B) may apply the value of such contributions to the non-Federal share of the costs of such technical assistance and archive activities.

(g) REPORTS.—
   (1) Within one year after the date of the enactment of this Act, the Secretary shall submit an initial report to the Congress setting forth a plan for the implementation of the Program.
   (2) Within not later than 90 days after the end of the first fiscal year beginning after the submission of the report under paragraph (1) and after the end of each fiscal year thereafter, the Secretary shall submit a report to the Congress describing the status of the Program and evaluating progress achieved during the preceding fiscal year in developing and carrying out the Program.

(3) The Secretary shall consult with the Association of American State Geologists and interested members of the public in preparing the reports required by this subsection.

(h) DEFINITIONS.—As used in this section, the term—
   (1) "Association of American State Geologists" means the organization of the chief executives of the State geological surveys.
   (2) "Secretary" means the Secretary of the Interior acting through the Director of the United States Geological Survey.
   (3) "Program" means the National Energy Data Preservation Program carried out under this section.
   (4) "Survey" means the United States Geological Survey.

(i) MAINTENANCE OF STATE EFFORT.—It is the intent of the Congress that the States not use this section as an opportunity to reduce State resources applied to the activities that are the subject of the Program.

(j) AUTHORIZATION OF APPROPRIATIONS.—
   There is authorized to be appropriated to the Secretary $30,000,000 for each of fiscal years 2003 through 2007 for carrying out this section.

SEC. 113. OIL AND GAS LEASE ACREAGE LIMITATIONS.

Section 27(d)(1) of the Mineral Leasing Act (30 U.S.C. 184(d)(1)) is amended by inserting after "acreage held in special tar sands area" the following: "as well as acreage under any lease or permit of which has been committed to a federally approved unit or cooperative plan or communication agreement, or for which royalty, including compensatory royalty or royalty-in-kind, was paid in the preceding calendar year;".

SEC. 114. ASSESSMENT OF DEPENDENCE OF STATE OF HAWAII ON OIL.

(a) ASSESSMENT. The Secretary of Energy shall assess the economic implication of the dependence of the State of Hawaii on oil as the principal source of energy for the State, including—
   (1) the short- and long-term prospects for crude oil supply disruption and price volatility and potential impacts on the economy of Hawaii;
   (2) the economic relationship between oil-fired generation of electricity from residual fuel and refined petroleum products consumed for ground, marine, and air transportation;
   (3) the technical and economic feasibility of increasing the contribution of renewable energy resources for generation of electricity, on an island-by-island basis, including—
      (A) siting and facility configuration;
      (B) environmental, operational, and safety considerations;
   (C) the availability of technology;
   (D) effects on the utility system including reliability;
   (E) infrastructure and transport requirements;
   (F) community support; and
   (G) other factors affecting the economic impact of such an increase and any effect on the economic relationship described in paragraph (2);
   (4) the technical and economic feasibility of using liquefied natural gas to displace refined petroleum products, including near island opportunities, and the effect of such displacement on the economic relationship described in paragraph (2) including—
      (A) the availability of supply;
      (B) siting and facility configuration for onshore and offshore liquefied natural gas receiving terminals;
      (C) the factors described in subparagraphs (B) through (F) of paragraph (3); and
      (D) other economic factors.
   (b) REPORTS.—The Secretary shall submit to the President as to whether the Pilot Project should be implemented nationwide.

SEC. 120. OFFICE OF FEDERAL ENERGY PERMIT COORDINATION.

(a) ESTABLISHMENT.—The President shall establish the Office of Federal Energy Permit Coordination (in this section, referred to as "Office") within the Executive Office of the President in the same manner and mission as the White House Energy Projects Task Force established by Executive Order 13122.

(b) STAFFING.—The Office shall be staffed by functional experts from relevant federal agencies and departments on a nonreimbursable, full-time basis to carry out the mission of this office.

(c) REPORTING.—The Office shall provide an annual report to Congress, detailing the activities of the Office, including an assessment of federal policies and programs concerning energy resource availability and use.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Subtitle B—Access to Federal Lands

SEC. 121. OFFICE OF FEDERAL ENERGY PERMIT COORDINATION.

(a) ESTABLISHMENT.—The President shall establish the Office of Federal Energy Permit Coordination (in this section, referred to as "Office") within the Executive Office of the President in the same manner and mission as the White House Energy Projects Task Force established by Executive Order 13122.

(b) STAFFING.—The Office shall be staffed by functional experts from relevant federal agencies and departments on a nonreimbursable, full-time basis to carry out the mission of this office.

(c) REPORTING.—The Office shall provide an annual report to Congress, detailing the activities of the Office, including an assessment of federal policies and programs concerning energy resource availability and use.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Subtitle C. FEDERAL OFFSHORE LEASING PROGRAMS FOR OIL AND GAS.

SEC. 122. PILOT PROJECT TO IMPROVE FEDERAL PERMIT COORDINATION.

(a) CREATION OF PILOT PROJECT.—The Secretary of the Interior (in this section, referred to as "Secretary") shall establish a Federal Permit Streamlining Pilot Project. The Secretary shall enter into a Memo-
SEC. 5. MODIFICATION OF FEDERAL AGENCIES TO ENSURE HIGHER PRIORITY ENERGY TRANSMISSION RIGHTS-OF-WAY.

(a) DEFINITIONS.—For purposes of this section—

(1) The term ‘utility corridor’ means any linear strip of land across Federal lands of approved width, but limited by technological, environmental, and topographical factors for use by a utility facility.

(2) The term ‘Federal authorization’ means an approved right-of-way permit, lease, easement, or license issued under Federal law in order to site a utility facility, including but not limited to such permits, special use authorizations, certifications, opinions, or other approvals as may be required, issued by a Federal agency.

(3) The term ‘Federal lands’ means all lands owned by the United States, except—

(A) lands in the National Park System;

(B) lands held in trust for an Indian or Indian tribe; and

(C) lands on the Outer Continental Shelf.

(b) REQUIREMENTS.—

(1) No later than 24 months after the date of enactment of this Act, the Secretary of the Interior shall—

(A) designate utility corridors pursuant to section 503 of the Federal Land Policy and Management Act (43 U.S.C. 1703(a)), and

(B) incorporate the utility corridors designated under paragraph (A) into the relevant departmental and agency land use and resource management plans or their equivalent.

(2) The Secretary shall coordinate with the affected Federal agencies to jointly identify potential utility corridors on Federal lands in the other States and jointly develop a schedule for the designation, environmental review and incorporation of such utility corridors into relevant departmental and agency land use and resource management plans or their equivalent.

(c) E XPIRED APPROVAL PROCESS.—The Commission shall—

(A) provide a public need exists to construct and operate the proposed Alaska natural gas transportation project other than the Alaska natural gas transportation system.

(B) sufficient downstream capacity will exist to transport the Alaska natural gas moving through such project to markets in the contiguous United States.

(c) EXPEDITED APPROVAL PROCESS.—The Commission shall issue a final order granting or denying any application for a certificate of public convenience and necessity under section 7(e) of the Natural Gas Act (15 U.S.C. 717(e)) and approved by Public Law 95–189 (91 Stat. 1288).

SEC. 133. ISSUANCE OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

(a) AUTHORITY OF THE COMMISSION.—Notwithstanding the provisions of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.), the Commission may, pursuant to section 7(c) of the Natural Gas Act (15 U.S.C. 717(c)), consider and act on an application for the issuance of a certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project other than the Alaska natural gas transportation system.

(b) ISSUANCE OF CERTIFICATE.—The Commission shall issue a certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project other than the Alaska natural gas transportation system.

(c) EXPEDITED APPROVAL PROCESS.—The Commission shall issue a final order granting or denying any application for a certificate of public convenience and necessity under section 7(c) of the Natural Gas Act (15 U.S.C. 717(c)) and this section not more than
60 days after the issuance of the final environmental impact statement for that project pursuant to section 134.

(d) Prohibition on Certain Pipeline Routes.—No license, permit, lease, right-of-way, authorization, or other approval required under Federal law for the construction of any pipeline to transport natural gas from any lands within the Prudhoe Bay oil and gas lease area may be granted for any pipeline that follows a route that traverses—

(1) the submerged lands (as defined by the Submerged Lands Act) beneath, or adjacent shoreline of, the Beaufort Sea; and

(2) enters Canada at any point north of 68 degrees North latitude.

(e) Open Season.—Except where an expansion is ordered pursuant to section 135, initial or expansion capacity on any Alaska natural gas transportation project shall be allocated in accordance with procedures to be established by the Commission in regulations governing the conduct of open seasons for such project. Such procedures shall include the criteria for and timing of any open seasons; promote competition in the exploration, development, and production of Alaskan natural gas; and, for any open season for capacity expansions, provide the opportunity for the transportation of natural gas other than from the Prudhoe Bay and Point Thompson units. The Commission shall issue such regulations not later than 120 days after the date of enactment of this Act.

(f) Projects in the Contiguous United States.—Applications for additional or expanded pipeline facilities that may be required to transport Alaska natural gas from Canada to markets in the contiguous United States shall be subject to subpart A of Part 433 of this chapter. To the extent such pipeline facilities include the expansion of any facility constructed pursuant to the Alaska Natural Gas Transportation Act of 1976, the provisions of that Act shall continue to apply.

(g) Study of In-State Needs.—The holder of the certificate of public convenience and necessity issued, modified, or amended by the Commission for an Alaska natural gas transportation project shall demonstrate that it has conducted a study of Alaska in-State needs, including tie-in points along the route of the pipeline that follows a route that traverses—

(1) all the criteria for and timing of any open seasons, shall provide the opportunity for the transportation of natural gas other than from the Prudhoe Bay and Point Thompson units. The Commission shall issue such regulations not later than 120 days after the date of enactment of this Act.

(h) Alaska Royalty Gas.—The Commission, upon the request of the State of Alaska and after a hearing, may provide for reasonable access to the Alaska natural gas transportation project for the State of Alaska for its dedicated transportation of the State's royalty gas for local consumption needs within the State; except that the rates of existing shippers of subscribed capacity on such project shall not be increased as a result of such access.

(i) Regulations.—The Commission may issue regulations to carry out the provisions of this section.

SEC. 134. ENVIRONMENTAL REVIEWS.

(a) Compliance With NEPA.—The issuance of a certificate of public convenience and necessity authorizing the construction and operation of any Alaska natural gas transportation project under section 133 shall—

(1) be null and void unless the person or persons requesting the certificate, right-of-way, permit, lease, or other authorization issued to an Alaska natural gas transportation project authorized by this section shall be expended, in a manner consistent with completion of the necessary reviews and approvals, not later than the deadlines set forth in this subtitle.

(2) No Federal officer or agency shall have the authority to include terms and conditions that are permitted, but not required, by law on any certificate, right-of-way, permit, lease, or other authorization issued to an Alaska natural gas transportation project if the Federal Coordinator determines that those terms and conditions would prevent or impair in any significant respect the expeditious construction and operation, or an expansion, of the project.

(b) Limitation.—Nothing in this section shall give the Federal Coordinator the authority to impose additional terms, conditions or requirements beyond those imposed by the Commission or an agency with respect to design, construction and operation, or an expansion of the project.

(c) Coordination In Alaska.—The Federal Coordinator shall enter into a Joint Surveillance Agreement with the State of Alaska similar to that in effect during construction of the Trans-Alaska Oil Pipeline to monitor the construction of the Alaska natural gas transportation project. The Federal Government shall have primary surveillance and monitoring responsibility with respect to any natural gas pipeline located outside the State of Alaska.

(d) Limitation.—Nothing in this section shall preclude the Secretary of the Interior from reaffirm any authorities of the Commission with respect to any natural gas pipeline located outside the State of Alaska.

(e) Regulations.—The Commission may issue regulations to carry out the provisions of this section.

SEC. 136. FEDERAL COORDINATOR.

(a) Establishment.—There is established, as an independent office in the executive branch, the Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects.

(b) Federal Coordinator.—The Office shall be headed by a Federal Coordinator for Alaska Natural Gas Transportation Projects, who shall—

(1) be appointed by the President, by and with the advice and consent of the Senate;

(2) for a term equal to the period required to design, permit and construct the project plus one year; and

(3) be compensated at the rate prescribed for level III of the Executive Schedule (5 U.S.C. 5307).
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(f) TRANSFER OF FEDERAL INSPECTOR FUNCTIONS AND AUTHORITY.—Upon appointment of the Federal Coordinator by the President, all of the functions and authority of the Office of Federal Coordinator for Construction for the Alaska Natural Gas Transportation System vested in the Secretary of Energy pursuant to section 2(b) of the Natural Gas Transportation Act (42 U.S.C. 719b), including all functions and authority described and enumerated in the Reorganization Plan No. 1 of 1979 (44 Fed. Reg. 9657 (March 12, 1979), as subsequently amended), and section 5 of the President’s decision, shall be transferred to the Federal Coordinator.

SEC. 139. STATE JURISDICTION OVER IN-STATE DELIVERY OF NATURAL GAS.

(a) LOCAL DISTRIBUTION.—Any facility receiving natural gas from the Alaska natural gas transportation project for delivery for consumption within or distribution outside the State of Alaska shall be deemed to be a local distribution facility within the meaning of section 2 of the Natural Gas Policy Act of 1978 (15 U.S.C. 717b), and therefore not subject to the jurisdiction of the Commission.

(b) ADDITIONAL PIPELINES.—Nothing in this subtitle, except as provided in section 133(d), shall preclude or affect a future gas pipeline that may be constructed to deliver natural gas to consumers within the State of Alaska to the Kenai peninsula or Valdez or any other site in the State of Alaska for consumption within or distribution outside the State of Alaska.

(c) RATE COORDINATION.—Pursuant to the Natural Gas Act, the Commission shall establish schedules and rates for the transportation of natural gas on the Alaska natural gas transportation system. In exercising such authority, the Commission, pursuant to section 17(b) of the Natural Gas Policy Act of 1978 (15 U.S.C. 717n), shall confer with the State of Alaska regarding rates (including rate settlements) applicable to natural gas transported on and delivered from the Alaska natural gas transportation project for use within the State of Alaska.

SEC. 139. STUDY OF ALTERNATIVE MEANS OF DELIVERY OF NATURAL GAS.

(a) REQUIREMENT OF STUDY.—If no application for the issuance of a certificate or amended certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project has been filed with the Commission within 18 months after the date of enactment of this Act, the Secretary of Energy shall conduct a study of alternative approaches to the construction and operation of such a pipeline.

(b) SCOPE OF STUDY.—The study shall consider the feasibility of establishing a Government corporation to construct an Alaska natural gas transportation system and alternative means of providing Federal financing and ownership (including alternative combinations of Government and private corporate ownership) for the project.

(c) CONSULTATION.—In conducting the study, the Secretary of Energy shall consult with the Secretary of the Treasury and the Secretary of the Army (acting through the Commanding General of the Corps of Engineers).

(d) REPORT.—If the Secretary of Energy is required to conduct a study under subsection (a), the Secretary shall submit a report containing the results of the study, the Secretary’s recommendations, and any proposal for legislation to implement the Secretary’s recommendations to Congress.

SEC. 140. CLARIFICATION OF ANGTA STATUS AND AUTHORITY.

(a) SAVING CLAUSE.—Nothing in this subtitle affects any decision, certificate, permit, right-of-way, lease, or other authorization issued under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) or any Presidential findings or waivers issued in accordance with that Act.

(b) CLARIFICATION OF AUTHORITY TO AMEND TERMS AND CONDITIONS OF CERTIFICATES AND PERMITS.—Any Federal officer or agency responsible for granting or issuing any certificate, permit, right-of-way, lease, or other authorization under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) may amend, or abrogate any term or condition included in such certificate, permit, right-of-way, lease, or other authorization to meet current project requirements (including the physical design, facilities, and tariff specifications) so long as such amendment does not compel a change in the basic nature and general route of the Alaska natural gas transportation system described in section 2 of the President’s decision, or would otherwise prevent or impair any significant respect the expeditious construction and initial operation of such transportation system.

(c) UPDATED ENVIRONMENTAL REVIEWS.—The Secretary of Energy shall require the sponsor of the Alaska natural gas transportation system to submit such updated environmental data, reports, permits, and impact analyses as the Secretary determines are necessary to develop detailed terms, conditions, and compliance plans required by section 5 of the President’s decision.

SEC. 141. SENSE OF CONGRESS.

It is the sense of Congress that an Alaska natural gas transportation project will provide significant economic benefits to the United States and Canada. In order to maximize those benefits, Congress urges the sponsors of the pipeline project to maximize the participation of small business concerns in contracts and subcontracts awarded in carrying out the project.

(b) STUDY.—(1) The Comptroller General shall conduct a study of how small business concerns participate in the construction of oil and gas pipelines in the United States.

(2) Not later than 1 year after the date of enactment of this Act, the Comptroller General shall transmit to Congress a report containing the results of the study.

(3) The Comptroller General shall update the study at least once every 5 years and transmit to Congress a report containing the results of the update.

(4) After the date of completion of the construction of an Alaska natural gas transportation project, this subsection shall no longer apply.

(c) SMALL BUSINESS CONCERN DEFINED.—In the section by the term ‘‘small business concern’’ has the meaning given such term in section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

SEC. 142. PARTICIPATION OF SMALL BUSINESS CONCERNS.

(a) SENSE OF CONGRESS.—It is the sense of the Senate that there is a reasonable expectation that construction of an Alaska gas pipeline will commence within 3 years after the date of such certification; and

(2) the Secretary of the Interior concurs in writing to the Secretary with the certification made under paragraph (1).

(c) REQUIREMENTS FOR PLANNING GRANTS.—The Secretary may make a grant under subsection (a)(1) only if—

(1) the Governor of Alaska certifies in writing to the Secretary that there is a reasonable expectation that construction of an Alaska gas pipeline will commence within 3 years after the date of such certification; and

(2) the Secretary of the Interior concurs in writing to the Secretary with the certification made under paragraph (1).

(b) REQUIREMENTS FOR IMPLEMENTATION GRANTS.—The Secretary may make a grant under subsection (a)(2) only if—

(1) the Secretary has approved a plan developed pursuant to paragraph (a)(1); and

(2) the Governor of Alaska requests the grant funds and certifies in writing to the Secretary that there is a reasonable expectation that construction of an Alaska gas pipeline will commence within 2 years after the date of such certification; and

(3) the Secretary of the Interior concurs in writing to the Secretary with the certification made under paragraph (2) after considering—

(A) the status of necessary State and Federal permits; and

(B) the availability of financing for the pipeline project; and

(C) other relevant factors and circumstances.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary such sums as may be necessary, but not to exceed $20,000,000, to carry out this section.

SEC. 144. LOAN GUARANTEES.

(a) AUTHORITY.
SEC. 133. OBLIGATIONS FOR A QUALIFIED INFRASTRUCTURE PROJECT.—

(1) The amount of loans and other debt obligations guaranteed under this section shall not exceed, in the aggregate, 80 percent of the total capital costs of a qualified infrastructure project only after a certificate of public convenience and necessity has been issued by the Secretary of Energy.

(2) Subject to the requirements of this section, the Secretary may also enter into agreements with project owners and operators of the Canadian portion of a qualified infrastructure project to issue Federal guarantee instruments with respect to loans and other debt obligations guaranteed under this section as though such owner were a holder described in paragraph (1).

(3) The authority of the Secretary to issue Federal guarantee instruments under this section for a qualified infrastructure project shall expire on the date that is 2 years after the date on which the final certificate of public convenience and necessity (including any Canadian certificates of public convenience and necessity) is issued for the project. A final certificate shall be considered to have been issued when all certificates of public convenience and necessity have been issued that are required for the initial transportation and economically recoverable quantities of natural gas from Alaska to the continental United States.

(b) Conditions.

(1) The Secretary may issue a Federal guarantee instrument for a qualified infrastructure project only after a certificate of public convenience and necessity under section 133(b) of this Act or an amended certificate under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 732g) has been issued for the project.

(2) The Secretary may issue a Federal guarantee instrument under this section for a qualified infrastructure project only if the loan and debt obligation guaranteed under the instrument has been issued by an eligible lender.

(3) The Secretary shall not require as a condition of issuing a Federal guarantee instrument under this section any contractual commitment or other form of credit support of the project owner (including equity commitments and contribution guarantees), or any throughput or other guarantee from prospective shippers greater than such guarantees as are required by the project owners.

(c) Limitations on Amounts.—

(1) The amount of loans and other debt obligations guaranteed under this section shall not exceed 80 percent of the total capital costs of the project, including interest during construction.

(2) The principal amount of loans and other debt obligations guaranteed under this section shall not exceed $18,000,000,000, which amount shall be indexed for United States dollar inflation from the date of enactment of this Act, as measured by the Consumer Price Index.

(d) Loan Terms and Fees.—

(1) The Secretary may issue Federal guarantee instruments under this section that take into account repayment profiles and grace periods justified by project cash flows and project-specific considerations. The term of any loan guaranteed under this section shall not exceed 30 years.

(2) An eligible lender may assess and collect from the borrower such other fees and costs as are reasonable and customary for a project finance transaction in the oil and gas sector.

(e) Regulations.—The Secretary may issue regulations to carry out this section.

(f) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to cover the cost of loan guarantees, as defined by section 133(d) of this Act, the Bureau of Labor Statistics, or if such index shall cease to be published, any successor index or reasonable substitute thereof.

The term "qualified infrastructure project" means a project that does not advance efficiency, environmental performance, and cost competitiveness well beyond the level of technologies that are in wide commercial use. Further, the project shall be likely to be completed before the Alaska North Slope to the continental United States.

(2) The term "eligible lender" means any non-Federal qualified institutional buyer (as defined by section 230.144(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933), including (A) a qualified retirement plan (as defined in section 497(c) of the Internal Revenue Code of 1986 (26 U.S.C. 497(c)) that is a qualified institutional buyer; and (B) a governmental body as defined in section 414(d) of the Internal Revenue Code of 1986 (26 U.S.C. 414(d)) that is a qualified institutional buyer.

(3) The term "Federal guarantee instrument" means any guarantee or other pledge of credit of the United States to pay all or any portion of the principal amount of loans and other debt obligation entered into by a holder of a certificate of public convenience and necessity.

(4) The term "qualified infrastructure project" means an Alaskan natural gas transportation project consisting of the design, engineering, finance, construction, and completion of gas transportation and production systems (including gas treatment plants), and appurtenances thereunto, that are used to transport natural gas from the Alaska North Slope to the continental United States.

(5) The term "Secretary" means the Secretary of Energy.

SEC. 145. SENSE OF CONGRESS ON NATURAL GAS DEMAND.

It is the sense of Congress that:

(1) North American demand for natural gas will increase substantially over the course of the next several decades.

(2) Both the Alaska Natural Gas Pipeline and the McKenzie Delta Natural Gas project in Canada will likely meet the increased demand for natural gas in North America.

(3) Federal and state officials should work together with officials in Canada to ensure that both projects can move forward in a mutually beneficial fashion.

(4) Federal and state officials should acknowledge that the smaller scope, fewer permitting requirements and lower cost of the McKenzie Delta project means it will most likely be completed before the Alaska Natural Gas Pipeline.

(5) Lower 48 and Canadian natural gas production alone will not be able to meet all domestic demand in the long term.

(6) As a result, natural gas delivered from Alaska's North Slope will not displace or reduce the commercial viability of Canadian natural gas, but the McKenzie Delta nor production from the Lower 48.

TITLe 2—COAL

Subtitle A—Clean Coal Power Initiative

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to cover the cost of loan guarantees, as defined by section 133(b) of this Act or an amended certificate of public convenience and necessity under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 732g) to issue Federal guarantee instruments with respect to loans and other debt obligations for a qualified infrastructure project.

SEC. 202. PROJECT CRITERIA.

(a) IN GENERAL.—The Secretary shall not provide funding under this subtitle for any project that does not advance efficiency, environmental performance, and cost competitiveness well beyond the level of technologies that are in wide commercial use. Further, the project shall be likely to be completed before the Alaska North Slope to the continental United States.

(b) TECHNICAL CRITERIA FOR GASIFICATION PROJECTS.—For projects not described in paragraph (a), the Secretary shall set technical milestones specifying emissions levels that the projects must be designed to and reasonably expected to achieve. The Secretary shall set technical milestones specifying emissions levels that the projects must be designed to and reasonably expected to achieve. The milestones shall get more restrictive through the life of the program. The milestones shall be designed to achieve by 2020 gasification projects able to—

(1) remove 99 percent of sulfur dioxide;

(2) emit no more than .05 lbs of NOx per million BTU;

(3) achieve substantial reductions in mercury emissions; and

(4) achieve a thermal efficiency of—

(A) 60 percent for coal of more than 9,000 Btu;

(B) 59 percent for coal of 7,000 to 9,000 Btu; and

(C) 57 percent for coal of less than 7,000 Btu.

(c) TECHNICAL CRITERIA FOR OTHER PROJECTS.—For projects not described in paragraphs (a) or (b), the Secretary shall set technical milestones specifying emissions levels that the projects must be designed to and reasonably expected to achieve. The milestones shall get more restrictive through the life of the program. The milestones shall be designed to achieve by 2010 projects able to—

(1) remove 97 percent of sulfur dioxide;

(2) emit no more than .85 lbs of NOx per million BTU;

(3) achieve substantial reductions in mercury emissions; and

(4) achieve a thermal efficiency of—

(A) 45 percent for coal of more than 9,000 Btu;

(B) 44 percent for coal of 7,000 to 9,000 Btu; and

(C) 42 percent for coal of less than 7,000 Btu.

(d) EXISTING UNITS.—In the case of projects at existing units, in lieu of the thermal efficiency requirements set forth in paragraphs (a)(4), (b)(4), and (c)(4), the Secretary may be designed to achieve an overall thermal design efficiency improvement compared to the efficiency of the unit as operated, of not less than—

(A) 7 percent for coal of more than 9,000 Btu;

(B) 6 percent for coal of 7,000 to 9,000 Btu; and

(C) 4 percent for coal of less than 7,000 Btu.

(e) PERMITTED USES.—In allocating funds made available in this section, the Secretary may allocate funds to projects that include, as part of the process, the separation and capture of carbon dioxide.

(f) CONSULTATION.—Before setting the technical milestones under subsections (b) and (c), the Secretary shall consult with the Administrator of the Environmental Protection Agency and interested entities, including...
coal producers, industries using coal, organizations to promote coal or advanced coal technologies, environmental organizations, and organizations representing workers.

(g) FINANCIAL ASSISTANCE.—The Secretary shall not provide a funding award under this title until the recipient has documented to the satisfaction of the Secretary that—

(1) the award recipient is financially viable without the receipt of additional Federal funding;

(2) the recipient will provide sufficient information for the Secretary to determine that the award funds are spent efficiently and effectively; and

(3) a market exists for the technology being developed, as evidenced by statements of interest in writing from potential purchasers of the technology.

(b) FINANCIAL ASSISTANCE.—The Secretary shall provide financial assistance to projects that meet the requirements of this section and are likely to—

(1) achieve overall cost reductions in the utilization of coal to generate useful forms of energy;

(2) improve the competitiveness of coal among various forms of energy; and

(3) avoid or mitigate the adverse effects of coal combustion on human health and the environment.

SEC. 211. MINING PLANS.

(a) TEN-YEAR PLAN.—By September 30, 2004, the Secretary shall transmit to Congress a report, with respect to section 202(a), a 10-year plan containing—

(1) a detailed description of how proposals shall be evaluated by the Secretary as of the date of the enactment of this Act;

(2) a detailed description of how proposals will be solicited and evaluated, including a list of all activities expected to be undertaken; and

(3) a detailed list of technical milestones for each coal and related technology project funded by the Secretary shall not exceed 50 percent.

(c) APPLICABILITY.—No technology, or level of emission reduction, shall be treated as adequately demonstrated for purposes of section 111 of the Clean Air Act, achievable for purposes of section 169 of that Act, or achievable in practice for purposes of section 171 of that Act if the Secretary determines that the technology or the achievement of such emission reduction, by one or more facilities embraced in such lease, but in no event shall the total area added by such modifications to an existing coal lease exceed 320 acres, or add acreage larger than that in the original lease.

SEC. 212. PAYMENT OF ADVANCE ROYALTIES UNDER COAL LEASES.

(a) PAYMENT OF ADVANCE ROYALTIES.—Section 7(b) of the Mineral Leasing Act of 1920 (30 U.S.C. 177(b)) is amended by striking all after “Secretary.” through to “a lease.” and inserting:

“(b) The aggregate number of years during the period of any lease for which advance royalties may be accepted in lieu of the condition of continued operation shall not exceed twenty. The amount of any production royalty paid for any year shall be reduced (but not below zero) by the amount of any advance royalties paid under such lease to the extent that such advance royalties have not been used to reduce production royalties for a prior year.”

SEC. 213. ELIMINATION OF DEADLINE FOR SUBMISSION OF LEASE OPERATIONS AND RECLAMATION PLAN.

(a) IN GENERAL.—Section 7(a) of the Mineral Leasing Act of 1920 (30 U.S.C. 177(a)) is amended by striking “and not later than three years after a lease is issued.”

(b) AMENDMENTS.—The amendments made by this Act apply with respect to any coal lease issued on or after the date of enactment of this Act, and with respect to any coal lease issued before the date of enactment of this Act, upon request of the lessee, prior to such date.

(3) There is authorized to be appropriated—

(1) Subject to paragraph (3), the Secretary may provide loan guarantees (as defined in alternatives to resolve these conflicts and identification of a preferred alternative with specific legislative language, if any, required to implement the preferred alternative.

TITLE III—INDIAN ENERGY

SEC. 301. SHORT TITLE.

This title may be cited as the “Indian Tribal Energy Development and Self-Determination Act of 2003.”

SEC. 302. OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS.

(a) IN GENERAL.—Title II of the Department of Energy Act (42 U.S.C. 7131 et seq.) is amended by adding at the end the following:

“OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS

“Sec. 217. (a) ESTABLISHMENT.—There is established within the Department an Office of Indian Energy Policy and Programs (referred to in this section as the ‘Office’). The Office shall be headed by a Director, who shall be appointed by the Secretary and compensated in accordance with law.

(b) DUTIES OF DIRECTOR.—The Director shall—

(1) in accordance with law, develop policies promoting Indian self-determination and the purposes of this Act, develop, direct, coordinate, and implement energy planning, development, and management assistance, and delivery programs of the Department that—

(1) promote Indian tribal energy development, efficiency, and use;

(2) reduce or stabilize energy costs;

(3) enhance and strengthen Indian tribal energy and economic infrastructure relating to natural resource development and utilization; and

(4) electrify Indian tribal land and the homes of tribal members.

(2) studies and other activities supporting tribal acquisition of energy supplies, services, and facilities.

(4) In carrying out this section, the Director shall—

(1) make grants, on a competitive basis, to an Indian tribe or tribal consortium for use in carrying out—

(1) energy, energy efficiency, and energy conservation programs;

(2) studies and other activities supporting tribal acquisition of energy supplies, services, and facilities.

(3) development, construction, development, operation, maintenance, and improvement of tribal electrical generation, transmission, and distribution facilities located on Indian land; and

(4) development, construction, and interconnection of electric power transmission facilities located on Indian land with other electric transmission facilities.

(3) The Secretary may promulgate such regulations as the Secretary determines are necessary to carry out this section.

(3) There is authorized to be appropriated—

(1) Subject to paragraph (3), the Secretary may provide loan guarantees (as defined in approval of such regulations as the Secretary determines are necessary to carry out this section.

(3) There is authorized to be appropriated—

(1) Subject to paragraph (3), the Secretary may provide loan guarantees (as defined in
section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a) for not more than 90 percent of the unpaid principal and interest due on any loan made to any Indian tribe for energy resources development.

“(2) A loan guaranteed under this subsection shall be made—

(A) a financial institution subject to examination by the Secretary; or

(B) an Indian tribe, from funds of the Indian tribe.

“(3) The aggregate outstanding amount guaranteed by the Secretary at any time under this subsection shall not exceed $2,000,000,000.

“(4) The Secretary may promulgate such regulations as the Secretary determines are necessary to carry out this subsection.

“(5) There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

“(6) Not later than 1 year from the date of enactment of this section, the Secretary shall report to the Congress on the financing requirements of Indian tribes for energy development on Indian land.

“(c) INDIAN TRIBAL ENERGY DEVELOPMENT OR TRANSITION—

“(1) In purchasing electricity or any other energy product or byproduct, a Federal agency or the United States shall give preference to an energy and resource production enterprise, partnership, consortium, corporation, or other type of business organization the majority or all of which is owned and controlled by 1 or more Indian tribes.

“(2) In carrying out this subsection, a Federal agency or department shall not—

(A) pay more than the prevailing market price for an energy product or byproduct; and

(B) obtain less than prevailing market terms and conditions.

“(b) CONFORMING AMENDMENTS.—

(1) The table of contents of the Department of Energy Organization Act (42 U.S.C. prev. 7101) is amended—

(A) in the item relating to section 209, by striking “Section” and inserting “Sec.”; and

(B) by striking the items relating to sections 213 through 216 and inserting the following:

“Sec. 213. Establishment of policy for National Nuclear Security Administration.

“Sec. 214. Establishment of security, counterintelligence, and intelligence policies.


“Sec. 216. Office of Intelligence.


“Sec. 218. Comprehensive Indian Energy Activities.

(2) Section 3315 of title 5, United States Code, is amended by inserting “Director, Office of Indian Energy Policy and Programs, Department of Energy,” after “Inspector General, Department of Energy.”.

SEC. 303. INDIAN ENERGY.

Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 5901 et seq.) is amended to read as follows:

“TITLE XXVI INDIAN ENERGY

“SEC. 2601. DEFINITIONS.

“For purposes of this title:

“(1) The term ‘Director’ means the Director of the Office of Indian Energy Policy and Programs.

“(2) The term ‘Indian land’ means—

(A) any land located within the boundaries of an Indian reservation, pueblo, or rancheria;

(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria of which is held—

(1) in trust by the United States for the benefit of an Indian tribe;

“(ii) by an Indian tribe, subject to restriction by the United States against alienation; or

“(iii) by a dependent Indian community; and

“(C) land assigned to a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

“(8) The term ‘Indian reservation’ includes—

(A) an Indian reservation in existence in any State or States as of the date of enactment of this paragraph;

(B) a public Indian allotment; and

(C) a former reservation in the State of Oklahoma.

“(9) A parcel of land owned by a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

“(E) a dependent Indian community located within the boundaries of the United States, regardless of whether the community is located—

(i) on original or acquired territory of the community; or

(ii) within or outside the boundaries of any particular State.

“(10) The term ‘tribal land’ means any land or interests in land owned by any Indian tribe, band, nation, pueblo, community, rancheria, colony or other group, title to which is held in trust by the United States or which is subject to a restriction against alienation imposed by the United States.

“(11) The term ‘tribal consortium’ means an organization that consists of 2 or more entities, at least 1 of which is an Indian tribe.

“(12) The term ‘tribal land’ includes any land or interests in land located on Indian land.

“(b) R IGHTS-OF-WAY FOR PIPELINES OR TRANSMISSION LINES.—An Indian tribe may grant a right-of-way over tribal land for a pipeline or an electricity from, or otherwise develop energy resources on, Indian land.

“(c) OTHER ASSISTANCE.—To the maximum extent practicable, the Secretary and the Secretary of Energy shall make available to Indian tribes grants and technical data for use in the development and management of energy resources on Indian land.

“SEC. 2002. INDIAN TRIBAL ENERGY RESOURCE DEVELOPMENT.

“(a) IN GENERAL.—To assist Indian tribes in the development of energy resources and further the goal of Indian self-determination, the Secretary shall establish and implement the Indian energy resource development program to assist Indian tribes and tribal consortia in achieving the purposes of this title.

“(b) GRANTS AND LOANS.—In carrying out the Program, the Secretary shall—

“(1) provide development grants to Indian tribes and tribal consortia for use in developing the managerial and technical capacity needed to develop energy resources on Indian land;

“(2) provide grants to Indian tribes and tribal consortia for use in carrying out projects to promote the vertical integration of energy resources, and to process, use, or develop those energy resources, on Indian land; and

“(3) provide low-interest loans to Indian tribes and tribal consortia for use in the promotion of energy resource development and vertical integration or energy resources on Indian land.

“(c) AUTHORIZATION OF APPROPRIATIONS.

The Secretary is authorized to carry out this section such sums as are necessary for each of fiscal years 2004 through 2014.

“SEC. 2003. INDIAN TRIBAL ENERGY RESOURCE REGULATION.

“(a) GRANTS.—The Secretary may provide to Indian tribes and tribal consortia, on a per-project basis, grants for use in developing, administering, implementing, and enforcing tribal laws (including regulations) governing the development and management of energy resources on Indian land.

“(b) USE OF FUNDS.—Funds from a grant provided under this section may be used by an Indian tribe or tribal consortium for—

“(1) the development of a feasibility study or other report necessary to the development of energy resources on Indian land;

“(2) the development and enforcement of tribal laws (including regulations) to protect the environment under applicable law; or

“(3) the training of employees that—

(A) are engaged in the development of energy resources on Indian land; or

(B) are responsible for protecting the environment.

“(c) OTHER ASSISTANCE.—To the maximum extent practicable, the Secretary and the Council on Economic Priorities shall make available to Indian tribes grants and technical data for use in the development and management of energy resources on Indian land.

“SEC. 2004. LEASES, BUSINESS AGREEMENTS, AND RIGHTS-OF-WAY FOR ENERGY DEVELOPMENT OR TRANSITION.

“(a) LEASE AGREEMENTS.—Subject to the provisions of this section—

“(1) an Indian tribe may, at its discretion, enter into a lease or business agreement for the purpose of energy development, including a lease or business agreement for—

“(A) exploration for, extraction of, processing of, or other development of energy resources on Indian land;

“(B) construction or operation of an electric generation, transmission, or distribution facility located on tribal land; or a facility to process or refine energy resources developed on tribal land; and

“(2) a lease or business agreement described in paragraph (1) shall not require the approval of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81) or any other provision of law, if—

“(A) the lease or business agreement is executed in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e);

“(B) the term of the lease or business agreement does not exceed—

(i) 30 years; or

(ii) in the case of a lease for the production of oil and gas resources, 10 years and as long thereafter as oil or gas is produced in paying quantities; and

“(C) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including an annual written assessment of the activities of the Indian tribe conducted in accordance with the agreement).

“(b) RIGHTS-OF-WAY FOR PIPELINES OR TRANSMISSION LINES.—An Indian tribe may grant a right-of-way over tribal land for a pipeline or an
electric transmission or distribution line without specific approval by the Secretary if—

"(1) the right-of-way is executed in accordance with an electric energy resource agreement approved by the Secretary under subsection (e);"

"(2) the term of the right-of-way does not exceed 30 years;

"(3) the pipeline or electric transmission or distribution line serves—

"(A) an electrical energy resource agreement, transmission, or distribution facility located on tribal land; or

"(B) a facility located on tribal land that processes or refines energy resources developed on tribal land; and

"(4) the Indian tribe has entered into a tribal energy resource agreement with the Secretary or a business agreement, or right-of-way under this section—

"(i) that, with respect to a lease, business agreement, or right-of-way before tribal approval of the lease, business agreement, or right-of-way (or any amendment to or renewal of the lease, business agreement, or right-of-way); and

"(ii) the identification of proposed mitigation;"

"(iii) a process for ensuring that the public is informed of and has an opportunity to comment on any proposed lease, business agreement, or right-of-way before tribal approval; and

"(iv) sufficient administrative support and technical capability to carry out the environmental review process.

"(B) A tribal energy resource agreement negotiated between the Secretary and an Indian tribe in accordance with this subsection shall include—

"(i) provisions requiring the Secretary to conduct an annual trust asset evaluation to monitor the performance of the activities of the Indian tribe associated with the development of energy resources on tribal land by the Indian tribe; and

"(ii) in the event of a finding by the Secretary of imminent jeopardy to a physical trust asset, provisions authorizing the Secretary to reassume responsibility for activities associated with the development of energy resources on tribal land.

"(C) Tribal energy resource agreements submitted under paragraph (1) shall establish—

"(i) the Secretary determines that the Indian tribe has sufficient capacity to regulate the development of energy resources of the Indian tribe conducted in accordance with the agreement.

"(ii) the tribal energy resource agreement includes provisions that, with respect to a lease, business agreement, or right-of-way under this section—

"(I) ensure the acquisition of necessary information from the applicant for the lease, business agreement, or right-of-way;

"(II) address the consideration for the lease, business agreement, or the term of conveyance of the right-of-way;

"(III) address amendments and renewals;

"(IV) address compliance with the process and requirements set forth in the Secretary’s regulations adopted pursuant to subsection (e)(9), provide to the Secretary—

"(A) a copy of the lease, business agreement, or right-of-way document (including all amendments to and renewals of the document); and

"(B) in the case of a tribal energy resource agreement or a lease, business agreement, or right-of-way that permits payment to be made directly to the Indian tribe, documents of those payments sufficient to enable the Secretary to discharge the trust responsibility of the United States as appropriate under applicable law.

"(D) The Secretary shall have the authority to require the lessee of any lease, business agreement, or right-of-way to—

"(i) establish requirements for environmental review in accordance with the Secretary’s regulations; and

"(ii) establish requirements for environmental review in accordance with applicable environmental laws; and

"(E)(i) An Indian tribe described in subparagraph (2)(B)(i), including the experience of an Indian tribe in managing natural resources and in accordance with tribal energy resource agreements approved under this subsection.

"(ii) a process and requirements in accordance with the Secretary’s regulations; and

"(iii) before taking any action described in subparagraph (C)(ii), provide the Indian tribe with a reasonable opportunity to attain compliance with the tribal energy resource agreement.

"(F) The Secretary shall provide notice and opportunity for public comment on any proposed lease, business agreement, or right-of-way under this section.

"(G) The Secretary shall have the authority to require the lessee of any lease, business agreement, or right-of-way to—

"(i) suspend the lease, business agreement, or right-of-way under this section until an Indian tribe is in compliance with the approved tribal energy resource agreement over the right-of-way; and

"(ii) rescinding approval of the tribal energy resource agreement and reassuming responsibility for approval of any future business agreements or right-of-way agreements associated with an energy pipeline or distribution line described in subsections (a) and (b)."

"(G) If the Secretary seeks to compel compliance of an Indian tribe with an approved tribal energy resource agreement under subparagraph (C)(ii), the Secretary shall make a written determination that describes the manner in which the tribal energy resource agreement has been violated.

"(H) The decision of the Secretary with respect to an appeal described in clause (i), including any order or other remedy, shall constitute a final agency action.

"(I) Not later than 180 days after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2003, the Secretary shall promulgate regulations that implement the provisions of this subsection, including—

"(i) criteria to be used in determining the capacity of an Indian tribe described in paragraph (2)(B)(i), including the experience of the Indian tribe in managing natural resources and financial and administrative resources available for use by the Indian tribe in implementing the approved tribal energy resource agreement; and

"(ii) a process and requirements in accordance with which an Indian tribe may—
“(1) voluntarily rescind an approved tribal energy resource agreement approved by the Secretary under this subsection; and

“(ii) return to the Secretary the responsibility to approve future lease agreements, to negotiate agreements, and rights-of-way described in this subsection.

“(f) NO EFFECT ON OTHER LAW.—Nothing in this subsection shall—

“(1) affect any Federal environmental law;

“(2) affect the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.); or

“(3) except as otherwise provided in this title, the Indian Mineral Development Act of 1982 (25 U.S.C. 300 et seq.).

“SEC. 2605. FEDERAL POWER MARKETING ADMINISTRATION.

“(a) DEFINITIONS.—In this section—

“(1) the term ‘Administrator’ means the Administrator of the Bonneville Power Administration and the Administrator of the Western Area Power Administration;

“(2) the term ‘power marketing administration’ means—

“(A) the Bonneville Power Administration;

“(B) the Western Area Power Administration; and

“(C) any other power administration the power allocation of which is used by or for the benefit of an Indian tribe located in the service area of that administration;

“(b) ENCOURAGEMENT OF INDIAN TRIBAL ENERGY DEVELOPMENT.—Each Administrator shall encourage Indian tribal energy development by the exercising of its powers and functions, including the exercise of authority over the Bonneville Power Administration and the Western Area Power Administration, in accordance with this section;

“(c) ACTION BY THE ADMINISTRATOR.—In carrying out this section, the Administrator shall—

“(1) consider the unique relationship that exists between the United States and Indian tribes;

“(2) power allocations from the Western Area Power Administration to Indian tribes may be used to meet firming and reserve needs of Indian-owned energy projects on Indian land;

“(3) the Administrator of the Western Area Power Administration may purchase power from Indian tribes to meet the firming and reserve needs of the Western Area Power Administration; and

“(4) each Administrator shall not pay more than the prevailing market price for an energy resource, including an assessment of opportunities to remove those barriers and improve the ability of power marketing administrations to facilitate the use of Federal power by Indian tribes.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000, to remain available until expended and shall not be reimbursable.

“SEC. 2606. INDIAN MINERAL DEVELOPMENT REVIEW.

“(a) IN GENERAL.—The Secretary shall conduct a review of all activities being conducted under the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.) as of that date.

“(b) REPORT.—Not later than 1 year after the date of enactment of this Indian Energy Policy and Self-Determination Act of 2003, the Secretary shall submit to the Congress a report that includes—

“(1) the results of the review;

“(2) recommendations to ensure that Indian tribes have the opportunity to develop Indian energy resources; and

“(3) an analysis of the barriers to the development of energy resources on Indian land and the opportunities to remove those barriers, along with recommendations for the removal of those barriers.

“SEC. 2607. WIND AND HYDROPOWER FEASIBILITY STUDY.

“(a) STUDY.—The Secretary, in coordination with the Secretary of the Army and the Secretary of the Interior, shall conduct a study of the electricity of developing a demonstration project that would use wind energy generated by Indian tribes and hydropower generated by the Army Corps of Engineers on the Missouri River to supply firming power to the Western Area Power Administration.

“(b) SCOPE OF STUDY.—The study shall—

“(1) determine the feasibility of the blending of wind energy and hydropower generated from the Missouri River dams operated by the Army Corps of Engineers;

“(2) review historical purchase requirements for wind power and the patterns of availability and use of hydropower;

“(3) assess the energy resource potential on tribal land and projected cost savings through a blend of wind and hydropower over a 30-year period;

“(4) determine seasonal capacity needs and associated transmission upgrades for integration of tribal wind generation; and

“(5) include an independent tribal engineer as a study team member.

“(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the results of the study, including—

“(1) an analysis of the potential energy cost or benefits to the customers of the Western Area Power Administration through the blend of wind and hydropower;

“(2) an evaluation of whether a combined wind and hydropower system can reduce reserve requirements and produce Missouri River management flexibility;

“(3) recommendations for a demonstration project to be carried out by the Western Area Power Administration in partnership with an Indian tribal government or tribal consortium to demonstrate the feasibility of using wind energy produced on Indian land to supply firming energy to the Western Area Power Administration or any other Federal power marketing agency; and

“(4) an identification of—

“(A) the economic and environmental costs or benefits to be realized through such a Federal-tribal partnership; and

“(B) the manner in which such a partnership could contribute to the energy security of the United States.

“(d) FUNDING.—

“(1) There is authorized to be appropriated to carry out this section $500,000, to remain available until expended.

“(2) Costs incurred by the Secretary in carrying out this section shall be nonreimbursable.

“SEC. 2604. FOUR CORNERS TRANSMISSION LINE PROJECT.

“The Dine Power Authority, an enterprise of the Navajo Nation, shall be eligible to receive grants and other assistance as authorized by section 302 of this title and section 2002 of the Energy Policy Act of 1992, as amended by this title, for activities associated with the development of a transmission line from the Four Corners Area to southern Nevada, including related power generation opportunities.

“SEC. 2608. ENERGY EFFICIENCY IN FEDERALLY ASSISTED HOUSING.

“(a) IN GENERAL.—The Secretary of Housing and Urban Development shall promote energy efficiency and conservation by—

“(1) the use of energy-efficient technologies and innovations (including the procurement of energy-efficient refrigerators and other appliances);

“(2) the promotion of shared savings contracts; and

“(3) the use and implementation of such other similar technologies and innovations as the Secretary considers to be appropriate.

“(b) AMENDMENT.—Section 202(2) of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4123(2)) is amended—

“(1) in the subsection heading, by striking ‘improvement to achieve greater energy efficiency,’ after ‘planning,’;

“(2) by striking ‘licenses issued after August 30, 2001’ and inserting ‘licenses issued before August 30, 2001’; and

“(3) by striking ‘all purposes’ and inserting ‘for any license issued for such facility subsec—

“SEC. 2609. CONSULTATION WITH INDIAN TRIBES.

“In carrying out this Act and the amendments made by this Act, the Secretary of Energy and the Secretary shall, as appropriate and to the maximum extent practicable, involve and consult with Indian tribes in a manner that is consistent with the Federal trust and the government-to-government relationships between Indian tribes and the United States.

“TITLE IV—NUCLEAR MATTERS

Subtitle A—Price-Anderson Act Amendments

SEC. 401. SHORT TITLE.

This subtitle may be cited as the ‘Price-Anderson Amendments Act of 2003’.

SEC. 402. EXTENSION OF INDENTIFICATION AUTHORITY.

“(a) INDENTIFICATION OF NUCLEAR REGULATORY COMMISSION LICENSEES.—Section 170c of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

“(1) in the subsection heading, by striking ‘LICENSES’ and inserting ‘LICENSEES’;

“(2) by striking ‘licenses issued between August 30, 1954, and December 31, 2003’ and inserting ‘licenses issued after August 30, 1954’; and

“(3) by striking ‘With respect to any production or utilization facility for which a commission permit, license, or authorization is outstanding between August 30, 1954, and December 31, 2003, the requirements of this subsection shall apply to any license issued for such facility subseq—

“SEC. 403. INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 1704(a)(1)(A) of
the Atomic Energy Act of 1944 (42 U.S.C. 2210(d)(1)(A)) is amended by striking "", until December 31, 2004.",

(c) **INDENMIFICATION OF NONPROFIT EDUCATIONAL INSTITUTIONS.**—Section 170h of the Atomic Energy Act of 1944 (42 U.S.C. 2210(k)) is amended by:

(1) striking "licenses issued between August 30, 1954, and August 1, 2002" and replacing it with "licenses issued after August 30, 1954"; and

(2) by striking "With respect to any production or utilization facility for which a construction permit is issued between August 30, 1954, and August 1, 2002, the requirements of this subsection shall apply to any license issued for such facility subsequent to August 1, 2002.

SEC. 407. DEPARTMENT OF ENERGY LIABILITY LIMIT.

Section 170 of the Atomic Energy Act of 1944 (42 U.S.C. 2210) is amended—

(1) in the second proviso of the third sentence of subsection b.(1) by striking "$36,000,000" and inserting "$91,000,000"; and

(2) by striking "$10,000,000 in any 1 year" and inserting "$15,000,000 in any 1 year (subject to adjustment for inflation under subsection t.)";

and

(3) in subsection t.(1) by inserting "and annual" after "amount of the maximum.

(b) STRIKING OF THE MAXIMUM AMOUNT.—Section 170d of the Atomic Energy Act of 1944 (42 U.S.C. 2210(d)) is amended by striking paragraph (2) and inserting the following:

"(2) In an agreement of indemnification entered into under paragraph (1), the Secretary—

(A) may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity; and

(B) shall indemnify the persons indemnified against such liability above the amount of the financial protection required, in the amount of $10,000,000,000 (subject to adjustment for inflation under subsection t.), in the case of any not-for-profit contractor, or supplier, the total amount of civil penalties paid under subsection a. not less than once during each 5-year period following July 1, 2003, in accordance with the aggregate percentage change in the Consumer Price Index since—

(A) that date, in the case of the first adjustment under this paragraph; or

(B) the previous adjustment under this paragraph.

SEC. 408. TREATMENT OF MODULAR REACTORS.

Section 170 b. of the Atomic Energy Act of 1944 (42 U.S.C. 2210(b)) is amended by adding at the end the following:

"(6)(A) For purposes of this section only, the Commission shall consider a combination of facilities described in subparagraph (B) of this paragraph to be a single facility having a rated capacity of 100,000 electrical kilowatts or more.

(B) A combination of facilities referred to in subparagraph (A) is 2 or more facilities located at a single site, each of which has a rated capacity of 100,000 electrical kilowatts or more but not more than 300,000 electrical kilowatts, with a combined rated capacity of not more than 1,300,000 electrical kilowatts.

SEC. 409. APPLICABILITY.

The amendments made by sections 403, 404, and 405 do not apply to a nuclear incident that occurred before the date of enactment of this Act.

SEC. 410. CIVIL PENALTIES.

(a) **REPEAL OF AUTOMATIC REMISSION.**—Section 234A(b) of the Atomic Energy Act of 1944 (42 U.S.C. 2220a(b)(2)) is amended by striking the last sentence.

(b) **LIMITATION FOR NON-FOR-PROFIT INSTITUTIONS.**—Subsection 234A(b) of the Atomic Energy Act of 1944 (42 U.S.C. 2220a(b)) is amended to read as follows:

"(d)(1) Notwithstanding subsection a., in the case of any not-for-profit contractor, subcontractor, or supplier, the total amount of civil penalties paid under subsection a. may not exceed the total amount of fees paid within any 2-year period (as determined by the Secretary) under the contract under which the violation occurs.

(2) For purposes of this section, the term "not-for-profit contractor," subcontractor, or supplier inures to the benefit of any natural person or for-profit artificial person.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall not apply to any violation of the Atomic Energy Act of 1944 occurring under a contract entered into before the date of enactment of this section.

Subtitle B—Deployment of New Nuclear Plants

SEC. 421. SHORT TITLE.

This subtitle may be cited as the "Nuclear Energy Finance Act of 2005."

SEC. 422. DEFINITIONS.

For purposes of this subtitle:

(1) the term "advanced reactor design" means a nuclear reactor that enhances safety, efficiency, proliferation resistance, or waste reduction compared to commercial nuclear reactors deployed by the United States on the date of enactment of this Act.

(2) the term "eligible project costs" means all costs incurred by a project developer that are reasonably related to the development and construction of a project under this subtitle, including costs resulting from regulatory or licensing delays.

(3) the term "financial assistance" means a loan guarantee, purchase agreement, or any combination of the foregoing.

(4) the term "loan guarantee" means any guarantee or other pledge by the Secretary for all or part of the principal and any interest on a loan or other debt obligation issued by a project developer and funded by a lender.

(5) the term "project" means any commercial nuclear power facility for the production of electricity that uses one or more advanced reactor designs.

(6) the term "project developer" means an individual, corporation, partnership, joint venture, trust, or other entity that is primarily liable for payment of a project's eligible costs.

(7) the term "purchase agreement" means a contract to purchase the electric energy produced by a project under this subtitle.

(8) the term "Secretary" means the Secretary of Energy.

SEC. 423. RESPONSIBILITIES OF THE SECRETARY.

(a) **FINANCIAL ASSISTANCE.**—Subject to the requirements of the Federal Credit Reform Act of 1990 (2 U.S.C. 651 et seq.), the Secretary may, subject to appropriations, make available to project developers for eligible project costs such financial assistance as the Secretary determines is necessary to supplement private-sector financing for projects if he determines that such projects are needed to contribute to energy security, fuel or technology diversity, or clean air attainment goals. The Secretary shall prescribe such terms and conditions for financial assistance as the Secretary deems necessary or appropriate to protect the financial interests of the United States.

(b) **REQUIREMENTS.**—Approval criteria for financial assistance shall include—

(1) the creditworthiness of the project;

(2) the extent to which financial assistance would encourage public-private partnerships and attract private-sector investment;

(3) the likelihood that financial assistance would hasten commencement of the project; and,

(4) any other criteria the Secretary deems necessary or appropriate.

(c) **CONFIDENTIALITY.** The Secretary shall protect the confidentiality of any information that is certified by a project developer to be commercially sensitive.

(d) **FULL FAITH AND CREDIT.**—All financial assistance provided by the Secretary under this subtitle shall be general obligations of the United States backed by its full faith and credit.

SEC. 424. LIMITATIONS.

(a) **FINANCIAL ASSISTANCE.**—The total financial assistance per project provided by this subtitle shall not exceed fifty percent of financial assistance per project provided by any combination of the foregoing.

(b) **GENERATION.**—The total electrical generation capacity of all projects provided by this subtitle shall not exceed 8,400 megawatts.

SEC. 425. REGULATIONS.

The Secretary shall prescribe regulations to implement this subtitle.
SEC. 431. PROJECT ESTABLISHMENT.
The Secretary is directed to establish an Advanced Reactor Hydrogen Co-Generation Project.

SEC. 432. PROJECT DEFINITION.
The project shall conduct the research, development, design, construction, and operation of a hydrogen production co-generation testbed to be located at the current commercial reactors, enhances safety features, reduces waste production, enhances thermal efficiency, increases proliferation resistance, provides potential for improved economics and physical security in reactor siting. This testbed shall be constructed so as to enable research and development on advanced reactor of the type selected and on alternative approaches for reactor-based production of hydrogen.

SEC. 433. PROJECT MANAGEMENT.
(a) MANAGEMENT.—The project shall be managed within the Department by the Office of Nuclear Energy Science and Technology.

(b) LEAD LABORATORY.—The lead laboratory for the program, providing the site for the reactor construction, shall be the Idaho National Engineering and Environmental Laboratory ("INEEL").

(c) STANDING COMMITTEE.—The Secretary shall establish a national standing committee with membership from the national laboratories, universities, and industry to provide advice to the Secretary and the Director of the Office of Nuclear Energy, Science and Technology on technical and program management aspects of the project.

(d) COLLABORATION.—Project activities shall be conducted at INEEL, other national laboratories, universities, domestic industry, and international partners.

SEC. 434. PROJECT REQUIREMENTS.
(a) RESEARCH AND DEVELOPMENT.—The project shall include planning, research and development, design, and construction of an advanced, next-generation, nuclear energy system suitable for enabling further research and development on advanced reactor technologies and alternative approaches for reactor-based generation of hydrogen.

1. The project shall utilize, where appropriate, extensive reactor test capabilities resident at INEEL.

2. The project shall be designed to explore technical, environmental, and economic feasibility of alternative approaches for reactor-based hydrogen production.

3. The industrial lead for the project must be a United States-based company.

(b) INTERNATIONAL COLLABORATION.—The Secretary shall seek international cooperation, participation, and financial contribution in this program.

1. The project may contract for assistance from specialists or facilities from member countries of the Generation IV International Forum, the Russian Federation, or other international sources such specialists or facilities provide access to cost-effective and relevant skills or test capabilities.

2. For alternative activities shall be coordinated with the Generation IV International Forum.

3. The Secretary may combine this project with the Generation IV Nuclear Energy Systems Program.

(c) DEMONSTRATION.—The overall project, which may involve demonstration of selected project and partner nation, must demonstrate both electricity and hydrogen production and may provide flexibility, where technically and economically feasible in the design and construction, to enable testing of alternative reactor core and cooling configurations.

(d) PARTNERSHIP.—The Secretary shall establish cost-shared partnerships with domestic industry or international participants for the research, development, design, construction, and operation of the demonstration facility, and preference in determining the final project structure shall be given to an overall project which retains United States leadership, and demonstrating opportunities and minimizing federal funding responsibilities.

(e) TARGET DATE.—The Secretary shall select technologies of the projects, provide initial testing of either hydrogen production or electricity generation by 2010 or provide a report to Congress why this date is not feasible.

(f) WAIVER OF CONSTRUCTION TIMELINE.—The Secretary is authorized to conduct the Advanced Reactor Hydrogen Co-Generation Project without the constraints of DOE Order 413.3 as deemed necessary to meet the specified operational date.

(g) COMPETITION.—The Secretary may fund up to two teams for up to one year to develop detailed proposals for competitive evaluation and selection of a single proposal and concept for the Secr"
(3) Within 1 year after the date of enactment of this subsection and annually thereafter the Secretary shall undertake an assessment for the purpose of reviewing available data, testing, validating, and:['09] 1317(a) is amended by striking "and which satisfies" and all that follows through "Secretary shall establish," and inserting "If there are insufficient appropriations to make required procurements from all qualified renewable energy facilities in any given year, the Secretary shall assign 60 percent of appropriated funds for that year to one or more projects. The Secretary may, after transmitting to the Congress an explanation of the reasons therefor, alter the percentage requirements of the preceding sentence.".(g) AUTHORIZATION OF APPROPRIATIONS.—Section 121(b)(2) of the Energy Policy Act of 1992 (42 U.S.C. 13317(b)(2)) is amended—(1) by striking "and biomass," after "wind," biomass;"; and(2) by inserting "landfill gas," after "wind, biomass;".(h) ENSURE WINDOW.—Section 121(c) of the Energy Policy Act of 1992 (42 U.S.C. 13317(c)) is amended by striking "the expiration of," and all that follows through "Secretary of the Interior, in cooperation with the Secretary of the Interior and the Secretary of Defense, of lands under the jurisdiction of the Department of Energy or Defense that are available for development of renewable energy, and any recommended statutory and regulatory mechanisms for such development; and (1) any recommendations pertaining to the issues addressed in the report.(b) NATIONAL ACADEMY OF SCIENCES STUDY.—Not later than 90 days after the date of the enactment of this section, the Secretary of the Interior shall contract with the National Academy of Sciences to study the potential for the development of wind, solar, and ocean (tidal and thermal) energy on the Outer Continental Shelf; (A) study the potential for the development of wind, solar, and ocean (tidal and thermal) energy resources, and un- nder this program, to meet the requirements of the preceding sentence.(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000.

TITLE V—RENEWABLE ENERGY

Subtitle A—General Provisions

SEC. 501. ASSESSMENT OF RENEWABLE ENERGY RESOURCES.

(a) REQUIREMENT.—Not later than 6 months after the date of enactment of this title, and each year thereafter, the Secretary of Energy shall review the available assessments of renewable energy resources within the United States, including solar, wind, biomass, ocean (tidealand thermal), geothermal, and hydroelectric energy resources, and undertake new assessments as necessary, taking into account changes in market conditions, available technologies, and other relevant factors.

(b) SUBMISSION OF REPORTS.—Not later than 1 year after the date of enactment of this title, and each year thereafter, the Secretary shall publish a report based on the assessment under subsection (a). The report shall contain—(1) a detailed inventory describing the available energy resources and characteristics of the renewable energy resources; and (2) such other information as the Secretary believes would be useful in developing such renewable energy resources, including descriptions of surrounding terrain, population and load centers, nearby energy infrastructure, location of energy and water resources, and an analysis of the costs needed to develop each resource, together with an identification of any barriers to providing adequate transmission for remote sources of renewable energy resources to current and emerging markets, recommendations for removing or addressing such barriers, and ways to provide access to the grid that do not unfairly disadvantage renewable or other energy producers.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Energy $10,000,000 for each of fiscal years 2003 through 2008.

SEC. 502. RENEWABLE ENERGY PRODUCTION IN FEDERAL LANDS.

(a) INCENTIVE PAYMENTS.—Section 121(a) of the Energy Policy Act of 1992 (42 U.S.C. 13317(a)) is amended by striking "and which satisfies" and all that follows through "Secretary shall establish," and inserting "If there are insufficient appropriations to make required procurements from all qualified renewable energy facilities in any given year, the Secretary shall assign 60 percent of appropriated funds for that year to one or more projects. The Secretary may, after transmitting to the Congress an explanation of the reasons therefor, alter the percentage requirements of the preceding sentence."(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $16,000,000.

(c) ELIGIBILITY WINDOW.—Section 121(c) of the Energy Policy Act of 1992 (42 U.S.C. 13317(c)) is amended by striking "the expiration of," and all that follows through "nonprofit electric cooperative," and inserting "a not-for-profit electric cooperative, a public utility described in section 115 of the Internal Revenue Code of 1986, a State, Commonwealth, territory, or possession of the United States or the District of Columbia, or a political subdivision thereof, or an Indian tribal government of subdivision thereof,"; and(2) by inserting "landfill gas," after "wind, biomass;".

(d) ENSURE WINDOW.—Section 121(d) of the Energy Policy Act of 1992 (42 U.S.C. 13317(d)) is amended by striking "the expiration of," and all that follows through "of this section and inserting "after October 1, 2003, and before October 1, 2013".

(e) ENSURE WINDOW.—Section 121(e) of the Energy Policy Act of 1992 (42 U.S.C. 13317(e)) is amended by inserting "landfill gas," after "wind, biomass;".

(f) ENSURE WINDOW.—Section 121(f) of the Energy Policy Act of 1992 (42 U.S.C. 13317(f)) is amended by striking "the expiration of," and all that follows through "of this section and inserting "September 30, 2023".

(g) AUTHORIZATION OF APPROPRIATIONS.—Section 121(g) of the Energy Policy Act of 1992 (42 U.S.C. 13317(g)) is amended to read as follows—(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated such sums as may be necessary to carry out this section for fiscal years 2003 through 2023.

(2) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) shall remain available until expended.

SEC. 503. RENEWABLE ENERGY ON FEDERAL LANDS.

(a) REPORT.—Within 24 months after the date of enactment of this Act, the Secretary of the Interior, in cooperation with the Secretary of Energy, shall develop and report to the Congress recommendations on opportunities for development of renewable energy on public lands under the jurisdiction of the Secretary of the Interior and National Forest System lands under the jurisdiction of the Secretary of Agriculture. The report shall include—(1) 5-year plans developed by the Secretary of the Interior and the Secretary of Agriculture, and the Secretary of the Interior, in consultation with the Secretary of Energy, shall carry out a study to determine the extent to which energy produced on Federal lands and at a Federal facility; or
(3) the renewable energy is produced on Indian as defined in Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) and used at a Federal facility.

SEC. 560. COMPETITIVE LEASE SALE REQUIREMENTS.

(a) IN GENERAL.—Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) is amended by striking the text and inserting the following:

"(a) NOMINATIONS.—The Secretary shall accept nominations at any time from companies and individuals of lands to be leased under this Act."

(b) PENDING LEASE APPLICATIONS.—The Secretary shall hold a competitive lease sale not more than once every 10 years for all lands available for leasing.

Subtitle D—Geothermal Energy

SEC. 521. COMPETITIVE LEASE SALE REQUIREMENTS.

(a) IN GENERAL.—Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) is amended by striking the text and inserting the following:

"(a) NOMINATIONS.—The Secretary shall accept nominations at any time from companies and individuals of lands to be leased under this Act."

(b) PENDING LEASE APPLICATIONS.—The Secretary shall hold a competitive lease sale not more than once every 10 years for all lands available for leasing.
SEC. 523. LEASING AND PERMITTING ON FEDERAL LANDS WITHDRAWN FOR MILITARY PURPOSES.

Not later than 1 year after the date of the enactment of this Act, the Secretary of the Interior and the Secretary of Defense, in consultation with the affected state, counties, representatives of the geothermal industry, and interested members of the public, shall submit to the Congress a joint report on leasing and permitting activities for geothermal energy on Federal lands withdrawn for military purposes. Such report shall:

(1) describe any differences, including differences in royalty structure and revenue sharing with states and counties, between—

(A) the implementation of the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and other applicable Federal law by the Secretary of the Interior; and

(B) the administration of geothermal leasing under section 2399 of title 10, United States Code, by the Secretary of Defense;

(2) identify procedures for interagency coordination to assure efficient procedures and administration of leases or contracts for geothermal energy on federal lands withdrawn for military purposes, consistent with the defense purposes of such withdrawals; and

(3) provide recommendations for legislative or administrative actions that could facilitate the administration, including a common royalty structure.

SEC. 524. RESTATEMENT OF TERMS TERMINATED FOR FAILURE TO PAY RENT.

Section 5(c) of the Geothermal Steam Act of 1970 (30 U.S.C. 1004(c)), is amended in the last sentence by inserting “or was inadvertent,” after “reasonable diligence.”

SEC. 525. ROYALTY REDUCTION AND RELIEF.

(a) ROULING.—Within one year after the date of enactment of this Act, the Secretary shall promulgate a final regulation providing for a simplification methodology for calculating the royalty due to be paid on geothermal energy resources for the benefit of an eligible community and uses biomass from the highest risk area.

(b) LIMITATION.—No grant provided under this subsection shall be paid at a rate that exceeds $20 per green ton of biomass delivered.

(c) RECORDS.—Each grant recipient shall keep such records as the Secretary may require to fully and correctly disclose the use of the grant funds and all transactions involved in the purchase of biomass. Upon notice by the Secretary, the grant recipient shall provide the Secretary reasonable access to examine the inventory and records of any eligible operation receiving grant funds.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated $12,500,000 each fiscal year from 2004 through 2008, to remain available until expended.

SEC. 526. REPORT.

Not later than 3 years after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall jointly submit to the Congress a report that describes the interim results of the programs authorized under this subtitle.

TITLE VI—ENERGY EFFICIENCY

Subtitle A—Federal Programs

SEC. 601. ENERGY MANAGEMENT REQUIREMENTS.

(a) ENERGY REDUCTION GOALS.—Section 5(a)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)(1)) is amended by striking “its Federal buildings so that” and all that follows through and inserting “the Federal buildings of the agency in fiscal years 2004 through 2013 is reduced, as compared with the consumption per gross square foot of the Federal buildings of the agency in fiscal year 2003.”

(b) EFFECTIVE DATE.—The energy reduction goals established under paragraph (1) of section 5(a) of the National Energy Conservation Policy Act, as amended by subsection (a) of this section, supersede all previous goals and baselines under such paragraph, and related reporting requirements.

(c) REVIEW OF ENERGY PERFORMANCE REQUIREMENTS.—Section 5(a)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)), is further amended by adding at the end the following:

“(3) Not later than December 31, 2011, the Secretary shall review the results of the implementation of the energy performance requirement established under paragraph (1) and submit to Congress recommendations concerning energy performance requirements for fiscal years 2014 through 2022.”

(d) EXCLUSIONS.—Section 5(c) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)(1)) is amended by striking “An agency may exclude and” and all that follows through and inserting “An agency may exclude any fiscal year established under subsection (a) and the energy management requirement established under subsection (b), any Federal building or collection of Federal buildings, if the head of the agency finds that—

(i) compliance with those requirements would be impracticable; and

(ii) the agency has completed and submitted all federally required energy management reports;
“(ii) the agency has achieved compliance with the energy efficiency requirements of this Act, the Energy Policy Act of 1992, Executive Orders, and other Federal law; and

(iv) the term ‘energy savings’ means—

(a) a reduction in the cost of energy, from a base cost established through a methodology set forth in the contract, used in an existing federally owned building or buildings or other federally owned facilities as a result of—

(i) the lease or purchase of operating equipment, improvements, or facility maintenance and operations; or

(ii) the increased efficient use of existing energy sources by co-generation or heat recovery, excluding any co-generation process for other than a federally owned building or buildings or other federally owned facilities; or

(iii) the increased efficient use of existing water sources; or

(b) in the case of a replacement building or facility described in the contract, the Secretary of Energy shall—

(1) take into consideration

(i) the cost of metering and submetering and the requirement of operation and maintenance expected to result from metering and submetering;

(ii) the extent to which metering and submetering is in increased potential for energy management, increased potential for energy savings and energy efficiency improvement, and cost and energy savings due to utility contract aggregation; and

(iii) the measurement and verification protocols of the Department of Energy;

(b) REVIEW BY SECRETARY.—Section 548(c)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)(2)) is amended—

(1) by striking “impracticability standards” and inserting “standards for exclusion”;

(2) by striking “a finding of impracticability” and inserting “the exclusion”.

(f) CRITERIA.—Section 548(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is amended to read as follows:

“(A) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall issue guidelines that establish criteria for exclusions under paragraph (1).”.

(g) RETENTION OF ENERGY SAVINGS.—Section 548(a) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)) is amended by adding at the end the following new paragraph:

“(A) IN GENERAL.—Not later than 1 year after the date of approval of amendments to ASHRAE Standard 90.1 or the 2000 International Energy Conservation Code, the Secretary of Energy shall determine, based on the cost-effectiveness of the requirements under the amendments, whether the revised standards established under this paragraph should be updated to reflect the amendments.

(B) RETENTION ON COMPLIANCE OF NEW BUILDINGS.—In the budget request of the Federal agency for each fiscal year and each report submitted by the Secretary under section 548(a) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)), the head of each Federal agency shall include—

(i) the list of all buildings owned, operated, or controlled by the Federal agency; and

(ii) a statement concerning whether the Federal buildings meet or exceed the revised standards established under this paragraph.”.
Policy Act (42 U.S.C. 8287(c)(3)) is amended to read as follows:

“(3) The terms ‘energy savings contract’ and ‘energy savings performance contract’ mean—

“(A) the performance of services for the design, acquisition, installation, testing, and, where appropriate, operation, maintenance and retrofitted energy or water conservation measure or series of measures at one or more locations; or

“(B) energy savings through the construction or renovation of one or more buildings or facilities to replace one or more existing buildings or facilities. Such contracts shall, with respect to facilities, be designed by a public building as such term is defined in section 13(1) of the Public Buildings Act of 1959 (40 U.S.C. 6121).”.

(e) ENERGY OR WATER CONSERVATION MEASURES.—Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8237(c)(4)) is amended to read as follows:

“(4) the term ‘energy or water conservation measures’ means—

“(A) an energy conservation measure, as defined in section 551(4) (42 U.S.C. 8294(4)); or

“(B) a water conservation measure that improves energy efficiency, is life-cycle cost-effective, and involves water conservation, water recycling or reuse, more efficient treatment of wastewater or stormwater, improvement in maintenance of efficiencies, retrofit activities, or other related activities, not at a Federal hydro-electric facility.”

(F) PROCUREMENT FOR NON-BUILDING APPLICATIONS.—

(1) The Secretary of Defense, and the heads of other interested Federal agencies, are authorized to enter into up to 10 energy savings performance contracts under Title VIII of the National Energy Conservation Policy Act (42 U.S.C. 8287 et seq.) for the purpose of achieving energy or water savings, secondary savings, and benefits incidental to those purposes, in non-building applications, provided that the aggregate payments to be made by the Federal government under such contracts shall not exceed $100,000,000.

(2) The Secretary of Energy, in consultation with the Office of Federal Procurement Policy, shall publish the list of non-building applications, provided that the aggregate payments to be made by the Federal government under such contracts shall not exceed $100,000,000.

(3) For the purposes of this subsection:

(A) The term “non-building application” means—

(i) any class of vehicles, devices, or equipment that is transportable under its own power by land, sea, or air; that consumes energy from any fuel source for the purpose of transportation, or to maintain a controlled environment within such vehicle, device, or equipment;

(ii) any Federally owned equipment used to generate electricity or transport water.

(B) The term “secondary savings”, means additional energy or cost savings that are a direct consequence of the energy or water savings that result from the financing and implementation of the energy savings performance contract, including, but not limited to, energy or cost savings that result from a reduction in the need for fuel delivery and logistical support, or the increased efficiency of electricity or water delivered.

(4) Not later than 3 years after the date of enactment of this section, the Secretary of Energy shall report to the Congress on the progress and results of the projects funded pursuant to this section. Such report shall include a description of projects undertaken;

the energy, water and cost savings, secondary savings and other benefits that resulted from such projects; and recommendations on whether the pilot program should be extended, expanded, or authorized permanently as a part of the program authorized under Title VIII of the National Energy Conservation Policy Act (42 U.S.C. 8287 et seq.).

(g) REVIEW.—Within 180 days after the date of the enactment of this section, the Secretary shall submit to the Committee on Energy and Natural Resources a report describing a strategy for the implementation of the performance contract, including the expected cost and cost-effectiveness of the strategy.

(h) CONFORMING AMENDMENT.—Section 804(4) of the National Energy Conservation Policy Act is amended by striking the word “facilities” and inserting the words “facilities, equipment and vehicles”. In lieu thereof.

(i) REVIEW.—Within 180 days after the date of the enactment of this section, the Secretary of Energy shall report to the Congress on the progress and results of the projects funded pursuant to this section.

SEC. 552. PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

Part 3 of title V of the National Energy Conservation Policy Act is amended by adding at the end the following:

SEC. 555. FEDERAL PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

(a) DEFINITIONS.—In this section:

“(1) The term ‘Energy Star product’ means a product that is rated for energy efficiency under an Energy Star program.


“(3) The term ‘executive agency’ has the meaning given the term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

“(4) The term ‘FEMP designated product’ means a product that is designated under the Federal Energy Management Program of the Department of Energy as being among the highest 25 percent of equivalent products for energy efficiency.

“(b) PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.—

“(1) REQUIREMENT.—To meet the requirements of an agency for an energy consuming product, the head of the executive agency shall, except as provided in paragraph (2), procure an Energy Star product or a FEMP designated product.

“(2) EXCEPTIONS.—The head of an executive agency is not required to procure an Energy Star product or FEMP designated product if—

“(A) the energy, water and cost savings that will be realized from the purchase of such product do not meet the functional requirements of the agency;

“(B) the energy, water and cost savings that will be realized from the purchase of such product do not meet the cost-effectiveness of such product.

“(c) LISTING OF ENERGY EFFICIENT PRODUCTS.—

“(1) The Department of Energy shall annually publish a list of Energy Star and FEMP designated products.

“(2) The Department of Energy shall, in developing the list of Energy Star and FEMP designated products, consult with the Congress, the General Services Administration, the Federal Energy Management Program, and other interested parties.

“(d) PROCUREMENT PLANNING.—The head of an executive agency shall, in planning for the procurement of energy consuming products, include—

“(1) a description of the life-cycle cost analysis used to determine the cost-effectiveness of proposed energy efficiency projects;

“(2) a schedule of energy surveys to ensure complete surveys of all congressional buildings every 5 years to determine the cost and payback period of energy and water conservation measures;

“(3) a strategy for installation of life-cycle cost-effective energy and water conservation measures;
"(4) the results of a study of the costs and benefits of installation of submetering in congressional buildings; and

(5) information packages and how-to guides for each Member and employing authority of Congress that detail simple, cost-effective methods to save energy and taxpayer dollars in the workplace.

(c) Table of Contents Amendment.—The table of contents in section 1(b) of the National Energy Conservation Policy Act is amended by adding at the end of the items relating to part 3 of title VII the following new item:

"SIC. 553. Energy and water savings measures in congressional buildings.''.

SECTION 607. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(a) Amendment.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) is amended by adding at the end the following new section:

"SEC. 6005. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

"(a) Definitions.—In this section:

"(1) AGENCY HEAD.—The term ‘agency head’ means—

"(A) the Secretary of Transportation; and

"(B) the head of each other Federal agency that on a regular basis procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

"(2) FEDERAL CONCRETE PROJECT.—The term ‘federal concrete project’ means a project for the construction or maintenance of a highway or other transportation facility or a Federal building or other public facility that—

"(A) involves the procurement of cement or concrete; and

"(B) is carried out in whole or in part using Federal funds.

"(3) RECOVERED MINERAL COMPONENT.—The term ‘recovered mineral component’ means—

"(A) ground granulated blast furnace slag;

"(B) coal combustion fly ash; and

"(C) any other waste material or byproduct recovered or diverted from solid waste that is being treated, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

"(4) IMPLEMENTATION OF REQUIREMENTS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator and each agency head shall take such actions as are necessary to implement procurement requirements and incentives in effect as of the date of enactment of this section (including guidelines under section 6002) that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects.

"(2) PROCEEDING AUTHORIZED.—The Administrator shall carry out paragraph (1) with the assistance of the Architect of the Capitol to carry out subsection (a), not more than $2,000,000 for fiscal year 2004.

"(e) Authorization.—There are authorized to be appropriated to the Architect of the Capitol to carry out subsection (a), not more than $2,000,000 for fiscal year 2004.

SECTION 608. UTILITY ENERGY SERVICE CONTRACTS.

Section 546(c)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8256(c)) is amended to read as follows:

"(a) Grants.—The Secretary is authorized and encouraged to participate in programs, including utility energy services contracts, conducted by electric or water utilities, to improve the energy efficiency, water conservation or the management of electricity demand through use of recovered mineral components in federally funded projects involving procurement of cement or concrete.}

"(b) Grant Programs.—The Secretary may make grants on a competitive basis for—

"(1) investments that develop alternative, renewable and distributed energy supplies; and

"(2) energy efficiency projects and energy conservation programs; and

"(3) studies and other activities that improve energy efficiency in low income rural and urban communities.

"(c) Authorizing Legislation.—The Secretary is authorized to participate in programs, including utility energy services contracts, conducted by electric or water utilities, to improve the energy efficiency, water conservation or the management of electricity demand through use of recovered mineral components in federally funded projects involving procurement of cement or concrete.

"(e) Definition.—The term ‘Indian tribe’ means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to Title II of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services.
provided by the United States to Indians because of their status as Indians.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section there are authorized to be appropriated $20,000,000 for fiscal year 2004 and each fiscal year thereafter through fiscal year 2006.

SEC. 612. ENERGY EFFICIENT PUBLIC BUILDINGS.

(a) GRANTS.—The Secretary of Energy may make grants to the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6222), or, if no such agency exists, a State agency designated by the Governor of the State, to assist units of local government in the State in improving the energy efficiency of public buildings and facilities:

(1) through construction of new energy efficient public buildings that use at least 30 percent less energy than a comparable public building constructed in compliance with standards prescribed in chapter 8 of the 2000 International Energy Conservation Code, or a similar State code intended to achieve substantially equivalent efficiency levels; or

(2) through renovation of existing public buildings to achieve reductions in energy use of at least 30 percent as compared to the baseline energy use in such buildings prior to renovation, assuming a 3-year, weather-normalized average for calculating such baseline.

(b) ADMINISTRATION.—State energy offices receiving grants under this section shall:

(1) maintain such records and evidence of compliance as the Secretary may require; and

(2) develop and distribute information and materials and conduct programs to provide technical services and assistance to encourage planning, financing, and design of energy efficient public buildings by units of local government.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Energy such sums as may be necessary for each of fiscal years 2003 through 2011.

SEC. 613. ENERGY EFFICIENT APPLIANCE REBATE PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) the term "eligible State" means a State that meets the requirements of subsection (b);

(2) the term "Energy Star program" means the program established by section 324A of the Energy Policy and Conservation Act.

(3) the term "residential Energy Star product" means a product for a residence that is rated for energy efficiency by the Energy Star program.

(4) the term "low-voltage dry-type transformer" means a device that charges batteries for consumer products.

(5) the term "distribution transformer" means a transformer that is not a consumer product regulated because the transformer is designed for a special application, and the application of standards to the transformer would not result in significant energy savings.

(6) the term "distribution transformer" does not include—

(i) transformers, such as those commonly known as drive transformers, rectifier transformers, auto-transformers, Uninterruptible Power System transformers, impedance transformers, harmonic transformers, regulating transformers, sealed and nonventilated transformers, machine tool transformers, welding transformers, grounding transformers, or testing transformers, that are designed to be used in a special purpose application and are unlikely to be used in general purpose applications; or

(ii) any transformer not listed in clause (i) that is excluded by the Secretary by rule because the transformer is designed for a special application and the application of standards to the transformer would not result in significant energy savings.

(7) the term "low-voltage dry-type transformer" does not include—

(i) transformers with multiple voltage taps, with the highest voltage tap equaling at least 15 percent more than the lowest voltage tap;

(ii) transformers, such as those commonly known as drive transformers, rectifier transformers, auto-transformers, Uninterruptible Power System transformers, impedance transformers, harmonic transformers, regulating transformers, sealed and nonventilated transformers, machine tool transformers, welding transformers, grounding transformers, or testing transformers, that are designed to be used in a special purpose application, and are unlikely to be used in general purpose applications; or

(iii) any transformer not listed in clause (i) that is excluded by the Secretary by rule because the transformer is designed for a special application, is unlikely to be used in general purpose applications, and the application of standards to the transformer would not result in significant energy savings.

(8) the term "standby mode" means the lowest amount of electric power used by a household appliance when not performing its active functions, as defined on an individual appliance basis by the Secretary.

(9) the term "torchiere" means a portable electric lamp with a reflector bowl that directs light upward so as to give indirect illumination.

(10) the term "transformer" means a device consisting of two or more coils of insulated wire that transfers alternating current from one coil to another to change the original voltage or current value.
"(41) The term ‘unit heater’ means a self-contained fan-type heater designed to be installed into the heated space, except that such term does not include a warm air furnace.

"(42) The term ‘traffic signal module’ means a standard 8-inch (200mm) or 12-inch (300mm) traffic signal indication, consisting of a signal module, a control unit, and all other parts necessary for operation, that communicates movement messages to drivers through red, amber, and green colors.

"Section 323.—Section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended by adding at the end of the section the following:

"(9) Test procedures for illuminated exit signs shall be based on the test method used under the August 9, 2001 version of the Energy Star program of the Environmental Protection Agency for traffic signal modules, as in effect on the date of enactment of this subsection.

"(10) Test procedures for low voltage dry-type distribution transformers shall be based on the ‘Standard Test Method for Measuring the Energy Consumption of Distribution Transformers’ prescribed by the National Electrical Manufacturers Association (NEMA TP 2 1996). The Secretary may review and revise this test method.

"(11) Test procedures for traffic signal modules shall be based on the test method used under the Energy Star program of the Environmental Protection Agency for traffic signal modules, as in effect on the date of enactment of this subsection.

"(12) Test procedures for medium base compact fluorescent lamps shall be based on the test methods used under the August 9, 2001 version of the Energy Star program of the Environmental Protection Agency and Department of Energy for compact fluorescent lamps, as in effect on the date of enactment of this subsection.

"(13) Test procedures for household ceiling fans, such test procedures shall be promulgated for battery chargers and external power supplies or classes thereof.

"(14) Test procedures for battery chargers and external power supplies or classes thereof shall be promulgated for battery chargers and external power supplies or classes thereof. This assessment shall include estimates of the significance of potential energy savings from technical improvements to these products and suggested product classes for standards. Prior to the end of this period, the Secretary shall hold a workshop to discuss and receive comments on plans for developing energy conservation standards for standby mode energy use for these products.

"(B) The Secretary shall, within 3 years after the date of enactment of this subsection, issue a final rule that determines whether energy conservation standards shall be promulgated for battery chargers and external power supplies or classes thereof. For each product class, any such standards shall be set at the lowest level of standby energy use that—

"(i) meets the criteria of subsections (o), (p), and (q) of section 322 of this title;

"(ii) will result in significant overall annual energy savings, considering both standby and other operating modes.

"(C) The provisions of section 327 shall apply to new covered products which are subject to the rulemakings for standby mode after a final rule has been issued.

"(D) Energy-Efficiency Specification issued by the Energy Policy Act of 2005 shall be equipped with an intermittent ignition device and shall not be capable of operating with lamps that total more than 190 watts of power; and

"(2) shall not be capable of operating with lamps that total more than 190 watts of power; and

"(3) Review of Standby Energy Use in Covered Products.—In determining pursuant to section 323 whether test procedures and energy conservation standards pursuant to this section shall be revised, the Secretary shall consider and among other relevant factors and in addition to the criteria in section 322(b)(1)(R) of this title—

"(i) standby mode power consumption compared to overall product energy consumption; and

"(ii) the priority and energy savings potential of standards which may be promulgated under this subsection compared to other required rulemakings under this section and the available resources of the Department to conduct such rulemakings.

"(C) Not later than 1 year after the date of enactment of this subsection, the Secretary shall issue a determination of any new covered products for which he intends to institute rulemakings on standby mode pursuant to section 323 of this title and the criteria by which he intends to initiate those rulemakings.

"(D) Review of Standby Energy Use in Covered Products.—In determining pursuant to section 323 whether test procedures and energy conservation standards pursuant to this section shall be revised, the Secretary shall consider the following criteria in subsection (B): the criteria for non-covered products in subparagraph (B) of paragraph (2) of this subsection.

"(4) Rulemaking.—

"(A) Any rulemaking instituted under this subsection or for covered products under this section which rejects standby mode power consumption shall be subject to the criteria and procedures for issuing energy conservation standards set forth in this section and the criteria and procedures for color quality (CRI); power factor; and
operating frequency; and maximum allowable start time based on the requirements prescribed by the August 9, 2001 version of the Energy Star Program Requirements for CFLs, may, by rule, change these requirements or establish other requirements concerning energy savings, cost effectiveness, and consumer satisfaction.

SEC. 622. ENERGY LABELING.
(a) Rulemaking on Effectiveness of Consumer Product Labeling.—Paragraph (2) of section 324A of the Energy Policy and Conservation Act (42 U.S.C. 629h(a)(2)) is amended by adding at the end the following:

"(5) The Commission, in consultation with interested parties, shall, not less than 3 years after the date of enactment of this Act, prescribe rules to make information available directly to small businesses and the public concerning energy savings resulting from properly conducted maintenance of air conditioning, heating, and ventilating systems. The Secretary shall carry out the program in a way that is not inconsistent with the requirements concerning the provision of public services concerning energy conservation or efficiency.

SEC. 624. HVAC MAINTENANCE CONSUMER EDUCATION PROGRAM.
Section 337 of the Energy Policy and Conservation Act (42 U.S.C. 6307) is amended by adding at the end the following:

"(c) HVAC MAINTENANCE.—For the purpose of ensuring that installed air conditioning and heating systems operate at their maximum rated efficiency levels, the Secretary shall, within 180 days of the date of enactment of this subsection, carry out a program to educate homeowners and small business owners concerning the energy savings resulting from properly conducted maintenance of air conditioning, heating, and ventilating systems. The Secretary shall carry out the program in a way that is not inconsistent with the requirements concerning the provision of public services concerning energy conservation or efficiency."

SEC. 631. CAPACITY BUILDING FOR ENERGY EFFICIENT HOUSING.
Section 4(b) of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note) is amended—
(a) by inserting "and efficiency" after "energy efficient"; and
(b) by inserting before the semicolon at the end the following: "including such activities relating to the provision of energy efficient, affordable housing and residential energy conservation measures that benefit low-income families;"

SEC. 632. INCREASE OF CDBG PUBLIC SERVICES CAP FOR ENERGY CONSERVATION AND EFFICIENCY ACTIVITIES.
Section 160(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended—
(a) by inserting "or efficiency" after "energy conservation";
(b) by striking "the following" and inserting "or" and excepting "for"; and
(c) by inserting before the semicolon at the end the following: "and except that; and"

SEC. 633. FHA MORTGAGE INSURANCE INCENTIVES FOR ENERGY EFFICIENT HOUSING.
(a) SINGLE FAMILY HOUSING MORTGAGE INSURANCE.—Section 221(c) of the National Housing Act (12 U.S.C. 1715c(b)(2)) is amended, in the first undesignated subparagraph beginning after paragraph (3) (relating to solar energy systems—
(1) by striking "or paragraph (10)" before the first comma; and
(2) by striking "20 percent" and inserting "30 percent".

(b) MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 220(c) of the National Housing Act (12 U.S.C. 1715c(c)) is amended, in the second undesignated paragraph beginning after paragraph (3) (relating to solar energy systems and residential energy conservation measures), by striking "20 percent" and inserting "30 percent".

(c) COOPERATIVE HOUSING MORTGAGE INSURANCE.—Section 212(p) of the National Housing Act (12 U.S.C. 1715e(p)) is amended by striking "20 percent" and inserting "30 percent".

(d) REHABILITATION AND NEIGHBORHOOD CONSERVATION HOUSING MORTGAGE INSURANCE.—Section 226(d)(3)(B)(i) of the National Housing Act (12 U.S.C. 1715v(c)(2)) is amended by striking "20 percent" and inserting "30 percent".

(e) LOW-INCOME MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 221(k) of the National Housing Act (12 U.S.C. 1715c(k)) is amended by striking "20 percent" and inserting "30 percent".

(f) ELDERLY HOUSING MORTGAGE INSURANCE.—The proviso at the end of section 231(c)(2) of the National Housing Act (12 U.S.C. 1715c(c)(2)) is amended—
(1) by striking "and efficiency" and inserting "or efficiency"; and
(2) by striking "20 percent" and inserting "30 percent".

(g) CONDOMINUM HOUSING MORTGAGE INSURANCE.—Section 234 of the National Housing Act (12 U.S.C. 1715q(c)) is amended by striking "20 percent" and inserting "30 percent".

SEC. 634. PUBLIC HOUSING CAPITAL FUND.
Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended—
(a) in subsection (d)(1)—
(1) by striking "and" at the end; and
(2) by striking the period at the end and inserting a semicolon; and
(b) by adding at the end the following new subparagraphs:

"(XI) improvement of energy and water-use efficiency by installing fixtures and fittings consistent with the American National Standards Institute standards A112.19.2-1998
and A122.18.1–2000, or any revision thereto, applicable at the time of installation, and by inserting ‘‘September 30, 2003’’; and ‘‘(2) No credits shall be allocated under this section for purchase of an alternative fuel or biodiesel that is required by Federal or State law.’’

(3) A fleet or covered person seeking a credit under this section shall provide written documentation to the Secretary supporting the allocation of a credit to such fleet or covered person under this section.

‘‘(b) The term ‘biodiesel’ means a diesel fuel substitute produced from non-petroleum renewable resources that meets the registration requirements for fuels and fuel additives under section 201 of the Clean Air Act; and ‘‘(c) Definitions.—For the purposes of this section—

‘‘(1) the term ‘alternative fuel’ means a fuel that is used in a vehicle not reasonably available to retail purchasers of the fuel, as certified to the Secretary by the head of the agency; or (2) the term ‘alternative fuel vehicle’ means a motor vehicle that requires fuel that is not reasonably available to retail purchasers of the fuel, as certified to the Secretary by the head of the agency;’’.

‘‘(b) The Secretary shall submit a report to Congress, not later than one year after the date of enactment of this Act, on the extent to which the requirements of this section are being implemented by the Secretary and the extent to which the requirements of this Act are being implemented by the Congress, not later than one year after the date of enactment of this Act.’’

SEC. 705. NEIGHBORHOOD ELECTRIC VEHICLES.

The Secretary of Transportation shall develop and implement an integrated strategy to reduce pollution emissions by promoting the use of electric vehicles and other low-emission vehicles, and shall report annually to the Congress on the extent to which the requirements of this section are being implemented by the Secretary and the extent to which the requirements of this Act are being implemented by the Congress.

‘‘(1) the term ‘neighborhood electric vehicle’ means a motor vehicle—

‘‘(a) IN GENERAL.—Section 312 of the Energy Policy Act of 1992 (42 U.S.C. 13229) is amended—

‘‘(1) in subsection (a) (A) in paragraph (1)—

‘‘(2) No credits shall be allocated under this section for purchase of a vehicle that is required to be certified to the Secretary by the head of the agency as a low-speed vehicle, as such term is defined in part 571 of title 49, Code of Federal Regulations;”

SEC. 703. FUEL USE CREDITS.

‘‘FUEL USE CREDITS.

(a) In General.—Section 312 of the Energy Policy Act of 1992 (42 U.S.C. 13229) is amended to read as follows:

‘‘SEC. 312. FUEL USE CREDITS.

‘‘(1) which meets the definition of a low-speed vehicle, as such term is defined in part 571 of title 49, Code of Federal Regulations;’’
SEC. 704. CREDITS FOR MEDIUM AND HEAVY DUTY DEDICATED VEHICLES.

Section 508(b) of the Energy Policy Act of 1992 (42 U.S.C. 13212(c)) is amended by striking “may” and inserting “shall”:

SEC. 705. ALTERNATIVE FUEL INFRASTRUCTURE.

Section 508(b) of the Energy Policy Act of 1992 (42 U.S.C. 13212(c)) is amended by striking “may” and inserting “shall”:

SEC. 706. INCREME...
“(I) in the case of a 2001 or later model vehicle, receives a certificate of conformity under the Clean Air Act (42 U.S.C. 7410 et seq.) and produces emissions at a level that is at or below the standards established by a qualifying California standard described in section 234(e)(2) of the Clean Air Act (42 U.S.C. 7563(e)(2)) for that make and model year; and

“(II) in the case of a 2004 or later model vehicle, is certified by the Administrator as producing emissions at a level that is at or below the standards established for Bin 5 vehicles in the Tier 2 regulations promulgated by the Administrator under section 202(1) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model vehicle; and

“(iii) employs a vehicle braking system that recovers waste energy to charge an energy storage device.

“(H) Vehicle inertia weight class. The term ‘vehicle inertia weight class’ has the meaning given the term in regulations promulgated by the Administrator for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

“(2) ALLOCATION.—

“(A) IN GENERAL.—The Secretary shall allocate a partial credit to a fleet or covered person under this title if the fleet or person acquires a medium or heavy duty hybrid motor vehicle that is eligible to receive a credit under each of the tables in subparagraph (C). and

“(B) AMOUNT.—The amount of a partial credit under subparagraph (A) for a vehicle described in that subparagraph shall be equal to the sum of—

“(i) the partial credits determined under table 1 in subparagraph (C); and

“(ii) the partial credits determined under table 2 in subparagraph (C).

“(C) TABLES.—The tables referred to in subparagraphs (A) and (B) are as follows:

<table>
<thead>
<tr>
<th>Credit for Increased Fuel Efficiency</th>
<th>Amount of Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>At least 125% but less than 150% of 2000 model year city fuel efficiency</td>
<td>0.14</td>
</tr>
<tr>
<td>At least 150% but less than 200% of 2000 model year city fuel efficiency</td>
<td>0.21</td>
</tr>
<tr>
<td>At least 200% but less than 225% of 2000 model year city fuel efficiency</td>
<td>0.28</td>
</tr>
<tr>
<td>At least 225% but less than 250% of 2000 model year city fuel efficiency</td>
<td>0.35</td>
</tr>
</tbody>
</table>

| Partial credit for Amount of Credit |
|-------------------------------------|-----------------|
| Maximum Available Power: | 0.125 |
| At least 10% but less than 20% | 0.250 |
| At least 20% but less than 30% | 0.375 |
| At least 30% but less than 40% | 0.500 |

“(D) USE OF CREDITS.—At the request of a fleet or covered person, the Secretary shall, for the year in which the acquisition of the qualified vehicle is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.

“(E) REGULATIONS.—The Secretary shall promulgate regulations under which any Federal fleet that acquires a new qualified hybrid motor vehicle will receive partial credits determined under the tables contained in paragraph (2)(C) for purposes of meeting the requirements of section 303.

“(3) SUBSTANTIAL CONTRIBUTION.—The term ‘substantial contribution’ (equal to 1 alternative fueled vehicle) for the year in which the investment is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.

“(4) issuance of credits.—The Secretary shall issue a credit to a fleet or covered person under this title if the fleet or person makes a substantial contribution toward the acquisition and use of dedicated vehicles by a person that operates, leases, or otherwise controls a fleet that is not covered by this title.

“(5) MULTIPLE CREDITS FOR MEDIUM AND HEAVY DUTY DEDICATED VEHICLES.—The Secretary shall issue 2 full credits to a fleet or covered person under this title if the fleet or person acquires a medium or heavy duty dedicated vehicle.

“(6) USE OF CREDITS.—At the request of a fleet or covered person, the Secretary shall, for the year in which the acquisition of the dedicated vehicle is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.

“(7) LIMITATION.—Per vehicle credits acquired under this subsection shall not exceed the per vehicle credits allowed under this section to a fleet for qualifying vehicles in each of the weight categories (light, medium, or heavy duty).

“(8) CREDIT FOR SUBSTANTIAL INVESTMENT IN ALTERNATIVE FUEL INFRASTRUCTURE.—

“(I) DEFINITIONS.—In this section, the term ‘qualifying infrastructure’ means—

“(A) equipment required to refuel or recharge alternative fueled vehicles;

“(B) facilities or equipment required to maintain, repair, or operate alternative fueled vehicles;

“(C) training programs, educational materials, or other activities necessary to provide information regarding the operation, maintenance, or benefits associated with alternative fueled vehicles; and

“(D) such other activities the Secretary considers appropriate to promote the operation, maintenance, or benefits associated with alternative fueled vehicles.

“(II) the Secretary shall issue a credit to a fleet or covered person under this title for investment in qualifying infrastructure if the qualifying infrastructure is open to the general public during regular business hours.

“(8) AMOUNT.—For the purposes of credits under this subsection—

“(A) the credits issued under this subsection shall be equal to a minimum investment of $25,000 in cash or in kind services, as determined by the Secretary; and

“(B) a grant in aid or other equivalent investment of $25,000 in cash or in kind services, as determined by the Secretary.

“(9) USE OF CREDITS.—At the request of a fleet or covered person, the Secretary shall, for the year in which the investment is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.

“(c) LEASE CONDENSATE FUELS.—Section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) is amended—

“(1) in paragraph (2), by inserting ‘mixtures containing 50 percent or more by volume of lease condensate’ after ‘liquefied petroleum gas’; and

“(2) in paragraph (15), by inserting ‘mixtures containing 50 percent or more by volume of lease condensate or fuels extracted from lease condensate’ after ‘liquefied petroleum gas’; and

“(3) adding at the end the following:

“(16) the term ‘lease condensate’ means a mixture, primarily of pentanes and heavier hydrocarbons, which is recovered as a liquid from natural gas in lease separation facilities.”

Subtitle B—Automobile Fuel Economy

SEC. 711. AUTOMOBILE FUEL ECONOMY STANDARDS.

(a) TITLE 49 AMENDMENT.—Section 32902(f) of title 49, United States Code, is amended to read as follows:

“(4) CONSIDERATIONS.—When deciding maximum feasible average fuel economy under this section, the Secretary of Transportation shall consider the following matters:

“(1) technological feasibility;

“(2) economic practicability;

“(3) the effect of other motor vehicle standards of the Government on fuel economy;

“(4) the need of the United States to conserve energy;

“(5) the effects of fuel economy standards on motor vehicle and passenger safety; and

“(6) the effects of compliance with average fuel economy standards on levels of employment in the United States.

“(b) CLARIFICATION OF AUTHORITY.—Section 32902(b) of title 49, United States Code, is amended by inserting before the period at the end the following: ‘or such other number as the Secretary prescribes under subsection (c)’.

“(c) ENVIRONMENTAL ASSESSMENT.—When issuing final regulations setting forth increased average fuel economy standards under section 32902(a) or section 32902(c) of title 49, United States Code, the Secretary of Transportation shall also issue an environmental assessment of the increased standards on the environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(d) AUTHORIZATION OF APPOINTMENTS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Transportation $5,000,000 for each of fiscal years 2004 through 2008.

SEC. 712. DUAL-FUELED AUTOMOBILES.

(a) MANUFACTURING INCENTIVES.—Section 32905 of title 49, United States Code, is amended—

“(1) in subsections (b) and (d), by striking ‘1993–2004’ and inserting ‘1993–2008’;

“(2) in subsection (f), by striking ‘2001’ and inserting ‘2005’;

“(3) in subsection (f)(1), by striking ‘2004’ and inserting ‘2008’;

“(4) in subsection (g), by striking ‘September 30, 2000’ and inserting ‘September 30, 2004’.

“(b) MAXIMUM FUEL ECONOMY INCREASE.—

“Subsection (a)(3) of section 32906 of title 49, United States Code, is amended—

“(1) in subparagraph (A), by striking ‘1993–2004’ and inserting ‘model years 1993–2008’; and

“(2) in subparagraph (B), by striking ‘the model years 2005–2008’ and inserting ‘model years 2009–2012’.

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SEC. 713. FEDERAL FLEET FUEL ECONOMY.

Section 32917 of title 49, United States Code, is amended to read as follows:

"(a) BASISLINE AVERAGE FUEL ECONOMY.—The head of each executive agency shall determine, for all automobiles in the agency's fleet of automobiles that were leased or bought for at least 60 consecutive days in fiscal year 1999, the average fuel economy for such automobiles. For the purposes of this section, the average fuel economy so determined shall be the baseline average fuel economy for the agency's fleet of automobiles.

"(b) INCREASE OF AVERAGE FUEL ECONOMY.—The head of an executive agency shall manage the fleet of automobiles so that the agency in such a manner that not later than September 30, 2003, the average fuel economy of the new automobiles in the agency's fleet of automobiles is not less than 3 miles per gallon higher than the baseline average fuel economy determined under subsection (a) for that fleet.

"(c) CALCULATION OF AVERAGE FUEL ECONOMY.—Average fuel economy shall be calculated for the purposes of this section in accordance with guidance which the Secretary of Transportation shall prescribe for the implementation of this section.

"(d) DEFINITIONS.—In this section:

"(1) the term 'automobile' does not include any vehicle designed for combat-related missions, law enforcement work, or emergency rescue work;

"(2) the term 'executive agency' has the meaning given that term in section 105 of title 5.

"(e) the term 'Secretary' means the Head of the Department of Transportation.

SEC. 714. RAILROAD EFFICIENCY.

(a) ESTABLISHMENT.—The Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall establish a public-private partnership to develop and demonstrate railroad technologies that increase fuel economy, reduce emissions, and lower costs of operation. Such partnership shall involve the Federal Government, railroad carriers, locomotive manufacturers and equipment suppliers, and the Association of American Railroads.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Energy $50,000,000 for fiscal year 2006, $35,000,000 for fiscal year 2005, and $25,000,000 for fiscal year 2004, to be used for activities authorized under this Act.

SEC. 715. REDUCTION OF ENGINE IDLING IN HEAVY-DUTY VEHICLES.

(a) IDENTIFICATION.—Not later than 180 days after enactment of this section, the Secretary of Energy, in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall commission a study to analyze the potential fuel savings and emissions reductions resulting from use of idling reduction technologies as they are applied to heavy-duty vehicles. Upon completion of the study, the Secretary of Energy shall, by rule, certify those idling reduction technologies with the greatest economic or technical potential for fuel savings and emissions reductions, and publish a list of such certified technologies in the Federal Register.

(b) REQUIREMENT.—Section 127(a) of Title 23, United States Code, is amended by adding at the end the following:

"in order to promote reduction of fuel use and emissions due to engine idling, the maximum gross vehicle weight limit and the axle weight limit for any motor vehicle equipped with a device or system of devices utilized by the U.S. Department of Energy will be increased by an amount necessary to compensate for the additional weight of the idling reduction devices, provided that the weight increase shall be no greater than 400 pounds.

"(c) DEFINITIONS.—For the purposes of this section:

"(1) the term "idling reduction technology" means a device or system of devices utilized to reduce long-duration idling of a vehicle.

"(2) the term 'infrastructure' means a vehicle that has a gross vehicle weight rating greater than 8,500 pounds and is powered by a diesel engine.

"(3) the term "long-duration idling" means the operation of a main drive engine, for a period greater than 30 consecutive minutes, where the main drive engine is not engaged in gear. Such term does not apply to routine stops associated with traffic movement or congestion.

TITLE VIII—HYDROGEN

Subtitle A—Basic Research Programs

SEC. 801. SHORT TITLE.

This subtitle may be cited as the "George E. Brown, Jr. and Robert S. Walker Hydrogen Future Act of 2003".

SEC. 802. MATSUNAGA ACT AMENDMENT.

The Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (2 U.S.C. 12401 et seq.) is amended by striking sections 102 through 109 and inserting the following:

"SEC. 102. DEFINITIONS.

In this Act—

"(a) the term 'advisory committee' means the Hydrogen and Fuel Cell Technical Advisory Committee established under section 107.

"(b) the term 'Department' means the Department of Energy.

"(c) the term 'vehicle' means a device that directly converts the chemical energy of a fuel into electricity by an electrochemical process.

"(d) the term 'infrastructure' means the equipment, systems, or facilities used to produce, distribute, deliver, or store hydrogen.

"(e) the term 'Secretary' means the Secretary of Energy.

"SEC. 103. HYDROGEN RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary shall conduct a research and development program on technologies related to the production, distribution, storage, and use of hydrogen energy, fuel cells, and related infrastructure.

(b) GOAL.—The goal of such program shall be to enable the safe, economic, and environmentally sound use of hydrogen energy, fuel cells, and related systems for transportation, commercial, industrial, residential, and electric power generation applications.

(c) FOCUS.—In carrying out activities under this section, the Secretary shall focus on critical technical issues including, but not limited to—

"(1) the production of hydrogen from diverse energy sources, with emphasis on cost-effective production from renewable energy sources;

"(2) the delivery of hydrogen, including safe delivery, distribution, and use of hydrogen in pipelines;

"(3) the storage of hydrogen, including storage of hydrogen in surface transportable containers;

"(4) fuel cell technologies for transportation, stationary, and portable applications, with emphasis on cost-reduction of fuel cell stacks; and

"(5) the use of hydrogen energy and fuel cells, including use in isolated villages, islands, and areas in which other energy sources are not available or are very expensive; and

"(B) foreign markets, particularly where the infrastructure is not well developed.

"(d) CODES AND STANDARDS.—The Secretary shall facilitate the development of domestic and international codes and standards and seek to resolve other critical regulatory and technical barriers preventing the introduction of hydrogen energy and fuel cells into the marketplace.

"(e) SOLICITATION.—The Secretary shall carry out the research and development activities authorized under this section through solicitation of proposals, and evaluation using competitive merit review.

"(f) COST SHARING.—The Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of proposed research and development projects. The Secretary may reduce or eliminate the cost sharing requirement if—

"(i) the Secretary determines that the research and development is of a basic or fundamental nature, or for technologies, outreach activities, and educational programs that the Secretary does not expect to result in a marketable product.

"SECT. 104. DEMONSTRATION PROGRAMS.

"(a) REQUIREMENT.—In conjunction with activities conducted under section 103, the Secretary shall conduct demonstrations of hydrogen energy and fuel cell technologies in order to evaluate the commercial potential of such technologies.

"(b) SOLICITATION.—The Secretary shall carry out the demonstrations authorized under this Act through solicitation of proposals, and evaluation using competitive merit review.

"(c) COST SHARING.—The Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs directly related to a demonstration project under this section.

"(d) COST SHARING.—The Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of proposed research and development projects. The Secretary may reduce such non-Federal requirement if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project.

"SEC. 105. TECHNOLOGY TRANSFER.

"The Secretary shall conduct programs to—

"(a) foster the exchange of generic, nonproprietary information and technology development in order to provide wider understanding of such technologies and wider use of research progress under this Act;

"(b) to accelerate wider application of hydrogen energy and fuel cell technologies in foreign countries in order to increase the global market for the technologies and foster global technology development without harmful environmental effects;

"(c) foster the exchange of generic, nonproprietary information and technology development in order to provide wider understanding of such technologies and wider use of research progress under this Act;

"(d) inventory and assess the technical and commercial viability of technologies related to hydrogen energy and fuel cells.

"SEC. 106. COORDINATION AND CONSULTATION.

"The Secretary shall have overall management responsibility for all programs authorized under this Act.

"(a) shall establish a central point for the coordination of all hydrogen and fuel cell research, development, and demonstration activities of the Department;
SEC. 107. ADVISORY COMMITTEE.

(a) Establishment.—There is hereby established the Hydrogen and Fuel Cell Technical Advisory Committee, to advise the Secretary on activities under this Act.

(b) Membership.—The advisory committee shall be comprised of not fewer than 12 nor more than 25 members appointed by the Secretary based on their technical and other qualifications from domestic industry, automakers, universities, professional societies, Federal laboratories, financial institutions, and environmental and other organizations as the Secretary deems appropriate.

The advisory committee shall have a chairperson, who shall be elected by the members from among their number.

(c) Terms.—Members of the advisory committee shall be appointed for terms of 3 years, who shall begin not later than 3 months after the date of enactment of the Energy Policy Act of 2003, except that one-third of the members first appointed shall serve for terms of 1 year, and each of the members first appointed shall serve for 2 years, as designated by the Secretary at the time of appointment.

(d) Response.—The advisory committee shall review and make any necessary recommendations to the Secretary on—

(1) implementation and conduct of programs authorized under this Act;

(2) economic, technological, and environmental consequences of the deployment of technologies related to production, distribution, storage, and use of hydrogen energy, and fuel cells;

(3) means for resolving barriers to implementing hydrogen and fuel cell technologies; and

(4) the coordination plan and any updates thereto prepared by the Secretary pursuant to section 109.

(e) Solicitation.—The Secretary shall establish procedures for solicitation of nominations for membership on the advisory committee.

SEC. 108. HYDROGEN TRANSPORTATION AND FUEL INITIATIVE.

(a) Vehicle Technologies.—The Secretary shall carry out a research, demonstration, and commercial application program on advanced hydrogen-powered vehicle technologies. Such program shall address—

(1) engine and emission control systems;

(2) energy storage, electric propulsion, and hybrid systems;

(3) automotive materials;

(4) hydrogen storage and delivery systems, and

(5) other advanced vehicle technologies.

(b) Hydrogen Fuel Initiative.—In coordination with the program authorized in subsection (a), the Secretary, in partnership with the private sector, shall—

(1) production of hydrogen from diverse energy resources, including—

(A) renewable energy resources;

(B) fossil fuels, in conjunction with carbon capture and sequestration;

(C) hydrogen-carrier fuels; and

(D) nuclear energy;

(2) delivery of hydrogen or hydrogen-carrier fuels, including—

(A) transmission by pipeline and other distribution methods; and

(B) safe, convenient, and economic refueling of vehicles at fueling stations or through distributed on-site generation;

(3) storage of hydrogen or hydrogen-carrier fuels, including development of materials for safe and economic storage in gaseous, liquid or solid forms at refueling facilities or on-board vehicles and

(4) development of advanced vehicle technologies, such as efficient fuel cells and direct hydrogen combustion engines, and related component technologies such as advanced materials and control systems; and

(5) development of necessary codes, standards, and safety practices to accompany the development, distribution, storage and use of hydrogen or hydrogen-carrier fuels in transportation.

(c) Matsunaga Act.—In carrying out programs and projects under subsections (a) and (b), the Secretary shall ensure that such programs and projects are consistent with, and do not unnecessarily duplicate, activities carried out under the programs authorized under the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12401 et seq.).

(d) Advisory Committee.—The Hydrogen and Fuel Cell Technical Advisory Committee authorized under section 107 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12408), as amended in this title, shall advise the Secretary on the programs and activities carried out under this section.

(e) Solicitation.—The Secretary shall carry out the programs authorized under this section through solicitation of proposals and evaluation using competitive merit review.

(f) Cost Sharing.—The Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs directly relating to a demonstration project under this section. The Secretary may determine the non-Federal requirement if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project.

(g) Authorization of Appropriations.—For the purposes of this section, there are authorized to be appropriated to the Secretary—

(1) for activities pursuant to subsection (a), to remain available until expended—

(A) $100,000,000 for each of fiscal years 2004 and 2005;

(B) $110,000,000 for each of fiscal years 2006 and 2007; and

(C) $120,000,000 for fiscal year 2008; and

(2) for activities pursuant to subsection (b), to remain available until expended—

(A) $25,000,000 for fiscal year 2004;

(B) $150,000,000 for fiscal year 2005;

(C) $175,000,000 for fiscal year 2006;

(D) $200,000,000 for fiscal year 2007; and

(E) $225,000,000 for fiscal year 2008.

SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the purposes of this Act—

(1) such sums as may be necessary for fiscal years 1992 through 2003;

(2) $105,000,000 for fiscal year 2004;

(3) $150,000,000 for fiscal year 2005;

(4) $175,000,000 for fiscal year 2006;

(5) $200,000,000 for fiscal year 2007; and

(6) $225,000,000 for fiscal year 2008.
plan for Federal hydrogen and fuel cell energy activities, which shall include a summary of such activities.

(d) REPORT.—Not later than one year after it is established, the task force shall report to Congress on the coordination plan in subsection (c) and on the interagency coordination of Federal hydrogen and fuel cell energy activities.

SEC. 805. REVIEW BY THE NATIONAL ACADEMIES.

Not later than two years after the date of enactment of this Act, and every four years thereafter, the Secretary shall enter into a contract with the National Academies. Such contract shall require the National Academies to perform a review of the progress made in the development of hydrogen and fuel cell energy programs and activities, including the need for modified or additional programs, and to report to the Congress on the results of such review. There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out the requirements of this section.

Subtitle B—Demonstration Programs

SEC. 811. DEFINITIONS.

For the purposes of this subtitle and subtitle C—

(a) the term "fuel cell" means a device that directly converts the chemical energy of hydrogen-based technologies to meet such energy needs in—

(1) stationary applications, including power generation, combined heat and power for buildings and campsites, and standby and backup power systems; and

(2) transportation-related applications, including support vehicles, passenger vehicles and heavy-duty trucks and buses.

(b) ELIGIBLE TECHNOLOGIES.—The program shall include—

(1) fuel cells; and

(2) hydrogen fueling infrastructure (including multiple hydrogen refueling stations) along major transportation routes or in entire regions; and

(3) other similar projects as the Secretary may deem necessary to contribute to the rapid demonstration and deployment of hydrogen-based technologies in widespread use for transportation-related applications, including—

(1) fuel cell vehicles in light-duty vehicle fleets;

(2) heavy-duty fuel cell on-road and off-road vehicles, including mass transit buses;

(3) use of hydrogen-powered vehicles and hydrogen fueling infrastructure (including multiple hydrogen refueling stations) along major transportation routes or in entire regions; and

(4) other similar projects as the Secretary may deem necessary to contribute to the rapid demonstration and deployment of hydrogen-based technologies in widespread use for transportation-related applications, including—

(1) consult with Federal, State, local and private entities, and consortia of these entities shall be eligible for these projects.

(c) SELECTION.—In selecting projects under this section, the Secretary shall—

(1) consult with Federal, State, local and private fleet managers to identify potential projects where hydrogen-powered vehicles may be feasible; 

(2) identify not less than 10 sites at which to carry out projects under this program, 2 of which shall be at Federal facilities; and

(3) select projects based on the following factors—

(A) geographic diversity;

(B) the set of operating environments, duty cycles, and likely weather conditions; 

(C) the interest and capability of the participating agencies, entities, or fleets; 

(D) the availability and appropriateness of potential sites for refueling infrastructure and maintenance of the vehicle fleet; 

(E) the existence of traffic congestion in the area expected to be served by the hydrogen-powered vehicle; 

(F) proximity to non-attainment areas as defined in section 171 of the Clean Air Act (42 U.S.C. 7511); and

(G) such other criteria as the Secretary determines to be appropriate in order to carry out the purposes of the program.

(d) INFRASTRUCTURE.—In funding projects under this section, the Secretary shall also support the installation of refueling infrastructure at sites necessary for success of the project, giving preference to those infrastructure projects that include co-production of both—

(1) hydrogen for use in transportation; and

(2) electricity that can be consumed on site.

(e) OPERATION AND MAINTENANCE PERIOD.—Vehicles purchased for projects under this section shall be operated and maintained by the participating agencies or entities in regular duty cycles for a period of not less than 12 months.

(f) TRAINING AND TECHNICAL SUPPORT.—In funding proposals under this section, the Secretary shall also provide funding for training and technical support as may be necessary to assure the success of such projects, including training and technical support in—

(1) the installation, operation, and maintenance of fueling infrastructure;

(2) the operation and maintenance of fuel cell vehicles; and

(3) data collection necessary to monitor project performance.

(g) COST-SHARING.—Except as otherwise provided, the Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs directly relating to a demonstration project under this section. The Secretary may reduce such non-Federal requirement if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project.

(f) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary $50,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

SEC. 812. HYDROGEN VEHICLE DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a program for demonstration and commercial application of hydrogen-powered vehicles and associated hydrogen fueling infrastructure in a variety of transportation-related applications, including—

(1) fuel cell vehicles in light-duty vehicle fleets;

(2) heavy-duty fuel cell on-road and off-road vehicles, including mass transit buses;

(3) use of hydrogen-powered vehicles and hydrogen fueling infrastructure (including multiple hydrogen refueling stations) along major transportation routes or in entire regions; and

(4) other similar projects as the Secretary may deem necessary to contribute to the rapid demonstration and deployment of hydrogen-based technologies in widespread use for transportation-related applications, including—

(1) consult with Federal, State, local and private entities, and consortia of these entities shall be eligible for these projects.

(b) ELIGIBILITY.—Federal, State, tribal, and local governments, academic and other nonprofit organizations, private entities, and profit organizations, private entities, and local governments, academic and other nonprofit organizations, and businesses. 

(c) SELECTION.—In selecting projects under this section, the Secretary shall—

(1) consult with Federal, State, local and private fleet managers to identify potential projects where hydrogen-powered vehicles may be feasible; 

(2) identify not less than 10 sites at which to carry out projects under this program, 2 of which shall be at Federal facilities; and

(3) select projects based on the following factors—

(A) geographic diversity;

(B) the set of operating environments, duty cycles, and likely weather conditions; 

(C) the interest and capability of the participating agencies, entities, or fleets; 

(D) the availability and appropriateness of potential sites for refueling infrastructure and maintenance of the vehicle fleet; 

(E) the existence of traffic congestion in the area expected to be served by the hydrogen-powered vehicle; 

(F) proximity to non-attainment areas as defined in section 171 of the Clean Air Act (42 U.S.C. 7511); and

(G) such other criteria as the Secretary determines to be appropriate in order to carry out the purposes of the program.

(d) INFRASTRUCTURE.—In funding projects under this section, the Secretary shall also support the installation of refueling infrastructure at sites necessary for success of the project, giving preference to those infrastructure projects that include co-production of both—

(1) hydrogen for use in transportation; and

(2) electricity that can be consumed on site.

(e) OPERATION AND MAINTENANCE PERIOD.—Vehicles purchased for projects under this section shall be operated and maintained by the participating agencies or entities in regular duty cycles for a period of not less than 12 months.

(f) TRAINING AND TECHNICAL SUPPORT.—In funding proposals under this section, the Secretary shall also provide funding for training and technical support as may be necessary to assure the success of such projects, including training and technical support in—

(1) the installation, operation, and maintenance of fueling infrastructure;

(2) the operation and maintenance of fuel cell vehicles; and

(3) data collection necessary to monitor project performance.

(g) COST-SHARING.—Except as otherwise provided, the Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs directly relating to a demonstration project under this section. The Secretary may reduce such non-Federal requirement if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project.

(f) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary $50,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

SEC. 813. STATIONARY FUEL CELL DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a program for demonstration and commercial application of hydrogen fuel cell systems in stationary applications, including—

(1) fuel cells for use in residential and commercial buildings;

(2) portable fuel cells, including auxiliary power units in trucks;

(3) small form and micro fuel cells of 20 watts or less; and

(4) distributed generation systems with fuel cells using renewable energy; and

(b) OTHER SIMILAR PROJECTS.—The Secretary may also fund projects that—

(1) are submitted jointly from consortia that include two or more participants from institutions of higher education, industry, State, tribal, or local governments, and Federal laboratories; and

(2) that reflect proven experience and capability with technologies relevant to the projects proposed.

(f) TRAINING AND TECHNICAL SUPPORT.—In funding proposals under this section, the Secretary shall also provide funding for training and technical support as may be necessary to assure the success of such projects, including training and technical support in the installation, operation, and maintenance of fuel cells and the collection of data to monitor project performance.

(g) COST-SHARING.—Except as otherwise provided, the Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs directly relating to a demonstration project under this section. The Secretary may reduce such non-Federal requirement if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project.

(f) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary $50,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

SEC. 814. HYDROGEN DEMONSTRATION PROGRAMS IN NATIONAL PARKS.

(a) STUDY.—Not later than 1 year after the date of enactment of this Act, and every four years thereafter, the Secretary of the Interior and the Secretary of Energy shall jointly study and report to Congress on—

(1) the energy needs and uses at National Parks; and

(2) the potential for fuel cell and other hydrogen-based technologies to meet such energy needs in—

(A) stationary applications, including power generation, combined heat and power for buildings and campsites, and standby and backup power systems; and

(B) transportation-related applications, including support vehicles, passenger vehicles and heavy-duty trucks and buses.

(b) PILOT PROJECTS.—Based on the results of the study conducted under subsection (a), the Secretary of the Interior shall, after administered by the Secretary of the Interior through the National Park Service for park, monument, historic, parkway, recreational, or other purposes.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Interior $1,000,000 for fiscal year 2004, and $15,000,000 for fiscal year 2005, to remain available until expended.

SEC. 815. INTERNATIONAL DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary, in consultation with the Administrator of the U.S. Agency for International Development, shall conduct demonstrations of fuel cells and associated hydrogen fueling infrastructure in other than the United States, particularly in areas where an energy infrastructure is not already well developed.

(b) ELIGIBLE TECHNOLOGIES.—The program shall—

(1) fuel cell vehicles in light-duty vehicle fleets;
(2) heavy-duty fuel cell on-road and off-road vehicles.
(3) stationary fuel cells in residential and commercial buildings; or
(4) battery-powered vehicles, including auxiliary power units in trucks.
(c) PARTICIPANTS.—
(1) foreign nations, non-profit organizations, and private companies shall be eligible for these pilot projects.
(2) COOPERATION.—Eligible entities may perform the projects in cooperation with United States non-profit organizations and private companies.
(3) COST-SHARING.—The Secretary may require eligible participants to contribute to the costs of participating private companies and from participating foreign countries.
(d) AUTHORIZATION OF APPROPRIATIONS.—
For activities conducted under this section, there are authorized to be appropriated to the Secretary $7,000,000 for each of fiscal years 2004 through 2008.
SEC. 822. HYDROGEN TRANSITION STRATEGIC PLANNING.
(a) In GENERAL.—Not later than September 30, 2004, the Secretary of Energy, with annual outlays of greater than $20,000,000 shall submit to the Director of the Office of Management and Budget and to the Congress a strategic plan containing a comprehensive assessment of how the transition to a hydrogen-based economy could assist the mission, operation, and regulatory processes of the agency.
(b) CONTENTS.—At a minimum, each plan shall contain—
(1) a description of areas within the agency's control where using hydrogen and/or fuel cells could benefit the operation of the agency, assist in the implementation of its regulatory functions or enhance the agency's mission; and
(2) a description of any agency management practices, procurement policies, regulations, policies, or guidelines that may inhibit the agency from use of fuel cells and hydrogen as an energy source;
(c) DURATION AND REVISION.—The strategic plan shall cover a period of not less than the five years following the fiscal year in which it is submitted, and shall be updated and revised at least every three years.
SEC. 823. MINIMUM FEDERAL FLEET REQUIREMENTS.
(a) ESTABLISHMENT.—The Secretary shall establish and transmit to Congress a Federal fleet requirement for fuel cells that meets standards for performance, reliability, cost, and maintenance established by the Secretary.
(b) The Secretary may establish a lower percentage, or waive the requirement under subparagraph (A) for any Federal fleet, if, after a detailed assessment, the Secretary determines that hydrogen-powered vehicles meeting the standards set by the Secretary pursuant to subparagraph (A) are not available at a purchase price that is less than 150 percent of the purchase price of other comparable alternative fueled vehicles.
(C) The Secretary may by rule, delay the implementation of the requirements under subparagraph (A) in the event that the Secretary determines that hydrogen-powered vehicles are not commercially or economically available or if such vehicles are not commercially or economically available.
(D) The Secretary, in consultation with the Administrator of General Services, may for reasons of renewing infrastructure use and cost optimization, elect to allocate the acquisition necessary to achieve the requirements in subparagraph (A) to Federal fleets in lieu of requiring each Federal fleet to achieve the requirements in subparagraph (A)."
(b) REFUELING.—Section 304 of the Energy Policy Act of 1992 (42 U.S.C. 13213) is amended—
(1) by redesignating subsection (b) as subsection (c);
(2) in the second sentence of subsection (a), by striking "If publicly" and inserting the following:
SEC. 911. ENERGY EFFICIENCY.

(a) In General.—The following sums are authorized to be appropriated to the Secretary for energy efficiency and conservation research, development, demonstration, and commercial application activities, including activities authorized under this subtitle:

(1) for fiscal year 2004, $616,000,000;
(2) for fiscal year 2005, $695,000,000;
(3) for fiscal year 2006, $772,000,000;
(4) for fiscal year 2007, $865,000,000; and
(5) for fiscal year 2008, $920,000,000.

(b) ALLOCATIONS.—The Secretary may give preference to participants cited in (1), in good faith, for at least in the field of solid-state lighting, non-exclusively licenses and royalties on terms that are reasonable under the circumstances;

(c) EXTENDED AUTHORIZATION.—There are authorized to be appropriated to the Secretary for activities under section 912, $50,000,000 for each of fiscal years 2006 through 2013.

(d) None of the funds authorized to be appropriated under subsection (a) may be used for:

(1) the promulgation and implementation of energy efficiency regulations;
(2) the Weatherization Assistance Program under part A of title IV of the Energy Conservation and Production Act; or
(3) the State Energy Program under part D of title III of the Energy Policy and Conservation Act; or

SEC. 912. NEXT GENERATION LIGHTING INITIATIVE.

(a) In General.—The Secretary shall carry out a Next Generation Lighting Initiative in accordance with this section to support research, development, demonstration, and commercial activities related to advanced solid-state lighting technologies based on white light emitting diodes.

(b) OBJECTIVES.—The objectives of the initiative shall be to:

(1) To integrate Federal, State, and voluntary private sector efforts to reduce the cost of construction, operation, maintenance, and renovation of commercial, institutional, and residential buildings.

(c) PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a plan...
(a) DEFINITIONS.—For purposes of this section: (1) The term “battery” means an energy storage device that previously has been used to provide motive power in a vehicle powered in whole or in part by electricity.

(b) PROGRAM.—The Secretary shall establish and conduct a research, development, demonstration, and commercial application program for the secondary use of batteries. Such program shall be—

(1) designed to demonstrate the use of batteries in secondary applications, including utility and commercial power storage and power quality;

(2) structured to evaluate the performance, including useful service life and costs, of such batteries in field operations, and the necessary supporting infrastructure, including recharging equipment; and

(3) coordinated with ongoing secondary battery use programs at the National Laboratories and in industry.

(c) DURATION.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall solicit proposals to demonstrate the use of batteries and associated equipment and supporting infrastructure in geographic locations throughout the United States. The Secretary may make additional solicitations for proposals if the Secretary determines that such solicitations are necessary to carry out this section.

(d) SELECTION OF PROPOSALS.—(1) The Secretary shall, not later than 90 days after the closing date established by the Secretary for receipt of proposals under subsection (c), propose for funding a program that may receive financial assistance under this section.

(2) The Secretary shall establish an advisory committee to—

(a) analyze and provide recommendations on potential private sector roles and participation in the Initiative; and

(b) review and provide recommendations on the plan described in subsection (c).

(e) CONDITIONS.—The Secretary shall require that—

(1) relevant information be provided to the Department, the users of the batteries, the proposers, and the battery manufacturers; and

(2) the proposer provide at least 50 percent of the costs associated with the program.

SEC. 915. ENERGY EFFICIENCY SCIENCE INITIATIVE.

(a) ESTABLISHMENT.—The Secretary shall establish an Energy Efficiency Science Initiative to be managed by the Assistant Secretary for Energy Efficiency and Renewable Energy, to coordinate Federal efforts to enhance the nation’s energy efficiency. Such program shall be—

(1) one or more renewable electric power generation technologies of 10 megawatts or less capacity; and

(2) nonintermittent electric power generation technologies, including useful service life and costs, of one or more renewable electric power generation technologies of 10 megawatts or less capacity.

(f) CENTER.—The Secretary shall establish an Energy Efficiency Science Center to coordinate Federal efforts to enhance the nation’s energy efficiency. Such program shall be—

(1) the collection, analysis, and dissemination of research results and other pertinent information on enhancing building performance to industry, government entities, and the public;

(2) DEPARTMENT OF ENERGY ROLE.—Within the Federal portion of the Initiative, the Department shall be the lead agency for all aspects of building performance and retrofit relating to the building envelope and building system components; and

(3) ADVISORY COMMITTEE.—The Director of the Office of Energy Efficiency and Renewable Energy shall establish an advisory committee to—

(a) analyze and provide recommendations on potential private sector roles and participation in the Initiative; and

(b) review and provide recommendations on the plan described in subsection (c).

In general:

SEC. 921. DISTRIBUTED ENERGY AND ELECTRIC ENERGY SYSTEMS.

(a) IN GENERAL.—(1) The following sums are authorized to be appropriated to the Secretary for distributed energy and electric energy systems activities, including activities authorized under this subtitile:

(A) for fiscal year 2004, $190,000,000;

(B) for fiscal year 2005, $200,000,000;

(C) for fiscal year 2006, $220,000,000;

(D) for fiscal year 2007, $240,000,000; and

(E) for fiscal year 2008, $260,000,000.

(2) For the Initiative in subsection 921(c), there are authorized to be appropriated—

(A) for fiscal year 2004, $15,000,000;

(B) for fiscal year 2005, $20,000,000;

(C) for fiscal year 2006, $30,000,000;

(D) for fiscal year 2007, $35,000,000; and

(E) for fiscal year 2008, $40,000,000.

(b) MICRO-COGENERATION ENERGY TECHNOLOGY.—From amounts authorized under section 203(a)(9), in consultation with the Director of the Office of Science, for grants to be competitively awarded and subject to peer review for research relating to energy efficiency.

SUBTITLE B—DISTRIBUTED ENERGY AND ELECTRIC ENERGY SYSTEMS

SEC. 922. HIGH POWER DENSITY INDUSTRY PROGRAM.

Not later than 1 year after the date of enactment of this Act, the Secretary shall develop and submit to the Congress a strategy for a comprehensive research, development, demonstration, and commercial application program to develop hybrid distributed power systems that combine—

(1) one or more renewable electric power generation technologies of 10 megawatts or less located near the site of electric energy use; and

(2) nonintermittent electric power generation technologies suitable for use in a distributed power system that combine—

(a) advanced energy and energy storage technologies, materials, and systems, giving priority to new technologies designed to accelerate the utilization of distributed energy technologies, such as fuel cells, microturbines, reciprocating engines, thermoelectric devices, and combined heat and power systems, in highly energy intensive commercial applications.

SEC. 926. OFFICE OF ELECTRIC TRANSMISSION AND DISTRIBUTION.

(a) CREATION OF AN OFFICE OF ELECTRIC TRANSMISSION AND DISTRIBUTION.—(1) There is established within the Department an Office of Electric Transmission and Distribution. This Office shall be headed by a Director, who shall be appointed by the Secretary. The Director shall be compensated at the annual rate prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(2) The Director shall—

(A) coordinate and develop a comprehensive, multi-year strategy to improve the Nation’s electricity transmission and distribution systems;

(B) ensure that the recommendations of the Secretary’s National Transmission Grid Study are implemented; and

(C) carry out the research, development, and demonstration functions.

SEC. 927. ELECTRIC TRANSMISSION AND DISTRIBUTION PROGRAMS.

(a) DEMONSTRATION PROGRAM.—(1) The Secretary, acting through the Director of the Office of Electric Transmission and Distribution, shall establish a comprehensive research, development, and demonstration program to ensure the reliability, efficiency, and environmental integrity of electrical transmission and distribution systems. This program shall include—

(A) advanced energy and energy storage technologies, materials, and systems, giving priority to new technologies designed to enhance reliability, operational flexibility, and power-carrying capacity.

(B) advanced grid reliability and efficiency technology development;
(3) technologies contributing to significant load reductions;
(4) advanced metering, load management, and control technologies;
(5) technologies to enhance existing grid components;
(6) the development and use of high-temperature superconductors to—
(A) increase the reliability, operational flexibility, or power-carrying capability of electric transmission or distribution systems; or
(B) increase the efficiency of electric energy generation, transmission, distribution, or storage systems;
(7) integration of power systems, including systems to deliver high-quality electric power, electric power reliability, and combined heat and power;
(8) supply of electricity to the power grid by small scale, distributed and residential-based power generators;
(9) the development and use of advanced grid design, operation and planning tools;
(10) any other infrastructure technologies, as appropriate; and
(11) technology transfer and education.

(b) Program Plan.—Not later than 1 year after the date of the enactment of this legislation, the Secretary, in consultation with other Federal agencies, shall prepare and transmit to Congress a 5-year program plan to guide activities under this section. In preparing the program plan, the Secretary shall consult with utilities, energy service companies, manufacturers, institutions of higher education, other appropriate State and local agencies, environmental organizations, professional and technical societies, and any other persons the Secretary considers appropriate.

(c) Implementation.—The Secretary shall consider implementing this program using a consortium of industry, university and national laboratory participants.

(d) Report.—Not later than 2 years after the transmittal of the plan under subsection (b), the Secretary shall transmit to Congress a report describing the progress made under this section and identifying any additional resources needed to continue the development and commercial application of transmission and distribution infrastructure technologies.

(e) Power Delivery Research Initiative.—The Secretary shall establish a research, development and demonstration initiative specifically focused on power delivery utilizing high temperature superconducting wires and cables in existing electrical networks to improve system performance, power flow control and reliability.

(f) Demonstration Projects.—The Secretary is authorized to carry out demonstration projects to—

(1) demonstrate deployment of high temperature superconducting cable into testbeds simulating a realistic transmission grid and under varying transmission conditions, including actual grid insertions; and
(2) testbeds developed in cooperation with national laboratories and universities to demonstrate these technologies, prepare the technologies for commercial introduction, and address cost or performance roadblocks to commercial use.

(g) Transmission and Distribution Grid Planning and Operations Initiative.—The Secretary shall establish a research, development and demonstration initiative specifically focused on tools needed to plan, operate and expand the transmission and distribution grids in the presence of competitive market conditions, including demand, customer response and ancillary services. Goals of this Initiative shall be to—

(1) develop and utilize a geographically distributed, decentralized forecasting approach of research universities and national laboratories, with expertise and facilities to develop the underlying theory and software for power system applications and facilitate the integration of commercial development in partnership with software vendors and utilities;
(2) provide technical leadership in engineering and economic analysis for reliability and efficiency of power systems planning and operations in the presence of competitive markets for electric energy;
(3) model, simulate and experiment with new market mechanisms and operating practices to understand and optimize such new methods before actual use; and
(4) provide science and technology transfer to electric utilities and other participants in the domestic electric industry and marketplace.

Subtitle C—Renewable Energy

Section 931. Renewable Energy

(a) In General.—The following sums are authorized to be appropriated to the Secretary for renewable energy research, development, demonstration and commercial application activities, including activities authorized under this subtitle:

(1) for fiscal year 2004, $480,000,000;
(2) for fiscal year 2005, $400,000,000;
(3) for fiscal year 2006, $610,000,000;
(4) for fiscal year 2007, $450,000,000; and
(5) for fiscal year 2008, $450,000,000.

(b) Biofuels and Bioproducts.—The goals of the biofuels and bioproducts programs shall be to develop, in partnership with industry—

(1) advanced biochemical and thermochemical conversion technologies capable of making fuels from cellulosic feedstocks that are price-competitive with gasoline or diesel in either internal combustion engines or fuel cell-powered vehicles; and
(2) advanced biotechnology processes capable of making biofuels and bioproducts with emphasis on development of technologies using enzyme-based processing systems.

(c) Definition.—For purposes of this section, the term ‘biocatalyst’ means any portion of a crop not normally used in food production or any non-food crop grown for the purpose of producing biomass feedstock.

Section 932. Biofuels and Bioproducts Program

(a) In General.—Not later than 180 days after enactment of this Act, the Secretary shall initiate a partnership with diesel engine, diesel fuel injection system, and diesel vehicle manufacturers and diesel and biodiesel fuel providers to include biodiesel testing in advanced diesel engine and fuel system technology.

(b) Scope.—The study shall provide for testing to determine the impact of biodiesel on current and future emission control technologies, with emphasis on—

(1) the impact of biodiesel on emissions warranty, in-use liability, and anti-tampering provisions;
(2) the impact of long-term use of biodiesel on engine operations;
(3) the options for optimizing these technologies for both emissions and performance when switching between biodiesel and diesel fuel; and
(4) the impact of using biodiesel in these fuel systems and engines when used as a blend with 2006 Environmental Protection Agency-mandated diesel fuel containing a maximum of 15-parts-per-million sulfur content.

(c) Report.—Not later than 2 years after the date of enactment, the Secretary shall provide an interim report to Congress on the findings of this study, including a comprehensive analysis of impacts from biodiesel on engine operation for both existing and expected future diesel technologies, and recommendations for ensuring optimal emissions reductions and engine performance with biodiesel.

(d) Definition.—For purposes of this section, the term “biodiesel” means a diesel fuel substituting produced from non-petroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545) and that meets the American Society for Testing and Materials...
SEC. 934. CONCENTRATING SOLAR POWER RESEARCH PROGRAM.
(a) In general.—The Secretary shall conduct a program of research and development to evaluate the potential of concentrating solar power (CSP) for hydrogen production, including co-generation approaches for both hydrogen and electricity. Such program shall take advantage of existing facilities to the extent possible and, where appropriate, (1) development of optimized technologies that are common to both electricity and hydrogen production; (2) use of the thermo-chemical cycles for hydrogen production at the temperatures attainable with concentrating solar power; (3) evaluation of materials issues for the thermo-chemical cycles in (2); (4) system architectures and economics studies; and (5) coordination with activities in the Advanced Reactor Hydrogen Co-generation Project on high temperature materials, thermo-chemical cycle and economic issues.

(b) Assessment.—In carrying out the program under this section, the Secretary is directed to assess conflicting guidance on the economic potential of concentrating solar power for hydrogen production received from the National Research Council report entitled “Renewable Power Pathways: A Review of the U.S. Department of Energy’s Renewables Programs” in 2000 and subsequent DOE-funded reviews of that report and provide an assessment of the potential impact of this technology before, or concurrent with, submission of the fiscal year 2006 budget.

(c) Report.—Not later than 5 years after the date of enactment of this section, the Secretary shall transmit a report to Congress on the economic and technical potential for electricity or hydrogen production, with or without co-generation, with concentrating solar power, including the economic and technical feasibility of potential construction of a pilot demonstration facility suitable for commercial production of electricity and/or hydrogen from concentrating solar power.

SEC. 935. MISCELLANEOUS PROJECTS.
The Secretary shall conduct research, development, demonstration, and commercial application of technology for—

(1) ocean energy, including wave energy;
(2) the combined use of renewable energy technologies, including among other such technologies, wind power and coal gasification technologies; and
(3) renewable energy technologies for co-generation of hydrogen and electricity.

Subtitle D—Nuclear Energy
SEC. 941. NUCLEAR ENERGY.
(a) Core Programs.—The following sums are authorized to be appropriated to the Secretary for core programs:

(1) For fiscal year 2004, $327,000,000;
(2) for fiscal year 2005, $305,000,000;
(3) for fiscal year 2006, $276,000,000;
(4) for fiscal year 2007, $355,000,000; and
(5) for fiscal year 2008, $330,000,000.

(b) Nuclear Infrastructure Support.—The following sums are authorized to be appropriated to the Secretary for activities under section 942(f):

(1) for fiscal year 2004, $125,000,000;
(2) for fiscal year 2005, $130,000,000;
(3) for fiscal year 2006, $135,000,000; and
(4) for fiscal year 2007, $140,000,000; and

SEC. 942. NUCLEAR ENERGY RESEARCH PROGRAMS.
(a) Nuclear Energy Research Initiative.—The Secretary shall carry out a Nuclear Energy Research Initiative for research and development into nuclear energy.

(b) Nuclear Energy Plant Optimization Program.—The Secretary shall carry out a Nuclear Energy Plant Optimization Program to support research and development activities addressing reliability, availability, productivity, component aging, safety and security of existing nuclear power plants.

(c) Nuclear Power 2010 Program.—The Secretary shall carry out a Nuclear Power 2010 Program, consistent with recommendations in the October 2001 report entitled "A Roadmap to Deploy New Nuclear Power Plants in the United States by 2010" issued by the Nuclear Energy Research Advisory Committee of the Department. The Program shall include—

(1) utilization of the expertise and capabilities of industry, universities, and National Laboratories in evaluation of advanced nuclear fuel cycles and fuels testing;
(2) consideration of a variety of reactor designs suitable for both developed and developing nations;
(3) participation of international collaborators in research, development, and design efforts as appropriate; and
(4) encouragement for university and industry participation.

(d) Generation IV Nuclear Energy Systems Initiative.—The Secretary shall carry out a Generation IV Nuclear Energy Systems Initiative to develop an overall technology plan and to support research and development necessary to make an informed technical decision about the most promising candidates for eventual commercial application. The Initiative shall examine advanced proliferation-resistant and passively safe reactor designs, including designs that—

(1) are economically competitive with other electric power generation plants;
(2) have lower capital cost, and improved safety compared to reactors in operation on the date of enactment of this Act;
(3) use fuels that are proliferation resistant and have substantially reduced production of high-level waste per unit of output; and
(4) use improved instrumentation.

(e) Reactor Production of Hydrogen.—The Secretary shall carry out research to examine designs for high-temperature reactors capable of producing large-scale quantities of hydrogen using thermo-chemical processes.

(f) Nuclear Infrastructure Support.—The Secretary shall develop and implement strategies to support facilities and programs at the Office of Nuclear Energy, Science and Technology and shall transmit a report containing the strategy along with the President’s budget request to the Congress for fiscal year 2006. Such strategy shall provide a cost-effective means for—

(1) maintaining existing facilities and infrastructure, as needed;
(2) closing unneeded facilities; and
(3) making facility upgrades and modifications; and shall transmit a report containing the strategy.

SEC. 943. ADVANCED FUEL CYCLE INITIATIVE.
(a) In general.—The Secretary, through the Director of the Office of Nuclear Energy, Science and Technology, shall advance an advanced fuel recycling technology research and development program to evaluate proliferation-resistant fuel recycling and transmutation technologies which minimize environmental or public health and safety impacts as an alternative to aqueous reprocessing technologies deployed as of the date of enactment of this Act in support of evaluation of alternative national strategies for spent nuclear fuel and the Generation IV advanced reactor concepts, subject to annual review by the Secretary’s Nuclear Energy Research Advisory Committee or other independent entity, as appropriate. Opportunities to enhance progress of this program through international cooperation should be sought.

(b) Reports.—The Secretary shall report to Congress on the activities of the advanced fuel recycling technology research and development program as part of the Department’s annual budget submission.

SEC. 944. UNIVERSITY NUCLEAR SCIENCE AND ENGINEERING SUPPORT.
(a) Establishment.—The Secretary shall support a program to invest in human resources and infrastructure in the nuclear science and engineering academic fields (including health physics and nuclear and radiochemistry), consistent with departmental missions related to civilian nuclear research and development.

(b) Duties.—In carrying out the program under this section, the Secretary shall establish fellowship and faculty assistance programs, as well as provide support for fundamental research and encourage collaborative research among industry, national laboratories, and universities through the Nuclear Energy Research Initiative. The Secretary is encouraged to support activities addressing the entire fuel cycle through involvement of both the Offices of Nuclear Energy, Science Technology and Infrastructure, and Nuclear Waste Management. The Secretary shall support communication and outreach related to nuclear science, engineering and nuclear waste management.

(c) Maintaining University Research and Training Reactors and Associated Infrastructure.—Activities under this section may include—

(1) converting research reactors currently using high-enrichment fuels to low-enrichment fuels, upgrading operational instrumentation and control systems, and sharing of reactors among institutions of higher education;
(2) providing technical assistance, in collaboration with the United States nuclear industry, in relicensing and upgrading training reactors as part of a student training program; and
(3) providing funding for reactor improvement projects as part of a focused effort that emphaizes research, training, and education.

(d) University National Laboratory Interactions.—The Secretary shall develop and administer fellowship and student intern programs to encourage sharing of personnel between national laboratories and universities.

SEC. 945. OPERATING AND MAINTENANCE COSTS.—Funding for a research project provided under this section may be used to offset a
portion of the operating and maintenance costs of a research reactor at an institution of higher education used in the research project.

SEC. 945. SECURITY OF NUCLEAR FACILITIES.

The Secretary, through the Director of the Office of Nuclear Energy, Science and Technology shall conduct a research and development program on cost-effective technologies for improving the safety of nuclear facilities from natural phenomena and the security of nuclear facilities from deliberate attacks.

SEC. 946. ALTERNATIVES TO INDUSTRIAL RADIOACTIVE SOURCES.

(a) SURVEY.—Not later than August 1, 2004, the Secretary shall provide to the Congress results of a survey of industrial applications of large radioactive sources. The survey shall—

(1) consider well-routing sources as one class of industrial sources;

(2) include information on current domestic and international, Department of Defense, State Department and commercial programs to manage and dispose of radioactive sources; and

(3) discuss available disposal options for currently deployed or future sources and, if sufficient data exist for either deployed or future sources, recommend legislative options that Congress may consider to remedy identified deficiencies.

(b) AN.—In connection with the survey in subsection (a), the Secretary shall establish a research and development program to develop alternatives to such sources that reduce emissions, protect environmental, or proliferation risks to either workers using the sources or the public. Miniaturized particle accelerators for well-logging or other industrial applications and portable accelerators for production of short-lived radioactive materials at an industrial site shall be considered as part of the research and development efforts. Details of the program plan shall be provided to the Congress by August 1, 2004.

Subtitle E—Fossil Energy

SEC. 951. FOSSIL ENERGY.

(a) IN GENERAL.—The following sums are authorized to be appropriated to the Secretary for fossil energy research, development, demonstration, and commercial application activities, including activities authorized under this subtitle:

(1) for fiscal year 2004, $523,000,000;

(2) for fiscal year 2005, $542,000,000;

(3) for fiscal year 2006, $538,000,000;

(4) for fiscal year 2007, $535,000,000; and

(5) for fiscal year 2008, $600,000,000.

(b) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

(1) for activities under section 952(b)(2), $28,000,000 for each of the fiscal years 2004 through 2008.

(2) for activities under section 953—

(A) for fiscal year 2004, $12,000,000;

(B) for fiscal year 2005, $15,000,000; and

(C) for each of fiscal years 2006 through 2008, $20,000,000.

(3) for activities under section 954, to remain available until expended—

(A) for fiscal year 2004, $200,000,000;

(B) for fiscal year 2005, $210,000,000; and

(C) for fiscal year 2006, $220,500,000.


(c) EXEMPTIONS.—There are authorized to be appropriated to the Secretary for the Office of Arctic Energy under section 3197 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398), $25,000,000 for each of fiscal years 2009 through 2012.

(d) LIMITS ON USE OF FUNDS.—

(1) None of the funds authorized under this section may be used for Fossil Energy Environmental Restoration or Import/Export Authorization.

(2) Of the funds authorized under subsection (b)(2), not less than 20 percent of the funds appropriated for each fiscal year shall be dedicated to coal-related development carried out at institutions of higher education.

SEC. 952. OIL AND GAS RESEARCH PROGRAM.

(a) OIL AND GAS RESEARCH.—The Secretary shall conduct a program of research, development, demonstration, and commercial application on oil and gas, including—

(1) exploration and production;

(2) gas hydrates;

(3) reservoir life and extension;

(4) transportation and distribution infrastructure;

(5) ultraclean fuels;

(6) heavy oil and oil shale; and

(7) related environmental research.

(b) FUEL CELLS.—

(1) The Secretary shall conduct a program of research, development, demonstration, and commercial application on fuel cells for use in low-cost, high-efficiency, fuel-flexible, modular power systems.

(2) The demonstrations shall include fuel cell proton exchange membrane technology for commercial, residential, and transportation applications, and distributed generation systems, utilizing improved manufacturing processes, growth, and undiscovered resources in Federal and State waters off the coast of Louisiana and Texas.

(c) NATURAL GAS AND OIL DEPOSITS REPORT.—Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Secretary of the Interior, in consultation with other appropriate Federal agencies, shall transmit a report to the Congress of the latest estimates of natural gas and oil reserves, production, and exploration.

(d) INTEGRATED CLEAN POWER AND ENERGY RESEARCH.—

(1) The Secretary shall establish a national center or consortium of excellence in clean energy and power generation, utilizing the resources of the existing Clean Power and Energy Research Consortium, to address the nation’s critical dependence on energy and the need to reduce emissions.

(2) The center or consortium will conduct a program of research, development, demonstration, and commercial application on integrating the following six focus areas:

(A) efficiency and reliability of gas turbines for power generation;

(B) reduction in emissions from power generation;

(C) promotion of energy conservation issues;

(D) effectively utilizing alternative fuels and renewable energy;

(E) development of advanced materials technology for energy exploration and utilization in harsh environments; and

(F) education on energy and power generation issues.

SEC. 953. RESEARCH AND DEVELOPMENT FOR COAL MINING TECHNOLOGIES.

(a) ESTABLISHMENT.—The Secretary shall carry out a program of research and development of coal mining technologies. The Secretary shall cooperate with appropriate Federal agencies, coal producers, trade associations, equipment manufacturers, institutions of higher education, mining safety-related departments, and other relevant entities.

(b) PROGRAM.—The research and development activities carried out under this section shall—

(1) be guided by the mining research and development priorities identified by the Mining Industry of the Future Program and in the recommendations from relevant reports of the National Academy of Sciences on mining technologies;

(2) include activities exploring minimization of contaminants in mined coal that contribute to environmental concerns including development and demonstration of electromagnetic wave imaging ahead of mining operations;

(3) develop and demonstrate coal bed electromagnetic wave imaging and radar technologies for horizontal drilling in order to increase methane recovery efficiency, prevent spoilage of domestic coal reserves and minimize water disposal associated with methane extraction; and

(4) expand mining research capabilities at institutions of higher education.

SEC. 954. COAL AND RELATED TECHNOLOGIES PROGRAM.

(a) IN GENERAL.—In addition to the program authorized under Title II of this Act, the Secretary of Energy shall conduct a program of technology research, development and demonstration and commercial application for coal and power systems, including programs to facilitate production and generation of coal-based power through—

(1) innovations for existing plants;

(2) integrated gasification combined cycle;

(3) advanced combustion systems;

(4) turbines for synthesis gas derived from coal;

(5) carbon capture and sequestration research and development;

(6) coal-derived transportation fuels and chemicals;

(7) solid fuels and feedstocks; and (8) advanced coal-related research and development Programs.

In carrying out programs authorized by this section, the Secretary shall identify cost and performance goals for coal-based technologies that would permit the continued cost-competitive use of coal for electricity generation, as chemical feedstocks, and as transportation fuel in 2007, 2015, and the years 2020. In establishing such cost and performance goals, the Secretary shall—

(1) consider activities and studies undertaken by industry in cooperation with the Department of Energy in support of such assessment;

(2) consult with interested entities, including coal producers, industries using coal, organizations to promote coal and advanced coal technologies, environmental organizations and organizations representing workers;

(3) not later than 120 days after the date of enactment of this section, publish in the Federal Register proposed draft cost and performance goals for public comments; and

(4) not later than 180 days after the date of enactment of this section and every four years thereafter, submit to Congress a report describing final cost and performance goals for such technologies that includes a list of technical milestones as well as an explanation of how programs authorized in this section will not duplicate the activities authorized under the Clean Coal Power Initiative authorized under Title II of this Act.

SEC. 955. COMPLEX WELL TECHNOLOGY TESTING FACILITY.

The Secretary of Energy, in coordination with industry leaders in extended research drilling technology, shall establish a Complex Well Technology Testing Facilty at the Rocky Mountain Oilfield Testing Center to increase the range of extended drilling technologies.
Title F—Science

SEC. 961. SCIENCE.

(a) IN GENERAL.—The following sums are authorized to be appropriated to the Secretary for research, development, demonstration, and commercial application activities of the Office of Science, including activities authorized under this subsection, including the amounts authorized under the amendments made by section 967(o)(2)(D), and including basic energy sciences, advanced scientific and computing research, biological and environmental research, fusion energy sciences, high energy physics, nuclear physics, and research analysis and infrastructure support:

<table>
<thead>
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(b) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

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(c) AUTHORIZATION OF APPROPRIATIONS.—The total amounts authorized by the Department, including prior year appropriations, for the Spallation Neutron Source may not exceed:

<table>
<thead>
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</tr>
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SEC. 962. UNITED STATES PARTICIPATION IN ITER.

(a) PARTICIPATION.—

(1) The Secretary of Energy is authorized to undertake full scientific and technological cooperation in the International Thermonuclear Experimental Reactor (referred to in this title as “ITER”).

(2) In the event that ITER fails to go forward within a reasonable period of time, the Secretary shall send to Congress a plan, including costs and schedules, for implementing the domestic burning plasma experiment known as the Fusion Ignition Research Experiment. Such a plan shall be developed with full consultation with the Fusion Energy Sciences Advisory Committee and be reviewed by the National Research Council.

(3) It is the intent of Congress that such sums shall be largely for work performed in the United States and that such work constitutes an essential contribution to the U.S. scientific and technological base.

(b) PLANNING.—

(1) Not later than 180 days after enactment of this act, the Secretary shall present to Congress a plan, with proposed cost estimates, budgets and potential international partners, for the implementation of the goals of this section. The plan shall ensure that:

(A) existing fusion research facilities are more fully utilized;

(B) fusion science, technology, theory, advanced computation, modeling and simulation are strengthened;

(C) new magnetic and inertial fusion research facilities are selected based on scientific innovation, cost effectiveness, and their potential to advance the goal of practical fusion energy at the earliest date possible, and those that are selected are funded at a cost-effective rate;

(D) communication of scientific results and methods between the fusion energy science community and the broader scientific and technology communities is improved;

(E) inertial confinement fusion facilities are utilized to the extent practicable for the purpose of inertial fusion energy research and development; and

(F) attractive alternative inertial and magnetic fusion energy approaches are more fully explored.

(2) Such plan shall also address the status of, and to the degree possible, costs and schedules for:

(A) in coordination with the program in section 968, the design and implementation of international facilities for the testing of fusion materials; and

(B) the design and implementation of international or national facilities for the testing and development of key fusion technologies.

SEC. 963. SPALLATION NEUTRON SOURCE.

(a) DEFINITION.—For the purposes of this section, the term ‘Spallation Neutron Source’ means Department Project 0900E: 09341, Oak Ridge National Laboratory, Oak Ridge, Tennessee.

(b) REPORT.—The Secretary shall report on the Spallation Neutron Source as part of the Department’s annual budget submission, including a description of the achievement of milestones, a comparison of actual costs to estimated costs, and any changes in estimated project costs or schedule.

(c) AUTHORIZATION OF APPROPRIATIONS.—The total amount authorized by the Department, including prior year appropriations, for the Spallation Neutron Source may not exceed:

<table>
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SEC. 965. CATALYSIS RESEARCH PROGRAM.

(A) ESTABLISHMENT.—The Secretary, through the Office of Science, shall support a program of research and development in catalysis and synthesis science consistent with the Department’s statutory authorities related to research and development. The program shall include efforts to—

(1) develop catalyst design using combinations of experimental and mechanistic methodologies coupled with computational modeling of catalytic reactions at the molecular level;

(2) develop techniques for high throughput synthesis, assay, and characterization at nanometer and sub-nanometer scales in situ under actual operational conditions;

(3) synthesize catalysts with specific site architectures;

(4) conduct research on the use of precious metals for catalysis; and

(5) translate molecular understanding to the design of catalytic compounds.

(b) DUTIES OF THE OFFICE OF SCIENCE.—In carrying out this program, the Director of the Office of Science shall—

(1) support both individual investigators and multidisciplinary teams of investigators to pioneer new approaches in catalytic design;

(2) develop, plan, construct, acquire, share, or operate special equipment or facilities for the use of investigators associated with national user facilities such as nanoscience and engineering centers;
(3) support technology transfer activities to benefit industry and other users of catalysis science and engineering; and

(4) coordinate research and development activities with industry and other federal agencies.

(c) Triennial Assessment.—The National Academy of Sciences shall review the catalysis program every three years to report on gains made in the fundamental science of catalysis and its progress towards developing new fuels for energy production and material fabrication.

SEC. 966. NANOSCALE SCIENCE AND ENGINEERING RESEARCH.

(a) Establishment.—The Secretary, acting through the Office of Science, shall support a program of research, development, demonstration, and commercial application in nanoscience and nanotechnology. The program shall include initiatives to facilitate the understanding of the chemistry, physics, materials science, and engineering of phenomena on the scale of nanometers and to apply this knowledge to the Department's mission areas.

(b) Duties of the Office of Science.—In carrying out the program under this section, the Office of Science shall:

(1) support both individual investigators and teams of investigators, including multidisciplinary teams;

(2) carry out activities under subsection (c);

(3) support technology transfer activities to benefit industry and other users of nanoscience and nanotechnology; and

(4) coordinate research and development activities with other DOE programs, industry and other Federal agencies.

(c) Nanoscience and Nanotechnology Research Centers and Major Instrumentation.—

(1) The Secretary shall carry out projects to develop, plan, construct, acquire, operate, or support special equipment, instrumentation, or facilities for investigators conducting research and development in nanoscience and nanotechnology.

(2) Projects under paragraph (1) may include the measurement of properties at the scale of nanometers, manipulation at such scales, and the integration of technologies based on nanoscience or nanotechnology into both other technologies.

(3) Facilities under paragraph (1) may include electron microcharacterization facilities, micrography, facilities, scanning probe facilities, and related instrumentation.

(4) The Secretary shall encourage collaborations among DOE programs, institutions of higher education, laboratories, and industry at facilities under this subsection.

SEC. 967. ADVANCED SCIENTIFIC COMPUTING RESEARCH AND ENERGY MISSIONS.

(a) In General.—The Secretary, acting through the Office of Science, shall support a program to advance the Nation's computing capabilities by developing software to integrate geographically separated researchers into effective research teams and to facilitate access to and movement and analysis of large (petabyte) data sets; maintain a robust scientific computing hardware infrastructure to ensure that the computational and support resources needed to address departmental missions are available; and

(b) Duties of the Office of Science.—In carrying out the program under this Act, the Secretary shall—

(1) support individual investigators and multidisciplinary teams of investigators;

(2) subject to subsection (d), develop, plan, construct, acquire, or operate special equipment and facilities for researchers conducting research, development, demonstration, or commercial application in systems biology and proteomics;

(3) support technology transfer activities to benefit industry and other users of systems biology and proteomics; and

(4) coordinate activities by the Department with industry and other federal agencies.

(d) Genomes to Life User Facilities and Ancillary Equipment.—

(1) Within the funds authorized to be appropriated pursuant to this Act, the amounts specified under section 961(b)(7) shall, subject to appropriations, be available for projects to develop, plan, construct, acquire, or operate special equipment and facilities for investigators conducting research, development, demonstration, and commercial application in systems biology and proteomics and associated biological disciplines.

(2) Projects under paragraph (1) may include:

(A) the identification and characterization of multiprotein complexes;

(B) characterization of gene regulatory networks;

(C) characterization of the functional repertoire of complex microbial communities in their natural environments at the molecular level; and

(D) development of computational methods and capabilities to advance understanding of complex biological systems and predict their behavior.

(3) Facilities under paragraph (1) may include facilities, equipment, or instrumentation for:

(A) the production and characterization of proteins;

(B) whole proteome analysis;

(C) characterization and imaging of molecular machines; and

(D) analysis and modeling of cellular systems.

(4) The Secretary shall encourage collaborations among universities, laboratories, and industry at facilities under this subsection. All facilities under this subsection shall have a specific mission of technology transfer to other institutions.

SEC. 968. GENOMES TO LIFE PROGRAM.

(a) Establishment.—The Secretary shall carry out a program of research, demonstration, and commercial applications known as the Genomes to Life Program, to be known as the Genomics to Life Research and Development Program.

(b) Planning.—

(1) The Secretary shall prepare a program plan describing how knowledge and capabilities to advance understanding of complex biological systems and predict their behavior.

(2) The program plan will be developed in consultation with other relevant Department technology programs.

(3) The program plan shall focus science and technology on long-term goals, including—

(A) contributing to U.S. independence from foreign energy sources, including production of hydrocarbons;

(B) converting carbon dioxide to organic carbon; (C) advancing environmental cleanup; (D) providing the science and technology for new biotechnology industries; and (E) improving national security and combating terrorism.

(4) The program plan shall establish specific short-term goals and update these goals with the Secretary’s annual budget submission.

(c) Program Execution.—In carrying out the program under this Act, the Secretary shall

(1) support individual investigators and multidisciplinary teams of investigators;

(2) subject to subsection (d), develop, plan, construct, acquire, or operate special equipment and facilities for researchers conducting research, development, demonstration, or commercial application in systems biology and proteomics;

(3) support technology transfer activities to benefit industry and other users of systems biology and proteomics; and

(4) coordinate activities by the Department with industry and other federal agencies.

(d) Genomes to Life User Facilities and Ancillary Equipment.—

(1) Within the funds authorized to be appropriated pursuant to this Act, the amounts specified under section 961(b)(7) shall, subject to appropriations, be available for projects to develop, plan, construct, acquire, or operate special equipment and facilities for investigators conducting research, development, demonstration, and commercial application in systems biology and proteomics and associated biological disciplines.

(2) Projects under paragraph (1) may include:

(A) the identification and characterization of multiprotein complexes;

(B) characterization of gene regulatory networks;

(C) characterization of the functional repertoire of complex microbial communities in their natural environments at the molecular level; and

(D) development of computational methods and capabilities to advance understanding of complex biological systems and predict their behavior.

(3) Facilities under paragraph (1) may include facilities, equipment, or instrumentation for:

(A) the production and characterization of proteins;

(B) whole proteome analysis;

(C) characterization and imaging of molecular machines; and

(D) analysis and modeling of cellular systems.

(4) The Secretary shall encourage collaborations among universities, laboratories, and industry at facilities under this subsection. All facilities under this subsection shall have a specific mission of technology transfer to other institutions.

SEC. 969. FISSION AND FUSION ENERGY MATERIALS RESEARCH PROGRAM.

In the President's fiscal year 2006 budget request, the Secretary shall establish a research and development program on material science issues presented by advanced fission reactors and the Department’s fusion energy program. The program shall develop a catalog of material properties required for these applications, develop theoretical models for materials possessing the required properties, benchmark models against existing data, and develop a roadmap to guide further research and development in this area.

SEC. 970. ENERGY-WATER SUPPLY TECHNOLOGIES PROGRAM.

(a) Establishment.—The Office of Science is established within the Office of Science, Office of Biological and Environmental Research, the
“Energy-Water Supply Technologies Program,” to study energy-related issues associated with water resources and municipal water networks and to study water supply issues related to energy production.

(b) Definitions.—

(1) The term “Foundation” means the American Water Works Association Research Foundation.

(2) The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (20 U.S.C. 450i).

(3) The term “Program” means the Water and Energy Sustainability Program established by section 1307.

(c) Program Areas.—The program shall conduct research and development, including—

(1) arsenic removal under subsection (d);

(2) desalination research program under subsection (e);

(3) the water and energy sustainability program under subsection (f); and

(4) other energy-intensive water supply and treatment technologies and other technologies selected by the Secretary.

(d) Program Activities.—

(1) As soon as practicable after the date of enactment of this Act, the Secretary shall enter into an initial contract with the Foundation to utilize the facilities, institutions and relationships established in the “Consolidated Appropriations Resolution, 2003” as described in Senate Report 107-220 that will carry out the Program to develop and demonstrate innovative arsenic removal technologies.

(2) In carrying out the arsenic removal program, the Foundation shall, to the maximum extent practicable, conduct research on means of—

(A) reducing energy costs incurred in using arsenic removal technologies;

(B) minimizing materials, operating, and maintenance costs incurred in using arsenic removal technologies; and

(C) minimizing any quantities of waste (especially hazardous waste) that result from use of arsenic removal technologies.

(3) The Foundation shall carry out peer-reviewed research and demonstration projects to develop and demonstrate water purification technologies.

(4) In carrying out the arsenic removal program—

(A) demonstration projects will be implemented with municipal water system partners that have the capability of using innovative arsenic removal technologies in areas with different water chemistries representative of areas across the United States with arsenic levels near or exceeding EPA guidelines; and

(B) not less than 40 percent of the funds of the Program used for demonstration projects under the arsenic removal program shall be expended on projects focused on needs of and in partnership with rural communities and Indian tribes.

(5) The Foundation shall develop evaluations of cost effectiveness of arsenic removal technologies used in the program and an education, training, and technology transfer component for the program.

(6) The Secretary shall consult with the Administrator of the Environmental Protection Agency about using that expertise, as appropriate, and the Indian tribes and academia.

(7) Not later than 1 year after the date of commencement of the arsenic removal program, and annually thereafter, the Secretary shall submit to Congress a report on the results of the arsenic removal program.

(e) Desalination Program.—

(1) The Secretary, in cooperation with the Commissioner of Reclamation, shall carry out a desalination research program in accordance with the desalination technology program established by the Energy and Water Development Program Act, 2002 (115 Stat. 49b), and described in Senate Report 107–39 under the heading “WATER AND RELATED RESOURCES” in the “BUREAU OF RECLAMATION” section.

(2) The desalination program shall—

(A) draw on the national laboratory partnerships established with the Bureau of Reclamation to develop the January 2003 national Desalination Research and Financial Support program for next-generation desalination technology;

(B) focus on research relating to, and development and demonstration of, technologies that are appropriate for use in desalinating brackish groundwater, wastewater and other saline water supplies; disposal of residual brine or salt; and

(C) consider the use of renewable energy sources.

(3) Under the desalination program, funds made available may be used for construction projects, including completion of the National Desalination Research Center for brackish groundwater and ongoing facility operations.

(4) The Secretary and the Commissioner of Reclamation shall jointly establish a steering committee for the desalination program. The steering committee will be jointly chaired by 1 representative from this Program and 1 representative from the Bureau of Reclamation.

(f) Water and Energy Sustainability Program.—

(1) The Secretary shall carry out a research program to develop understanding and technologies to assist in ensuring that sufficient quantities of water are available to meet present and future requirements.

(2) Under this program and in collaboration with other programs within the Department and with provinces in the United States, the Secretary shall—

(A) assess the current state of knowledge and program activities concerning—

(a) future water resources needed to support energy production within the United States including but not limited to the water needs for hydropower and thermo-electric power generation;

(b) future energy resources needed to support development of water purification and treatment including desalination and long-distance water conveyance;

(c) reuse and treatment of water produced as a by-product of oil and gas extraction;

(d) use of non-traditional water supplies for energy production and other uses; and

(e) technologies to reduce water use in energy production.

(3) In addition to the assessments in (2), the Secretary shall—

(A) develop a research plan defining the scientific and technology development needs and activities required to support long-term water needs and planning for energy sustainability and the use of energy, use of energy for energy production and other uses, and reduction of water use in energy production;

(B) carry out a research plan required under (A) including development of numerical models, decision analysis tools, economic analysis tools, databases, planning methodologies, and other appropriate tools;

(C) implement at least three planning demonstration projects using the models, tools and planning approaches developed under subparagraph (B) and assess the viability of these tools at the scale of river basins with at least one demonstration involving an international border.

(D) transfer these tools to other federal agencies, state agencies, non-profit organizations, industry and academia for use in their own energy and water sustainability programs.

(4) Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the water and energy sustainability program that describes the research elements described under paragraph (2), and makes recommendations for a management structure that optimizes use of Federal resources and programs.

(g) Cost Sharing.—

(1) Research projects under this section shall not require cost-sharing.

(2) Each demonstration project carried out under the Program shall be carried out on a cost-shared basis, as determined by the Secretary.

(3) With respect to a demonstration project, the Secretary may accept in-kind contributions, and waive the cost-sharing requirement in appropriate circumstances.

Subtitle C—Energy and Environment

SEC. 971. UNITED STATES-MEXICO ENERGY TECH- NOL OGY COOPERATION.

(a) Program.—The Secretary shall establish a research, development, demonstration, and commercial application program, to be carried out in collaboration with entities in Mexico and the United States to promote energy efficient, environmentally sound economic development along the United States-Mexico border which minimizes public health risks from industrial activities in the border region.

(b) Program Management.—The program under subsection (a) shall be managed by the Department of Energy Carlsbad Environmental Management Office.

(c) Technology Transfer.—In carrying out projects and activities under this section, the Secretary shall assess the applicability of technology developed under the Environmental Management Science Program of the Department.

(d) Intellectual Property.—In carrying out projects and activities under this section, the Secretary shall comply with the requirements of any agreement entered into between the United States and Mexico regarding intellectual property protection.

(e) Authorization of Appropriations.—

The following sums are authorized to be appropriated to the Secretary to carry out activities under this section:

(1) For each of fiscal years 2004 and 2005, $5,000,000; and

(2) For each of fiscal years 2006, 2007, and 2008, $6,000,000.

SEC. 972. COAL TECHNOLOGY LOAN.

There are authorized to be appropriated to the Secretary $125,000,000 to provide a loan to the owner of the experimental plant constructed under a previous Department of Energy cooperative agreement number DE-FC-22-91PC90544 on such terms and conditions as the Secretary determines, including interest rates and repayment terms.

Subtitle H—Management

SEC. 981. AVAILABILITY OF FUNDS.

Funds authorized to be appropriated to the Department under this title shall remain available until expended.

SEC. 982. COST SHARING.

(a) Research and Development.—Except as otherwise provided in this title, for research and development programs carried out under this title, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of...
the project. Cost sharing is not required for research and development of a basic or fundamental nature.

(b) Demonstration and Commercial Application. In addition to other provisions that the reduced cost is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this Act.

(c) Calculation of Amount.—In calculating the amount of the non-Federal commitment under subsection (a) or (b), the Secretary may include personnel, services, equipment, and other resources.

SEC. 983. MERIT REVIEW OF PROPOSALS.

Awards of funds authorized under this title shall be made only after an impartial review of the scientific and technical merit of the proposals for such awards has been carried out by or for the Department.

SEC. 984. EXTENDING TECHNICAL REVIEW OF DEPARTMENTAL PROGRAMS.

(a) National Energy Research and Development Advisory Boards.—

(1) Each Department shall establish one or more advisory boards to review Department research, development, demonstration, and commercial application programs in energy efficiency, renewable energy, nuclear energy, and fossil energy.

(2) The Secretary may designate an existing advisory board within the Department to fulfill the responsibilities of an advisory board under this subsection, and may enter into appropriate arrangements with the National Academy of Sciences to establish such an advisory board.

(b) Utilization of Existing Committees.—The Secretary shall continue to use the scientific program advisory committees chartered under the Federal Advisory Committee Act by the Office of Science to oversee research and development programs under that Office.

(c) Membership.—Each advisory board under this section shall consist of persons with appropriate expertise representing a diverse range of interests.

(d) Functions and Purposes.—Each advisory board under this section shall meet at least semi-annually to review and advise on the progress made by the respective research, development, demonstration, and commercial application program or programs. The advisory board shall also review the measurable cost and performance-based goals for such programs as established under section 902, and the progress on meeting such goals.

(e) Periodic Reviews and Assessments.—The Secretary shall enter into appropriate arrangements with the National Academy of Sciences to conduct periodic reviews and assessments of the programs authorized by this title, the measurable cost and performance-based goals for such programs as established under section 902, if any, and the progress on meeting such goals. Such reviews and assessments shall be conducted every 5 years, or more often as the Secretary considers necessary, and the Secretary shall transmit to the Congress reports containing the results of all assessments conducted under this subsection.

SEC. 985. IMPROVED COORDINATION OF TECHNOLOGY TRANSFER ACTIVITIES.

(a) Technology Transfer Coordinator.—The Secretary shall designate a Technology Transfer Coordinator to perform oversight of and policy development for technology transfer activities at the Department. The Technology Transfer Coordinator shall coordinate the activities of the Technology Transfer Working Group, shall oversee the Technology Transfer Working Group, shall coordinate the activities of the Technology Transfer Working Group, and shall coordinate with each technology partnership ombudsman appointed under section 11 of the Stevenson-Wydler Technology Innovation Act of 2000 (42 U.S.C. 7261c).

(b) Technology Transfer Working Group.—The Secretary shall establish a Technology Transfer Working Group, which shall consist of representatives of the National Laboratories and single-purpose research facilities, to—

(1) coordinate technology transfer activities occurring at National Laboratories and single-purpose research facilities;

(2) exchange information about technology transfer policies, practices, and programs; and

(3) develop and disseminate to the public and prospective technology partners information about opportunities and procedures for technology transfer in the Department, including those related to alternative approaches to resolution of disputes involving intellectual property rights and other technology transfer matters.

(c) Technology Transfer Responsibility.—Nothing in this section shall affect the technology transfer responsibilities of the Federal employees under the Stevenson-Wydler Technology Innovation Act of 1980.

SEC. 986. TECHNOLOGY INFRASTRUCTURE PROGRAM.

(a) Establishment.—The Secretary shall establish a Technology Infrastructure Program in accordance with this section.

(b) Purpose of the Technology Infrastructure Program.—The purpose of the Technology Infrastructure Program shall be to improve the ability of National Laboratories and single-purpose research facilities to support departmental missions by—

(1) stimulating the development of technology clusters that can support departmental missions at the National Laboratories or single-purpose research facilities;

(2) improving the ability of National Laboratories and single-purpose research facilities to leverage and benefit from commercial and non-profit research, products, processes, and services; and

(3) encouraging the exchange of scientific and technological expertise between National Laboratories or single-purpose research facilities and entities that can support departmental missions at the National Laboratories or single-purpose research facilities, such as institutions of higher education, technology-related business concerns, nonprofit institutions, and State, tribal, or local governments.

(c) Projects.—The Secretary shall authorize the Director of each National Laboratory or single-purpose research facility to imple-
transmit a report to the Congress identifying any policies or procedures of a contractor operating a National Laboratory or single-purpose research facility that create disincentives to the temporary transfer of scientific and technical personnel among the contractor-operated National Laboratories or contractor-operated single-purpose research facility, and improving inter-laboratory exchange of scientific and technical personnel.

SEC. 989. NATIONAL ACADEMY OF SCIENCES REPORT.

Not later than 90 days after the date of enactment of this Act, the Secretary shall enter into an arrangement with the National Academy of Sciences for the Academy to—

(1) conduct a study on—

(A) the obstacles to accelerating the research, development, demonstration, and commercial application cycle for energy technology;

(B) the adequacy of Department policies and procedures for, and oversight of, technology transfer-related disputes between contractors of the Department and the private sector; and

(2) report to the Congress on recommendations developed as a result of the study.

SEC. 990. OUTREACH.

The Secretary shall ensure that each program authorized by this title includes an outreach component to provide information, as appropriate, to manufacturers, consultants, engineers, architects, energy service companies, institutions of higher education, facility planners and managers, and local governments.

(b) Small Business Advocacy and Assistance

SEC. 987. SMALL BUSINESS ADVOCACY AND ASSISTANCE.

(a) Small Business Advocate.—The Secretary shall require the Director of each National Laboratory, and may require the Director of a single-purpose research facility, to designate a small business advocate to—

(1) increase the participation of small business concerns, including socially and economically disadvantaged small business concerns, in procurement, collaborative research, technology licensing, and technology transfer activities conducted by the Secretary, the National Laboratory or single-purpose research facility;

(2) report to the Director of the National Laboratory or single-purpose research facility on the actual participation of small business concerns in procurement and collaborative research along with recommendations, appropriate, on how to improve participation;

(3) make available to small businesses training, mentoring, and information on how to participate in procurement and collaborative research activities;

(4) increase the awareness inside the National Laboratory or single-purpose research facility of the capabilities and opportunities presented by small business concerns; and

(5) establish guidelines for the program under subsection (b) and report on the effectiveness of such program to the Director of the National Laboratory or single-purpose research facility.

(b) Establishment of Small Business Assistance Program.—The Secretary shall require the Director of each National Laboratory, and may require the Director of a single-purpose research facility, to establish a program to provide small business concerns—

(1) assistance directed at making them more effective and efficient subcontractors or suppliers to the National Laboratory or single-purpose research facility; or

(2) general technical assistance, the cost of which shall not exceed $10,000 per instance of assistance, to improve the small business concern’s products or services.

(c) Small Business Concern.—None of the funds expended under subsection (b) may be used for direct grants to the small business concerns.

(d) Small Business Advocate.—(1) The term “small business concern” has the meaning given such term in section 3 of the Small Business Act (15 U.S.C. 632).

(2) Notwithstanding the meaning provided under this section, the term “small business concern” means an other’s performance in the areas of technology and services.

(e) Authority of Appropriations.—There is authorized to be appropriated to the Secretary $10,000,000 for each of fiscal years 2004, 2005, and 2006.

SEC. 988. MOBILITY OF SCIENTIFIC AND TECHNICAL PERSONNEL.

Not later than 2 years after the date of enactment of this section, the Secretary shall transmit a report to the Congress identifying any policies or procedures of a contractor operating a National Laboratory or single-purpose research facility that create disincentives to the temporary transfer of scientific and technical personnel among the contractor-operated National Laboratories or contractor-operated single-purpose research facility;

(a) Effective Top-Level Coordination of Research and Development Programs.—Section 202(b) of the Department of Energy Organization Act (42 U.S.C. 7132(b)) is amended to read as follows:

‘‘(b)(1) The Under Secretary for Energy and Science shall—

(A) serve as the Secretary and as the Technology Advisor to the Secretary;

(B) monitor the Department’s research and development programs in order to advise the Secretary with respect to research, development, and long-term basic and applied research activities of the Department; and

(C) advise the Secretary with respect to the well-being and management of the multi-purpose laboratories under the jurisdiction of the Department;

(2) The Secretary shall ensure that each program authorized by this title includes an outreach component to provide information, as appropriate, to manufacturers, consultants, engineers, architects, energy service companies, institutions of higher education, facility planners and managers, and local governments.

SEC. 992. REPROGRAMMING.

None of the funds authorized to be appropriated by this title may be used to award a management and operating contract for a nonmilitary energy laboratory of the Department unless such contract is competitively awarded or the Secretary grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver and shall submit to the Congress a report notifying the Congress of the waiver and setting forth the reasons for the waiver at least 60 days prior to the date of the award of such a contract.

SEC. 993. CONSTRUCTION WITH OTHER LAWS.

Except as otherwise provided in this title, the Secretary shall carry out the research, development, demonstration, and commercial application programs, projects, and activities authorized by this title in accordance with the applicable provisions of the Atomic Energy Act of 1954 (42 U.S.C. 1731 et seq.), the Energy Policy Act of 1992 (42 U.S.C. 13201 et seq.), the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), chapter 18 of title 35, United States Code (commonly referred to as the Bayh-Dole Act), and any other Act under which the Secretary is authorized to carry out such activities.

SEC. 994. IMPROVED COORDINATION AND MANAGEMENT OF CIVILIAN SCIENCE AND TECHNOLOGY PROGRAMS.

(a) Effective Top-Level Coordination of Research and Development Programs.—There are authorized to be appropriated to the Secretary $5,000,000 for each of fiscal years 2004 through 2008.

(b) Assistant Secretary for Science shall be in addition to the position of Assistant Secretary for Science.
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(c) It shall be the duty and responsibility of the Assistant Secretary for Science to carry out the fundamental science and engineering research functions of the Department, with responsibility for policy and management of such research, as well as other functions vested in the Secretary which he may assign to the Assistant Secretary for Science.

(2) Notwithstanding section 3345(b)(1) of title 5, United States Code, the President may designate the Director of the Office of Science as the Deputy Secretary prior to the effective date of this Act to act in the office of the Assistant Secretary of Energy for Science until the office is filled as provided in section 209 of this Act. The Deputy Secretary may appoint an assistant by inserting before the period: ": Assistant Secretaries’.

(b) Section 3169 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381a) is amended by inserting before the period: ": Assistant Secretaries’.

(c) The Assistant Secretaries of Energy Science Education shall be appointed not later than 180 days after the date of enactment of this Act, and shall be eliminated if the Secretary determines that such positions are no longer necessary.

(d) The Assistant Secretary of Energy Science Education shall be designated by the Secretary, and shall be appointed by the President by and with the advice and consent of the Senate, to serve in the Department six Assistant Secretaries and insertion: "Except as provided in section 209, the Department six Assistant Secretaries’.

Sec. 209. SEC. 995. SEC. 996. SEC. 1001. SEC. 1002. SEC. 1003. SEC. 1004.

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(c) It shall be the duty and responsibility of the Assistant Secretary for Science to carry out the fundamental science and engineering research functions of the Department, with responsibility for policy and management of such research, as well as other functions vested in the Secretary which he may assign to the Assistant Secretary for Science.

(2) Notwithstanding section 3345(b)(1) of title 5, United States Code, the President may designate the Director of the Office of Science as the Deputy Secretary prior to the effective date of this Act to act in the office of the Assistant Secretary of Energy for Science until the office is filled as provided in section 209 of the Department of Energy Organization Act, as amended by paragraph (1). While so acting, such person shall receive compensation at the rate provided by this Act for the office of Assistant Secretary for Science.

(c) ADDITIONAL ASSISTANT SECRETARY POSITION TO ENABLE IMPROVED MANAGEMENT OF NUCLEAR ENERGY ISSUES.—

(1) Section 203(a) of the Department of Energy Organization Act (42 U.S.C. 7133(a)) is amended by striking: "There shall be in the Department six Assistant Secretaries" and inserting: "Except as provided in section 209, there shall be in the Department seven Assistant Secretaries."

(2) It is the sense of the Congress that the leadership for departmental missions in nuclear energy should be at the Assistant Secretary level.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 202 of the Department of Energy Organization Act (42 U.S.C. 7132) is further amended by adding the following at the end:

"(d) There shall be in the Department an Assistant Secretary, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall perform such functions and duties as the Secretary shall prescribe, consistent with this section. The Assistant Secretary shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code."

"(e) There shall be in the Department a General Counsel, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall perform such functions and duties as the Secretary shall prescribe. The General Counsel shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code."

(2) Section 5314 of title 5, United States Code, is amended by striking: "Under Secretary of Energy (2)" and inserting: "Under Secretaries of Energy (3)";

(3) Section 5315 of title 5, United States Code, is amended by:

(A) striking "General Counsel, Office of Science, Department of Energy."; and

(B) striking "Assistant Secretaries of Energy (6)" and inserting "Assistant Secretaries of Energy (8)";

(4) The table of contents for the Department of Energy Organization Act (42 U.S.C. 7132) is amended by substituting "Enviro. Sec. 203." for "Sec. 203:";

(A) by striking "Sec. 209:" and inserting "Sec. 209:";

(B) by striking "213.2." and inserting "Sec. 213.2.";

(C) by striking "214.2." and inserting "Sec. 214.2.";

(D) by striking "215.2." and inserting "Sec. 215.2.";

(E) by striking "216.2." and inserting "Sec. 216.2."

SEC. 995. EDUCATIONAL PROGRAMS IN SCIENCE AND MATHEMATICS.

(a) Section 316a of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381a) is amended by adding at the end:

"(14) Support competitive events for students, under supervision of teachers, designed to enhance interest and knowledge in science and mathematics."

(b) Section 3169 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7256) is amended by inserting before the period: ": Assistant Secretaries’.

(c) The Assistant Secretaries of Energy Science Education shall be appointed not later than 180 days after the date of enactment of this Act, and shall be eliminated if the Secretary determines that such positions are no longer necessary.

(d) The Assistant Secretary of Energy Science Education shall be designated by the Secretary, and shall be appointed by the President by and with the advice and consent of the Senate, and may not be delegated to any other person.

SEC. 996. SECURITY TRANSACTIONS AUTHORITY.

Section 616 of the Department of Energy Organization Act (42 U.S.C. 7256) is amended by adding at the end the following:

"(g)(1) In addition to other authorities granted to the Secretary by other law, the Secretary may enter into other transactions on such terms as the Secretary may deem appropriate in furtherance of research, development, or demonstration functions vested in the Secretary. Such other transactions shall not be subject to the provisions of section 8 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908).

"(2)(A) The Secretary shall ensure that:

"(i) to the maximum extent the Secretary determines practicable, the funds provided by the Government under a transaction authorized by paragraph (1) do not exceed the total amount provided by other parties to the transaction;

"(ii) To the extent the Secretary determines practicable, competitive, merit-based selection procedures shall be used when entering into transactions under paragraph (1);

"(B) A transaction authorized by paragraph (1) may be used for a research, development, or demonstration project only if the Secretary determines the use of a standard contract, grant, or cooperative agreement for the project is not feasible or appropriate.

"(C) The Secretary may protect from disclosure, including disclosure under section 552 of title 5, United States Code, for up to 5 years after the date the information is received by the Secretary, any information entered into a transaction under paragraph (1), to the maximum extent the Secretary determines practicable, competitive, merit-based selection procedures shall be used when entering into transactions under paragraph (1), that duplicates research, development, or demonstration functions vested in the Secretary.

"(3) The Secretary shall protect from disclosure, information entering into a transaction authorized by paragraph (1), to the maximum extent the Secretary determines practicable, competitive, merit-based selection procedures shall be used when entering into transactions under paragraph (1), that duplicates research, development, or demonstration functions vested in the Secretary.

"(4) Not later than 90 days after the date of enactment of this Act, the Secretary shall prescribe guidelines for using other laws for the acquisition of services or property and the amendments provided by this section.

"(5) The authority of the Secretary under this subsection may be delegated only to an officer of the Department who is appointed by the President by and with the advice and consent of the Senate and may not be delegated to any other person.

SEC. 997. REPORT ON ENVIRONMENTAL AND DEVELOPMENT PROGRAM EVALUATION METHODOLOGIES.

Not later than 180 days after the date of enactment of this Act, the Secretary shall enter into appropriate arrangements with the National Academy of Sciences to investigate and report on the scientific and technical programs of the Department and other Federal officials. Not later than 6 months after receiving the report of the National Academy, the Secretary shall submit such report to Congress along with any other views or plans of the Secretary with respect to the future use of such evaluation methodology.

TITLE X—PERSONNEL AND TRAINING

SEC. 1001. WORKFORCE TRENDS AND TRAINERSHIP GRANTS.

(a) WORKFORCE TRENDS.—

"(1) The Secretary (in this title referred to as the "Secretary"), in consultation with the Secretary of Labor and utilizing statistical data collected by the Secretary of Labor, shall determine the workforce of skilled technical personnel supporting energy technology industries, including renewable energy industries, companies developing and commercializing devices to increase energy efficiency, the oil and gas industry, the nuclear power industry, the coal industry, and other industrial sectors as the Secretary may deem appropriate.

"(2) The Secretary shall report to the Congress whenever the Secretary determines that significant national shortfalls of skilled technical personnel or segments of the energy industry are forecast or have occurred.

(b) TRAINERSHIP GRANTS FOR SKILLED TECHNICAL PERSONNEL.—The Secretary, in consultation with the Secretary of Labor, may make grants to the appropriate offices of the Department of Energy to enhance training of skilled technical personnel for which a shortfall is determined under subsection (a).

(c) DEFINITIONS.—For purposes of this section, the term "skilled technical personnel" means journey and apprentice level workers who are enrolled in or have completed a career or trade school, or an on-the-job training program and other skilled workers in energy technology industries.

(d) AUTHORIZATION OF APPROPRIATIONS.—For purposes of this section, there are authorized to be appropriated to the Secretary $20,000,000 for each of fiscal years 2004 through 2008, to remain available until expended.

SEC. 1002. RESEARCH FELLOWSHIPS IN ENERGY RESEARCH.

(a) POSTDOCTORAL FELLOWSHIPS.—The Secretary shall establish a program of fellowships to encourage outstanding young scientists and engineers to pursue postdoctoral research appointments in energy research and development and at institutions of higher education of their choice.

(b) DISTINGUISHED SENIOR RESEARCH FELLOWS.—The Secretary shall establish a program of fellowships to allow outstanding senior researchers in energy research and development and their research groups to expedite research and development topics of their choosing for a fixed period of time. Awards under this program shall be made on the basis of past scientific or technical accomplishments and proposed accomplishments during the period of support, which shall not be less than 3 years.
SEC. 3167. PARTNERSHIPS WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, HISPANIC-SERVING INSTITUTIONS, AND TRIBAL COLLEGES TO FACILITATE THE IMPROVEMENT OF ENERGY EFFICIENCY.

The Secretary shall support the establishment of partnerships with historically Black colleges and universities, Hispanic-serving institutions, or tribal colleges to maintain or improve the levels authorized by law or established by regulation.

(a) DEFINITIONS. In this section:

(1) HISPANIC-SERVING INSTITUTION.—The term ‘Hispanic-serving institution’ has the meaning given that term in section 302(a) of the Higher Education Act of 1965 (20 U.S.C. 1073a(a)).

(2) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term ‘historically Black college or university’ has the meaning given that term ‘part B institution’ in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

(3) NATIONAL LABORATORY.—The term ‘National Laboratory’ has the meaning given that term in section 905(b) of the Energy Policy Act of 2003.

(4) TRIBAL COLLEGE.—The term ‘tribal college’ has the meaning given the term ‘tribally controlled college or university’ in section 2(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)).

(b) EDUCATION PARTNERSHIPS.—The Secretary shall direct the Director of each National Laboratory, and may direct the head of any science facility, to increase the participation of historically Black colleges or universities, Hispanic-serving institutions, or tribal colleges in activities that increase the capacity of the historically Black colleges or universities, Hispanic-serving institutions, or tribal colleges to train personnel in science or engineering.

(c) ACTIVITIES.—An activity under subsection (b) may include—

(1) collaboration research;

(2) equipment transfer;

(3) training activities conducted at a National Laboratory or science facility; and

(4) mentoring activities conducted at a National Laboratory or science facility.

(d) DEPARTMENTAL DETERMINATION.—Not later than 2 years after the date of enactment of this section, the Secretary shall submit to the Congress a report on the activities conducted under this section.

SEC. 1005. IMPROVED ACCESS TO ENERGY-RELATED SCIENTIFIC AND TECHNICAL CAREERS.

(a) DEPARTMENT OF ENERGY SCIENCE EDUCATION PROGRAMS.—Section 3164 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7361a) is amended by adding at the end the following:

"(c) PROGRAMS FOR STUDENTS FROM UNDER-REPRESENTED GROUPS.—In carrying out program under subsection (a), the Secretary shall give priority to activities that are designed to encourage students from under-represented groups to pursue scientific and technical careers."

(b) PARTNERSHIPS WITH HISTORICALLY BLACK COLLEGES AND UNIVER-SITIES, HISPANIC-SERVING INSTITUTIONS, AND TRIBAL COLLEGES.—The Department of Energy Science Education Enhancement Act (42 U.S.C. 7361a) is amended—

(1) by redesignating sections 3167 and 3168 as sections 3168 and 3159, respectively; and

(2) by inserting after section 3156 the following:

"SEC. 3167. PARTNERSHIPS WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, HISPANIC-SERVING INSTITUTIONS, AND TRIBAL COLLEGES.

"(a) DEFINITIONS. In this section:

"(2) ‘historically Black college or university’ has the meaning given the term ‘part B institution’ in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061);"

(3) NATIONAL LABORATORY.—The term ‘National Laboratory’ has the meaning given that term in section 905(b) of the Energy Policy Act of 2003.

(4) ‘tribal college’ has the meaning given the term ‘tribally controlled college or university’ in section 2(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)).

(b) EDUCATION PARTNERSHIPS.—The Secretary shall support the establishment of partnerships with historically Black colleges and universities, Hispanic-serving institutions, or tribal colleges to increase the capacity of the historically Black colleges or universities, Hispanic-serving institutions, or tribal colleges to train personnel in science or engineering.

(c) ACTIVITIES.—An activity under subsection (b) may include—

(1) collaboration research;

(2) equipment transfer;

(3) training activities conducted at a National Laboratory or science facility; and

(4) mentoring activities conducted at a National Laboratory or science facility.

(d) DEPARTMENTAL DETERMINATION.—Not later than 2 years after the date of enactment of this section, the Secretary shall submit to the Congress a report on the activities conducted under this section.

SEC. 1006. NATIONAL POWER PLANT OPERATIONS TECHNOLOGY AND EDUCATION CENTER.

(a) ESTABLISHMENT.—The Secretary shall support the establishment of a National Power Plant Operations Technology and Education Center to provide for reliable operation of the electric power generation system and for the efficient and safe operation of the transmission and distribution systems associated with such system.

(b) RESPONSIBILITIES.—The Secretary shall—

(1) establish the Center; and

(2) conduct activities on site and through Internet-based information technologies that allow for learning at remote sites.

(c) CRITERIA FOR COMPETITIVE SELECTION.—The Secretary shall support the establishment of the Center at an institution of high-er learning that is a national leader in power plant technology and operation and with the ability to provide on-site as well as Internet-based training.

SEC. 1007. FEDERAL MINE INSPECTORS.

In light of projected retirements of Federal mine inspectors and the need for additional personnel, the Secretary of Labor shall hire, train, and deploy additional skilled Federal mine inspectors as necessary to ensure the availability of skilled and experi-enced individuals and to maintain the number of Federal mine inspectors at or above the levels authorized by law or established by regulation.

TITLE XI—ELECTRICITY

SEC. 1101. DEFINITIONS.

SEC. 1101a. (a) ELECTRIC UTILITY.—Section 323(e) of the Federal Power Act (16 U.S.C. 796(e)(2)) is amended to read as follows:

"(22) ‘electric utility’ means any person or Federal or State agency (including any muni-cipality) that sells electric energy; such term includes the Tennessee Valley Author-ity and each Federal power marketing agen-cy;"

(b) TRANSMITTING UTILITY.—Section 323(c) of the Federal Power Act (16 U.S.C. 796(c)) is amended to read as follows:

"(22) ‘transmitting utility’ means an en-tity, including any entity described in section 209 of such Act, that owns or operates facilities used for the transmission of electric energy—"

(A) in interstate commerce; or

(B) for the sale of electric energy at wholesale;

(c) ADDITIONAL DEFINITIONS.—At the end of section (3) of the Federal Power Act, add the following:

"(25) ‘unregulated transmitting utility’ means an entity that—"

(A) owns or operates facilities used for the transmission of electric energy in inter-state commerce, and

(B) is an entity described in section 201(f) or a rural electric cooperative with financing from the Rural Utilities Service.

(27) ‘distribution utility’ means an elec-tric utility that does not own or operate facilities used for the transmission of electricity, but that owns or operates facilities used for the transmission utility that provides 90 percent of the electric energy its transmits to cus-tomers at retail.

The purposes of this title, the term ‘the Commission’ means the Federal Energy Regulatory Commission.

Subtitle A—Reliability

SEC. 1111. ELECTRIC RELIABILITY STANDARDS.

(a) PROHIBITION OF STEWARDSHIP.-Subtitle A of the Federal Power Act (16 U.S.C. 821 et seq.) is amended by adding the following:

"ELECTRIC RELIABILITY

SEC. 215. (a) For the purposes of this sec-tion—

(1) the term ‘bulk-power system’ means—

(A) facilities and control systems neces-sary for operating an interconnected elec-tric energy transmission network (or any portion thereof); and

(B) electric energy from generation facili-ties needed to maintain transmission system reliability

The term does not include facilities used in the local distribution of electric energy.

The terms ‘Electric Reliability Organization’ and ‘ERO’ mean the organization certified by the Commission under subsection (c), the purpose of which is to estab-lish enforceable rules for the bulk-power system, subject to Commission review.

(5) The term ‘reliability standard’ means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system components and the design of planned additions or modifica-tions to such components to the extent nec-essary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such components or to construct new transmission capacity or generation capacity.

(4) The term ‘reliable operation’ means oper-ating the components of the bulk-power system within equipment and electric sys-tem normal, voltage limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance or unfaulted failure of system components.

(5) The term ‘interconnection’ means a geographic area in which the operation of bulk-power system components is syn-chronized such that one or more of such components may adversely af-fect the ability of the operators of other
The term ‘transmission organization’ means a transmission service provider, an ERO, an entity certified by the Commission for the operation of transmission facilities.

The term ‘regional entity’ means an entity that has been designated authority pursuant to subsection (e)(4).

"(b) The Commission shall have jurisdiction, in the United States, over the ERO or any entity certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with such standards and the regulations promulgated under this section.

"(c) Following the issuance of a Commission order under subsection (b), any person may submit an application to the Commission for certification as the Electric Reliability Organization. The Commission may certify such ERO if the Commission determines that such ERO—

"(1) has the ability to develop and enforce, subject to subsection (d)(2), reliability standards that provide for an adequate level of reliability of the bulk-power system; and

"(2) has established rules that—

(A) assure its independence of the users and owners and operators of the bulk-power system, while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any ERO commission or subordinate organizational structure;

(B) allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section;

(C) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions);

(D) provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties under this section;

(E) provide for, taking, after certification, appropriate steps to gain recognition in Canada and Mexico;

(F) the ERO shall file each reliability standard or modification to a reliability standard that it proposes to make effective under this section with the Commission;

(2) The Commission may approve by rule or order a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

The Commission shall give due weight to the technical expertise of the ERO with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an Interconnection-wide basis with respect to a reliability standard to be applicable within that Interconnection, but shall not defer with respect to the effect of a standard or modification to a reliability standard or modification shall take effect upon approval by the Commission.

(3) The ERO shall rebuttably presume that a regional entity organized on an Interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

(4) The ERO shall determine that such ERO—

(A) the ERO or the Commission may impose, subject to subsection (d)(3), a penalty on a user, owner, or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO, after notice and an opportunity for a hearing—

(A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d); and

(B) files notice and the record of the proceeding with the Commission.

(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the ERO files with the Commission notice of the penalty and the record of proceedings, unless the Commission orders a review by the ERO, on its own motion or upon application by the user, owner or operator that is the subject of the penalty filed within 30 days after the date such notice is filed with the Commission. Application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such penalty unless the Commission otherwise orders upon its own motion or upon application by the user, owner or operator that is the subject of such penalty. In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the ERO and any oral argument in support of the record before the ERO and any oral argument in support of the record before the ERO) shall debar the ERO to further proceedings. The Commission shall implement expedited procedures for such hearings.

(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system, if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of a reliability standard.

(4) The Commission shall establish regulations authorizing the ERO to enter into an agreement with any entity to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if—

(A) the ERO or a regional entity, by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board;

(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2); and

(C) the agreement provides effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegations. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

(5) Following the issuance of a Commission order under subsection (b), any person may submit an application to the Commission for certification as the Electric Reliability Organization. The Commission may certify such ERO if the Commission determines that such ERO—

(1) has established rules that—

(A) assure its independence of the users and owners and operators of the bulk-power system, while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any ERO commission or subordinate organizational structure;

(B) allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section;

(C) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions);

(D) provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties under this section;

(E) provide for, taking, after certification, appropriate steps to gain recognition in Canada and Mexico;

(F) the ERO shall file each reliability standard or modification to a reliability standard that it proposes to make effective under this section with the Commission;

(2) This section does not authorize the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the ERO. A proposal for rule or rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, and not unduly discriminatory or preferential, and in the public interest, and satisfies the requirements of subsection (c).

(3) The ERO shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.

(4) This section does not authorize the ERO or the Commission to order the connected states or the connected states and any other state to take action to ensure the safety, adequacy, and reliability of electric service in the connected states, as such action is not inconsistent with any reliability standard.
SEC. 1123. FEDERAL UTILITY PARTICIPATION IN REGIONAL TRANSmission ORGANIZATIONS.

(a) Definitions.—For purposes of this section:

(1) the term ‘‘appropriate Federal regulatory authority’’ means—

(A) with respect to a Federal power marketing agency, the Secretary of Energy, except that the Secretary may designate the Administrator of a Federal power marketing agency to act as the appropriate Federal regulatory authority with respect to the transmission system of that Federal power marketing agency; and

(B) with respect to the Tennessee Valley Authority, the Board of Directors of the Tennessee Valley Authority.

(2) the term ‘‘Federal utility’’ means a Federal power marketing agency or the Tennessee Valley Authority.

(3) the term ‘‘transmission system’’ means electric transmission facilities owned, leased, or contracted for by the United States and operated by a Federal utility.

(b) Transfer.—

(1) the appropriate Federal regulatory authority is authorized to enter into a contract, agreement or other arrangement transferring control and use of all or part of the Federal Utility’s transmission system to a Regional Transmission Organization (‘‘RTO’’). Such contract, agreement or arrangement shall be voluntary and include—

(A) a means to ensure operation and use of the transmission system that the head of the Federal utility determines necessary or appropriate, including standards that assure reliable operation of the Federal utility’s costs and expenses related to the transmission facilities that are subject of the contract, agreement or other arrangement, consistency with said Federal utility’s statutory authorities, obligations, and limitations.

(B) provisions for monitoring and oversight by the Federal utility of the RTO’s fulfillment of the terms and conditions of the contract, agreement or other arrangement, including a provision that may provide for the resolution of disputes through arbitration or other means with the RTO or with other participants, notwithstanding the obligations and limitations of any other law regarding arbitration; and

(c) a provision that allows the Federal utility to withdraw from the RTO and terminate the contract, agreement or other arrangement in accordance with its terms.

(2) Neither this section, actions taken pursuant to it, nor any other transaction of a Federal utility using an RTO shall serve to confer upon the Commission jurisdiction or authority over the Federal utility’s electric generation assets, electric capacity or energy that the Federal utility is authorized by law to market, or the Federal utility’s power sales and transmission service across successive locations within a region (‘‘pancaked rates’’);

(3) the provisions of this section shall not apply to Alaska or Hawaii.

Subtitle B—Regional Markets

SEC. 1121. IMPLEMENTATION DATE FOR PROPOSED RULEMAKING ON STANDARD MARKET DESIGN.

The Commission’s proposed rulemaking entitled ‘‘Remedying Undue Discrimination through Open Access Transmission Service and Standard Electricity Market Design’’ (Docket No. RM01-12-000) is remanded to the Commission for reconsideration. No final rule pursuant to the proposed rulemaking, including the order of general applicability within the scope of the proposed rulemaking, may be issued before July 1, 2005. Any final rule issued by the Commission pursuant to the proposed rulemaking, including any order or rule of general applicability within the scope of the proposed rulemaking, shall be proceeded by a notice of proposed rulemaking issued after the date of enactment of this Act and an opportunity for public comment.

SEC. 1122. SENSE OF THE CONGRESS ON REGIONAL TRANSMISSION ORGANIZATIONS.

It is the sense of Congress that, in order to promote fair, open access to electric transmission and sale, retail competition and wholesale competition, improve efficiencies in transmission grid management, promote grid reliability, remove opportunities for discriminatory and preferential transmission practices, and provide for the efficient development of transmission infrastructure needed to meet the growing demand for electric energy that the electric transmission market facilitates, all transmitting utilities in interstate commerce should voluntarily become members of independently administered Regional Transmission Organizations (‘‘RTOs’’) that have operational or functional control of facilities used for the transmission of electric energy in interstate commerce and do not operate in a manner that is inconsistent with the need of the electric utility’s transmission system, environment- mental protection, fish and wildlife protection, flood control, navigation, water delivery, or recreation; or authorize abrogation of any contract or treaty obligation.

SEC. 1124. CONSIDERATION OF COMPETITIVE WHOLESALE MARKETS.

(a) State Regulatory Commissions.—Not later than 90 days after the date of enactment of this Act, the Commission shall convene regional discussions with State regulatory commissions, as defined in section 3(21) of the Federal Power Act. The regional discussions will address whether wholesale electric markets in each region are working effectively to provide reliable service to electric consumers in the region at the lowest reasonable cost. The discussions will be given to discussions in regions that do not have, as of the date of enactment of this Act, a Regional Transmission Organization (‘‘RTO’’). The regional discussions shall consider—

(1) the need for an RTO or other organizations in the region to provide non-discriminatory transmission access and generation interconnection;

(2) a process for regional planning of transmission facilities with State regulatory authority participation and for consideration of multi-state projects;

(3) a means for ensuring that costs for all electric consumers, as defined in section 3(5) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(5)), and buyers of wholesale energy or capacity are reasonably economically efficient;

(4) a means for ensuring that all electric consumers, as defined in section 3(5) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(5)), and buyers of wholesale energy or capacity are reasonably economically efficient;

(5) whether the integrated transmission and electric power supply system can and should be operated in a manner that schedules and economically prioritizes all available electric generation resources, so as to minimize the costs of electric energy to all consumers (‘‘economic dispatch’’) and maintaining system reliability;

(6) a means to provide transparent price signals and uniform expansion of the electric system and efficiently manage transmission congestion;

(7) eliminating in a reasonable manner, consistent with applicable State and Federal law, multiple, cumulative charges for transmission service across successive locations within a region (‘‘pancaked rates’’);

(8) resolution of seams issues with neighboring regions and inter-regional coordination;

(9) a means of providing information electronically to potential users of the transmission system;

(10) implementation of a market monitor function with State regulatory authority oversight and Commission oversight and establishment of rules and procedures that ensure that State regulatory authorities are provided access to market information that and provides for expedited consideration by the Commission of any complaints concerning exercise of market power and the operation of wholesale markets;

(11) a process by which to phase-in any proposed RTO or other organization designated to provide non-discriminatory transmission access, that the needs of a region, and, if relevant, shall take into account the special circumstances that may be found in the Western Interconnection and the Northeastern Interconnection, the existence of significant hydroelectric capacity, the participation of unregulated

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transmitting utilities, and the distances between generation and load; and,

(12) a timetable to meet the objectives of this section.

(b) Report.—Not later than 1 year after the date of enactment of this Act, the Commission shall report to Congress on the progress made in addressing the issues in subsection (a) of this section in discussions with the States.

(c) SAVINGS.—Nothing in this section shall affect any discussions between the Commission and other regulatory authorities that are on-going prior to enactment of this Act.

Subtitle C—Improving Transmission Access and Protecting Service Obligations

SEC. 1131. SERVICE OBLIGATION SECURITY AND PARITY.

The Federal Power Act (16 U.S.C. 824e) is amended by adding the following:

"Sec. 220. (a)(1) The Commission shall exercise its authority under this Act to ensure that any load-serving entity that, as of the date of enactment of this section—

"(A) owns generation facilities, markets the output of federal generation facilities, or holds rights under one or more long-term contracts to purchase electric energy, for the purpose of load-serving service obligations; and

"(B) by reason of ownership of transmission facilities, or one or more contracts or service agreements for firm transmission service, provides transmission service or delivery of the output of such generation facilities or such purchased energy to meet such service obligation, is entitled to use such transmission rights, or equivalent financial transmission rights, in order to deliver such output or purchased energy, or the output of other generating facilities or purchaser entities, to the load-serving entity, to meet its service obligation.

"(2) To the extent that all or a portion of the service obligation covered by such firm transmission rights associated with the transferred service obligation, transferred to another load-serving entity, or back to the original load-serving entity, shall be entitled to the same rights.

"(3) The Commission shall exercise its authority under this Act in a manner that facilitates the planning and expansion of transmission infrastructure to meet the reasonable needs of load-serving entities to satisfy their service obligations.

"(b) Nothing in this section shall affect any discussion with load-serving entities regarding the allocation of transmission rights by a Commission-approved entity that, prior to the date of enactment of this section, has been authorized by the Commission to allocate transmission rights.

"(c) Nothing in this Act shall relieve a load-serving entity from any obligation under State or local law to build transmission facilities adequate to meet its service obligations.

"(d) Nothing in this Act shall provide a basis for abrogating any contract or service agreement under which transmission service or rights in effect on the date of enactment of this subsection.

"(e) For purposes of this section:

"(1) The term ‘distribution utility’ means an electric utility that has a service obligation to end-users.

"(2) The term ‘load-serving entity’ means a distributor of electric energy or an electric utility (including an entity described in section 201(f) or a rural cooperative) that has a service obligation to end-users or a distribution utility.

"(3) The term ‘service obligation’ means a requirement applicable to, or the exercise of authority granted to, an electric utility (including an entity described in section 201(f) or a rural cooperative) under Federal, State or local law or under long-term contracts to provide transmission service to end-users or to a distribution utility.

"(f) Nothing in this section shall apply to an entity located in an area referred to in section 1133(b) of this Act.

SEC. 1132. OPEN NON-DISCRIMINATORY ACCESS.

Part II of the Federal Power Act (16 U.S.C. 823 et seq.) is amended by inserting after section 211 the following:

"OPEN ACCESS BY UNREGULATED TRANSMISSION UTILITIES

"Sec. 211A. (a) Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission service—

"(1) at rates that are comparable to those the unregulated transmitting utility charges itself; and

"(2) on terms and conditions (not relating to rates) that are comparable to those under which such unregulated transmitting utility provides transmission services to itself and that are not unduly discriminatory or preferential.

"(b) The Commission shall exempt from any rule or order under this subsection any unregulated transmitting entity that—

"(1) is a distribution utility that sells no more than 4,000,000 megawatt hours of electricity per year;

"(2) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion thereof); or

"(3) meets other criteria the Commission determines to be in the public interest.

"(c) Whenever the Commission, after a hearing held upon a complaint, finds any exemption granted pursuant to subsection (b) adversely affects the reliable and efficient operation of an interconnected transmission system, it may revoke the exemption.

"(d) The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 265 are applicable to unregulated transmitting utilities for purposes of this section.

"(e) In exercising its authority under paragraph (1) of subsection (a), the Commission may make such rules for determining the extent to which such rate or charge is discriminatory and the extent to which such rule or rate or charge is reasonable."

SEC. 1133. TRANSMISSION INFRASTRUCTURE INVESTMENT.

PART II OF THE FEDERAL POWER ACT IS AMENDED BY ADDING THE FOLLOWING:

"SUSTAINABLE TRANSMISSION NETWORKS

"Sec. 221. Within 6 months of enactment of this section, the Commission shall issue a final rule establishing transmission pricing policies applicable to all public utilities and transmission customers associated with the expansion, modification or upgrade of existing interstate transmission facilities and for the interconnection of new transmission facilities for utilities and facilities which are not included within a Commission approved RTO. Consistent with section 206 of this Act, such rule shall, to the maximum extent practicable—

"(1) promote capital investment in the economically efficient transmission systems; and

"(2) encourage the interconnection of transmission and generation facilities in a manner which provides the lowest overall risk and cost to consumers.

"Encourage improved operation of transmission facilities and deployment of transmission technologies designed to increase capacity and efficiency of existing networks.

"(4) ensure that the costs of any transmission expansion or interconnection be allocated in such a way that all users of the affected facilities bear the appropriate share of costs; and

"(5) ensure that parties who pay for facilities necessary for transmission expansion or interconnection receive appropriate compensation for those facilities.

"Subtitle D—Amendments to the Public Utility Regulatory Policies Act of 1978

SEC. 1141. NET METERING.

(a) Amendments or Standard.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(11) NET METERING.—

"(A) Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility encourages.

"(B) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

"(C) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to provide the standard set out in subparagraph (A) not later than 1 year after the date of enactment of this paragraph.

"(b) SPECIAL RULES FOR NET METERING.—

"Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621 et seq.) is further amended by adding at the end the following:

"(1) NET METERING.—In undertaking the construction of generation and transmission facilities under section 111 with respect to the standard concerning net metering established by section 111(d)(11), the term net metering service shall be defined as provided in accordance with the following standards:

"(1) An electric utility—

"(A) shall charge the owner or operator of any on-site generating facility rates and charges that are identical to those that would be charged other electric consumers of the electric utility in the same rate class; and

"(B) shall not charge the owner or operator of an on-site generating facility any additional standby, capacity, interconnection, or other rate or charge.

"(2) An electric utility that sells electric energy to the owner or operator of an on-site generating facility shall measure the quantities of electric energy produced by the on-site facility and the quantity of electric energy consumed by the owner or operator of an on-site generating facility during a billing period in accordance with reasonable metering practices.

"(3) If the quantity of electric energy sold by the electric utility to an on-site generating facility exceeds the quantity of electric energy supplied by the on-site generating facility to the electric utility during
the billing period, the electric utility may bill the owner or operator for the net quantity of electric energy sold, in accordance with reasonable metering practices.

(4) The amount of electric energy supplied by the on-site generating facility to the electric utility exceeds the quantity of electric energy sold by the electric utility to the on-site generating facility during the billing period—

(a) the electric utility may bill the owner or operator of the on-site generating facility for the energy, or portion of the energy, charges for the excess kilowatt-hours generated during the billing period, with the kilowatt-hour credit appearing on the bill for the following billing period;

(b) the owner or operator of the on-site generating facility may be credited for the excess kilowatt-hours using time-based meters and communications devices designated and deployed by the electric utility at a rate that is not less than the time-based rate in effect at the time the credit is determined.

(5) An eligible on-site generating facility and net metering system used by an electric consumer shall meet all applicable safety, performance, reliability, and interconnection standards established by the National Electric Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

(6) The Commission, after consultation with State regulatory authorities and unregulated electric utilities and after notice and opportunity for public comment, may adopt, by rule, additional control and testing requirements for on-site generating facilities and net metering systems that the Commission determines are necessary to protect public safety and system reliability.

(7) For purposes of this subsection—

(A) the term ‘electric utility’ means a public utility that is exclusively engaged in the generation, transmission, and distribution of electric energy, or fuel cells; or a facility on the site of a commercial electric consumer with a maximum generating capacity of 500 kilowatts or less that is fueled solely by a renewable energy resource, landfill gas, or a high efficiency system;

(B) the term ‘renewable energy resource’ means solar, wind, biomass, or geothermal energy;

(C) the term ‘high efficiency system’ means fuel cells or combined heat and power. Time-based Meters and Communications.—Section 112 of the Federal Energy Expedite Act of 1978 (16 U.S.C. 2623(b)) is amended by adding at the end thereof:

SEC. 1142. SMART METERING.

(a) In General.—Section 111(d) of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

‘‘(12) TIME-BASED METERING AND COMMUNICATIONS.—Each electric utility shall conduct an investigation in accordance with subparagraph (A) and each State regulatory authority shall, not later than twelve (12) months after enactment of this paragraph, determine whether or not it is appropriate for electric utilities to provide and install time-based meters and communications devices and services to retail electric consumers, such consumers shall be entitled to receive that same time-based metering and communications device and service as a retail electric consumer of the electric utility.

‘‘(13) TECHNOLOGIES, TECHNIQUES, AND RATE-MAKING METHERS.—Each electric utility shall adopt and implement an appropriate rate schedule to encourage and facilitate the use of advanced metering systems that the Commission determines are necessary to protect public safety and system reliability.

SEC. 1143. ADOPITON OF ADDITIONAL STANDARDS.

(a) Adoption of Standards.—Section 113(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end thereof:

‘‘(6) Each electric utility shall provide distributed generation, combined heat and power, and district heating and cooling systems with competitive access to the local distribution grid and competitive pricing of service, and shall use simplified standard contracts for the interconnection of generating facilities that have a power production capacity of 250 kilowatts or less.

(b) No electric utility may refuse to interconnect with or in any manner limit the use of the distribution facilities of the electric utility if the owner or operator of the generating facility complies with technical standards established by the State regulatory authority and agrees to pay the costs established by such State regulatory authority.
“(8) Each electric utility shall develop a plan to minimize dependence on one fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse blend of technologies, including renewable technologies.

“(9) Each electric utility shall develop and implement a ten-year plan to increase the efficiency of its fossil fuel generation.

“(b) TIME FOR ADOPTING STANDARDS.—Section 113 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2623) is amended by adding at the end the following:

“(c) TECHNICAL ASSISTANCE FOR CERTAIN RESPONSIBILITIES.—The Secretary may provide such technical assistance as determined appropriate by the State regulatory authorities and electric utilities in carrying out their responsibilities under section 111(d)(1) and paragraphs (6), (7), (8), and (9) of subsection (b) if the Secretary determines that the provisions of this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this subsection.

SEC. 1144. TECHNICAL ASSISTANCE.

Section 122(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(c)) is amended to read as follows:

“(c) TECHNICAL ASSISTANCE FOR CERTAIN RESPONSIBILITIES.—The Secretary may provide such technical assistance as determined appropriate by the State regulatory authorities and electric utilities in carrying out their responsibilities under section 111(d)(1) and paragraphs (6), (7), (8), and (9) of subsection (b) if the Secretary determines that the provisions of this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this subsection.

SEC. 1145. COGENERATION AND SMALL POWER PRODUCTION PURCHASE AND SALE REQUIREMENTS.

(a) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2624a–15) is amended by adding at the end the following:

“(m) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—

“(1) TERMINATION OF PURCHASE.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a cogeneration facility or a qualifying small power production facility under this section if the Commission finds that the cogeneration facility or qualifying small power production facility has access to an independently administered, auction-based day ahead and real-time wholesale market for the sale of electric energy.

“(2) OBLIGATION TO SELL.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to sell electric energy to a cogeneration facility or a qualifying small power production facility under this section if the Commission finds that the cogeneration facility or qualifying small power production facility has access to an independently administered, auction-based day ahead and real-time wholesale market for the sale of electric energy.

“(3) NO EFFECT ON EXISTING RIGHTS AND REMEDIES.—Nothing in this subsection affects the rights or remedies of any party under any obligation, whether or not an obligation under this section, to purchase electric energy or capacity from or to sell electric energy or capacity to a facility under this Act (including the right to recover costs of purchasing electric energy or capacity).

“(4) RECOVERY OF COSTS.—(A) REGULATION.—The Commission shall promulgate such regulations as are necessary to ensure that an electric utility that purchases electric energy or capacity from a qualifying cogeneration facility or a qualifying small power production facility in accordance with any legally enforceable obligation entered into or imposed under this section before the date of enactment of this subsection recovers all prudently incurred costs associated with the purchase.

“(B) ENFORCEMENT.—A regulation under subparagraph (A) shall be enforceable in accordance with the provisions of law applicable to enforcement of regulations under the Federal Power Act (7 U.S.C. 79a et seq.).

“(b) ELIMINATION OF OWNERSHIP LIMITATIONS.—Section 3 of the Federal Power Act (16 U.S.C. 296) is amended by—

“(1) striking paragraph (17)(C) and inserting the following:

“(C) ‘qualifying small power production facility’ means a small power production facility that the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe;”

“(2) by striking paragraph (18)(B) and inserting the following:

“(B) ‘qualifying cogeneration facility’ means a cogeneration facility that the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe;”

“SEC. 1146. RECOVERY OF COSTS.

(a) REGULATION.—To ensure recovery by any electric utility that purchases electricity or capacity from a qualifying facility pursuant to any legally enforceable obligation entered into or imposed under section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2624a–3) before the date of enactment of this Act of all costs associated with the purchases, the Commission shall promulgate and enforce such regulations as are required to ensure that no utility shall be required directly or indirectly to absorb the costs associated with the purchases.

(b) TREATMENT.—A regulation under subsection (a) shall be treated as a rule enforceable under the Federal Power Act (16 U.S.C. 791a et seq.);

Subtitle E—Provisions Regarding the Public Utility Holding Company Act of 1935

SEC. 1151. DEFINITIONS.

For the purposes of this subtitle:

(1) the term “affiliate” of a company means any company 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company;

(2) the term “associate company” of a company means any company in the same subsidiary companies.

(3) the term “subsidiary company” of a company means any company 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company;

(4) the term “public utility company” means an electric utility company or a gas utility company;

(5) the term “holding company” means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission in its notice and hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(6) the term “subsidiary company” of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such holding company; and

(B) any company, 10 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such holding company, 10 percent or more of the outstanding voting securities of which is owned, controlled, or held with power to vote, directly or indirectly, by such holding company.

(7) the term “gas utility company” means an electric utility company or a gas utility company;

(8) the term “holding company” means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(9) the term “utility customer” means a person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy or capacity in interstate commerce.

(10) The term “utility customer” means a person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy or capacity in interstate commerce.

(11) The term “natural gas company” means any company engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) The term “person” means an individual or company.

(13) The term “jurisdictional rates” means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale.

(14) The term “public utility company” means an electric utility company or a gas utility company.

(15) The term “State commission” means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) The term “subsidiary company” of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which is owned, controlled, or held with power to vote, directly or indirectly, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence over the management of the affairs of a company.

SEC. 1152. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (16 U.S.C. 79a et seq.) is repealed, effective 12 months after the date of enactment of this Act.

SEC. 1153. FEDERAL ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Each holding company and each associate company thereof shall
maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(c) HOLDING COMPANY SYSTEMS.—The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(d) CONFIDENTIALITY.—No member, officer, or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.

SEC. 1154. STATE ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Upon the written request of a State commission having jurisdiction to regulate a public utility company in a holding company system, and subject to such terms and conditions as may be necessary and appropriate to safeguard against unwarranted disclosure to the public of any trade secrets or sensitive commercial information, a holding company or any associate company or affiliate thereof, wherever located, shall produce for inspection books, accounts, memoranda, and other records that—

(1) have been identified in reasonable detail in a proceeding before the State commission;

(2) the State commission determines are relevant to costs incurred by such public utility company; and

(3) are necessary for the effective discharge of the responsibilities of the State commission with respect to such proceeding.

(b) EFFECT ON STATE LAW.—Nothing in this section shall preempt applicable State law concerning the provision of books, accounts, memoranda, or other records, or in any way limit the authority of any State commission to require any State public utility company, public utility, or natural gas company to maintain, and shall make available to the Commission, such books, accounts, memoranda, or other records, under Federal law, contract, or otherwise.

(c) COURT JURISDICTION.—Any United States district court located in the State in which the State commission referred to in subsection (a) is located shall have jurisdiction to enforce compliance with this section.

SEC. 1155. EXEMPTION AUTHORITY.

(a) RULEMAKING.—Not later than 90 days after the date of enactment of this title, the Commission shall promulgate a final rule to exempt from the requirements of section 203 any person that is a holding company, solely with respect to one or more—

(1) electric energy and transmission services under the Public Utility Regulatory Policies Act of 1978;

(2) exempt wholesale generators; or

(3) foreign utility companies.

(b) OTHER AUTHORITY.—If, upon application or upon its own motion, the Commission finds that the books, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public utility company or natural gas company, or if the Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public utility company, the Commission shall exempt such person or transaction from the requirements of section 203.

SEC. 1156. AFFILIATE TRANSACTIONS.

(a) IN GENERAL.—Nothing in this subtitle shall apply to, or be deemed to include—

(1) the United States;

(2) a State or any political subdivision of a State;

(3) any foreign governmental authority not operating in the United States;

(4) any agency, authority, or instrumentality of any entity referred to in paragraph (1), (2), or (3) acting as such in the course of such entity's official duties,

(5) any officer, agent, or employee of any entity referred to in paragraph (1), (2), or (3) acting as such in the course of such entity's official duties.

(b) AFFILIATE COMPANIES.—Each affiliate of a holding company or of any subsidiary company of a holding company shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records with respect to any transaction with another affiliate, as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(c) LIMITATION.—Nothing in this subtitle shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public utility company, public utility, or natural gas company may recover in rates any costs or charges incurred by an associate company, or any costs of goods or services acquired by such public utility company, public utility, or natural gas company from an associate company.

SEC. 1157. APPLICABILITY.

(a) IN GENERAL.—Nothing in this subtitle shall apply to, or be deemed to include—

(1) the United States;

(2) a State or any political subdivision of a State;

(3) any foreign governmental authority not operating in the United States;

(4) any agency, authority, or instrumentality of any entity referred to in paragraph (1), (2), or (3) acting as such in the course of such entity's official duties,

(5) any officer, agent, or employee of any entity referred to in paragraph (1), (2), or (3) acting as such in the course of such entity's official duties.

(b) OTHER AUTHORITY.—If, upon application or otherwise, the Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public utility company, the Commission shall exempt such person or transaction from the requirements of section 203.

SEC. 1158. EFFECT ON OTHER REGULATIONS.

Nothing in this subtitle precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.

SEC. 1159. ENFORCEMENT.

The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act (16 U.S.C. 825e–825p) to enforce the provisions of this subtitle.

SEC. 1160. SAVINGS PROVISIONS.

(a) IN GENERAL.—Nothing in this subtitle shall be construed to prohibit a person from engaging in or continuing to engage in activities or transactions in which it is legally engaged or authorized to engage on the date of enactment of this title, if the person continues to comply with the terms of any such authorization, whether by rule or by order.

(b) EXEMPTION AUTHORITY.—Nothing in this subtitle limits the authority of the Commission under the Federal Power Act (16 U.S.C. 717 and following) (including section 301 of that Act) or the Natural Gas Act (15 U.S.C. 717 and following) (including section 8 of that Act).

SEC. 1161. IMPLEMENTATION.

Not later than 12 months after the date of enactment of this title, the Commission shall—

(1) promulgate such regulations as may be necessary and appropriate to implement this subtitle; and

(2) submit to Congress detailed recommendations on technical and conforming amendments to other Federal laws relevant to implementation of this subtitle.

SEC. 1162. TRANSFER OF RESOURCES.

All books and records that relate primarily to the transactions for the purchase or sale of electric energy and transmission services to the Commission, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public. The Commission shall have authority to obtain such information from any electric and transmitting utility, including any entity described in section 201(f), if that person continues to comply with the requirements of this Act for any person or any other entity (including entities described in section 201(f)) willfully and knowingly to report any information relating to the price of electricity sold at wholesale, which information the person or any other entity knew to be false at the time of the reporting, to any governmental entity with the intent to manipulate the data being compiled by such governmental entity.

SEC. 1163. EXEMPTION AUTHORITY.

(a) DOMESTIC-BASED AFFILIATE.-The Commission shall have authority to obtain such information from any electric and transmitting utility, including any entity described in section 201(f), if that person continues to comply with the requirements of this Act for any person or any other entity (including entities described in section 201(f)) willfully and knowingly to report any information relating to the price of electricity sold at wholesale, which information the person or any other entity knew to be false at the time of the reporting, to any governmental entity with the intent to manipulate the data being compiled by such governmental entity.

SEC. 1171. MARKET TRANSPARENCY RULES.

Part II of the Federal Power Act is amended by adding—

"SEC. 222. (a) It shall be a violation of this Act for any person or any other entity (including entities described in section 201(f)) willfully and knowingly to report any information relating to the price of electricity sold at wholesale, which information the person or any other entity knew to be false at the time of the reporting, to any governmental entity with the intent to manipulate the data being compiled by such governmental entity.

"PROHIBITION ON ROUND TRIP TRADING—"SEC. 222. (a) It shall be a violation of this Act for any person or any other entity (including entities described in section 201(f)) willfully and knowingly to enter into any contract or other arrangement to execute a round trip trade for the purchase or sale of electric energy at wholesale.

"(b) For the purposes of this section, the term "round trip trade" means a transaction, or combination of transactions, in which a person or any other entity—

(1) enters into a contract or other arrangement to purchase from, any other person or other entity electric energy at wholesale;

(2) simultaneously with entering into the contract or arrangement described in paragraph (1), arranges a financially offsetting contract or other arrangement to sell to, any other person or other entity electric energy at wholesale; and

(3) enters into the contract or arrangement described in paragraph (1), and then into the contract or arrangement described in paragraph (2), if disclosed, be detrimental to the operation of a State commission having jurisdiction to exercise its jurisdiction under otherwise applicable law to determine whether a public utility company, public utility, or natural gas company may recover in rates any costs or charges incurred by an associate company, or any costs of goods or services acquired by such public utility company, public utility, or natural gas company from an associate company.
(2) inserting “transmitting utility,” after “licensee” each place it appears.

(b) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 822(a)) is amended by inserting “or transmitting utility” after “any person” in the first sentence.

(c) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 825o) is amended by inserting “electric utility,” after “Any person,” in the first sentence.

(d) CRIMINAL PENALTIES.—Section 316 of the Federal Power Act (16 U.S.C. 825o–1) is amended—

(1) in subsection (a), by striking “$5,000” and inserting “$10,000”; and

(2) by striking “two years” and inserting “five years”;

(3) in subsection (b), by striking “$500” and inserting “$2,500”; and

(4) by striking subsection (c).

(e) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended—

(1) in subsections (a) and (b), by striking “two years” and inserting “five years”; and

(2) by striking subsection (b), by striking “$10,000” and inserting “$5000.”

(f) GENERAL PENALTIES.—Section 21 of the Natural Gas Act (15 U.S.C. 717t) is amended—

(1) in subsection (a), by striking “$5,000” and inserting “$10,000;” and

(2) by striking “two years” and inserting “five years”; and

(3) in subsection (b), by striking “$500” and inserting “$1,000.”

SEC. 1174. REFUND EFFECTIVE DATE.

Section 206(b) of the Federal Power Act (16 U.S.C. 824(e)) is amended by (1) striking “the date of the filing of the proceeding” and inserting “the date of the complaint;”

and (2) by striking “the date of the expiration of such 60-day period” and inserting “the date of the complaint.”

SEC. 1180. CONSUMER PRIVACY.

The Federal Trade Commission shall issue rules prohibiting the privacy of electric consumers from the disclosure of consumer information in connection with the sale or delivery of electric energy to a retail electric consumer. If the Federal Trade Commission determines that a State’s regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

SEC. 1183. DEFINITIONS.

For purposes of this subtitle—

(1) “State regulatory authority” means the meaning given that term in section 3(21) of the Federal Power Act (16 U.S.C. 796(21)).

(2) “electric consumer” and “electric utility” have the meanings given those terms in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

SEC. 1184. UNFAIR TRADE PRACTICES.

(a) National Commission.—The Federal Trade Commission shall issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

(b) State Authority.—If the Federal Trade Commission determines that a State’s regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

SEC. 1186. CRIMINAL PENALTIES.

(a) Federal Trade Commission.—The Federal Trade Commission shall issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer or if determined by the appropriate State regulatory authority to be necessary to prevent loss of service.

(b) Criminal.—The Federal Trade Commission shall issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

(c) State Authority.—If the Federal Trade Commission determines that a State’s regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

SEC. 1187.-REFUND EFFECTIVE DATE.

Section 206(b) of the Federal Power Act (16 U.S.C. 824(e)) is amended by (1) striking “the date of the expiration of such 60-day period” and inserting “the date of the complaint;”

and (2) by striking “the date of the filing of such complaint;”

and (3) by striking the last sentence of such complaint.

SEC. 1188. FURTHER RULEMAKING.

(a) Federal Trade Commission.—The Federal Trade Commission shall issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer or if determined by the appropriate State regulatory authority to be necessary to prevent loss of service.

(b) Criminal.—The Federal Trade Commission shall issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

(c) State Authority.—If the Federal Trade Commission determines that a State’s regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

SEC. 1188. CRIMINAL PENALTIES.

(a) Federal Trade Commission.—The Federal Trade Commission shall issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer or if determined by the appropriate State regulatory authority to be necessary to prevent loss of service.

(b) Criminal.—The Federal Trade Commission shall issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

(c) State Authority.—If the Federal Trade Commission determines that a State’s regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

SEC. 1189. TECHNICAL AMENDMENTS.

SEC. 1189. TECHNICAL AMENDMENTS.

(a) Section 311(c) of the Federal Power Act (16 U.S.C. 824j(c)) is amended by—

(1) striking “electric utility”

(2) striking “(A)” and inserting “(1)”;

(3) striking “(B)” and inserting “(2)”; and

(4) striking “termination of modification” and inserting “termination or modification.”

(b) Section 311(d)(1) of the Federal Power Act (16 U.S.C. 824j(d)(1)) is amended by striking “transmitting utility”.

(c) Section 313 of the Federal Power Act (16 U.S.C. 825m) is amended by striking “subsection” and inserting “section”.

By Mr. ENZI (for himself, Mr. DORGAN, Mr. BACUS, Mr. DAYTOO, Mr. BINGHAM, Mr. CHAFEE, Mr. CRAHAN, Mr. JOHN- son, and Mrs. MURRAY):

S. 950. A bill to allow travel between the United States and Cuba; to the Committee on Foreign Relations.

Mr. ENZI. Mr. President, today I offer a bill that will make a very small change in our Cuba policy. It deals only with travel provisions to Cuba.

I have been watching Cuba since the 1960s. I went to George Washington University, and I was there at the time of the Cuban missile crisis. I have had the opportunity to watch what has happened with Cuba throughout the years.

I am reminded of something my dad used to say, which was that if you keep on doing what you always have been doing, you are going to wind up getting what you already got. That is kind of the situation with Cuba. We have been watching Cuba since the 1960s. We simply said, okay, you have a different policy, one that goes further and over again and expect different results. In a way, that is what we are doing in Cuba. We are continuing to try to exert pressure from our side and, as we do, we are giving Castro a scapegoat to blame for the poor living conditions in his country in the process.

It’s time for a different policy, one that goes further than embargoes and replaces a restrictive and confusing travel policy with a new one that will more effectively help us believe our country.

Today, Senators DORGAN, BACUS, BINGHAM and I are introducing the Freedom to Travel to Cuba Act.

Our bill is very straightforward. It states that the President shall not prohibit, either directly or indirectly, travel to or from Cuba by United States citizens or transactions incident to such travel.

In 1958 the Supreme Court affirmed or Constitutional right to travel, but the United States government has continued to prohibit travel. We believe, as we do, that the better we try to make things for the Cuban people, the more we will reduce the level and the tone of the rhetoric used against us by Fidel Castro.

I have often heard it said that it is foolish to do the same thing over and over again and expect different results. In a way, that is what we are doing in Cuba. We are continuing to try to exert pressure from our side and, as we do, we are giving Castro a scapegoat to blame for the poor living conditions in his country in the process. It’s time for a different policy, one that goes further than embargoes and replaces a restrictive and confusing travel policy with a new one that will more effectively help us believe our country.

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Our bill is very straightforward. It states that the President shall not prohibit, either directly or indirectly, travel to or from Cuba by United States citizens or transactions incident to such travel.

In 1958 the Supreme Court affirmed or Constitutional right to travel, but the United States government has continued to prohibit travel. We simply said, okay, you have a right to travel, but try traveling without spending a dime.

Most of us know that certain people cannot and do continue to travel to Cuba. Americans from spending money in Cuba, if we increase the diplomatic pressure on the Cuban government that is now emanating from every corner of the world, we might be successful in bringing about a better way of life for the people of our two countries.

If we allow more and freer travel to Cuba, if we increase trade and dialogue, we take away Castro’s ability to blame the hardships of the Cuban people on the United States and reducing the strength of the ties that bind the people of our two countries.

States for his own actions. It was a hard sell at best, and, given the reactions we’ve seen from all sides of this issue, I don’t think anyone is buying it.

Still, Castro’s cruelty might tempt us to tighten the already strong restrictions on the travel between our countries, but I hope we will not do that. If we increase the diplomatic pressure on the Cuban government that is now emanating from every corner of the world, we might be successful in bringing about a better way of life for the people of our two countries.

In recent weeks, as we shared the joy of the Iraqi people as they were liberating their faith and trust in the United States and reducing the pressure on the Cuban government that is now emanating from every corner of the world, we might be successful in bringing about a better way of life for the people of our two countries.

States for his own actions. It was a hard sell at best, and, given the reac-
parents died. He could not go back there for a year. That is not a good situation for any family.

Educational groups can apply for licenses to travel for scholarly reasons, for educational opportunities and conferences. The Office of Foreign Assets Control has levied fines on travelers who followed the law to the best of their ability. Fines and punishments were imposed without guidelines and seemingly at the whim of a nameless bureaucrat.

I must ask my colleagues, why are we continuing to support a policy that was basically implemented 40 years ago? Why are we supporting a policy that has had little effect on the Government we oppose? Why do we say we should wait for him to be deplorable, as is his refusal to promote change in any nation? The actions of Castro and his government so poorly? No one is denying that the flow of goods but the flow of ideas.

We cannot stop that program. If the government we oppose, why do we not implement an embargo and the travel restrictions that has had little effect on the Government we oppose? Why do we not implement stricter and more stringent regulations and create a situation where the United States is easy to blame for the problems in Cuba. Unilateral sanctions will not improve human rights in Cuba. The rest of the world is not doing what we are doing. Cuba is being supplied by the rest of the world with everything they need.

Open dialog and exchange of ideas and commerce can move a country toward democracy. What better way to share the rewards of democracy than through people-to-people exchanges? We cannot stop that program. If the United States Government continues on its course to put an economic stranglehold on the Cuban Government, the people of Cuba will suffer. Unilateral sanctions stop not just the flow of goods but the flow of ideas. Ideas of freedom and democracy are the keys to change in any nation.

Some may wonder why we want to increase dialog right now, why open the door to Cuba when Castro is behaving so poorly? No one is denying that the actions of Castro and his government are deplorable, as is his refusal to provide basic human rights to his people. But if we truly believe Castro is a dictator with no good intentions, how can we say we should wait for him to become human and start treating his people with some fairness?

We are finally for the first time able to sell some products into the Cuban marketplace because I and then former Senator John Ashcroft, now Attorney General, offered legislation that allowed that embargo of 40 years that did not work, and for the first time in 40 years, 22 train carloads of dried peas left North Dakota to go to the Cuban market, purchased by the Cubans. Our farmers for the first time in 42 years sold some food to Cuba. That makes good sense. We should never use travel as a weapon. Travel is the same circumstance. Limiting the freedom of the American people makes no sense to me.
The Enzi bill, which I am proud to cosponsor, moves in the direction of eliminating that limitation on travel by the American people.

Mr. BAUCUS. Madam President, I rise today to offer legislation, along with my colleagues Senator Enzi and Senator Dorgan, that would end the restrictions placed on travel to Cuba. I understand our colleagues in the House will introduce companion legislation in the coming weeks. I look forward to working with my colleagues in both chambers, and on both sides of the aisle, as we move forward.

With this legislation, we are undertaking a serious cause. Repeal of the travel ban is long overdue. There are numerous reasons to introduce this legislation, but I want to focus today on just two: first, the current situation in Cuba; and second, our troubled economy here at home.

Introduction of this legislation comes at a crucial time in U.S.-Cuba relations. In fact, nearly 80 Cuban dissidents were arrested. All of them have been sentenced to an average of almost 20 years in prison.

Democratic governments around the world, as well as human rights organizations, including myself and my colleagues in the Senate and House Cuba Working Groups, have harshly criticized the Castro regime for these appalling acts of repression. Yet, throughout all of this, the Castro regime has remained defiant and undaunted.

Why? In my view it is because Castro wants the embargo to continue. Observers have noted an emerging pattern: every time we get close to more open relations, Castro shuts the process down with some repressive act, designed to have a chilling effect on U.S.-Cuban relations.

Castro fears an end to the embargo. He knows the day the embargo falls is the day he loses them. Without the embargo, Castro would have no one to blame for the failing Cuban economy.

NOR would his way of governing be able to survive the influx of Americans and democratic ideas that would flood his island if the embargo were lifted.

Now, some Cuba watchers have predicted that the dissident arrests and the resulting decline of U.S.-Cuba relations are a death knell to the engagement debate in Washington. I disagree. And I think now, more than ever, a genuine, honest debate about the merits of the embargo is needed.

Some people seem to think tightening the embargo is a rational response to the Castro regime. I guess if you think an embargo can hurt Castro without hurting the Cuban people, then tightening the embargo might make some sense.

But it does not work that way. The embargo actually hurts the Cuban people much more than it hurts Castro.

This is why many Cuban dissidents, including Oswaldo Paya, the founder of the Varela Project, oppose our embargo and support engagement.

Indeed, after 43 years, it ought to be clear to everyone that the embargo has failed to weaken Castro. A better approach is to reach out to the Cuban people. Ending the travel ban is the first and most important step to do this.

If Castro fears contact between the Cuban people and the American people, the rational American response is to send more Americans, not fewer.

Of course, ending the travel ban would benefit only for the Cuban people, but also for Americans. Ending the travel ban would have an immediate and direct economic impact, beyond even the immediate travel sector.

Most importantly for my home state of Montana, ending the travel ban would help farmers and ranchers.

Americans are currently allowed to sell food and medicine to Cuba on a cash basis. But there is a lot of red tape associated with that. Without the ability to travel to Cuba and develop the business contacts, the full potential of these sales is not realized.

In fact, one study has suggested that lifting the travel ban could result in an additional quarter billion dollars of agricultural sales and create thousands of new jobs.

Ending the travel ban would bring benefits to both Cubans and to Americans. And that, after all, is what this debate should be about. Supporters of the embargo are so focused on hurting Castro that they actually strengthen him—at the expense of the Cuban people, and at the expense of our own economy.

I hope my colleagues will join me in co-sponsoring this important legislation. I believe it is the best way to show that we truly care about the Cuban people.

And indeed, if we truly care about democracy, then let us send Cuba exactly that. Let us travel to Cuba and show them democracy in action.

I yield the floor.

Mr. DAYTON. I commend my colleague from Wyoming and his leadership in relationship to Cuba, which is of strong interest to businesses and farmers in my home State of Minnesota. I ask unanimous consent to be added as a cosponsor to his legislation. I look forward to working with him as part of his caucus to further those relations. I again commend the Senator for his leadership in this important area and look forward to working with him.

By Mr. WARNER (for himself):

S. 951. A bill to amend the Internal Revenue Code of 1986 to allow Medicare beneficiaries a refundable credit against income tax for the purchase of outpatient prescription drugs; to the Committee on Finance.

Mr. WARNER. Mr. President, I rise today to introduce this morning a bill on which my distinguished colleagues from Minnesota and Maine and I have collaborated. That is the Older Americans Prescription Drug Tax Relief Act. I will speak a minute or two on it, then should the Senator from Minnesota desire to speak to this, I will yield to the Senator and then resume the balance of my statement.

By way of introduction, all Members of this body have heard the tragic stories about older Americans who must choose between paying for their groceries and paying their rent. Many older Americans are forced into this choice because, unbelievably, the Medicare program still lacks an outpatient prescription drug benefit.

America’s seniors deserve much better. When Representative Ryan introduced the American contemporary Medicare program, he had a vision for all Americans. For the 200,000 seniors in Minnesota and Maine, ending the travel ban is the rational American response is to send more Americans, not fewer. We have all worked in support of this vitalty important goal, but, again, success has eluded us. Unfortunately, we have not been able to reach a consensus.

I hope this bill might be a new initiative that would merit the attention of my colleagues, and that it might provide a basis for that consensus. As we here in the Nation’s Capital debate how best to add a Medicare prescription drug benefit and continue to debate the specifics of such benefits such as premiums, co-pays, deductibles, formularies, and whether to run the program through the existing Medicare system or through a public-private partnership, our seniors continue to suffer. Medicare beneficiaries have waited far too long for Congress to provide some sort of relief for their prescription drug costs.

I remain committed, as are my distinguished colleagues from Minnesota and Maine, to working with our colleagues on creating a comprehensive prescription drug benefit in the Medicare program. I believe we must act now, however, to provide some relief at this point in time. We cannot defer this decision any longer. The Warner-Dayton-Collins proposal will provide real relief to Medicare beneficiaries. The legislation is simple and can be described in three points.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I thank the senior Senator from Virginia, a leader on this measure. I will be brief because I am scheduled to meet in my office in just a few moments with the new Superintendent of the Air Force Academy, which is a matter on which the Senator from Virginia has also exhibited great leadership on behalf of this country.

I am very proud to join with Senator WARNER in sponsoring this legislation. I agree and associate myself with everything the Senator has said regarding this matter.
I came to the Senate a little over 2 years ago, believing the most urgent matter facing our country in the area of social legislation was to provide prescription drug coverage for all of our elderly. I have been dismayed at our inability—all of us—to reach necessary agreements so such legislation could be enacted.

I could not agree more with the Senator from Virginia that this is something I hope our colleagues will consider. If there is a better approach that we can take this year, then so be it. But in the absence of that, as there has been that failure during the last 2 years, I hope our colleagues will look at this as a very feeling alternative. Even if long-term legislation is enacted, I believe it will be at least a year or two before that is available to our senior citizens, before that program is set up. This is an approach that could be implemented very swiftly, could be available almost immediately, and provide, on an interim basis if not a long-term basis, the financial assistance our elderly citizens desperately need.

I thank the senior Senator from Virginia. I am proud to associate myself with this legislation.

I yield the floor.

Mr. WARNER. I thank my distinguished colleague for responding. I wish to emphasize a very important point the Senator from Minnesota made.

This may not be the final resolution of this complex set of issues. But given the desperate circumstances of so many who have to make the choice between food and drugs, I think it is a very carefully crafted interim step that could be enacted into law and later quickly superseded should that hoped-for event occur in the future of a more comprehensive piece of legislation.

I think the emphasis on that is very important.

I would say, all of us here in the Senate benefit greatly by professional staff. On my staff, Chris Yianilos really worked diligently to bring this legislation into being and he collaborated with a distinguished member of your staff, Mr. Bob Hall. I also thank Priscilla Hanley, who worked with Senator Collins on the legislation.

The first is that the Warner-Dayton-Collins bill provides Medicare beneficiaries with a refundable—repeat—a refundable tax credit of 50 cents on every dollar of out-of-pocket prescription drug costs. Whether you actually pay income taxes or not, you are eligible to get the benefit of this tax credit.

The benefit is capped at $500 for the expenses of an individual senior. Married seniors would be eligible for a credit up to $1,000. The cap is based on a recent study by the Kaiser Family Foundation that estimates that the average senior’s out-of-pocket prescription drug costs will be $1,000. The proposal will cover 50 percent of the out-of-pocket drug costs for the average senior.

To take advantage of this refundable tax credit, Medicare beneficiaries will not have to worry about whether their drug is covered under some formulary. In addition, there are no premiums, no deductibles. Medicare beneficiaries will simply take their prescriptions, get them filled, and apply for their refundable tax credit.

Second, in recognition that a generous but necessary refundable tax credit such as this can be costly, we have imposed a responsible income phase-out. Those who can benefit from this tax credit. The phase-out level begins for individuals who earn $35,000 per year. Married Medicare beneficiaries begin to phase-out of the benefit at $50,000 a year. This cost containment mechanism will affect less than 10 percent of all Medicare beneficiaries but allows us to responsibly provide a refundable tax credit that will cover about 50 percent of the average Medicare beneficiary’s out-of-pocket drug expenses.

Again 90 percent of all Medicare beneficiaries will not be affected by the phase-out. In other words, they are beneath the phase-out caps. Only those individuals who are blessed with a larger income among America’s seniors, who can afford in large measure to pay for their prescription drugs, will be phased-out.

Third, the legislation will sunset once a comprehensive Medicare prescription drug benefit is signed into law. Again, as my colleague from Minnesota mentioned, and others, this is an interim proposal. Therefore, it can be superseded by a more comprehensive bill.

I wholeheartedly agree this legislation is not a substitute for a comprehensive prescription drug Medicare benefit, and we will continue to work with the President and our colleagues from both sides of the aisle in the Senate who support comprehensive piece of legislation. But as I stated earlier, America’s seniors cannot wait any longer for relief, and this proposal provides a real benefit to America’s seniors.

I am pleased to be joined by Senator Dayton and Senator Collins in introducing the Older Americans Prescription Drug Tax Relief Act. I urge my colleagues to give this matter consideration and, hopefully, it can be enacted into law.

Let it be something. Let us open the door and talk to the Cuban people.

Travel and other policies that deal with Cuba will continue to be a top priority for those of us in the newly formed Senate Cuba Working Group. The working group members have expressed their support for changes in our policies toward Cuba, and we will continue to be a part of the dialogue. I do encourage all of my colleagues to join us in that effort.

I encourage all of my colleagues to take a look at this bill that has been introduced today. I know there are people looking at it. I expect a lot more cosponsors on it. This is the most reasonable provision dealing with Cuba that has been presented during the 6 years I have been here. We have tried some bigger bites at the apple. They have not worked. So we are moving back to the travel bill, but the bill is very straightforward travel policy that will get Americans into Cuba to talk to Cubans to promote the ideas we believe in. I ask my colleagues to join me in this effort.

By Mr. CORZINE: S. 952. A bill to amend title XVIII of the Social Security Act to reduce the work hours and increase the supervision of resident-physicians to ensure the safety of patients and resident-physicians themselves; to the Committee on Finance.

Mr. CORZINE, Mr. President, I rise today to reintroduce new legislation, the Patient and Physician Safety and Protection Act of 2003, to limit medical resident work hours to 80 hours a week and to provide real protections for patients and resident physicians who are necessarily affected by excessive work hours. I feel strongly that as Congress begins to consider proposals to reduce medical malpractice premiums and improve quality of care, we must consider the role that excessive work hours play in exacerbating medical liability problems and reducing quality of care.

It is very troubling that hospitals across the Nation are requiring young doctors to work 36 hour shifts and as many as 120 hours a week in order to complete their residency programs. These long hours lead to a deterioration of cognitive function similar to the effects of blood alcohol levels of 0.1 percent. This is a level of cognitive impairment that would make doctors unsafe to drive—yet these physicians are not only allowed but in fact are required to care for patients and perform procedures on patients under these conditions.

The Patient and Physician Safety and Protection Act of 2003 will limit medical resident work hours to 80 hours a week. Not 40 hours or 60 hours. 80 hours a week. It is hard to argue that this standard is excessively strict. In fact, it is unconscionable that we now have resident physicians, or any physicians for that matter, caring for very sick patients 120 hours a week and 36 hours straight with fewer than 10 hours between shifts. This is an outrageous invasion of a patient’s right to quality care.

In addition to limiting work hours to 80 hours a week, my bill limits the length of any one shift to 24 consecutive hours, while allowing for up to 8 hours of duty during the same 24 hour period. It also ensures that residents have at least one three hours of patient transition time, allowing them to rest before the next shift. The bill also ensures that residents have at least one 24 hour shift to 12 hours. The bill also limits the length of an emergency room shift to 12 hours. The bill also ensures that residents have at least one 24 hour shift.
out of seven days off and “on-call” shifts no more often than every third night.

Since I first introduced the Patient and Physician Safety and Protection Act in the 107th Congress, the medical community’s representatives, the Accreditation Council for Graduate Medical Education, ACGME, specifically have taken critical steps to address the problem of excessive work hours. The ACGME’s recommendations to reduce resident work hours are commendable. If appropriately enforced, these new work hour guidelines will go a long way toward reducing the number of hours that residents must work, thereby improving the health of our Nation’s medical residents and ensuring the safety of the patients.

Despite the medical community’s best intentions to reduce work hours, however, I am very concerned that the ACGME’s policy lacks the enforcement mechanisms that are essential to ensure that the new work hour rules are followed. Too many hospitals failed to comply with previous work hour requirements mandated by the ACGME because there was insufficient oversight and enforcement. While the new policy establishes more stringent work hour reduction, it fails to create effective enforcement and oversight tools. These rules are meaningless without enforcement.

That is why Federal legislation is necessary. The Patient and Physician Safety and Protection Act of 2003 not only recognizes the problem of excessive work hours, but also creates strong enforcement mechanisms. The bill also provides funding support to teaching hospitals to implement new work hour standards. Without enforcement and financial support efforts to reduce work hours are not likely to be successful.

Finally, my legislation provides meaningful enforcement mechanisms that will protect the identity of resident physicians who file complaints about work hour violations. The ACGME’s guidelines do not contain provisions so-called whistle-blower protections for residents that seek to report program violations. Without this important protection, residents are likely to report these violations, which in turn will weaken enforcement.

My legislation also makes compliance with these work hour requirements a condition of Medicare participation. Each year, Congress provides $8 billion to teaching hospitals to train new physicians. While Congress must continue to vigorously support adequate funding so that teaching hospitals are able to carry out this important public service, these hospitals must also make a commitment to ensuring safe working conditions for these physicians and providing the highest quality of care to the patients they treat.

In closing I would like to read a quote from an Orthopedic Surgery Resident from Northern California, which I think illustrates why we need this legislation.

I quote, “I was operating post-call after being up for over 36 hours and was holding retractors. I literally fell asleep standing up and nearly face-planted into the wound. My upper arm hit the skin to announce to myself before I fell to the floor. I nearly put my face in the open wound, which would have contaminated the entire field and could have resulted in an infection for the patient.”

This is a very serious problem that must be addressed before medical errors like this occur. I hope every member of the Senate will consider this legislation and the potential it has to reduce medical errors, improve patient care, and create a safer working environment for the backbone of our Nation’s health system.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 962
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 “Patient and Physician Safety and Protection Act of 2003”.

SEC. 2. FINDINGS.
Congress finds the following:

(1) The Federal Government, through the Medicare program, pays approximately $8,000,000,000 per year solely to train resident-physicians in the United States, and as a result, has an interest in assuring the safety of patients treated by resident-physicians and the safety of resident-physicians themselves.

(2) Resident-physicians spend as much as 30 to 40 percent of their time performing activities not related to the educational mission of training competent physicians.

(3) The excessive numbers of hours worked by resident-physicians is inherently dangerous for patient care and for the lives of resident-physicians.

(4) The scientific literature has consistently demonstrated that the sleep deprivation of the magnitude seen in residency training programs leads to cognitive impairment.

(5) A substantial body of research indicates that excessive hours worked by resident-physicians lead to higher rates of medical errors, motor vehicle accidents, depression, and pregnancy complications.

(6) The medical community has not adequately addressed the problem of excessive resident-physician work hours.

(7) The Federal Government has regulated the work hours of other industries when the safety of employees or the public is at risk.

(8) The Institute of Medicine has found that as many as 98,000 deaths occur annually due to medical errors and has suggested that necessary action to reduce errors in hospitals is reducing the fatigue of resident-physicians.

SEC. 3. REVISION OF MEDICARE HOSPITAL CONSIDERATION, REGULATIONS WORKING HOURS OF MEDICAL RESIDENTS, INTERN, AND FELLOWS.

(a) IN GENERAL.—Section 1866 of the Social Security Act (42 U.S.C. 1395cc) is amended—

(1) in subsection (a)—

(A) by striking “and” at the end of subparagraph (R);

(B) by striking the period at the end of subparagraph (S) and inserting “;”;

and

(C) by inserting after subparagraph (S) the following new subparagraph:

“(T) in the case of a hospital that uses the second or postgraduate trainee designation (as defined in subsection (j)(4)), to meet the requirements of subsection (j);”;

and

(2) by adding at the end the following new subsection:

“(j)(1)(A) In order that the working conditions and working hours of postgraduate trainees promote the provision of quality medical care in hospitals, as a condition of participation under this title, each hospital shall establish the following limits on workhours for postgraduate trainees:

“(1) Subject to subparagraphs (B) and (C), postgraduate trainees may work no more than a total of 80 hours per week.

“(ii) Subject to subparagraph (C), postgraduate trainees may work no more than a total of 80 hours per week.

“(ii) Subject to subparagraph (C), postgraduate trainees—

“(I) shall have at least 10 hours between scheduled shifts;

“(II) shall have at least 1 full day out of every 7 days off and 1 full weekend off per month;

“(III) subject to subparagraph (B), who are assigned to patient care in an emergency department shall work no more than 12 continuous hours in that department;

“(IV) shall not be scheduled to be on call in the hospital more often than every third night; and

“(V) shall not engage in work outside of the educational program that interferes with the ability of the postgraduate trainee to achieve the goals and objectives of the program or that, in combination with the program work hours, exceeds 80 hours per week.

“(1) by adding at the end the following new paragraph (A)(i) or the 12-hour period referred to in subparagraph (A)(i)(III), as the case may be.

“(C) The work hour limitations under subparagraph (A) and requirements of subparagraph (B) shall not apply to a hospital during a state of emergency declared by the Secretary that applies with respect to that hospital.

“(2) The Secretary shall promulgate such regulations as may be necessary to ensure quality of care is maintained during the transfer of direct patient care from 1 postgraduate trainee to another at the end of each shift.

“(D) Such regulations shall ensure that, except in the case of individual patient emergencies, the period in which a postgraduate trainee is providing the transfer of direct patient care (as referred to in clause (i)) does not extend such trainee’s shift by more than 3 hours beyond the 24-hour period referred to in subparagraph (A)(i) or the 12-hour period referred to in subparagraph (A)(i)(III), as the case may be.

“(E) The work hour limitations under subparagraph (A) and requirements of subparagraph (B) shall not apply to a hospital during a state of emergency declared by the Secretary that applies with respect to that hospital.

“(F) The Secretary shall promulgate such regulations as may be necessary to monitor and supervise postgraduate trainees assigned patient care responsibilities as part of an approved medical training program, as well as to assure quality patient care.

“(3) Each hospital shall inform postgraduate trainees—

“(A) their rights under this subsection, including methods to enforce such rights (including so-called whistle-blower protections); and

“(B) the effects of their acute and chronic sleep deprivation both on themselves and on their patients.

“(4) For purposes of this subsection, the term "postgraduate trainee" means a postgraduate medical resident, intern, or fellow.”.

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(b) Designation.—
(1) In general.—The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall designate an individual in the Department of Health and Human Services to handle all complaints of violations that arise from a postgraduate trainee (as defined in paragraph (j) of the Social Security Act, as added by subsection (a)) who reports that the hospital operating the medical residency training program for which the trainee was enrolled is in violation of the requirements of such section.

(2) Grievance rights.—A postgraduate trainee may file a complaint with the Secretary alleging compliance of hospitals, or medical residency training program operated by such hospital and medical residency training program operated by a hospital in any 6-month period. The provisions of section 1123A of the Social Security Act (other than subsections (a) and (b)) shall apply to civil money penalties under this paragraph in the same manner as they apply to a penalty or proceeding under section 1123A(a) of such Act.

(B) Corrective Action Plan.—The Secretary shall establish procedures for providing a hospital that is subject to a civil money penalty under subparagraph (A) with an opportunity to avoid such penalty by submitting an appropriate corrective action plan to the Secretary.

(C) Violations and Annual Reports.—The individual designated under paragraph (1) shall—
(1) provide for annual anonymous surveys of postgraduate trainees to determine compliance with the requirements under such section 1886(j) and for the disclosure of the results of such surveys to the public on a hospital by hospital basis; and
(2) based on such surveys, conduct appropriate on-site investigations;
(C) pursuant to the requirements of paragraph (a) of this section, shall determine the existence of any violation of such requirements, and shall make an annual report to Congress on the hospitals in violation of such requirements, including providing a list of hospitals found to be in violation of such requirements;
(D) Whistleblower Protections.—
(1) In general.—A hospital covered by the requirements of section 1886(j) of the Social Security Act, as added by subsection (a), shall not penalize, discriminate, or retaliate in any manner against an employee with respect to compensation, terms, conditions, or privileges of employment, who in good faith (as defined in paragraph (2)), individually or in conjunction with another person or persons—
(A) reports a violation or suspected violation of such requirements to a public regulatory agency, a private accreditation body, or management personnel of the hospital;
(B) initiates, cooperates, or otherwise participates in an investigation or proceeding brought by a regulatory agency or private accreditation body concerning matters covered by such requirements;
(C) reports or discloses with other employees, with a representative of the employees, with patients or patient representatives, or with the public, violations or suspected violations of such requirements; or
(D) otherwise avails himself or herself of the rights set forth in such section or this subsection.

(2) Good faith defined.—For purposes of this subsection, an employee is deemed to act "in good faith" if the employee reasonably believed—
(A) that the information reported or disclosed is true; and
(B) that a violation has occurred or may occur.

(E) Effective Date.—The amendments made by subsection (a) shall take effect on the first day that begins at least 1 year after the date of enactment of this Act.

SEC. 4. ADDITIONAL FUNDING FOR HOSPITAL COSTS.

There are hereby appropriated to the Secretary of Health and Human Services such amounts as may be required to provide for additional payments to hospitals for their reasonable additional, incremental costs incurred in order to comply with the requirements imposed by this Act (and the amendments made by this Act).

By Mr. SHELBY (for himself, Mr. MILLER, Mr. LOTT, Ms. LANDRIEU, Mr. SESSIONS, Mr. COCHRAN, and Mr. CHAMBLISS):

S. 954. A bill to amend the Federal Power Act to the protection of electric utility customers and enhance the stability of wholesale electric markets through the clarification of State regulatory jurisdiction; to the Committee on Energy and Natural Resources.

Mr. SHELBY. Mr. President, on July 31, 2002, the Federal Energy Regulatory Commission, FERC, issued a notice of proposed rulemaking to create a one-size-fits-all template for electric market referred to as "standard market design," SMD.

The SMD rule would bring about numerous sweeping changes, the degree and consequences of which are still being assessed. The proposed rule would require customers to pay for transmission upgrades caused by new generators, even if the customer does not need or use the power from those generators.

FERC’s proposed rule would also usurp State authority to authorize utilities to serve customers, set generation reserve margins, centrally control generation dispatch, and set rates for retail transmission service. FERC’s proposed rulemaking will effectively eliminate a State’s ability to make decisions on issues specific to their State. Such sweeping changes to the energy industry should only be made after careful consideration of all potential consequences. After hearing these concerns, FERC promised a white paper to speak to the many concerns of myself and my colleagues.

On April 28, the Federal Energy Regulatory Commission released its long-awaited white paper on Wholesale Power Markets and Standard Market Design. I and others had hoped that the release signal a shift in the approach that the Commission has been taking with respect to the "federalization" of electricity regulation and markets. Disappointingly, despite some modest changes in approach, the Commission and Chairman Pat Wood have decided to move away from a partnership with the States toward Federal domination of the electricity system and electricity regulation.

In the document, the Commission reasserts its authority to regulate the terms and conditions of retail transmission, mandates the formation of Regional Transmission Organizations, and limits State authority to protect existing native load customers from the loss of transmission rights. The paper promises more "technical conferences" and consultation with the States, but does not change the premise upon which the Commission’s Standard Market Design, "SMD". Notice of Proposed Rulemaking rests—

that the States and regions serve only as adjuncts to the Commission as it devises new wholesale market rules that directly impinge upon retail markets.

In light of the Commission’s white paper and the Senate’s intention of quickly addressing energy policy, my colleagues and I present legislation today to ensure the concerns of my constituents and my colleagues are addressed. This crucial legislation will ensure that States maintain their jurisdiction over retail utilities, that native load customers can be assured of reliability of service, that customers are not forced to socialize the cost of new facilities developed in their area but intended for other regions, and finally the legislation will prohibit the FERC from implementing its current SMD rule nor any rule that is of similar substance.

By Mr. FEINGOLD (for himself, Mr. JEFFORDS, Mr. DAYTON, and Mr. LEAHY):

S. 956. A bill to amend the Elementary and Secondary Education Act of 1965 to permit States and local educational agencies to decide the frequency of using high quality assessments to measure and increase student academic achievement, to permit States and local educational agencies to obtain a waiver of certain testing requirements, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, as millions of public school students and teachers around the country prepare to complete their first school year under the No Child Left Behind Act, NCLB, I am introducing a bill that would help to return a measure of local control that was taken from school districts and States by its enactment last year.

I am pleased to be joined in this effort by Senators JEFFORDS, DAYTON, and LEAHY.

I have heard a lot of concern from my constituents about various aspects of the President’s education bill. Following the enactment of the bill last year, the drumbeat of concern has continued to reverberate throughout my
State, and has gotten even louder, as students, teachers, parents, administrators, school counselors and social workers, and others are learning first-hand about the effect of the NCLB.

I strongly support maintaining local control and decisions affecting our children’s day-to-day classroom experiences. I also believe that the Federal Government has an important role to play in supporting our State educational agencies and local school districts as they carry out their most important responsibility—the education of our children.

I voted against the President’s education bill in large part because of the new annual testing mandate for students in grades 3-8. While I agree that there should be a strong accountability system in place to ensure that public school students are making progress, I strongly oppose over-testing students in our public schools. I agree that some tests are needed to ensure that our children are keeping pace, but taking more time to test students has to have a back seat to taking the time to teach students in the first place.

I have heard a lot about these new annual tests from the people of Wisconsin, and the response has been almost universally negative. My constituents are concerned about this additional layer of testing for many reasons, including the cost of developing and implementing these tests, the loss of teaching time every year to prepare for and take the tests, and the extra pressure that the tests will place on students, teachers, schools, and school districts.

I share my constituents’ concerns about this new Federal mandate, I find it interesting that proponents of the NCLB say that it will return more control to the States and local school districts. In my view, however, this massive new Federal testing mandate runs counter to the principles of local control.

Many States and local school districts around the country, including Wisconsin, already have comprehensive testing programs in place. The Federal Government should leave decisions about the frequency of using high quality assessments to measure and increase student academic achievement up to the States and local school districts that bear the responsibility for educating our children. Every State and every school district is different. A uniform testing policy may not be the best approach.

I have heard from many education professionals in my State that this new testing requirement is a waste of money and a waste of time. These people are dedicated professionals who are committed to educating Wisconsin’s children, and they don’t oppose testing. I think we can all agree that testing has its place. What they oppose is the magnitude of testing that is required by this law. I am sure that many of these professionals would use this additional time to focus dedicated efforts on improving teaching and learning in their classrooms.

Beginning in the 2005-2006 school year, the NCLB will pile more tests on our Nation’s public school students. And of course, when those tests are piled on students, they burden our teachers as well, because teachers must spend more and more time preparing students to take these exams.

This kind of teaching, sometimes called “teaching to the test”, is becoming more and more prevalent in our schools as testing has become increasingly common. The dedicated teachers in our classrooms will now be constrained by teaching to yet more tests, instead of being able to use their own judgment about what subject areas the class needs to spend extra time studying. This additional testing time could also reduce the opportunity for teachers to create and implement innovative learning experiences for their students.

Teachers in my State are concerned about the amount of time that they will have to spend preparing their students to take the tests and administering the tests. They are concerned that these additional tests will disrupt the daily flow of teaching and learning in our classrooms. One teacher said the preparation for the tests Wisconsin already requires in grades 3, 4, 8, and 10 can take up to a month, and the administration of the test takes another week. That is too much time out of their teaching year. And of course, when those tests are piled on students, they burden our teachers as well, because teachers must spend more and more time preparing students to take these exams.

And of course, when those tests are piled on students, they burden our teachers as well, because teachers must spend more and more time preparing students to take these exams.

This bill would allow States and school districts that meet the same specific accountability criteria outlined for school-level excellence under the State Academic Achievement Award Program to apply to the Secretary of Education for a waiver from the new annual reading or language arts and mathematics tests for students in grades 3-5, 6-9, and 10-12 as required under the law. This bill would allow States and school districts that meet the same specific accountability criteria outlined for school-level excellence under the State Academic Achievement Award Program to apply to the Secretary of Education for a waiver from the new annual reading or language arts and mathematics tests for students in grades 3-5, 6-9, and 10-12 as required under the law.

To qualify for the waiver, the State or school district must have demonstrated academic success and met the criteria outlined in the Law. If the Secretary determines that the State or school district meets the criteria, the Secretary may grant a waiver. The waiver would be renewable, so long as the state or school district meets the criteria. The waiver would be for a period of three years and would allow the waiver holder to apply for a separate waiver.

The Federal Government should not impose an additional layer of testing on states that are succeeding in meeting or exceeding their AYP goals or on states that have exceeded their AYP goals in three consecutive years. States that have demonstrated academic success to use their share of Federal testing money to help those schools that need it the most.

The legislation that I am introducing today would do just that by allowing states with waivers to retain their share of the Federal funding appropriated to develop and implement the new annual tests. These important dollars would be used for activities that these States deem appropriate for improving student achievement at individual public elementary and secondary schools that have failed to make AYP.

I am pleased that this legislation is supported by the Association of School Administrators, the National PTA, the National Association of Elementary School Principals, the National Association of Secondary School Principals, the School Social Work Association of America, the Wisconsin Department of Public Instruction, the Wisconsin Education Association Council, the Wisconsin Association of School Boards, the Milwaukee Teachers’ Education Association, and the Wisconsin School Administrators Alliance, which includes the Wisconsin Association of School District Administrators, the Wisconsin Association of School District Administrators, the Wisconsin Association of School Business Officials, and the Wisconsin Council for Administrators of Special Services.

While this bill focuses on the over-testing of students in our public schools, I would like to note that my constituents have raised a number of other concerns about the NCLB that I hope will be addressed by Congress. My constituents are concerned about, among other things, the new AYP requirements, the effect that the Act will have on rural school districts, and about finding the funding necessary to implement all of these provisions of this new law. I share these concerns.

I regret that, for the second year in a row, the President’s budget request did not fully fund NCLB requirements and failed to provide any funding to crucial programs such as school counseling. If we are to truly leave no child behind, we must provide adequate funding for programs such as Title I, special education and professional development in order to ensure that all students have the means to succeed. To do less sends the message to our most vulnerable students for failure.

I hope that my bill, the Student Testing Flexibility Act, will help to focus attention on the perhaps unintended consequences of the ongoing implementation of the President’s education bill for states, school districts, and individual schools, teachers, and students.
I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 956

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 “Student Testing Flexibility Act of 2003”.

SEC. 2. FINDINGS. Congress finds that—

(1) State and local governments bear the majority of the cost and responsibility of educating public elementary school and secondary school students;

(2) State and local governments often struggle to find adequate funding to provide basic educational services;

(3) the Federal Government has not provided its full share of funding for numerous federally mandated elementary and secondary education programs;

(4) multiple assessments of student educational mandates increase existing financial pressures on States and local educational agencies;

(5) the cost to States and local educational agencies to implement the annual student academic assessments required under section 1111(b)(3)(C)(vii) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)(C)(vii)) remains uncertain;

(6) public elementary school and secondary school students take numerous tests each year, from classroom quizzes and exams to standardized and other tests required by the Federal Government, State educational agencies, or local educational agencies;

(7) multiple measures of student academic achievement provide a more accurate picture of a student’s strengths and weaknesses than does a single score on a high-stakes test; and

(8) the frequency of the use of high quality assessments as a tool to measure and increase student achievement should be defined by State educational agencies and local educational agencies.

SEC. 3. WAIVER AUTHORITY. Section 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)) is amended by adding at the end the following:

“(E) Waiver authority.—

“(1) States.—Upon application by a State educational agency that the Secretary shall waive the requirements of subparagraph (C)(vii) for a State if the State educational agency, respectively, that fail to make adequate yearly progress (as defined in paragraph (2)(C)); or

“(2) Waiver of federal mandates.—If the Secretary determines that the local educational agency if the local educational agency demonstrates that the local educational agency—

“(i) significantly closed the achievement gap among the groups of students described in paragraph (2)(C)(v); or

“(ii) exceeded the State’s adequate yearly progress, consistent with paragraph (2), for 2 or more consecutive years.

“(iii) Period of waiver.—A waiver under clause (i) or (ii) shall be for a period of 3 years and may be renewed for subsequent 3-year periods.

“(iv) Utilization of certain federal funds.—

“(I) Permissive uses.—Subject to subparagraph (A), a State or local educational agency granted a waiver under clause (i) or (ii) may use funds, that are awarded to the State or local educational agency, respectively, under this Act for the development and implementation of annual assessments under subparagraph (C)(vii), to pay a student’s cost of tuition, room, board, or fees at a private school.”

By Mrs. BOXER.

S. 957. A bill to amend titles IV, United States Code, to improve the training and retraining requirements and to require the certification of cabin crew members, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KOHL (for himself, Mr. REID, Mr. NELSON of Florida, Mr. ROCKEFELLER, Mrs. LINCOLN, Ms. LANDRIEU, Mr. BINGMAN, Mr. MILLER, and Mr. BREARLEY).

S. 958. A bill to amend titles XVIII and XIX of the Social Security Act to prevent abuse of recipients of long-term care services under the Medicare and Medicaid programs, to the Committee on Finance.

By Mrs. BOXER. Mr. President, I am pleased to introduce the “Flight Attend-ant Certification Act.”

Since September 11, flight attendants have become the front line of defense against terrorist attacks. As we all know, the terrorists hijacked four commercial jets—all of which were heading to California. That day forever changed air travel in this country, and in turn forever changed the security functions of flight attendants.

No one can forget that it was a flight attendant who discovered that Richard Reid was trying to ignite a bomb on his shoe. If not for the aware flight attendant, the bomb could have gone off over the Atlantic and all the passengers and crew would have been lost.

Today, I can say with certainty that air travel is more secure than it was a year and a half ago. But that does not mean we should not be doing more. We must continue to take the appropriate steps to ensure that we are doing everything in our power to prevent ter- rorist attacks and protect the American people. That is why I am proud to offer this legislation.

This bill would make American air travel safer by requiring that flight attendants be certified by the Federal Aviation Administration, FAA. Currently, flight attendants are not required to receive formal certification even though they have the responsibility for safety, security, and emerg-ency response.

In addition, the legislation would close the growing gap in the quality and content of training programs between airlines by creating a single training standard across the industry. This bill would require uniform training standards and establish a central approval process for certification of flight attendants at the FAA.

The FAA already recognizes the training of other airline personnel by issuing certification to pilots, mechanics, air-traffic controllers and others. Flight attendants deserve the same recognition and certification.

Mr. KOHL. Mr. President, I rise today to reintroduce the Patient Abuse Prevention Act, which will go a long way in protecting patients in long-term care from abuse and neglect.

This legislation will establish a National Registry of abusive long-term care workers and require criminal back-ground checks for potential employees. It is necessary so we can ensure that people with violent and abusive back-grounds cannot find work in nursing homes and home health and prey on our elderly relatives. After many years of refinement so that the background checks will run smoothly, and with the strong support of patient advocates and the American Association of Homes and Services for the Aging, I sincerely hope that this is the year when we will finally take action and enact these common-sense protections.

There is absolutely no excuse for abuse or neglect of the elderly and dis-abled at the hands of those who are supposed to care for them. Our parents and grandparents made our country what it is today, and they deserve to live with dignity and the highest quality care.

Unfortunately, this is not always the case. We know that the majority of caregivers are dedicated, professional, and do their best under difficult cir-cumstances. But it only takes a few abusive staff to cast a dark shadow over what should be a healing environ-ment.

Current State and national safe-guards are inadequate to screen out workers who are required to maintain registries of abusive nurse aides. But nurse aides are not the only workers involved in abuse, and other workers are not tracked at all. Even worse, there is no system to co-ordinate information about abusive nurse aides between States. A known abuser in Iowa would have little trouble moving to Wisconsin and con-tinuing to work with patients there.

In addition, there is no Federal re-quirement that long-term care facili-ties conduct criminal back-ground checks on prospective employees. Peo-ple with violent criminal back-grounds—people who have already been
convicted of murder, rape, and assault—could easily get a job in a nursing home or other health care setting without their past ever being discovered.

Our legislation will go a long way toward solving this problem. First, it will create a National Registry of abusive long-term care employees. States will be required to submit information from their current State registries to the National Registry. Facilities will be required to check the National Registry before hiring a prospective worker. Any worker with a substantiated finding of patient abuse will be prohibited from working in long-term care.

Second, the bill provides a second line of defense to protect patients from violent criminals. If the National Registry does not contain information about a prospective worker, the facility is then required to initiate an FBI background check. Any conviction for patient abuse or a relevant violent crime will disqualify the applicant from working with patients.

A disturbing number of cases have been reported where workers with criminal backgrounds have been cleared to work in direct patient care, and then went on to abuse patients in their care. Unfortunately, these news reports have tragically become commonplace over the years. In 1997, the Milwaukee Journal-Sentinel ran a series of articles describing this problem, including a Green Bay employee who was convicted of sexually assaulting a disabled woman, an Oshkosh employee who physically and emotionally abused nursing home residents, and a Milwaukee employee who charged more than $2,000 on a home health client’s credit card. All had prior criminal convictions. A 1999 Bergen Record study of home health workers found that in nearly every county, criminals were working in the homes of the elderly and infirm. Many aides had committed offenses against patients in their care, but they were still listed as certified and eligible for work in State records. Most recently, the Chicago Sun-Times ran an article on November 1, 2002, in which a home care aide beat his disabled client to death with a hammer. That caregiver had previously been convicted of shooting a man in the face.

In 1998, at my request, the Senate Special Committee on Aging held a hearing that focused on how easy it is for known abusers to find work in long-term care and continue to prey on patients. At that hearing, the HHS Inspector General presented a report which found that, in the two years studied, between 30 and 35 percent of employees currently working in nursing homes had serious criminal convictions in their past. They also found that among aides who had abused patients, 15 to 20 percent of them had at least one conviction in their past.

In 1998, I offered an amendment which became law that allowed long-term care providers to voluntarily use the FBI system for background checks. So far, 7 percent of those checks have come back with criminal convictions, including rape and kidnapping.

And on July 30, 2001, the House Government Reform Committee’s Special Investigations Division of the Minority staff issued a report which found that in the past two years, over 30 percent of nursing homes in the U.S. were cited for a physical, sexual, or verbal abuse violation. The report also indicated that the potential to harm residents. Even more striking, the report found that nearly 10 percent of nursing homes had violations that caused actual harm to residents.

Let me say again that despite this evidence, I know that the vast majority of caregivers in nursing homes and home health care do an excellent job and have their patients’ best interests at heart. But clearly, a national background check system is a critical tool that all long-term care providers should have—after all, they don’t want abusive caregivers working for them any more than families do. I am pleased that the nursing home industry has worked with the Administration on the past few years to refine this legislation, and I greatly appreciate their continued support of the bill. This bill reflects their input and will help ensure a smooth transition to an efficient, accurate background check system. This is a common-sense, cost-effective step we can and should take to protect patients by helping long-term care providers thoroughly screen potential caregivers.

I realize that this legislation will not solve all instances of abuse. We still need to do more to stop abuse from occurring in the first place. But this bill will ensure that those who have already abused an elderly or disabled patient, and those who have committed violent crimes against people in the past, are kept away from vulnerable patients.

I want to repeat again that I strongly believe that most long-term care providers and their staff work hard to deliver the highest quality care. However, it is imperative that Congress act immediately to get rid of those that don’t.

This bill is the product of collaboration and input from the health care industry, patient and employee advocates—who all have the same goal I do: protecting patients in long-term care. I look forward to continuing to work with my colleagues, the Administration, and the health care industry in this effort. Protecting our nation’s seniors and disabled deserves our full attention.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 958
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SEC. 1. Short title.
This Act may be cited as the “Patient Abuse Prevention Act.”
(iii) and (iv) of subparagraph (A) may use such information only for the purpose of determining the suitability of the worker for employment.

(4) DISQUALIFYING INFORMATION.—A skilled nursing facility that, in denying employment for an applicant (including during the period described in subparagraph (B)(ii)), reasonably relies upon information about an applicant provided by the State pursuant to subsection (e)(6) or section 1128E shall not be liable in any action brought by such applicant based on the employment determination resulting from the information.

(5) CRIMINAL PENALTY.—Whoever knowingly violates the provisions of clause (i) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

(6) CIVIL PENALTY.—

(1) IN GENERAL.—A skilled nursing facility that violates the provisions of this paragraph shall be subject to a civil penalty in an amount not to exceed—

(I) for the first such violation, $2,000; and

(II) for the second and each subsequent violation within any 5-year period, $5,000.

(2) KNOWING RETENTION OF WORKER.—In addition to any penalty under clause (i), a skilled nursing facility that—

(I) knowingly continues to employ a skilled nursing facility worker in violation of subsection (a)(1) or (b)(2) or

(II) knowingly fails to report a skilled nursing facility worker under subparagraph (C) shall be subject to a civil penalty in an amount not to exceed $5,000 for the first such violation, and $10,000 for the second and each subsequent violation within any 5-year period.

(7) DEFINITIONS.—In this paragraph:

(i) CONVICTION FOR A RELEVANT CRIME.—The term ‘conviction for a relevant crime’ means any Federal or State criminal conviction for—

(I) any offense described in paragraphs (1) through (4) of section 1128(a); and

(II) such other types of offenses as the Secretary may specify in regulations, taking into account the severity and relevance of such offenses, and after consultation with representatives of long-term care employees, consumer advocates, and appropriate Federal and State officials.

(ii) KNOWING RETENTION OF WORKER.—The term ‘knowingly’ means any Federal or State criminal conviction for—

(I) an act of patient or resident abuse or neglect or misappropriation of patient or resident property; or

(II) such other types of acts as the Secretary may specify in regulations.

(iii) FINDING OF PATIENT OR RESIDENT ABUSE.—The term ‘finding of patient or resident abuse’ means any substantiated finding by a State agency under subsection (g)(1)(C) or a Federal agency that a skilled nursing facility worker has committed—

(I) an act of patient or resident abuse or neglect or misappropriation of patient or resident property; or

(II) such other types of acts as the Secretary may specify in regulations.

(iv) SCREENING OF NURSING FACILITY WORKERS.—(A) Subject to subparagraph (B)(ii), before hiring a nursing facility worker, a nursing facility shall—

(I) give the worker written notice that the facility is required to perform background checks with respect to applicants;

(II) require, as a condition of employment, that—

(I) provide a written statement disclosing any conviction for a relevant crime or finding of patient or resident abuse; and

(II) provide a statement signed by the worker authorizing the facility to request the search and exchange of criminal records;

(iii) provide, in person to the facility a copy of the worker’s fingerprints or thumb print, depending upon available technology; and

(iv) provide any other identification information the Secretary may specify in regulation;

(iv) initiate a check of the data collection system established under section 1128E in accordance with regulations promulgated by the Secretary to determine whether such system contains any disqualifying information with respect to the worker; and

(v) if that system does not contain any such disqualifying information—

(I) request through the appropriate State agency that the Secretary initiate a State and national criminal background check on such worker in accordance with the provisions of subsection (e)(8); and

(ii) submit to such State agency the information described in subclauses (II) through (IV) of clause (ii) not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103a(a) of title 5, United States Code) after completion of the check against the system initiated under clause (iii).

(B) PROHIBITION ON HIRING OF ABUSIVE WORKER.—(I) IN GENERAL.—A nursing facility may not knowingly employ any nursing facility worker who has any conviction for a relevant crime or with respect to whom a finding of patient or resident abuse has been made.

(ii) PROVISIONAL EMPLOYMENT.—(A) BACKGROUND CHECKS ON APPLICANTS.—The term ‘background checks’ means any Federal or State criminal background check of an employment or other contract, or both, with such facility. Such facility shall maintain direct supervision of the worker during the worker’s provisional period of employment.

(B) REPORTING REQUIREMENTS.—A nursing facility shall report to the State any information about a nursing facility worker in violation of subsection (a)(1) or (b)(2) or a Federal agency that a nursing facility worker has committed—

(i) an act of patient or resident abuse or neglect or misappropriation of patient or resident property; or

(ii) such other types of acts as the Secretary may specify in regulations.

(iv) NURSING FACILITY WORKER.—The term ‘nursing facility worker’ means any individual (other than a volunteer) that has access to a nursing facility within an employment or other contract, or both, with such facility. Such term includes individuals who are licensed or certified by the Secretary of Health and Human Services, in consultation with the Attorney General and representatives of appropriate State agencies, to develop a model form that an applicant (including individuals described in subparagraph (B)(iv) or (b)(2)) is able to complete and Federal and State agencies may use to conduct the criminal background checks required under sections 1919(b)(8) and 1919(b)(8) of the Social Security Act (42 U.S.C. 1395i–2(b), 1396r(b)) (as added by this section).
(B) PERIODIC EVALUATION.—The Secretary of Health and Human Services, in consultation with the Attorney General, periodically shall evaluate the background check system imposed under sections 1819(b)(8) and 1919(b)(8) of the Social Security Act (42 U.S.C. 1395i–3(b), 1396r(b)) (as added by this section) and shall implement changes, as necessary, to make the background check system more efficient and able to provide a more immediate response to long-term care providers using the system.

(4) NO PREEMPTION OF STRicter STATE LAWS.—Nothing in section 1819(b)(8) or 1919(b)(8) of the Social Security Act (42 U.S.C. 1395i–3(b), 1396r(b)) (as added by this section) shall be construed to supersede any provision of State law that—

(A) specifies a relevant crime for purposes of prohibiting the employment of an individual at a long-term care facility (as defined in section 1128E(g)(6) of the Social Security Act (as added by section 3(f) of this Act) that is not included in the list of such crimes specified in such sections or in regulations promulgated by the Secretary of Health and Human Services to carry out such sections; or

(B) requires a long-term care facility (as so defined) to conduct a background check prior to employing an individual in an employment position that is not included in the positions for which a background check is required under such sections.

(5) TECHNICAL AMENDMENTS.—Effective as if included in the enactment of section 911 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–58), as enacted into law by section 106–555 of the Consolidated Appropriations Act, 2019 (Pub. L. 115–245), as amended by section 914(b) (as so amended) of the Consolidated Appropriations Act, 2020 (Pub. L. 116–6), as added by such section 914(b) (as so amended) are each section 1128E(g)(6) of the Social Security Act (42 U.S.C. 1395i–3(b), 1396r(b)) (as so added) to the extent such sections are not included in the list of such sections specified in such sections or in regulations promulgated by the Secretary of Health and Human Services to carry out such sections.

(b) FEDERAL AND STATE REQUIREMENTS CONCERNING BACKGROUND CHECKS.—

(1) MEDICARE.—Section 1919(e) of the Social Security Act (42 U.S.C. 1395i–3(e)) is amended by adding at the end the following:

"(6) STATE REQUIREMENTS CONCERNING CRIMINAL BACKGROUND CHECKS ON SKILLED NURSING FACILITY EMPLOYEES.—

"(A) IN GENERAL.—Upon receipt of a request by a skilled nursing facility pursuant to subsection (b)(8) that is accompanied by the information described in subparagraphs (II) through (IV) of subsection (b)(8)(A)(ii), a State may charge a fee for conducting a search of the background check database established under this paragraph (C). The amount of such fee shall not exceed the lesser of the actual cost of such activities and $50. Such fees shall be available to the Attorney General, or, in the Attorney General’s discretion, to the Federal Bureau of Investigation until expended.

"(B) SEARCH AND EXCHANGE OF RECORDS BY ATTORNEY GENERAL.—Upon receipt of a request by a skilled nursing facility pursuant to subsection (b)(8) that is accompanied by the information described in subparagraphs (II) through (IV) of subsection (b)(8)(A)(ii), a State, after checking appropriate State records and finding no disqualifying information (as defined in subsection (b)(8)(F)(i)), shall immediately submit such request and information to the Attorney General and shall request the Attorney General to conduct a search and exchange of records with respect to the individual as described in subparagraph (B).

"(C) STATE REPORTING OF INFORMATION TO NURSING FACILITY.—Upon receipt of the information to the Attorney General, the Attorney General shall direct a search of the records of the Federal Bureau of Investigation concerning any criminal history records corresponding to the fingerprints and other positive identification information submitted. The Attorney General shall provide and any corresponding information resulting from the search to the State.

"(D) FEES FOR PERFORMANCE OF CRIMINAL BACKGROUND CHECKS.—

"(1) AUTHORITY TO CHARGE FEES.—

"(I) ATTORNEY GENERAL.—The Attorney General may charge a fee to any State requesting a search of records pursuant to this paragraph and subsection (b)(8) for conducting the search and providing the records. The amount of such fee shall not exceed the actual cost of such activities.

"(ii) PROHIBITION ON CHARGING APPLICANTS OR EMPLOYEES.—An entity may not impose on an applicant or an employee any charges relating to the performance of a background check under this paragraph.

"(E) REGULATIONS.—

"(1) IN GENERAL.—In addition to the Secretary’s authority to promulgate regulations under this title, the Attorney General, in consultation with the Secretary, may promulgate such regulations as are necessary to carry out the Attorney General’s responsibilities under this paragraph and subsection (b)(9), including regulations regarding the security confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, and the imposition of fees.

"(2) APPEAL PROCEDURES.—The Attorney General, in consultation with the Secretary, shall promulgate such regulations as are necessary to establish procedures by which an applicant or employee may appeal or dispute the information obtained in a background check conducted under this paragraph. Appeals shall be limited to instances in which an applicant or employee believes that the information on the receipt for any criminal history records corresponding to the fingerprints and other positive identification information submitted. The Attorney General shall provide and any corresponding information resulting from the search to the State.

"(3) PROHIBITION ON CHARGING APPLICANTS OR EMPLOYEES.—An entity may not impose on an applicant for employment or an employee any charges relating to the performance of a background check under this paragraph.

"(E) REGULATIONS.—

"(1) IN GENERAL.—In addition to the Secretary’s authority to promulgate regulations under this title, the Attorney General, in consultation with the Secretary, may promulgate such regulations as are necessary to carry out the Attorney General’s responsibilities under this paragraph and subsection (b)(8), including regulations regarding the security confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, and the imposition of fees.

"(2) APPEAL PROCEDURES.—The Attorney General, in consultation with the Secretary, shall promulgate such regulations as are necessary to establish procedures by which an applicant or employee may appeal or dispute the accuracy of the information obtained in any background check conducted under this paragraph. Appeals shall be limited to instances in which an applicant or employee..."
employee is incorrectly identified as the subject of the background check, or when information about the applicant or employee has not been updated to reflect changes in the applicant or employee’s criminal record.

“(F) REPORT.—Not later than 2 years after the date of enactment of this paragraph, the Attorney General shall submit a report to Congress on—

“(i) the number of requests for searches and exchanges of records made under this section;

“(ii) the disposition of such requests; and

“(iii) the cost of responding to such requests.”

(c) APPLICATION TO OTHER ENTITIES PROVIDING LONG-TERM CARE SERVICES.—

(1) MEDICARE.—Part D of title XVIII of the Social Security Act (42 U.S.C. 1395x et seq.) is amended by adding at the end the following:

“APPLICATION OF SKILLED NURSING FACILITY PREVENTIVE ABUSE PROVISIONS TO ANY PROVIDER OF SERVICES OR OTHER ENTITY PROVIDING HOME HEALTH OR LONG-TERM CARE SERVICES

“SEC. 1897. (a) IN GENERAL.—The requirements of subsections (b)(b) and (e)(6) of section 1919 of the Social Security Act (42 U.S.C. 1395i–3) for providing home health services, hospice care (including routine home care and other services included in hospice care under this title), or long-term care services to an individual entitled to benefits under part A or enrolled under part B, including an individual provided with a Medicare+Choice plan offered by a Medicare+Choice organization under part C (in this section referred to as a ‘medicare beneficiary’)

“(b) SUPERVISION OF PROVISIONAL EMPLOYEES.—

“(1) IN GENERAL.—With respect to an entity that provides home health services, such entity shall be considered to have satisfied the requirements of section 1819(b)(8)(B)(ii) or 1919(b)(8)(B)(ii) if the entity meets such requirements for supervision of provisional employees of the entity as the Secretary shall, by regulation, specify in accordance with paragraph (2).

“(2) REQUIREMENTS.—The regulations required under paragraph (1) shall provide the following:

“(A) Supervision of a provisional employee shall consist of ongoing, good faith, verifiable efforts by the supervisor of the provisional employee to conduct monitoring and oversight activities to ensure the safety of a medicare beneficiary.

“(B) For purposes of subparagraph (A), monitoring and oversight activities may include an individual that is not limited to the following:

“(i) Follow-up telephone calls to the medicare beneficiary.

“(ii) Unannounced visits to the medicare beneficiary.

“(iii) To the extent practicable, limiting the provisional employee’s duties to serving only those medicare beneficiaries in a home or setting where another family member or resident of the home or setting of the medicare beneficiary is present.

“(2) MEDICAID.—Section 1819(b)(8)(B)(ii) of the Social Security Act (42 U.S.C. 1395l) is amended—

“(A) in paragraph (64), by striking “and” at the end;

“(B) in paragraph (65), by striking the period and inserting “; and”;

“(C) by inserting after paragraph (65) the following:

“(66) indicate that any entity that is eligible to be paid under the State plan for providing home health services, hospice care (including routine home care and other services included in hospice care under title XVIII), or long-term care services and with respect to whom the entity has reported to the State a finding of patient neglect or abuse or a misappropriation of patient property;”

(III) in subparagraph (C), by striking “a nurse aide” and inserting “an individual”; and

(II) in subsection (g)(1)—

“(I) by striking the first sentence of subparagraph (C) and inserting the following:

“The State shall provide, through the agency responsible for surveys and certification of nursing facilities under this subsection, for a process for the receipt and timely review and investigation of allegations of neglect and abuse or a misappropriation of resident property by a nurse aide or a nursing facility resident of a resident in a nursing facility, by another individual used by the facility in providing services to such a resident, or by an individual described in subsection (e)(2)(A)(iii)”;

and

(II) in the fourth sentence of subparagraph (C), by inserting “or described in subsection (e)(2)(A)(iii)” after “used by the facility”; and

(III) in subparagraph (D), by—

(aa) in the subparagraph heading, by striking “NURSE AIDE” and inserting “an individual’’; and

(bb) in clause (i), in the matter preceding clause (I), by striking “a nurse aide” and inserting “an individual”;

(cc) in clause (i)(I), by striking “nurse aide” and inserting “individual”;

(4) EXPANSION OF STATE NURSE AIDE REGISTRY.—

(1) MEDICARE.—Section 1919 of the Social Security Act (42 U.S.C. 1395i–3) is amended—

“(I) in subsection (e)(2)—

“(I) in the paragraph heading, by striking “NURSE AIDE REGISTRY” and inserting “EMPLOYEE REGISTRY”;

“(II) in subparagraph (A), by striking “a registry of all individuals” and inserting “a registry of (i) all individuals”;

and

“(II) in subsection (g)(1)—

“(I) by striking the first sentence of subparagraph (C) and inserting the following:

“The State shall provide, through the agency responsible for surveys and certification of nursing facilities under this subsection, for a process for the receipt and timely review and investigation of allegations of neglect and abuse and a misappropriation of resident property by a nurse aide or a nursing facility resident of a resident in a nursing facility, by another individual used by the facility in providing services to such a resident, or by an individual described in subsection (e)(2)(A)(iii)”;

and

(II) in the fourth sentence of subparagraph (C), by inserting “or described in subsection (e)(2)(A)(iii)” after “used by the facility”; and

(III) in subparagraph (D), by—

(aa) in the subparagraph heading, by striking “NURSE AIDE” and inserting “an individual’’; and

(bb) in clause (i), in the matter preceding clause (I), by striking “a nurse aide” and inserting “an individual”;

(cc) in clause (i)(I), by striking “nurse aide” and inserting “individual”.

(2) REQUIREMENTS FOR BACKGROUND CHECKS.—The Secretary of Health and Human Services shall reimburse nursing facilities, skilled nursing facilities, and other entities for costs incurred by the facilities and entities in order to comply with the requirements imposed under sections 1819(b)(8) and 1919(b)(8) of such Act (42 U.S.C. 1395l–3(b)(8), 1906(b)(8)), as added by this section.

SEC. 3. INCLUSION OF ABUSIVE WORKERS IN THE DATABASE ESTABLISHED AS PART OF NATIONAL HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) INCLUSION OF ABUSIVE ACTS WITHIN A LONG-TERM CARE FACILITY OR PROVIDER.—

Section 1128E(g)(1)(A) of the Social Security Act (42 U.S.C. 1320a–7e(g)(1)(A)) is amended—

(1) by redesignating clause (v) as clause (vi); and

(2) by inserting after clause (iv), the following:

“(v) A finding of abuse or neglect of a patient or a resident of a long-term care facility, or misappropriation of such a patient’s or resident’s property.”

(b) COVERAGE OF LONG-TERM CARE FACILITY OR PROVIDER EMPLOYEES.—Section 1128E(g)(2) of the Social Security Act (42 U.S.C. 1320a–7e(g)(2)) is amended by—

(1) in the paragraph heading, by striking “NURSE AIDE REGISTRY” and inserting “an individual’’; and

(2) in clause (i), by substituting “and” for “or”, and inserting “individual” after “a registered nurse”.
By Mr. INHOFE (for himself, Mr. KYL, Mr. BURNS, Mr. THOMAS, and Mr. GRASSLEY):

S. 959. A bill to limit the age restrictions imposed by the Administrator of the Federal Aviation Administration for the issuance or renewal of certain airman certificates, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. PRESIDENT. Mr. President, as the Senate's only commercially licensed pilot, I rise today, along with my colleagues, Senator Kyl, Senator Burns, Senator Thomas and Senator Grassley, to introduce a bill that will end age discrimination among airline pilots.

This bill will abolish the Federal Aviation Administration's, FAA, Age 60 Rule—the regulation that for 43 years has forced the retirement of airline pilots the day they turn 60—and replace it with a rational plan that raises the retirement age to 63 immediately and then incrementally increases the age limit to 65.

Most nations have abolished mandatory retirement rules. The United States is one of only two countries in the Joint Aviation Authorities that requires its commercial pilots to retire at the age of 60. Some countries, including Canada, Australia, and New Zealand have no upper age limit at all.

The Age 60 Rule has no basis in science or safety and never did. FAA data shows that pilots over age 60 are as safe as, and in some cases safer than, their younger colleagues. In 1981, the National Institute of Aging stated that “…there is no convincing medical evidence to support age 60, or any other specific age, for mandatory pilot retirement.”

This bill will allow our most experienced pilots—demonstrably healthy, and fit for duty—to retain their jobs, a step that will benefit pilots, the financially burdened airlines, and most importantly, passengers. Now, more than ever before, we need to keep our best pilots flying.

Again, there is no scientific justification for requiring pilots to retire at age 60. Our pilots, our airlines, and our passengers deserve our consideration. I urge the rest of my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 959

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be known as the Age Discrimination in Employment Act of 2003.

SECTION 1. LIMITATION ON AGE RESTRICTIONS.

Section 44703 of title 49, United States Code, is amended by striking the following:

“(3) MANDATORY CHECK OF DATABASE BY PROVIDER.—The term ‘long-term care facility or provider’ means a nursing facility (as defined in section 1819(a)), a provider of hospice care (as defined by the Secretary), an intermediate care facility for the mentally retarded (as defined in section 1886(d)(1)), an intermediate care facility for the developmentally disabled (as defined in section 1886(d)(1)(B)(iv)), an intermediate care facility for the developmentally disabled (as defined in section 1886(d)(1)(B)(v)), an intermediate care facility for the developmentally disabled (as defined in section 1886(d)(1)(B)(vi)), an intermediate care facility for the developmentally disabled (as defined in section 1886(d)(1)(B)(vii)), and a skilled nursing facility (as defined in section 1886(d)(1)(B)(viii)).”

The Act shall take effect on the date that is 6 months after the effective date of final regulations promulgated to carry out this Act and such amendments.

By Mr. AKAKA:

S. 960. A bill to amend the reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii and to amend the Hawaiian Water Resources Act of 2000 to modify the water resources study; to the Committee on Energy and Natural Resources.

Mr. PRESIDENT, Mr. President, I rise today to introduce legislation to authorize three important water reclamation projects in the State of Hawaii. In addition, this bill increases the amount authorized for the Federal share of the activities under P.L. 106-566, the Hawaiian Water Resources Act of 2000, which was an important first step in addressing Hawaii’s irrigation and water delivery systems. It allowed the Bureau of Reclamation to survey irrigation and water delivery systems in Hawaii. It also instructed the Bureau to identify new opportunities for reclamation and reuse of water and wastewater for agriculture and non-agricultural purposes. In addition, the Act included Hawaii in the Bureau of Reclamation’s wastewater reclamation program and extended drought relief programs to Hawaii. While this was an important beginning, more needs to be done, particularly since the Honolulu Board of Water Supply predicts that even with improved conservation methods, the island of Oahu will run out of potable water by 2018. This means that the use rate exceeds the recharge rate and Oahu residents and visitors will be “mining” for water. Even more concerning is the fact that Oahu will run out of fresh water by 2018. It is vitally important for the State of Hawaii to begin working on water reclamation projects.
This legislation authorizes three water reclamation projects. The first project, in Honolulu, will provide reliable potable water through resource diversification to meet existing and future demands, particularly in the Ewa area of Oahu where water demands are outpacing the availability of drinking water. The second project, in North Kona, will address the issue of effluent being discharged into a temporary disposal sump from the Kealakehe Wastewater Treatment Plant. The third project will reduce the use of potable water by extending the County of Maui’s main recycled water pipeline. The legislation also authorizes an additional $1.7 million for the Bureau of Reclamation to complete its study of Hawaii’s irrigation and water delivery systems. This is a challenging task as the Bureau is reviewing the water systems in the State.

I urge my colleagues to support this legislation which is vital to the people of Hawaii.

By Ms. MURKOWSKI:

S. 961. A bill to expand the scope of the HUBZone program to include difficult development areas; to the Committee on Small Business and Entrepreneurship.

Ms. MURKOWSKI. Mr. President, I rise today to introduce legislation to correct an inequity in the HUBZone program. The program is administered by the Small Business Administration, SBA. This bill amends the criteria by which areas are designated as HUBZone under the Small Business Act by adding a new category designated as “Difficult Development Areas.” These difficult development areas are already recognized by the Internal Revenue Service and the Department of Housing and Urban Development. For reasons I will explain, the businesses and people in the community of Ketchikan, AK have been denied participation in the HUBZone program. This bill will take care of that problem.

The current HUBZone qualifications have two tiers. The first is that the county in which a business seeking to participate in the program must not be located in a Metropolitan Statistical Area, MSA. The second level has three separate criteria. If an area meets any one of the second level criteria, it qualifies as a HUBZone area. One of the criteria simply relates to whether a business is located in an Indian Reservation. The other two are correlated to the characteristics of the resident population.

The first of the characteristic is that the area is not located in a metropolitan statistical area at the time of the most recent census. The second criterion is that the unemployment rate in the area is not less than 140 percent of the statewide average unemployment rate. In the case of Ketchikan, the unemployment rate was 7.1 percent almost 2 percent higher than the national average. But Ketchikan’s preliminary unemployment rate for February is 11 percent and the reviewed rate for January was 11.9 percent. The Ketchikan figure currently exceeds the requirement. In June of 2002 the rate was 8.6 percent in comparison to 7.4 percent statewide at that same time. But because of the timing of the compiling of the information by the Census Bureau, Ketchikan has been denied participation in the program although it exceeds the statewide rate. The anomaly is that for a few short months in the summer Ketchikan does not exceed 140 percent of the statewide average due to the influx of workers from the area related to the tourism industry.

The SBA has the best intentions and understands the problems. However, the SBA has stated to me that nothing short of a legislative change can fix the problem. Part of the problem as I understand it is that the SBA’s current use of the median income and unemployment rate criteria makes the assumption that the populations are relatively immobile. Further, the SBA criterion assumes that the area in question has developed a labor market. The criteria assume a community model more closely aligned to the traditional urban areas.

In Alaska, our largest community, Anchorage is rightfully not considered a HUBZone area. The SBA’s criteria based on the use of the Census Bureau statistics fail to accurately reflect the true unemployment and labor market in one place in particular in Alaska—Ketchikan. The program now uses a Qualified Census Tract. Ketchikan is a small coastal community that was highly dependent on the timber industry which has been shut down as a result of changes in Federal policies and activities of the U.S. Forest Service. This community has become highly dependent on the tourism industry. Further, the labor pool is highly transient and leaves to collect unemployment after the summer tourist season is over.

The Census Bureau data taken when the summer population is higher and more fully employed does not reflect the reality of the area. As a result the Ketchikan Gateway Borough is not considered a HUBZone. There is a dry-dock and ship repair facility located in Ketchikan that could provide year round employment. But it cannot compete for government vessel repair contracts offered by the U.S. Coast Guard and the NOAA that have been set aside for HUBZone. These vessels operate in Alaska and could be better repaired near where they operate. Now they must leave the State and perhaps be out of service longer.

The bill adds a fourth area to qualify as a HUBZone. The Department of Housing and Urban Development already has a program that recognizes not only the Qualified Census Tracts but also designates a “Non-metropolitan Difficult Development Area.” The amendment simply adds this difficult development area. Many of these areas already qualify as HUBZones under the prior three criteria. I have asked the SBA to advise me how much this would expand their program but in reality I expect the addition to be only a minor expansion of the HUBZone program. However small the change is, the change will be significant to the people and businesses located in Ketchikan, AK.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 961

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

SECTION 1. EXPANSION OF HUBZONE PROGRAM.


(1) in subclause (I), by striking “or” at the end;

(2) in subclause (II), by striking the period at the end and inserting “and” in place thereof;

(3) by adding after subclause (II) the following:

“(III) there is located a difficult development area;”

By Mrs. LINCOLN (for herself, Mr. ROCKEFELLER, Mr. BINGHAM, and Mr. BREBAUX):

S. 962. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the child tax credit and to expand refundability of such credit, and for other purposes; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I am pleased to cosponsor legislation which is key to dramatically improve the child tax credit. I thank my friend and colleague, Senator LINCOLN, for her hard work on behalf of our Nation’s working families.

In the 6 years since the child tax credit was first enacted, it has provided important tax relief to families across the country. Income taxes can be particularly burdensome to moderate income families who are facing increased costs for food, housing, medicine, education, and other basic needs for their children. While the current child tax credit is excellent—it could be even better. The $600 credit, which is available only for children under the age of 17, does not truly recognize the costs that face many families raising children. More important, working families do not have enough income to qualify for the credit. Make no mistake, I am talking about hard-working parents who go to

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their jobs every day and take their responsibilities to their children very seriously. These parents are paying payroll taxes, but cannot provide for some of the basic needs of their children. The legislation introduced today would improve the law so that a greater portion of the child tax credit would be refunded to these admirable parents.

Specifically, this legislation includes two important improvements to the current child tax credit that will benefit all families who claim the credit. First, setting a threshold below which the full child tax credit would be refundable, would increase the amount of the tax credit from $600 to $1,000 immediately. Second, the bill increases the age of children who are eligible for the credit from 16 to 18. We know that 17- and 18-year-old children are facing enormous educational expenses in order to attend college or technical school. We ought to help parents pay for this education by allowing them to continue to receive the child tax credit until their child is a legal adult. The bill also includes two important improvements to the eligibility criteria for the refundable credit. By lowering the income threshold for the refundable credit and increasing the percentage of income eligible for the refundable credit, we can ensure that more of the families most in need of assistance can benefit from this credit.

The child tax credit is one of the most important ways that Congress can demonstrate its support for America’s families. And I hope that my colleagues will support this legislation which would dramatically improve the child tax credit.

By Ms. STABENOW (for herself and Mr. LEVIN):

S. 963. A bill to require the Commandant of the Coast Guard to convey the United States Coast Guard Cutter Bramble, upon its decommissioning, to the Port Huron Museum of Arts and History, Port Huron, Michigan, for use for educational and historical display, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. STABENOW. Mr. President, I rise today to speak on behalf of a bill I am introducing to honor the history of the United States Coast Guard Cutter Bramble, into a floating maritime museum in Port Huron, Michigan, after she is decommissioned later this year.

Once the history of the Bramble, I am sure you will all agree that not only should she be preserved, but the Port Huron Museum of Arts and History will be able to provide the ideal home.

The Bramble has been part of many important missions since it was first launched on October 23, 1943.

But, along with her sister ships, Spar and Storis—the Bramble is best known for being part of the first mission by United States vessels to steam from the Pacific Ocean to the Atlantic Ocean via the Northwest Passage. Upon completing this mission, Bramble and her sister ships went on to become the first to circumnavigate the North American continent—a dream of sailors for more than 400 years.

The Bramble set out on this historic mission from Miami, Florida, on May 24, 1957. Steaming through the Panama Canal to the Pacific Ocean, the Bramble then headed to Seattle. On July 1, 1957, the Bramble left Seattle and headed toward the Atlantic Ocean via the Bering Straights and the Arctic Ocean. Sixty-four days and 4,500 miles later, the Bramble and her sister ships reached the Atlantic. And on December 2, 1957, she tied up again in Miami—completing the first circumnavigation of the North American continent.

For that reason alone, the Bramble would be worth saving as a museum of maritime history.

But over her 60 year history, the Bramble has seized tons of illegal drugs, saved hundreds of lives in search and rescue missions, served as a police in 10 Caribbean nations, maintained buoys and other aids to navigation, performed icebreaking duties in the Great Lakes and been the recipient of numerous awards, service ribbons and commendations.

The Bramble has a long history with Michigan and Port Huron and that is why I believe my State would make an excellent home once this historic ship is retired.

The Bramble first came to Detroit, MI, in 1962, where she performed search and rescue, icebreaking, law enforcement and navigation missions through-out the Great Lakes.

Since 1975, the Bramble’s homeport has been Port Huron. And that is where I think she should stay after she is decommissioned.

The Coast Guard motto is Semper Paratus—or Always Ready.

For 60 years the Bramble has been there—always, for our country in waters close to home and far away.

And I believe that as a museum of maritime history, she can continue serving us for years to come—still Semper Paratus—still Always Ready.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

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

S. 963

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

SECTION 1. PHASEOUT OF DECOMMISSIONED COAST GUARD CUTTER BRAMBLE.

(a) IN GENERAL.—Upon the scheduled decommissioning of the United States Coast Guard Cutter BRAMBLE (WLB 406), the Commandant of the Coast Guard shall convey all right, title, and interest of the United States in and to that vessel to the Port Huron Museum of Arts and History, a nonprofit corporation organized under the laws of the State of Michigan, located in Port Huron, Michigan, without consideration, if—

(1) the Museum and the Commandant shall—

(A) to use the vessel for purposes of educational and historical display;

(b) not to use the vessel for commercial transportation purposes;

(c) to make the vessel available to the United States if needed for use by the Commandant in time of war or a national emergency;

(d) to hold the United States harmless for any claims arising from exposure to hazardous or toxic substances, including asbestos or polychlorinated biphenyls (PCBs), after conveyance of the vessel under this subsection, except for claims arising from the use by the United States under subparagraph (C).

The Museum has funds available, in the form of cash, liquid assets, or a written loan commitment, in the amount of at least $700,000, that the Museum agrees to commit to operate and maintain the vessel in good working condition; and

The Museum agrees to any other conditions the Commandant considers appropriate.

(b) MAINTENANCE OF VESSEL.—Prior to conveyance of the vessel under this section, the Commandant shall, to the extent practicable, and subject to other Coast Guard mission requirements, maintain the integrity of the vessel and its equipment until the delivery to the Museum.

(c) DELIVERY.—If a conveyance of the United States Coast Guard Cutter BRAMBLE is made under this section, the Commandant shall deliver the vessel at the place where the vessel is located, in its present condition, and without cost to the United States.

(d) CONVEYANCE NOT A DISTRIBUTION IN COMMERCE.—The conveyance of the vessel under this section shall not be considered a distribution in commerce for purposes of section 6(e) of the Toxic Substances Control Act (15 U.S.C. 2605(e)).

(e) OTHER EXCESS EQUIPMENT.—The Commandant may convey to the Museum any excess equipment or parts from other decommissioned Coast Guard vessels for use to enhance the operability and function of the United States Coast Guard Cutter BRAMBLE as an historical display.

By Mr. LOTT (for himself and Mr. ROCKEFELLER):
of this title or otherwise provided to the Administration.

SEC. 3. INCENTIVE PROGRAM.
(a) In General.—Chapter 417 of title 49, United States Code, is amended by adding at the end the following:

``SUBCHAPTER IV—MARKETING INCENTIVE PROGRAM

§ 41781. Purpose.
§ 41782. Marketing program.
§ 41783. State marketing assistance.
§ 41784. Definitions.
§ 41785. Authorization of appropriations.

§ 41781. Purposes

The purposes of this subchapter are—

(1) to enable essential air service communities to increase boardings and the level of passenger usage of airport facilities at an eligible place by providing technical, financial, and other marketing assistance to such communities and to States;

(2) to reduce subsidy costs under subchapter II of this chapter as a consequence of such increased usage; and

(3) to provide such communities with opportunities to retain, and improve transportation services.

§ 41782. Marketing program

(a) In General.—The Secretary of Transportation shall establish a marketing incentive program for eligible essential air service communities for providing assistance under subchapter II under which the airport sponsor in such a community may receive a grant of not more than $50,000 to develop and implement a marketing plan to increase passenger boardings and the level of passenger usage of its airport facilities.

§ 41783. State marketing assistance

(a) Matching Requirement; Success Bonuses

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), not less than 25 percent of the public financed costs associated with the marketing plan shall come from non-Federal sources. For purposes of this paragraph—

(A) the non-Federal portion of the publicly financed costs may be derived from contributions in kind; and

(B) State or local matching contributions may be derived directly or indirectly, from Federal funds, but the use by a state or local government of proceeds from the sale of bonds to provide the matching contribution for which the program is funded shall not be used for such program.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 417 of such title is amended by inserting after the item relating to section 41702 the following:

``(b) Authorizations Authorized.—The chapter analysis for chapter 417 of such title is amended by inserting after the item relating to section 41702 the following:

``SUBCHAPTER IV—MARKETING INCENTIVE PROGRAM

§ 41781. Purpose.
§ 41782. Marketing program.
§ 41783. State marketing assistance.
§ 41784. Definitions.
§ 41785. Authorization of appropriations.

§ 41784. Definitions

In this subchapter:

(1) ELIGIBLE.—The term ‘eligible place’ has the meaning given that term in section 41702(a).

(2) ELIGIBLE ESSENTIAL AIR SERVICE COMMUNITY.—The term ‘eligible essential air service community’ means an eligible place that—

(A) submits an application to the Secretary of Transportation in such manner as the Secretary may require, including a detailed marketing plan, or specifications for the development of such a plan, for such place;

(B) provides assurances, satisfactory to the Secretary, that it will use the non-Federal funds provided under preceding sections of this subchapter or its successor programs for such purpose; and

(C) will improve airport facilities in a manner that—

(i) is consistent with the best use of the airport for the type of service it is to provide;

(ii) will be compatible with the needs of air traffic safety; and

(iii) will maximize the use of such facilities.

(3) COST-SHARING.—The Secretary shall establish a pilot program under which—

(A) the Secretary may establish a program to assist the State and such communities to improve airport facilities; and

(B) the Secretary may and should establish a program to assist the State and such communities to improve airport facilities.

§ 41785. Authorization of appropriations

(a) In General.—The Secretary of Transportation may provide up to $50,000 in technical assistance to any State within which an eligible essential air service community is located for the purpose of establishing such communities to develop methods to increase boardings in such communities. At least 10 percent of the costs of the activity through which the marketing plan is associated shall come from non-Federal sources, including contributions in kind.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 417 of such title is amended by inserting after the item relating to section 41702 the following:

``(b) Authorizations Authorized.—The chapter analysis for chapter 417 of such title is amended by inserting after the item relating to section 41702 the following:

``(C) will improve airport facilities in a manner that—

(i) is consistent with the best use of the airport for the type of service it is to provide;

(ii) will be compatible with the needs of air traffic safety; and

(iii) will maximize the use of such facilities.

§ 41787. Other pilot programs

(a) In General.—Subchapter II of chapter 417 of title 49, United States Code, is amended by adding at the end the following:

``SUBCHAPTER IV—MARKETING INCENTIVE PROGRAM

§ 41781. Purpose.
§ 41782. Marketing program.
§ 41783. State marketing assistance.
§ 41784. Definitions.
§ 41785. Authorization of appropriations.

§ 41788. Other pilot programs

(a) In General.—The Secretary may design or designate any community under this chapter in which it is located as a small airport near a hub airport and is not located in the principal name of the airport. In making the designation, the Secretary shall take into consideration the location and proximity to hub airports and shall also consider the extent to which the airport facilities associated with such an airport would be utilized for commercial passenger service.

(b) Provisions Authorized.—

(1) COMMUNITY FLEXIBILITY.—The Secretary shall establish a program for not more than 10 communities to designate such a community under which the airport sponsor of an airport serving the community or consortium may elect to forego any essential air service governing requirements.

(2) PROGRAM GUIDELINES.—The Secretary may promulgate guidelines to carry out the provisions of this paragraph.

(c) Authorization of Appropriations.—The Secretary of Transportation shall provide such sums as may be necessary to carry out the provisions of this section.
(ii) the relative lack of financial resources in a community, based on a comparison of the median income of the community with other communities in the State.

(4) NON-FEDERAL AMOUNTS.—For purposes of this section, the non-Federal portion of the essential air service subsidy may be derived in any reasonable manner. The Secretary shall provide assistance to designated communities in identifying potential means of reducing the amount of the subsidy without adversely affecting air transportation service to the community.

(ii) APPLICATION WITH OTHER MATCHING REQUIREMENTS.—Nothing in this subsection shall apply to the Federal share of essential air service provided this subchapter, after the application of any other non-Federal share matching requirements imposed by law.

(E) ELIGIBILITY FOR OTHER PROGRAMS NOT AFFECTED.—Nothing in this paragraph affects the eligibility of a community or consortium of communities for any program that any other person to participate in any program authorized by this subchapter. A community designated under this paragraph may participate in any program (including pilot programs) authorized by this subchapter for which it is otherwise eligible.

(i) without regard to any limitation on the number of communities that may participate in that program; and

(ii) without reducing the number of other communities that may participate in that program.

(F) SECRETARY TO REPORT TO CONGRESS ON IMPACT.—The Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on—

(i) the economic condition of communities designated under this paragraph before their designation;

(ii) the impact of designation under this paragraph on such communities at the end of each of the 3 years following their designation; and

(iii) the impact of designation on air traffic patterns affecting air transportation to and from communities designated under this paragraph.

(G) CODE-SHARING.—Under the pilot program established under subsection (a), the Secretary is authorized to require air carriers providing service to participating communities to arrange for air carriers designated under that program to participate in multiple code-share arrangements consistent with normal industry practice whenever and wherever the Secretary determines that such multiple code-share arrangements would improve air transportation services. The Secretary may not require air carriers to participate in such arrangements under this subsection for more than 3 years on any community.

(H) TRACK SERVICE.—The Secretary shall require essential air service providers to track changes in service, including on-time arrivals and departures.

(I) ADMINISTRATIVE PROVISIONS.—In order to participate in a pilot program established under this subchapter, an airport sponsor for a community or consortium of communities shall submit an application to the Secretary in such form, at such time, and containing such information as the Secretary may require.

(J) CONFORMING AMENDMENT.—The chapter analysis of this Act is amended by inserting the item relating to section 4174 the following:

''(a) RATE RESTRUCTURING.—If the Secretary of Transportation determines that essential air service is being provided at a significantly increased cost of providing service under subchapter II of chapter 417 of title 49, United States Code, the Secretary of Transportation may require any air carrier providing service under that subchapter and with the other air carrier providing service under that subchapter to file an application for a rate restructuring.

(b) RETURNED FUNDS.—Notwithstanding any provision of law to the contrary, any funds made available under subchapter II of chapter 417 of title 49, United States Code, that are returned to the Secretary by an airport sponsor because of decreased subsidy under the term ‘significantly increased costs’ mean an average monthly cost increase of 10 percent.

SEC. 5. EAS PROGRAM AUTHORITY CHANGES.

(a) RATE RESTRUCTURING.—If the Secretary of Transportation determines that essential air service is being provided at a significantly increased cost of providing service under subchapter II of chapter 417 of title 49, United States Code, the Secretary of Transportation may require any air carrier providing service under that subchapter within 30 days after the date of enactment of this Act with regard to any agreements or requirements relating to the restructuring of contracts. For purposes of this subsection, the term ‘significantly increased costs’ means an average monthly cost increase of 10 percent.

(b) RETURNED FUNDS.—Notwithstanding any provision of law to the contrary, any funds made available under subchapter II of chapter 417 of title 49, United States Code, that are returned to the Secretary by an airport sponsor because of decreased subsidy under the term ‘significantly increased costs’ mean an average monthly cost increase of 10 percent.

(c) SMALL COMMUNITY AIR SERVICE DEVELOPMENT PILOT PROGRAM.—Section 41743(h) of such title is amended by striking ‘‘an airport’’ and inserting ‘‘each airport’’.

Mr. ROCKEFELLER. Mr. President, the continuing economic crisis facing the U.S. airline industry also imperils the future of hundreds of small and rural communities across our country as air carriers drastically reduce service to small and rural communities. While small and rural communities have long had to cope with limited and unreliable service, these problems have been exacerbated by the weakened financial condition of most major U.S. airlines.

Faced with declining revenues brought on by the Nation’s economic downturn, the events of September 11, 2001 and the war in Iraq most carriers have substantially reduced or eliminated service to many communities. In the last month, United Air Lines, US Airways and Continental Airlines announced significant service cuts to West Virginia.

Last month, this Congress provided $3.5 billion in direct and indirect benefits to the Nation’s airlines. I strongly supported this package because our economy requires a strong and vibrant airline industry. In my own aviation relief package, I had provided resources to the airlines to continue to provide air service to small and rural communities.

Today, tens of thousands of these communities face a difficult time maintaining and developing new air service options. Today, their challenge is preventing the complete loss of air service. In these difficult economic and uncertain times, I strongly believe that the Federal Government must continue to assist our most vulnerable communities stay connected to the Nation’s aviation network—a network paid for with American money under the program and has used it to successfully attract a new service connection to Houston, an important gateway to the markets of Latin America. This program gave local communities the ability and flexibility to meet local air transportation needs.

The Aviation Investment and Revitalization Vision Act, cosponsored by myself and Senator LOTT, reauthorizes the expands the successful Small Community Air Service Development Program. The bill authorizes the participation of 120 communities.

Many of our most isolated and vulnerable communities whose only service is through the Essential Air Service Program have indicated that they would like to develop innovative and flexible programs that communities could receive Small Community Air Service Development grants to improve the quality of their air service.

It is for this reason that I, along with Senator LOTT, have introduced the Small Community and Rural Air Service Revitalization Act of 2003. The legislation reauthorizes the Department of Transportation’s Essential Air Service, EAS, program, and creates a series of pilot programs for EAS communities to participate to stimulate passenger demand for air service in their communities.

Under the bill, communities are given the option of continuing their EAS as is or they may apply to participate in new incentive programs to help them develop new and innovative solutions to increasing local demand for air service.
service. The EAS Marketing and Community Flexibility Programs would provide communities new resources and tools to implement locally developed plans to improve their air service. By providing communities the ability to design their own air service proposals, a community has the ability to develop a plan that meets its locally determined needs, improves air service choices, and gives the community a greater stake in the EAS program.

Specifically, these new EAS pilot programs include authorization for the use of smaller planes to decrease cost or increase frequency, communities to cost-share for service above base EAS subsidy level, alternative service at up to 3 EAS points if a community applies, an opt out of the EAS program with a one-time infusion of funding to assist in transition out of the program, and DOT to mandate multiple code-sharing arrangements for EAS providers.

A pilot program added at the request of Senator LOTT would allow DOT to require a cost-share for up to 10 communities within 100 miles of a hub. I have significant reservations about forcing communities to pay for a service the Federal Government promised them.

In addition, the communities that participate in EAS are small and isolated and have lower than average per capita incomes than urban or suburban communities. Cash-strapped communities will have to provide anywhere between $50,000 and $120,000 in local funds to continue their EAS service. I worked with Senator LOTT to make sure DOT considers a variety of relevant factors when selecting communities, to provide communities appeal rights, and to make sure they have access to other pro-active pilot programs. I will monitor DOT’s implementation of this pilot program closely.

Small and rural communities are the first to bear the brunt of bad economic times and the last to see the benefits of good times. The general economic downturn and the dire straits of the aviation industry have placed exceptional burdens on air service to our most isolated communities. The Federal Government must provide additional resources and tools for small communities to help themselves attract adequate air service. The Federal Government must make sure that our most vulnerable towns and cities are linked to the rest of the Nation. My legislation builds on existing programs and strengthens them. If these bills are enacted, our constituents will have the tools and resources necessary to attract air service, related economic development, and most importantly expand their connections to the national and global economy.

Mr. COLEMAN (for himself and Mr. DAYTON) submitted the following resolution; which was considered and agreed to:

S. Res. 126
Whereas on Saturday, April 12, 2003, the defending NCAA Division I National Collegiate Men’s Ice Hockey Champions, the University of Minnesota Golden Gophers, won the National Championship for the second straight year;

Whereas the University of Minnesota defeated the University of New Hampshire in the championship game by the score of 5 to 1, having defeated the University of Michigan 3 to 2 in overtime in the semifinals; Whereas the Golden Gophers reached the 56th Annual Frozen Four by defeating Mercyhurst College 9 to 2 and Ferris State University 7 to 4;

Whereas the University of Minnesota received an automatic bid to the 2002-2003 NCAA Division I National Collegiate Men’s Ice Hockey Tournament by defeating Colorado College 4 to 2 in the Western Regional Hockey Association Tournament Championship;

Whereas the Golden Gophers became the first repeat NCAA Division I Collegiate Men’s Ice Hockey Champion in 31 years;

Whereas the University of Minnesota won their fifth NCAA National Collegiate Men’s Ice Hockey title;

Whereas the team displayed academic excellence by maintaining an average grade point average above the university-wide average; and

Whereas all the team’s players showed dedication throughout the season toward the goal of winning the National Championship: Now, therefore, be it

Resolved, That the Senate—

(1) commends the University of Minnesota Golden Gophers for winning the 2002-2003 NCAA Division I National Collegiate Men’s Ice Hockey Championship;

(2) recognizes the achievements of all the team’s players, coaches, and support staff; and

(3) directs the Secretary of the Senate to make available enrolled copies of this resolution to the University of Minnesota for appropriate display, and to transmit an enrolled copy of this resolution to every coach and member of the 2002-2003 NCAA Division 1 National Collegiate Men’s Ice Hockey Championship Team.

Mr. COLEMAN submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. Res. 127
Whereas section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283) established the monthly Commodity Credit Corporation interest rate applicable to loans provided for agricultural commodities by the Commodity Credit Corporation at a basis points greater than the rate determined under the applicable interest rate formula in effect on October 1, 1996; and

Whereas the interest rate formula in effect on October 1, 1995, for agricultural commodity loans reflected the interest rate charged to the Commodity Credit Corporation by the Treasury for the applicable month;

Whereas the interest rate charged to the Commodity Credit Corporation by the Treasury for a month is based on the 4- to 5-week average price of 1-year constant maturity securities sold on the market by the Treasury in the previous month;

Whereas the Commodity Credit Corporation had used such cost of borrowing interest rates for all commodity loans since January 1, 1982, and this practice was understood by Congress when enacting the Federal Agriculture Improvement and Reform Act of 1996;

Whereas section 141(c)(2) of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171) amended section 163 of the Federal Agriculture Improvement and Reform Act of 1996 to provide that raw cane sugar and refined beet sugar, and in-process sugar eligible for a loan under section 156 of that Act (7 U.S.C. 7272) shall not be considered an agricultural commodity for the purposes of section 163 of that Act;

Whereas Congress intended that loans to processors of sugar be exempted from the 100-basis point surcharge and that the loans should be subject to interest at the rate that is charged to the Commodity Credit Corporation by the Treasury for the applicable month;

Whereas, during deliberations on the Farm Security and Rural Investment Act of 2002, the Congressional Budget Office estimated the cost of eliminating the interest rate surcharge on loans to processors of sugar at $5,000,000 per year in reduced revenues and Congress enacted the amendment to section 163 of the Federal Agriculture Improvement and Reform Act of 1996 with this understanding of its purpose and effect;

Whereas the final regulations of the Commodity Credit Corporation to implement the sugar loan program recognized that the amendment of section 163 of the Federal Agriculture Improvement and Reform Act of 1996 by section 141(c)(2) of the Farm Security and Rural Investment Act of 2002 eliminated the requirement that the Commodity Credit Corporation add 1 percentage point to the interest rate as calculated by the procedure in place prior to October 1, 1995; and

Whereas the Commodity Credit Corporation regulations require that a loan to a processor of sugar be subject to interest at rates equal to those applicable to all other agricultural commodities, including the 100-basis point surcharge, notwithstanding the clear intent of Congress in enacting section 141(c)(2) of the Farm Security and Rural Investment Act of 2002: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Secretary of Agriculture should reduce the interest rate on loans to processors of sugar beets and sugarcane by 1 percentage point so that the rate will be equal to the cost of borrowing to conform to the intent of Congress.

Mr. COLEMAN submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:
intent of Congress in enacting the Farm Security and Rural Investment Act of 2002 (Public Law 107-171).

SENATE RESOLUTION 128—TO COMMEMORATE THE SERVICE OF SALLY GOFFINET ON THIRTY-ONE YEARS OF SERVICE TO THE UNITED STATES SENATE

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. Res. 128
Whereas Sally Goffinet became an employee of the United States Senate in 1972, and has faithfully upheld the high standards and traditions of the staff of the United States Senate;
Whereas Sally Goffinet created the position of Parliamentary Assistant in the Parliamentarian’s Office in the Office of the Secretary of the Senate;
Whereas Sally Goffinet has ably assisted the last four Senate Parliamentarians in a host of clerical, administrative and substantive matters;
Whereas Sally Goffinet has faithfully discharged the difficult duties and responsibilities of Parliamentary Assistant of the United States Senate with great pride, energy, efficiency, dedication, integrity, and professionalism;
Whereas she has earned the respect, affection, and esteem of the United States Senate; and
Whereas Sally Goffinet will retire from the United States Senate on April 30, 2003, with 31 years of service to the United States Senate: Now, therefore, be it
Resolved, That the Senate commends Sally Goffinet for her exemplary service to the United States Senate and the Nation, and wishes to express its deep appreciation and gratitude for her long, faithful, and outstanding service.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to Sally Goffinet.

SENATE RESOLUTION 129—RECOGNIZING AND COMMENDING THE MEMBERS OF THE NAVY AND MARINE CORPS WHO SERVED IN THE U.S.S. “ABRAHAM LINCOLN” AND WELCOMING THEM HOME FROM THEIR RECENT MISSION ABROAD

Mrs. MURRAY (for herself and Ms. CANTWELL) submitted the following resolution; which was referred to the Committee on Armed Services:

S. Res. 129
Whereas the U.S.S. Abraham Lincoln (CVN-72) is the fifth Nimitz-class aircraft carrier of the United States and has its homeport at Naval Station Everett in Washington;
Whereas the U.S.S. Abraham Lincoln serves as home to 5,000 brave members of the Navy and Marine Corps and carries approximately 70 combat and support aircraft;
Whereas the U.S.S. Abraham Lincoln is scheduled to return to its homeport on May 6, 2003, after nearly ten months on deployment in support of Operation Iraqi Freedom, Operation Enduring Freedom, and Operation Southern Watch;
Whereas the deployment of the U.S.S. Abraham Lincoln was the longest for a nuclear-powered carrier since 1978;
Whereas in December 2002, the U.S.S. Abraham Lincoln completed a six-month deployment in the Persian Gulf conducting operations in support of the Global War on Terror and was returning to its homeport when it was ordered back to the Persian Gulf in January 2003 to support Operation Iraqi Freedom;
Whereas during the nearly ten-month deployment of the U.S.S. Abraham Lincoln, there were 12,318 total air and ordnance sorties, 12,900 flight hours, and 16,500 sorties from the U.S.S. Abraham Lincoln, 265,118 pounds of ordnance were expended from the U.S.S. Abraham Lincoln during Operation Iraqi Freedom and Operation Southern Watch, and 1,600,000 pounds of ordnance were expended from U.S.S. Abraham Lincoln during Operation Iraqi Freedom;
Whereas the deployment of the U.S.S. Abraham Lincoln featured numerous firsts, including the first use of the Super Hornet and the first operational availability of the “Man Overboard Indicator” onboard the U.S.S. Abraham Lincoln; and
Whereas the citizens of the City of Everett, the State of Washington, and the United States are proud of the members of the Navy and Marine Corps who serve on the U.S.S. Abraham Lincoln: Now, therefore, be it
Resolved, That the Senate recognizes and commends the members of the Navy and Marine Corps who served on the U.S.S. Abraham Lincoln (CVN-72) and welcomes them home from their recent mission abroad.

SENATE CONCURRENT RESOLUTION 41—DIRECTING CONGRESS TO ENACT LEGISLATION BY OCTOBER 2005 THAT PROVIDES ACCESS TO COMPREHENSIVE HEALTH CARE FOR ALL AMERICANS

Mr. KENNEDY (for himself, Mr. CORZINE, and Mr. FEINGOLD) submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. Con. Res. 41
Whereas the United States has the most expensive health care system in the world in terms of absolute costs, per capita costs, and percentage of gross domestic product (GDP); Whereas despite being first in spending, the World Health Organization has ranked the United States 37th among all nations in terms of meeting the needs of its people; Whereas 42,000,000 Americans, including 8,000,000 children, are uninsured; Whereas tens of millions of Americans are inadequately insured, including Medicare beneficiaries who lack access to prescription drug coverage and long term care coverage; Whereas racial, income, and ethnic disparities in access to care threaten communities across the country, particularly communities of color; Whereas health care costs continue to increase, jeopardizing the health security of working families and small businesses; Whereas dollars that could be spent on health care are being used for administrative costs instead of patient needs; Whereas the current health care system too often puts the bottom line ahead of patient care and threatens safety net providers who treat the uninsured and poorly insured; and
Whereas any health care reform must ensure that health care services and practitioners are able to provide patients with the quality care they need: Now, therefore, be it
Resolved by the Senate (the House of Representatives concurring), That Congress shall
(1) be affordable to individuals and families, businesses and taxpayers and that removes financial barriers to needed care;
(2) be as cost efficient as possible, spending the maximum amount of dollars on direct patient care;
(3) requests that the President issue a proclamation calling on the people of the United States to conduct appropriate ceremonies, activities, and programs to memorialize the efforts of Operation Iraqi Freedom, and the Purple Heart for Military Merit.

(4) be as cost efficient as possible, spending the maximum amount of dollars on direct patient care;
(5) addresses the need to have adequate amounts of qualified health care caregivers, practitioners, and providers to guarantee timely access to quality care;
(10) provides adequate and timely payments in order to guarantee access to providers;
(11) fosters a strong network of health care facilities including safety net providers;
(12) ensures continuity of coverage and continuity of care;
(13) maximizes consumer choice of health care providers and practitioners; and
(14) is easy for patients, providers and practitioners to use and reduces paperwork.

Mr. KENNEDY. Mr. President, I submit this measure today to call attention to one of the most serious injustices in our country. 42 million Americans lack access to quality, affordable health care because they have no health insurance. Most of these Americans work in full-time jobs, but still cannot afford the high cost of health care. As a result, hospital emergency rooms are their only doctor. They face impossible choices in paying for the medicine they need on top of paying the rent, or putting food on the table. As a result they die younger. Yet, the richest and most powerful Nation in the world looks the other way.

For half a century, the United States has led the world in scientific and medical advances. We have more Nobel Prize winners in medicine than any other Nation. We were the first to successfully decode the entire human genome. And yet, we cannot see that every American child gets vaccinated against deadly and disabling diseases. We fail to guarantee that all Americans obtain the medical treatments that could save their lives.

Every year, 8 million uninsured Americans fall to take their medications because they can't afford to pay for their prescriptions. 300,000 children with asthma never get treated by a doctor. Uninsured women diagnosed with breast cancer are 50 percent more likely to die from the disease, because their cancer is diagnosed too late. 32,000 Americans with heart disease go without lifesaving bypass surgery or other treatments.

And the problem is getting worse. For most of the past 16 years, the number of people without health insurance has increased. Now, when our economy is weak, health care costs are rising at double-digit rates. People are losing jobs and their health insurance too. States are cutting back on Medicaid care for the poor. If we do nothing, the number of uninsured could reach more than 52 million by 2010. Clearly, the time to act is now.

We must pass legislation to ensure that every man, woman, and child in the United States has access to high quality, affordable health care. And we must do it soon.

Some say we cannot afford the cost of covering the uninsured. But as a country, we are already paying the much higher costs of failing to provide good care for all. We pay for it when we fail to detect cancer early by using the preventive screening that we know is effective. We pay for it in every person with diabetes who becomes blind because of a disease we know how to control. We pay for it by failing to give every child the same opportunity for good health and a productive life.

We know that the battle for affordable health care has never been easy. But to solve this problem, we must commit to working together to find a solution. That is why I am submitting this resolution. This measure does not endorse a specific plan to cover the uninsured, but it does state unequivocally that universal health care is our goal, and it sets a time for Congress to get the job done.

A similar resolution has already been submitted in the House of Representatives and has received the strong support of our 470 organizations, including many groups representing patients, health providers, and faith-based organizations.

Democrats are leading the charge in Congress in the fight for quality health care for all Americans—and, as Congressman GEPHARDT has shown with his recent proposals, Democrats are prepared to take this issue to the White House as well.

I urge my colleagues to join in supporting this resolution to enact bipartisan legislation to provide health care for all Americans by the end of the year 2005. Perhaps we can do it earlier, but at least we are setting a realistic goal—the end of the first session of the Congress elected in 2004. The time is long overdue for the United States of America to join the rest of the industrialized world in recognizing this fundamental right.

AMENDMENTS SUBMITTED & PROPOSED

SA 532. Mr. ALLEN (for himself, Mr. HOLLINGS, and Mr. MCCAIN) proposed an amendment to the bill S. 196, to establish a digital and wireless network technology program, and for other purposes.

TEXT OF AMENDMENTS

SA 532. Mr. ALLEN (for himself, Mr. HOLLINGS, and Mr. MCCAIN) proposed an amendment to the bill S. 196, to establish a digital and wireless network technology program, and for other purposes:

On page 2, strike lines 2 and 3, and insert the following:

This Act may be cited as the “Minority Serving Institution Digital and Wireless Technology Opportunity Act of 2003.”

On page 2, line 5, insert “Minority Serving Institution” before “Digital.”

On page 2, line 7, strike “Network.”

On page 3, strike lines 1 through 5, and insert the following:

(2) to develop and provide educational services, including faculty development, related to science, mathematics, engineering, or technology;

On page 3, line 18, after “development” insert “in science, mathematics, engineering, or technology.”

On page 4, line 18, after “accept” insert “and review.”

On page 4, line 23, strike “section 3.” and insert “section 4.” and for reviewing and evaluating proposals submitted to the program.”.
Panel III: David G. Campbell to be United States District Judge for the District of Arizona, and S. Maurice Hicks, Jr., to be United States District Judge for the Western District of Louisiana.

Panel IV: William Emil Moschella to be Assistant Attorney General, Office of Legislative Affairs, United States Department of Justice.

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

COMMUNITY ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. TALENT. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate for a roundtable entitled “SBA Re-Authorization: Credit Program, Part I” and other matters on Wednesday, April 30, 2003, beginning at 9:30 a.m., in Room 428A of the Russell Senate Office Building.

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

PRIVILEGE OF THE FLOOR

Mr. DAYTON. Mr. President, I ask unanimous consent that Katie Pass of my staff be permitted the privilege of the floor during my remarks. The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMENDING SALLY GOFFINET

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 128 which was submitted earlier today by Senators COLEMAN and DAYTON.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk reads as follows:

A resolution (S. Res. 128) to commend Sally Goffinet on Thirty-One Years of Service to the United States Senate.

Whereas Sally Goffinet has ably assisted the last four Senate Parliamentarians in a host of clerical, administrative and substantive matters; and
Whereas Sally Goffinet has faithfully discharged the difficult duties and responsibilities of Parliamentary Assistant to the United States Senate with great pride, energy, efficiency, dedication, integrity, and professionalism; and
Whereas she has earned the respect, affection, and esteem of the United States Senate; and
Whereas Sally Goffinet will retire from the United States Senate on April 30, 2003, with 31 years of service to the United States Senate; and
Whereas Sally Goffinet will retire from the United States Senate on April 30, 2003, with 31 years of service to the United States Senate; and

The resolution (S. Res. 128) was agreed to and the motion to reconsider be laid upon the table, with unanimous consent that the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the Record.

The PRESIDING OFFICER. The resolution (S. Res. 128) was agreed to and the motion to reconsider be laid upon the table, with unanimous consent that the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the Record.

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

The resolution (S. Res. 128) was agreed to and the motion to reconsider be laid upon the table, with unanimous consent that the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the Record.

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

COMMENDING UNIVERSITY OF MINNESOTA GOLDEN GOPHERS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 126 which was submitted earlier today by Senators COLEMAN and DAYTON.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk reads as follows:

A resolution (S. Res. 126) commending the University of Minnesota Golden Gophers for winning the 2002-2003 NCAA Division I National Collegiate Men’s Ice Hockey Championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the Record.

The resolution (S. Res. 126) was agreed to and the motion to reconsider be laid upon the table, with unanimous consent that the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the Record.

The PRESIDING OFFICER. The resolution (S. Res. 126) was agreed to and the motion to reconsider be laid upon the table, with unanimous consent that the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the Record.

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

The resolution (S. Res. 126) was agreed to and the motion to reconsider be laid upon the table, with unanimous consent that the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the Record.

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

CONGRATULATING THE U.S. CAPITOL POLICE ON THE OCCASION OF ITS 175TH ANNIVERSARY

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 156.

The PRESIDING OFFICER. The clerk will state the concurrent resolution by title.

The legislative clerk reads as follows:

A concurrent resolution (H. Con. Res. 156) extending congratulations to the United States Capitol Police on the occasion of its 175th anniversary and expressing gratitude to the men and women of the United States Capitol Police and their families for their devotion to duty and service in safeguarding the freedoms of the American people.

Mr. FRIST. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table, with intervention allowed on the debate.

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

The resolution (H. Con. Res. 156) was agreed to and the preamble was agreed to.

Mr. REID. Mr. President, I believe I am the only former Capitol Policeman serving in the Senate. I am quite sure that is true. I didn’t serve 175 years ago, although it seems like it. I have great affection and a real soft spot in my heart for the Capitol Police, having been a former Capitol Policeman.

The men and women of the Capitol Police today are different than during the years I served. Now they do very extraordinary things in protecting this beautiful Capitol, the employees here, the tourists, and the Members of the Senate. When I was a Capitol Policeman, the most dangerous thing I did was direct traffic. I didn’t have their qualifications, but I am certainly just as proud as I think they are, having been a Capitol Policeman.
CONGRESSIONAL RECORD — SENATE
April 30, 2003

Mr. FRIST. Mr. President, there is
not an hour that goes by that we don’t
either pass in the hallway or on the
Capitol grounds our Capitol Police. On
the occasion of this 175th anniversary, it
given us this formal opportunity to
express our gratitude to the men and
women of the Capitol Police. It is nice
to be able to put H. Con. Res 156 for-
ward because we have a lot to be
thankful for each and every day for
their tremendous work.

MEASURE READ THE FIRST
TIME—S. 14

Mr. FRIST. Mr. President, I under-
stand that S. 14, introduced earlier
today, is at the desk and I ask for its
first reading.

The PRESIDING OFFICER. The
clerk will read the bill for the first

The legislative clerk read as follows:
A bill (S. 14) to enhance the energy secu-
rity of the United States, and for other
purposes.

Mr. FRIST. Mr. President, I now ask
for its second reading and object to my
own request.

The PRESIDING OFFICER. Objec-
tion is heard. The bill will remain at
the desk.

MEASURE READ THE FIRST
TIME—H. J. RES. 51

Mr. FRIST. Mr. President, I under-
stand that H. J. Res. 51 is at the desk,
and I ask for its first reading.

The PRESIDING OFFICER. The
clerk will read the joint resolution for
the first time.

The legislative clerk read as follows:
A joint resolution (H. J. Res. 51) increasing
the statutory limit on the public debt.

Mr. FRIST. Mr. President, I ask for
its second reading and object to further
proceeding on this matter.

The PRESIDING OFFICER. Objec-
tion is heard. The joint resolution will
remain at the desk.

MEASURE INDEFINITELY
POSTPONED—S. 760

Mr. FRIST. Mr. President, I ask
unanimous consent that Calendar No.
62, S. 760, be indefinitely postponed.

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

REMOVAL OF INJUNCTION OF SE-
CERY—TREATY DOCUMENT 108-5
AND TREATY DOCUMENT 108-6

Mr. FRIST. Mr. President, as in exec-
utive session, I ask unanimous consent that
the injunction of secrecy be
removed from the following treaties
transmitted to the Senate on April 30,
2003, by the President of the United
States; Amendment to Constitution
and Convention of International Tele-
communication Union, Geneva 1992,
Treaty Document No. 108-5, and Pro-
tocol of Amendment to International
Convention on Simplification and Har-
monization of Customs Procedures,

I further ask that the treaties be con-
sidered as having been read the first
time; that they be referred, with ac-
tachment, to the Committee on Fore-
ign Relations and ordered to be
printed; and that the President’s mes-
sages be printed in the RECORD.

The PRESIDING OFFICER (Mr.
SINNEN). Without objection, it is so or-
dered.

The messages of the President are as
follows:
To the Senate of the United States:
I transmit herewith for Senate advice
and consent to ratification, the amend-
ments to the Constitution and Conven-
tion of the International Tele-
communication Union (ITU) (Geneva
1992), as amended by the Pleni-
potentiary Conference (Kyoto 1994),
together with declarations and reserva-
tions by the United States as contained
in the Final Acts of the Pleni-
potentiary Conference (Minneapolis
1998). I transmit also, for the informa-
tion of the Senate, the report of the
Department of State concerning these
amendments.

Prior to 1992, and as a matter of gen-
eral practice, previous Conventions of
the ITU were routinely replaced at suc-
cessive Plenipotentiary Conferences
held every 5 to 10 years. In 1992, the ITU
adopted a permanent Constitution
Constitution contains
fundamental provisions on the or-
organization and structure of the ITU,
as well as substantive rules applicable
to international telecommunications
matters. The ITU Convention contains
provisions concerning the functioning
of the ITU and its constituent organs.

Faced with a rapidly changing tele-
communication environment, the ITU
in 1994 adopted a few amendments to
the 1992 Constitution and Convention.
These amendments were designed to
enable the ITU to respond effectively
to new challenges posed.

The pace at which the telecommuni-
cation market continues to evolve has
not eased. States participating in the
1998 ITU Plenipotentiary Conference
held in Minneapolis submitted numer-
ous proposals to amend the Constitu-
tion and Convention. As discussed in
the attached report of the Department
of State concerning the amendments, key
proposals included the following:
• amendments to clarify the rights and
obligations of Member States and Sec-
tor Members; amendments to increase
private sector participation in the ITU
with the understanding that the ITU is
to remain an intergovernmental orga-
nization; amendments to strengthen
the finances of the ITU; and amend-
ments to provide for alternative proce-
dures for the adoption and approval of
questions and recommendations.

Consistent with longstanding prac-
tice in the ITU, the United States, in
signing the 1998 amendments, made
certain declarations and reservations.
These declarations and reservations
are discussed in the report of the De-
partment of State, which is attached
hereto.

The 1992 Constitution and Conven-
tion and the 1994 amendments thereto
entered into force for the United States
on October 26, 1997. The 1992 amend-
ments to the 1992 Constitution and
Convention as amended in 1994 entered
into force on January 1, 2000, for those
states, which, by that date, had noti-
fied the Secretary General of the ITU
of their approval thereof. As of the be-
inning of this year, 26 states had noti-
fied the Secretary General of the ITU
of their approval of the 1998 amend-
ments.

Subject to the U.S. declarations and
reservations mentioned above, I believe
the United States should ratify the 1998
amendments to the ITU Constitution
and Convention. They will contribute
to the ITU’s ability to adapt to a rap-
idly changing telecommunication envi-
ronment and, in doing so, will serve the
needs of the United States Government
and U.S. industry.

I recommend that the Senate give
early and favorable consideration to
these amendments and that the Senate
give its advice and consent to ratifica-
tion.

GEORGE W. BUSH,

To the Senate of the United States:
I transmit herewith for Senate advice
and consent to accession, the Protocol
of Amendment to the International
Convention on the Simplification and
 Harmonization of Customs Procedures
done at Brussels on June 26, 1999. The
Protocol amends the International
Convention on the Simplification and
Harmonization of Customs Procedures
done at Kyoto on May 18, 1972, and
replaces the Annexes to the 1973 Conven-
tion with a General Annex and 10 Spe-
cific Annexes (together, the “Amended
Convention”). I am also transmitting,
for the information of the Senate, the
report of the Department of State on
the Amended Convention.

The Amended Convention seeks to
meet the needs of international trade
and customs services through the sim-
plification and harmonization of cus-
tom procedures. It responds to mod-
ernization in business and administra-
tive methods and techniques and to the
growth of international trade, without
compromising standards of customs
control. Accession by the United
States would further the U.S. interest
in reducing non-tariff barriers to inter-
national trade.

By acceding to the Protocol, a state
consents to be bound by the amended
Constitution and the new General
Annex. At the same time, or anytime
thereafter, Parties have the option of
accepting any of the Specific Annexes
(or Chapters thereof), and may at that
time enter reservations with respect to
any Recommended Practices contained
in the Specific Annexes. In accordance
with these terms, I propose that the
United States accept seven of the Spe-
cific Annexes in their entirety and all
the Senators, the Senate may also consider the nomination of Priscilla Owen at 10:15 tomorrow. If cloture is not invoked, the Senate will begin consideration of the nomination of Edward Prado to be a circuit judge for the Fifth Circuit. It is my hope that we can reach a short time agreement, with the vote on the nomination to occur by early afternoon. I also hope the Senate can vote on the Cook nomination during tomorrow’s session.

In addition to these executive matters, the Senate may also consider the FISA legislation, the State Department authorization bill, the biofuel legislation, or additional judicial nominations during tomorrow’s session. Therefore, Senators should expect rollcall votes throughout the day.

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order. There being no objection, the Senate, at 7:09 p.m., adjourned until Thursday, May 1, 2003, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate April 30, 2003:

DEPARTMENT OF STATE

ROBERT W. FITTS, OF NEW HAMPSHIRE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO PAPUA NEW GUINEA, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SOLOMON ISLANDS AND AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO UKRAINE.

WILLIAM B. WOOD, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF COLOMBIA.

HARRY B. THOMAS, JR., OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO TAJIKISTAN.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

KENNETH J. BRAITHWAITE, 0000

FRANK B. MCCAIN, 0000

JAMES E. WILSON, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

CHRISTOPHER M. BALLISTIER, 0000

THOMAS BARNAGE, 0000

JAMES J. BROWER, 0000

JEFFREY C. CAVENDISH, 0000

CHRISTOPHER M. HENRY, 0000

JEANNE E. FRAZIER, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

JEFFREY D. ADAMSON, 0000

JOSEPH F. ARUMBAH, 0000

CHRISTOPHER S. BRUGES, 0000

WARREN J. BRAUD, 0000

EUGENIO M. DAWIDIK, 0000

MICHAEL J. BURST, 0000

PAUL A. LUNDVOLD, 0000

MARCUS U. NELSON, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

LISA GENEVIEVE NASON, OF ALASKA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT.
HONORING JOE SHOVELS
HON. DALE E. KILDEE
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. KILDEE. Mr. Speaker, I rise today to congratulate Joseph Shovels as he retires from Big Brothers Big Sisters of Greater Flint. Joe has worked for the organization for 39 years. A party in his honor will be held on April 30th in my hometown of Flint, Michigan.

Joe began his career working for Big Brothers Big Sisters of Greater Flint after graduating from Michigan State University. A life-long caseworker with the organization, Joe stayed dedicated to this vital job ever since his graduation. His dedication to ensuring that the children are provided for is legendary. Going above and beyond has been a hallmark of his career. The longest serving employee with Big Brothers Big Sisters of Greater Flint, Joe has characterized his work as a ministry instead of a job.

His attitude toward children has garnered recognition from his peers and from the community. Big Brothers Big Sisters has named him Caseworker of the Year. In February, Priority Children gave him the Roy E. Peterson Caring Adult Award for his steadfastness to bettering the lives of the children in the Flint community.

Big Brothers Big Sisters of Greater Flint will inaugurate an award to be given to their employees and volunteers called the “Good Joe Award” in his honor. The kickoff for this award will take place at a dinner to be held later this month.

I ask the House of Representatives to join me in congratulating Joe Shovels on an exceptional career and a job well done. The children of Genesee County have benefited from his conscientiousness, his compassion, and his commitment to improving their lives.

A PROCLAMATION RECOGNIZING ELIZABETH GREAVES
HON. ROBERT W. NEY
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. NEY. Mr. Speaker, Whereas, Elizabeth Greaves has devoted herself to serving others through her membership in the Girl Scouts; and

Whereas, Elizabeth Greaves has shared her time and talent with the community in which she resides; and

Whereas, Elizabeth Greaves has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Elizabeth Greaves must be commended for the hard work and dedication she put forth in earning the Girl Scout Gold Award; Therefore, I join with the Girl Scouts, the residents of Granville and the entire 18th Congresional District in congratulating Elizabeth Greaves as she receives the Girl Scout Gold Award.

NATIONAL ASSOCIATION OF LETTER CARRIERS’ 11TH ANNUAL NATIONAL FOOD DRIVE
HON. TAMMY BALDWIN
OF WISCONSIN
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Ms. BALDWIN. Mr. Speaker, I rise today to encourage my constituents and everyone across America to participate in the National Association of Letter Carriers’ 11th Annual National Food Drive, which will take place on May 10th of this year. Every year, on the second Saturday of May, the National Association of Letter Carriers (NALC) collects non-perishable goods that generous people have donated to those in need.

Those interested in donating should place a non-perishable food item near their mailboxes or bring it to their local post office. All of the donations will be distributed to local food banks, shelters, and pantries to help people in need in the local community. This is a great opportunity to share with people right in our local communities.

Over the past ten years, the NALC has collected over half of a billion pounds of food for those less fortunate. In 2002 alone, over 60 million pounds of food was collected. Nearly 1,500 offices of the NALC—in every state in the nation—will be involved in the drive. In fact, it is part of the largest one day food drive in the nation. This is an impressive record. I hope that everyone who is able to participate will contribute what they can, and that this year’s food drive will be the most successful ever.

IN RECOGNITION OF THE 22ND ANNUAL CONGRESSIONAL ART COMPETITION WINNER, MS. ELISE BAKER
HON. E. CLAY SHAW, JR.
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. SHAW. Mr. Speaker, I rise today in recognition of Miss Elise Baker, first-place winner of the 2003 Congressional Art Competition, “An Artistic Discovery”. This unique competition provides Members with the opportunity to showcase the artistic achievements of high school students within their districts, thereby acknowledging our Nation’s gifted young artists. Since the first competition in 1982, nearly 5,000 local contests have been conducted, involving more than 650,000 high school students. In its 22nd year, the competition has recognized Ms. Elise Baker for her outstanding artistic talent.

Elise was born at Holy Cross Hospital in Fort Lauderdale, Florida, on March 31, 1986. The daughter of Don and Susan Baker, Elise also has a 12-year-old brother, Robby. For her elementary education, she attended St. Paul Lutheran School, where she developed a serious interest in art. Since enrolling at A.D. Henderson University School of Florida Atlantic University for middle school, she has taken a number of honors art classes and has been awarded as an outstanding art student on several occasions. Elise is currently a Junior at Grandview Preparatory School in Boca Raton, Florida.

Elise’s interests are not limited to the realm of art, and she has energetically pursued numerous extra-curricular activities. Fostering a lifelong love of dance, Elise began her formal dance education at the Dance Academy of Boca Raton during pre-school. She has studied ballet, jazz, tap, and modern dance and has performed in many student talent competitions over the years. She has furthermore been a member of the South Florida Youth Ballet, a repertory company which put on many performances in Palm Beach County, and has danced with the Miami City Ballet in “The Nutcracker” at the Kravis Center in West Palm Beach. Her colorful dancing background undoubtedly contributed to her leadership as captain of the Grandview Cheerleading Team during the past two years of high school. She has attended several Universal Cheerleading Association (UCA) instructional camps, from which she has been honored with various awards, including the opportunity to perform a cheerleading routine during the New Year’s Day Parade in London, England in 2003. Last summer, Elise completed Culver Military Academy’s six-week program in Culver, Indiana and earned her Tuixes Medal.

Today, Elise enjoys babysitting and performing volunteer work in her spare time. She is a member of the First United Methodist Church of Boca Raton and actively participates in their Youth Group, as well as other youth-oriented activities in the area.

Elise’s natural gift for art runs in her family, as she is the great grand-niece of Edward Buyck, a famous artist from Albany, New York, who is renowned for his pre-inaugural portrait of Franklin D. Roosevelt in 1933 and for his countless works presently on display at the Governor’s office in Albany and in the Smithsonian American Art Museum in Washington, D.C.

As Elise’s art teacher at Grandview, Mr. Robert Williams, said, “A talent and hard work pay off.” We would like to recognize both Elise’s talent and hard work and congratulate her on winning this year’s competition. We also wish her the best of luck in her pursuit of artistic studies in college, which she plans on continuing, particularly in the fields of decorating and fashion design.
QUOTA CLUBS INTERNATIONAL IN TEMPLE CITY

HON. ADAM B. SCHIFF
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. SCHIFF. Mr. Speaker, I rise today to honor the Temple City chapter of the Quota Clubs International and the men and women who have shaped the club into the influential force that it is today in the San Gabriel Valley. For over 50 years, the Quotarians of Temple City have provided immeasurable support to the city, fully living up to their stated purpose: "To serve country and community."

Among the many events in which the Quota Club has participated is the city's annual Camellia festival and youth parade, an event that celebrates Temple City's rich history and culture. Other events demonstrate the Quotarians' commitment to excellence in our youth; they have sponsored student trips to Washington, D.C., supported teacher exchanges, and have helped in the purchase of band uniforms.

The main focus of the Quota Club has been its service in education, testing, and aid to the hearing impaired. Over the years, they have provided no less than five help dogs to the deaf and have immeasurably improved the lives of those they have assisted.

These incredible achievements have been made possible by the upstanding members of the Quota Club, who exemplify the best in our communities. The club boasts among its members five former Temple City Chamber of Commerce presidents, including Penny Graham, the first woman to hold that office, Mary Lou Swain, another member, was the first woman to be elected to the City Council of Temple City.

Through the efforts of such organizations as the Quota Club and the individuals that comprise them, we can make real the ideals set forth in the Quota Club's charter: righteousness, justice, international understanding, and good will. It is for their tremendous efforts to realize these ideals that I ask all Members of Congress to stand with me today and salute the men and women of the Quota Club of Temple City.

A PROCLAMATION RECOGNIZING KELLY HELLER

HON. ROBERT W. NEY
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. NEY. Mr. Speaker, whereas, Kelly Heller has devoted herself to serving others through her membership in the Girl Scouts; and whereas, Kelly Heller has shared her time and talent with the community in which she resides; and whereas, Kelly Heller has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and whereas, Kelly Heller must be commended for the hard work and dedication she put forth in earning the Girl Scout Gold Award;

Therefore, I join with the Girl Scouts, the residents of Coshocton and the entire 18th Congressional District in congratulating Kelly Heller as she receives the Girl Scout Gold Award.

TRIBUTE TO OATS VOLUNTEERS

HON. IKE SKELTON
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. SKELTON. Mr. Speaker, let me take this means to pay tribute to OATS, Inc., an organization that provides transportation to Missouri's rural areas through the use of volunteer service. Founded in 1971, OATS has continued to rely heavily on volunteers for fund raising, scheduling, and publicity.

The nation will commemorate the 30th annual National Volunteer Week, April 27–May 3, 2003, in recognition and celebration of volunteers at the state, local, and national level. The Week's theme, "Celebrate Volunteers—The Spirit of America!" reflects Americans' resolve to maintain the tradition of neighbor helping neighbor. Sponsored by the Points of Light Foundation, this annual event is an opportunity for organizations to take a moment to thank the many millions of volunteers all over America who donate their time to worthy causes.

In each of the counties that OATS serves, there is a County Support Committee comprised of 8–20 people in the community who volunteer on behalf of OATS. These volunteers serve as contacts, taking phone calls in their home from people who wish to schedule a ride; raise much of the funding needed to replace vehicles; and serve as media contacts, helping get the word out about OATS and getting the bus schedules printed in the local papers. Last January, 639 people reported over 4,200 hours to OATS, which would cost $46,634.16 if dollar value was assessed for the hours they gave.

Mr. Speaker, the OATS organization provides a valuable service to the people of rural Missouri. I know the Members of the House will join me in recognizing OATS and their volunteers for their many hours of commendable service.

CONGRATULATIONS TO ANGIE BRIGGS OF GIRL SCOUT TROOP 4017

HON. LANE EVANS
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. EVANS. Mr. Speaker, today I would like to salute an outstanding young woman who has been honored with the Girl Scouts of the USA Gold Award by Girl Scouts of the Mississippi Valley, Inc. in Rock Island, Illinois. She is Angie Briggs of Girl Scout Troop 4017.

She is being honored for earning the highest achievement award in Girl Scouting, The Girl Scout Gold Award symbolizes outstanding accomplishments in the areas of leadership, community service, career planning, and personal development. The Girl Scout Gold Award can be earned by girls ages 14–17 or in grades 9–12. Girl Scouts of the USA, an organization serving over 2.6 million girls, has awarded more than 20,000 Girl Scout Gold Awards to Senior Girl Scouts since the inception of the program in 1980. To receive the award, a Girl Scout must fulfill five requirements: earn four interest project patches, earn the Career Exploration Pin, earn the Senior Girl Scout Leadership Award, earn the Senior Girl Scout Challenge, and design and implement a Girl Scout Gold Project. A plan for fulfilling the requirements of the award is created by the Senior Girl Scout and is carried out through close cooperation between the girl and an adult Girl Scout volunteer.

As a member of the Girl Scouts of the Mississippi Valley, Inc., Angie began working toward the Girl Scout Gold Award in August 2001. Angie created handmade books and toys for the children in a homeless shelter.

The Girl Scout Gold Award is a major accomplishment for Angie and I believe she should receive the public recognition due her for this significant service to her community and her country.

IN HONOR OF THE CITY OF ALHAMBRA'S CENTENNIAL CELEBRATION

HON. ADAM B. SCHIFF
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. SCHIFF. Mr. Speaker, I rise today to honor the people of the City of Alhambra, California, as the city celebrates its centennial anniversary. Located eight miles east of downtown Los Angeles, Alhambra is often referred
Therefore, I join with the Girl Scouts, the residents of Granville and the entire 18th Congressional District in congratulating Roxana Capper as she receives the Girl Scout Gold Award.

IN HONOR OF ROBERT R. SNASHALL
HON. THOMAS M. REYNOLDS
NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003
Mr. REYNOLDS. Mr. Speaker, I rise today to pay tribute to a good friend and an outstanding public servant.

There’s no doubt that in my home state of New York, there remain to this day many unsung heroes who provided aid, comfort and support to the victims of September 11th’s vicious and cowardly attacks on New York. Ordinarily people rose to extraordinary challenges and through their service, helped both in the rescue and recovery of a great city.

One of those unsung heroes is the man I rise today to honor, Robert R. Snashall, Chairman of the state’s Workers’ Compensation Board. First appointed to that post by Governor George Pataki in 1995, Chairman Snashall will soon retire from that post.

And perhaps the defining moment of Mr. Snashall’s tenure at the Workers’ Compensation Board was in his handling of the crisis arising from the September 11th terror attacks in New York City.

The attacks on the World Trade Center on September 11, 2001 created unprecedented challenges for the Workers’ Compensation Board. In a single day, New York suffered 5 years’ worth of workers’ compensation death claims. In fast response, Chairman Snashall and the Workers’ Compensation Board established new regulations to accelerate the processing of claims and created a special World Trade Center adjudication team to process claims emanating from the terror attacks while enabling the Board to maintain a focus on other claims from across the state.

Chairman Snashall acted quickly to contact and in some cases visit various insurers, legislators, claimant organizations and employer associations to discuss the challenges facing the workers’ compensation system as a result of the attacks. In doing so, he was successful in impressing upon the various parties of interest the urgency of providing assistance to the families in need. As a result the Board has, to date, fully resolved 92 percent of death claims, 80 percent of injury claims and has conducted more than 7,000 hearings to resolve WTC claims.

Since 1995, the Workers’ Compensation Board has undergone the most sweeping reforms in the history of the Board including the landmark 1996 reforms, which have led to unprecedented reductions in workers’ compensation costs. In addition, since 1996, under the leadership of Chairman Snashall, the Board has reformed its administrative processes and become more accessible to the people of New York State.

Through Bob Snashall’s leadership, New York State’s Workers’ Compensation Board has become a nationwide model, and I ask that this Congress join me in saluting his commitment, leadership and hard work; and that this Honorable Body further extend to him our thanks for a job well done.

IN HONOR OF MARINE CPL. KEMAPHOOM A. CHANAWONGSE
HON. JOHN B. LARSON
CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003
Mr. LARSON of Connecticut. Mr. Speaker, I rise today to bring to my colleagues’ attention the tragic death of a young man from my home state of Connecticut, Marine Cpl. Kemaphoom Chana Wongse, known as “Ahn.”

On March 23, 2003, Marine Cpl. Chana Wongse came under fire during a heroic attempt to secure a bridge over the Euphrates River near An Nasiriyah and was killed when the vehicle he commanded took a direct hit. “Ahn” was just 22 years old when he sacrificed his life for his new country.

Ahn’s family immigrated to the United States from Thailand when he was 9 years old. He was an excellent student and skilled artist, and developed a keen interest in law enforcement. Following the steps of his grandfather who was a Group Commander in the Royal Thai Air Force, Marine Corporal Chana Wongse was dedicated to his mission and proud of being a U.S. Marine. Both his grandfather and his brother, who is a student and teaches English in Thailand, have traveled here for the funeral services at Arlington National Cemetery.

Nickeled “Chuckles” for his sense of humor, Ahn was highly respected and well-liked by his fellow marines. He served the United States in the 2nd Assault Amphibious Battalion, 2nd Marine Division of Camp Lejeune, North Carolina.

News of Marine Corporal Chana Wongse’s death reached his family and friends after three painful weeks of waiting while he was listed as missing in action. The Town of Waterford, Connecticut quickly rallied in support in many ways, including the establishment of a memorial fund and a scholarship fund at Waterford High School for students with high aspirations like Ahn’s.

In honor of Ahn, Connecticut Governor John Rowland ordered the national and state flags to fly at half-staff from Wednesday, April 16 until sunset tomorrow, April 30, when Ahn will be buried at Arlington. Today, a traditional Thai merit-making ceremony is being held in his memory at the Thai Buddhist temple “Wat Thai Washington D.C.” after which his remains will be cremated.

Mr. Speaker, I urge my colleagues to join me in paying tribute to Marine Cpl. Kemaphoom A. Chana Wongse, who sacrificed his life for the just causes of our war on terrorism. Let us wish for him, according to the Thai sentiment, “kor jaang pai su sukha-1 lert.”

IN COMMEMORATION OF YOM HASHOAH, HOLOCAUST REMEMBERANCE DAY
HON. ALCEE L. HASTINGS
FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003
Mr. HASTINGS of Florida. Mr. Speaker, I rise today to join with millions throughout the
world to commemorate the tragic and horrific events of the Holocaust as we observe Yom HaShoah. It has been 59 years to the day since the Jews of the Warsaw Ghetto rose in revolt against the Nazis. Perhaps now more than ever, the courage of these individuals to fight against anti-Semitism, racism, and prejudicial discrimination is to be honored and remembered.

On April 23, 1943, Jewish resistance fighters in the Warsaw Ghetto made their final appeal to the international community for assistance in their struggle against the Nazis. They wrote, "'A battle is being waged for your freedom as well as ours. For you and our human, civic, and national honor and dignity.' Indeed, these brave and courageous men, women, and children were correct, and we were wrong for allowing their appeals to go unanswered.

Sadly, the fight against bigotry is an ongoing struggle, as I well know from my own personal experience. I have experienced racism all over the world—in Europe, in the Middle East, in Asia and, of course, here in the United States. Today, anti-Semitism, racism, and xenophobia continue. Those of us who preach and practice tolerance recognize that the fight for equality and acceptance continues in the 21st century.

Jews throughout the world, more than 50 years after the Holocaust, are forced to combat insidious acts of anti-Semitism on a regular basis. Likewise, here in the U.S., we have come a long way since the blatant and institutionalized discrimination that was the norm for African-Americans a generation ago. However, in each case, we are certainly not home yet. A few years ago, many believed that anti-Semitism was gradually declining and restricted to fringe elements of our society. However, recent developments suggest that there is a resurgent anti-Semitism with a much broader base that includes elements of the far right, the far left, and components of immigrant communities from North Africa and the Middle East.

In the Middle East itself, it appears that the stalled peace process has been a convenient excuse to allow anti-Semitism to become a staple of the media and mainstream opinion. Also, in Europe, there has been a resurgence of anti-Semitic and race-based attacks and murders. While European governments have begun to crack down on this unfortunate reality, their initial smugness toward the problem was quite troubling. Now is not a time for us to be silent, and Europe and the Middle East are not places where we can afford to be complacent.

Mr. Speaker, we shall never forget the horrific crimes of murder and destruction committed by the Nazis; and we must commit ourselves to ensuring that future generations shall never be forced to endure the suffering, humiliation, and ultimate death experienced by the victims of the Holocaust. As this body honors these memories, we must commit ourselves—as a country and as human beings—to never allow the plight of those in need to ever again go unanswered.

We have but one world, and we have been given the great responsibility to make it ours. People of all shapes and sizes, colors and religions have been placed here by powers far beyond us to live together. It is up to us to decide what we make of our time and our world. Thus, as we craft a world in which our children and grandchildren will grow up, the days of religious and racial intolerance must be left behind. For I refuse to live in a day and age where it is acceptable for bigotry and intolerance to trump acceptance and coexistence. We shall never forget.

GAY AND LESBIAN ACTIVISTS ALIANCE OF WASHINGTON, DC 32ND ANNIVERSARY RECEPTION HONORING DISTINGUISHED SERVICE AWARD RECIPIENTS

HON. ELEANOR HOLMES NORTON OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Ms. NORTON. Mr. Speaker, I rise today to recognize a Washington, DC institution that has been in the forefront of the lesbian, gay, bisexual, and transgendered civil rights movement, and that I have the distinct honor and pleasure of representing in this body: the Gay and Lesbian Activists Alliance of Washington, DC (GLAA), the oldest continuously active gay and lesbian rights organization in the United States.

Since its founding in April 1971, GLAA has been a respected and persistent advocate in District politics tirelessly aspiring equal rights and social equality for lesbians and gay men living in the city.

GLAA has long fought to improve relations among the District’s gay, lesbian, bisexual and transgendered communities and DC’s public sector; fifty-one years ago it long been at the forefront of the efforts to strengthen enforcement of the DC Human Rights Act of 1977.

On April 15th, GLAA held its 32nd Anniversary Reception honoring the 2003 recipients of its Distinguished Service Awards: Councilmember Kathy Patterson; the Gay and Lesbian Liaison Unit of the Metropolitan Police Department; longtime District activist Karen Armagost; the Gay Men’s Chorus of Washington, DC; and former GLAA President Bob Summersgill.

Councilmember Kathy Patterson has been an ally of gay citizens and a leading force for government reform and accountability. Councilmember Patterson wrote and secured passage of the law that established the DC Office of Human Rights as a separate, independent agency. She has supported strengthening diversity and sensitivity training in the police and fire departments and establishing an effective Office of Citizen Complaint Review.

DC Metropolitan Police Department Chief Charles Ramsey created the Gay and Lesbian Liaison Unit (GLUU) in June 2000. The work of Sgt. Brett Parson, head of the GLUU, and Ofc. Kelly McMurry, its founder, along with community volunteers, active, auxiliary and reserve police officers, has resulted in a dramatic improvement in community relations; an increase in the mutual respect of gay people and the police; and a focus on previously ignored problems in the community.

Karen Armagost has been an activist in Washington, DC for over fifteen years. As a professional organizer, GLBT activist, and past President of the Gertrude Stein Democratic Club, Karen has exemplified the dedication and hard work that makes grassroots organizations a powerful political force. Karen works for the repeal of the “Don’t Ask, Don’t Tell” policy through the Servicemembers Legal Defense Network.

This year marks The Gay Men’s Chorus of Washington, DC’s 22nd Season. The Chorus has performed at inaugurals of a mayor and a president, and most recently performed in tribute to Elizabeth Taylor at the Kennedy Center Honors Gala before President and Mrs. Bush.

Bob Summersgill is the immediate past President of GLAA. He has led efforts to secure legal protection against harassment in our schools and workplaces; to open the DC HIV/AIDS Administration to public accountability; and to ensure the full rights of transgender and intersex people under the DC Human Rights Act.

GLAA’s thirty-two year fight to secure equal rights for the LGBT citizens of Washington, DC is more poignant because it is being celebrated on April 15th. It is a reminder to us all that United States citizens living in our Nation’s Capital, who have fought in every American war, including the present war in Iraq, are taxed without representation.

I ask the House to join me in congratulating the Gay and Lesbian Activists Alliance and its honorees.

PAYING TRIBUTE TO EDEGWOD ELEMENTARY SCHOOL

HON. MIKE ROGERS OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to pay tribute to the Edgewood Elementary School in Okemos, Michigan for its 39 years of service to the community. This institution has continuously provided a nurturing atmosphere of learning and support for all the staff that serve there and the students who pass through its doors.

Edgewood Elementary School has a history of academic excellence. In both 2001 and 2002, it received the Golden Apple Awards for high achievement, and honors presented by the State of Michigan. Yet the school provides more than just a space to learn. It is a trusted pillar in the neighborhood, a place where students, staff, parents, and community members come together and build lifelong relationships.

Mr. Speaker, Edgewood Elementary School’s dedication to promoting superior education while fostering an environment of care is an example to all institutions. I ask my colleagues to join me in recognizing its many achievements.

INTRODUCTION OF THE HARMFUL ALGAL BLOOM AND HYPOXIA RESEARCH AMENDMENTS ACT OF 2003

HON. VERNON J. EHLERS OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Mr. EHLERS. Mr. Speaker, today, I am pleased to introduce the Harmful Algal Bloom and Hypoxia Research Amendments Act of 2003. Harmful algal blooms and hypoxia are a significant threat to human health, commercial
fishing, and recreational water use throughout the United States. My legislation will authorize funding for research to improve our response to this threat and to develop a deeper understanding of these problems.

Harmful algal blooms occur in both marine and freshwater environments, and are often referred to as red tides or brown tides. These dense mats of algae produce toxins dangerous to aquatic life and to humans, some of which are so potent that eating just one contaminated mussel could result in anything from mild nausea to paralysis, and even death in some cases.

Hypoxia occurs when an algal bloom dies and is decomposed by bacteria in the water. This process depletes oxygen to levels so low they cannot support aquatic life, which decreases fisheries production and can produce terrible odors that make the water undesirable for recreational use.

It is estimated that harmful algal blooms cost the U.S. $50 million a year, while hypoxia causes severe conditions in many locations, including the Gulf of Mexico, where a "dead" zone the size of New Jersey develops each summer.

Harmful algal blooms and hypoxia are also causing problems closer to my home region, the Great Lakes, where these events are more frequently fouling the water. In the past 30 years, efforts have been made to improve Great Lakes water quality, but recently scientists have observed an increase in both harmful algal blooms and hypoxia. The reasons for this are unclear, but may be related to invasive species changing the way nutrients are cycled into the system.

In 1998, Congress passed the Harmful Algal Bloom and Hypoxia Research and Control Act. The Act created a Task Force to examine these problems and authorized $19 million annually for research and monitoring activities related to harmful algal blooms and hypoxia. This March, the Subcommittee on Environment, Technology and Standards, of which I serve as chairman, held a hearing on this subject and found that we need to expand our research efforts to include freshwater blooms, update our assessments of these threats every five years, and improve communication with local resource managers about these efforts. The legislation I am introducing today seeks to address these findings.

More specifically, the legislation expands the authorization of funding to $30 million annually (over the next three years) for research and monitoring efforts on harmful algal blooms and hypoxia. It also requires the Task Force to develop research plans on previously overlooked aspects of harmful algal blooms and hypoxia, such as: Great Lakes harmful algal blooms, control and mitigation methods to reduce the impact of harmful algal blooms.

This legislation also provides a mechanism for regional and local assessments of harmful algal blooms and hypoxia, because the causes of harmful algal blooms and hypoxia vary with regional water use, land use, and environment. Additionally, it increases the participation of local resource managers in this process, ensuring that our investment in research produces useful tools for the people dealing with the problems on a day-to-day basis.

The bill reauthorizes funding for programs that have been effective in improving our scientific understanding of harmful algal blooms and hypoxia, namely the Ecology and Oceanography of Harmful Algal Blooms (ECOHAB) program and the Monitoring and Event Response to Harmful Algal Blooms (MERHAB) program. It also requires scientific assessments of harmful algal blooms and hypoxia on a regular basis, providing a means to continuously target our resources in an effective manner.

In conclusion, my legislation provides a research framework for addressing the nationwide problem of harmful algal blooms and hypoxia. It improves our ability to understand and predict harmful algal bloom events, adds the Great Lakes as an important area for harmful algal bloom and hypoxia research, and ensures the participation of local resource managers in developing research plans so that the research can be fully utilized by everyone concerned with these important issues.

I have been working with my colleague from Ohio, Senator GEORGE V. VONNOVICH, who is introducing companion legislation in the Senate today. I look forward to working with all of my colleagues to pass this important bill.

CONGRATULATIONS TO MOUNTAIN CREST HIGH SCHOOL ADVANCED PLACEMENT AMERICAN GOVERNMENT AND LAW CLASS

HON. ROB BISHOP
OF UTAH
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. BISHOP of Utah. Mr. Speaker, I rise today to congratulate Mountain Crest High School's Advanced Placement American Government and Law class, in Hyde Park, for their achievement in the "We the People: The Citizen and the Constitution" competition. The class won their state competition in February and is currently preparing to participate on the National level soon.

In order to compete, the students had to establish a base knowledge of the Constitution and the workings of our government. They then prepared speeches concerning different aspects of the Constitution, the amendments, and significant Supreme Court cases. The topics range from the founding ideals of the young nation, to the values and principles embodied in the Constitution, Civil Rights, and the evolution of our current republican democracy.

In addition to acknowledging the hard work and dedication of these students, I would also like to recognize the work of their teacher Margaret Obray. She is an exemplary teacher who is devoted to educating all of her students. Together they represent Utah well.

As I believe the Constitution is a divinely inspired document I feel it is important for all Americans to know and defend its principles. The "We the People" program is an excellent way to get students involved in the Constitution and compete with others from around the country. Again, congratulations to the students of Mountain Crest.

HONORING SERGEANT FIRST CLASS RANDY REHN

HON. SCOTT McINNIS
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I stand before you today to honor a man tragically taken from us while in the service of his country. Sergeant First Class Randy Rehn, a graduate of Niwot High School in Colorado, was killed while serving in the conflict in Iraq. In the Army, Randy directed a crew that operated a Multiple Launch Rocker System. I am truly humbled to honor him before this body of Congress and this nation. The sacrifice of Randy and his fellow soldiers will be long remembered by our grateful Nation.
Randy was known as an athlete and a prankster. In high school, he was a football player and an all-state wrestler. He was a loving husband and the new father of a six-month-old girl. I know that Randy’s daughter, family and friends take pride in the uniform he wore and the ideals for which he fought. Our Nation will long endure due to the strength and character of the men and women like Randy who serve our country.

Each generation must renew its commitment to defend our liberties. Today in Iraq, a new generation of young Americans is fighting bravely for the freedom of others. I know that those who will one day wear the true meaning of honor, and sacrifice will find it in dedicated servants like Sergeant First Class Randy Rehn.

Mr. Speaker, I cannot fully express my deep sense of gratitude for the sacrifice of this soldier and his family. Throughout our history, men and women in uniform have fought our battles with distinction and courage. At the dawn of this new century, the United States military has once again been called to defend our freedom against a new and emerging threat. Soldiers like Randy embody America’s determination to lead the world in confronting that threat, and Sergeant Rehn’s devotion to that cause will not be forgotten. Randy has done all Americans proud and I know he has the respect, admiration and gratitude of all of my colleagues here today.

REMEMBERING JOSEPH FRED POWE
HON. MAXINE WATERS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Ms. WATERS. Mr. Speaker, I rise today to pay tribute to a constituent of mine. Joseph Powe was a remarkable man. He was a fixture in our community and he will be missed by many. Joe passed on March 20, 2003. He leaves behind a wonderful wife, two daughters, five granddaughters and a host of friends and loved ones.

In many ways Joe was a pioneer. He was among the first African-American Certified Public Accountants. And, he was the only African-American ever to serve as Regional Audit Manager in the Department of Defense’s Defense Contract Audit Agency. Joe served his country in the U.S. Air Force from 1954 through 1958. He also served on the Board of Directors of the United Defense Credit Union as well as several other positions. In 1982, he served the Association of Government Accountants (AGA) as the Regional Vice President, Western Region. I understand, as a tribute to his hard work and dedication to the CPA community, his certificate number will be retired. A terrific honor for this wonderful man.

My thoughts and prayers are with his wife, Opalane, his daughters, Valerie and Alison, and the rest of his family. I hope they are comforted by the fond memories they have of him with a fishing pole in hand or of him that always seemed to be on his face. He will be missed but for those who knew him, he will always remain with us.

TRIBUTE TO MILNER-RUSHING DRUGS OF NORTHWEST ALABAMA
HON. ROBERT E. (BUD) CRAMER, JR.
OF ALABAMA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. CRAMER. Mr. Speaker, I rise today to honor a landmark in my Congressional District, Milner-Rushing Drugs. This pharmacy celebrated its 150th anniversary on April 25, 2003. This milestone anniversary is quite a testament to the knowledge, professional service and personal service that this pharmacy has provided to residents of the Shoals for 150 years.

Milner Drugs was founded in downtown Florence, Alabama in 1833 by Joseph Milner. After numerous owners and a name change to Milner-Rushing Drugs, it was purchased by John M. Lawson in 1995. And since, it has grown from two employees at one location to more than 40 employees at 4 different locations in the Shoals area today.

From compounding special prescription needs to delivering prescriptions to shut-in patients at their homes, Milner-Rushing Drugs is not just a business, but a part of the North-west Alabama community. This fine staff at Milner-Rushing Drugs includes a Registered Pharmacist, a Registered Respiratory Therapist, and a complete durable medical equipment staff certified by the Alabama Durable Medical Equipment Association. This exceptional staff and history of unique and personalized service keep customers coming back to Milner-Rushing Drugs, which has become a cornerstone of the Shoals area.

Mr. Speaker, on the occasion of the pharmacy’s 150th Anniversary, I rise to honor and commend this exceptional company and its staff. I send my best wishes for a happy 150th Anniversary to Milner-Rushing Drugs and for a long and successful future in the Shoals.

NO HURRY ON EXTENDING PATRIOT ACT
HON. MARK UDALL
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. UDALL of Colorado. Mr. Speaker, some of the most far-reaching provisions of the “USA PATRIOT” Act will expire at the end of 2005 unless Congress acts to extend them. That is nearly three years from now. But reports persist that some think the time has already come for an indefinite extension of those temporary provisions.

I disagree. I think the Denver Post got it just right in a recent editorial: “Not so fast.” For the information of our colleagues, here is the full text of that editorial: KEEP PATRIOT ACT TEMPORARY

When Congress passed the Patriot Act in October 2001, it wisely included a “sunset” provision that would cause the sweeping legislation to expire on Dec. 31, 2005, unless lawmakers voted to extend it. Now, Sen. Orrin Hatch of Utah is leading Republicans in a push to make the legislation permanent.

Not so fast. The legislation, passed in the emotional aftermath of the Sept. 11, 2001, terrorist at-tacks on the World Trade Center and Pentagon, gives the government unprecedented (civil libertarians would say excessive) powers to snoop on Americans, including eavesdropping on communications surveillance, access to financial and computer records, and other constitutionally deleterious practices.

The U.S. Department of Justice claims the Patriot Act has given the FBI the ability to respond more quickly to stop terrorists before they can act, and given the still-potent threat posed by al-Qaeda and other terrorist organizations bent on doing harm to the United States, that might be a good thing. According to The New York Times, though, new provisions created in the wake of the Patriot Act excised. And that may not be a good thing, especially considering that the Patriot Act was passed only because Democrats and moderate Republicans insisted on a sunset date.

From our perspective, the Patriot Act is an extreme measure meant to deal with a crisis—much in the same way that martial law can be proclaimed by a state’s governor in time of emergency. Once the danger has passed, martial law is revoked. No one wants troops and tanks in their streets forever. That is nearly three years from now.

Another argument against extending the Patriot Act indefinitely is that we still don’t know how its application ultimately will shake out. Will it be used to harass and intimidate unpopular groups expressing unpopular opinions? Will it be used against political enemies of this or future administrations? Fact is, the feds have been playing their cards very close to the vest on how they’ve used the Patriot Act. And Congress still doesn’t have a handle on how the FBI and other government agencies have used this extreme legislation that treads so heavily on the Bill of Rights.

Even if, in the final analysis, it’s shown that the government hasn’t abused the act, it should never become permanent. We re-peat: Never.

American liberty is too precious a commodity bought at a too high price in blood and treasure to be tossed aside in a panic. What does it profit us to bring freedom to Iraq while throwing our own away?

CELEBRATING THE 31ST ANNIVERSARY OF ST. GENEVIEVE’S FRIENDSHIP CLUB
HON. RAHM EMANUEL
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. EMANUEL. Mr. Speaker, today I rise to recognize The Friendship Club of St. Genevieve’s church. On April 23, 2003, the Friendship Club celebrated 31 years of service to Chicago’s Northwest side. Led by Jean Jeske, the group’s president of the past 17 years, the club of 550 active members has worked to educate seniors on issues important to them. Throughout the years, the Friendship Club has held bi-monthly events, such as personal finance, public safety and politics. The group also helps seniors find safe and affordable housing. My friends at St. Gen’s, however, say that some of their most popular activities are the social ones such as dinner theatre trips. Whatever the activity, I salute the Friendship Club and members of the club who serve Chicago. Neighborhood organizations like this one form the backbone of communities, and Chicago is a much stronger place because of...
IT MUST NOT BE FORGOTTEN, LEST IT BE REPEATED." A TRIBUTE TO THE LIFE OF MAX LEWIN ON NATIONAL HOLOCAUST REMEMBRANCE DAY

HON. NICK J. RAHALL II
OF WEST VIRGINIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. RAHALL, Mr. Speaker, "It must not be forgotten, lest it be repeated." This is the message of the life of West Virginia Holocaust Survivor Max Lewin. Though Max left us this year, his community in southern West Virginia recently honored him. Today, on National Holocaust Remembrance Day I wish to share with my colleagues the story of Max Lewin, a proud West Virginian and a brave Survivor.

No phrase should ever weigh heavier upon our collective conscience than, "It must not be forgotten, lest it be repeated," as we consider world history, and negotiate America's foreign policy and humanitarian priorities. The lesson of what happened during the Holocaust surely shows us that every day we live in a world of diversity, filled with respect for peoples of various religious, ethnic, and racial backgrounds is a day that assails the vile teachings of the Nazi regime. Every day that as legislators of this great Nation we look across the globe and make certain no person or group of people are singled out to live lives of indignity, is a day we truly remember the lesson of the Holocaust. Today, on Holocaust Remembrance Day, let us come together to remember our great teachers of this lesson.

So that I may share with my colleagues the story of Max Lewin, I ask that this recent article in the Beckley Register-Herald be printed in the RECORD.

The article follows:

[From the Register-Herald Reporter, Apr. 7, 2003]

HOLOCAUST MEMORIAL TO HONOR MAX LEWIN
(By Mannix Porterfield)

Even before his health began to fail, Max Lewin made sure his tortured life as a Holocaust survivor would not be forgotten. The 80th-century's darkest hours were never forgotten.

Max felt his greatest fear was that the story would die with him and its lessons wouldn't be learned," explained Margaux's father, Dr. Normal Siegel.

Lewin was the key figure in past Holocaust services in Beckley, a difficult assignment for a man who lost most of his family after German troops stormed into Poland in 1939, signaling the start of World War II.

"I think certainly he had an authentic voice, though sometimes it was difficult to hear precisely what he was saying," said Siegel.

"I think, through his accent and tears, everyone felt the outstanding service to the citizens of Southeast Texas.

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A scholarship at the prestigious Curtis Institute in Philadelphia, but was rejected. Her talent was cited as the reason for the rejection, but the Juilliard graduate believed it had more to do with her color than her musical skill.

Discouraged, she became an accompanist for a singing teacher and then, in 1954, she went to work as a pianist in an Atlantic City, New Jersey bar. It was there she adopted the name Nina Simone: Nina, her boy-

friend’s pet name for her; and Simone, after French actress Simone Signoret, for its dig-

nified sound. Three years later, in 1957, she had her first record contract.

In 1958, her first album produced her first hit, George Gershwin’s “I Love You Porgy,” a song that made her an international star and has been synonymous with the name Nina Simone ever since. Her star continued to shine through the ‘60s and ‘70s, as did her commitment to the civil rights struggle.

She performed in concert at the world’s most prestigious houses of music, with a reperto-

ire ranging from jazz, gospel, blues, folk and classical music to songs of protest against the injustice of racism.

She became a strong voice in the civil rights movement with her song “Mississippi Goddam,” which she wrote and performed in protest of the murders of Medgar Evers in Mississippi and four black schoolchildren in Alabama. Later, she wrote an even more powerful song, inspirational “To Be Young, Gifted and Black.”

Like many American jazz artists before her, Nina Simone found a greater appreciation for her music and more freedom abroad than at home. Embittered by racism, she renounced the United States in 1969 and became a “Cit-

izen of the world.” She lived for about 14,000 miles on various worthwhile causes certainly deserve the praise of this body and this nation. She is an extraordinary woman who has truly gone to great lengths to help others.

HONORING THE LIFE OF NINA SIMONE

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 29, 2003

Ms. WATERS. Mr. Speaker, I rise tonight to honor a jazz artist who was truly inspiration both on stage and off.

Nina Simone was a consummate artist who defied classification. A jazz singer, a pianist, a jazz-rock-pop-folk-black musician, an arranger, a composer and a protest singer—she was all of these and more.

She was a social activist, unafraid to speak out or sing out against the social ills of racism and war.

One of eight children, Nina Simone was born Eunice Kathleen Waymon on February 21, 1933 in Tryon, North Carolina. Early on, she demonstrated prodigious talent as a pian-

ist and singer. She played and sang with her sisters in their mother’s choir in the local church. It was not until the age of six that Eu-

nice began formal training on the piano.

By the time she was 10, she had given her first recital in her hometown. This recital at the town library produced her first applause and her first encounter with racism. Her parents were forced to move from the first row to make room for whites to be seated. This incident formed the basis of her commitment to the fight for civil rights.

Eunice left North Carolina in 1950 to con-

tinue her musical education at the Juilliard School of Music in New York, after which, her family moved to Philadelphia. She applied for a scholarship at the prestigous Curtis Institute in Philadelphia, but was rejected. Her talent was cited as the reason for the rejection, but the Juilliard graduate believed it had more to do with her color than her musical skill.

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tinue her musical education at the Juilliard School of Music in New York, after which, her family moved to Philadelphia. She applied for
stretch to label it a matter of national security—even if Ashcroft is right in describing Haiti as a staging ground for some Muslim immigrants from the Mideast who are trying to get into the United States.

The Constitution says no person shall be deprived of life, liberty or property without due process of law. It doesn’t make exceptions for noncitizens or people without the proper paperwork. Our protections for civil liberties are one of the reasons refugees are drawn to this country.

Some argue that the Founding Fathers never anticipated the war on terrorism and such issues as illegal immigration. Maybe so, but they had a lot of experience with arbitrary use of government authority. The government has every right to deport illegal immigrants, but if it’s going to detain them for any lengthy period, it has to accord them certain rights.

HONORING THE 30TH ANNIVERSARY OF THE CHICAGO BOARD OPTIONS EXCHANGE

HON. RAHM EMANUEL
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. EMANUEL. Mr. Speaker, I rise today to recognize one of Chicago’s most venerable and longstanding institutions, the Chicago Board Options Exchange, on its 30th anniversary. The CBOE began as a spin-off of the Chicago Board of Trade in 1973, and in short order revolutionized options trading by creating standardized, listed options and an exchange-based market. Individual investors, the world over quickly adopted the concept of listed options, and the CBOE soon became the world’s largest options exchange. As a result of superior management and cutting-edge product offerings, the CBOE has never looked back. Today, the CBOE is responsible for more than 51 percent of all options trading as well as 91 percent of all index options trading in the United States.

The CBOE has maintained its leadership position because of the dedicated efforts of all those who work in its state-of-the-art 45,000 square foot facility, led by Chairman and CEO William J. Brodsky and Vice Chairman Mark F. Duffy. CBOE management has led the industry on issues ranging from corporate governance to investor education. In fact, Mr. Brodsky was recently commended by the Securities and Exchange Commission for his efforts at maintaining market integrity in the face of several recent corporate scandals. The CBOE is also a key employer in the Chicago region and an important driver of the local economy.

Mr. Speaker, I congratulate the Chicago Board Options Exchange on reaching the important milestone of its 30th anniversary, and I look forward to continuing to work together in the months and years ahead to ensure that the CBOE maintains its competitive superiority and remains a pillar of Chicago’s business community.

STEVE MASSANO
HON. SCOTT MCNINIS
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. McNINIS. Mr. Speaker, I have the distinct honor and privilege today to honor a real-life hero from my district by the name of Steve Massano of Montrose, Colorado. Steve, as a Montrose County Sheriff’s Deputy, but what I’m about to share with you here did not happen in the course of his duties, but rather as a concerned citizen. On December 2nd of last year, Steve came across an accident in the town of Olathie. After getting out of his truck to help, he came across an eight-year-old girl who had been ejected from her vehicle and had stopped breathing. Two adults hovered over her, pleading for the child to breathe.

Steve quickly and calmly assessed the situation, and after checking to be sure the child was not breathing, began to administer CPR. Less than a minute later, the girl began kicking and sputtering and breathing on her own. She returned home from the hospital a day or two later with no serious injuries and returned to school a short time later.

For his heroic actions, Montrose County Sheriff Warren Waterman recently presented Steve with the department’s Life Saving Medal along with a letter of commendation from the Olathie Ambulance Service for “going above and beyond the call of duty.”

Mr. Speaker, we rejoice in the life of that eight-year-old girl, and we are thankful that Steve came across the scene of the accident that day. His quick-thinking and life-saving heroics will be remembered everyday by the family and friends of that young girl. Steve is a true asset to the Montrose County Sheriffs Department, his community, and the state of Colorado, and I wish him all the best in his future endeavors.

NUEL BROWN
HON. DENNIS A. CARDOZA
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. CARDOZA. Mr. Speaker, I rise today to honor the achievements of Reverend Nuel Brown, who will be retiring after the close of the California State Association of Free Will Baptist Convention on May 2, 2003.

Nuel Brown has been the Free Will Baptist Ministries in California since 1953. He began his work as a pastoral community leader with youth in the California League Youth Organization of the Golden State in Mountain View, California. By selling diversified church bonds, he secured the property for the First Free Will Baptist Church of Mountain View, California where he served five years before moving to Kerman, California. Nuel served the Kerman Free Will Baptist Church for twenty years. He also worked as a chaplain for the Kerman Police Department, served on the Planning Commission and worked with youth. He continued to work in youth community through the Ministerial Alliance, Kerman High School Boosters Club and serving youth throughout the surrounding areas. All of Nuel’s children are graduates of Kerman High School.

In 1986, Reverend Brown accepted the position of Executive Secretary Promotional Director for the Free Will Baptist State Association. During his tenure, Reverend Brown served all the Free Will Baptist Churches in the State of California. Reverend Brown has served in the State of California for the past 17 years. He has continued to be an activist in the community and a voice for the people. He has great working relationships with elected officials throughout the region and is considered a source for information to the community.

Nuel will now enjoy his retirement with his wife, Yvonne, their children and their grandchildren. Please join me in honoring Reverend Nuel Brown’s distinguished career as he enters the next chapter in his life.

HONORING THE LIFE OF ISADORE LOURIE

HON. JOE WILSON
OF SOUTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. WILSON of South Carolina. Mr. Speaker, on April 24, 2003, a bright light went out in South Carolina. One of our favorite sons, Isadore Lourie, passed away. Isadore was a widely respected South Carolina legislator, admired for his passion and integrity. We will all miss his vibrant personality and our thoughts and prayers are with his family and friends.

I particularly will miss the wise counsel of Senator Isadore Lourie (D-Richland), because as a gentleman he very warmly welcomed me to the South Carolina Senate in 1985. On the first day of my service I introduced several procedural reforms with my colleague Senator John Courson (R-Richland) and Senator Warren Giese (R-Richland). As each was debated no one was more civil in rejecting our arguments than Isadore Lourie.

On the last day of his service, I remember walking with Senator David Thomas (R-Greenville) and Senator Lourie to his car where he gave us the highest compliment of being proclaimed a “mensch” which is Yiddish for a respected friend. Isadore Lourie is indeed a Southern statesman as revealed in the following news article. It is taken from the Friday, April 25, 2003 edition of The State newspaper into the RECORD, and describes the extraordinary life of Isadore Lourie.

“ISADORE LOURIE DIES AT 70: RETIRED SENATOR HAILED AS ‘SO GREAT BECAUSE HE WAS SO GOOD’.”

(By Carolyn Clikk and Lee Bandy)

His great, good heart is what people remember.

Isadore Lourie’s heart was soft enough to embrace people of all races and creeds, steely enough to buck the established order, gracious enough to forgive, and ask forgiveness, of his antagonists.

On Thursday, as word spread of his death from a rare brain disorder related to Parkinson’s disease, people statewide hailed the attorney and former state senator from Richland County for his political courage and his personal integrity. He was 70.

“During the turbulent time of the ’60s, Isadore was, for a time, the most meaningful voice connected black people and white people,” said Alex Sanders, the former College of Charleston president, who served with
makers were reluctant to cede long-denied
to introduce black visitors sitting in
the House gallery.
when he confronted the House speaker over
attendance and reapportionment.
"fought like hell," Lourie once recalled, to
rural establishment that controlled life in
Riley and Dick Riley, stormed the white,
extend that to everybody he possibly could."

"dream," said Charleston Mayor Joe Riley.
cause of his family's immigrant story.
of trying to replace centuries of bad times
an as yet unknown future.
churches, Sanders recalled, serving as a
showed up Sunday after Sunday in black
because he was so good.''

"WE KNEW WE WERE JEWISH"
Lourie grew up in St. George above the
county department store founded by his fa-
ther, Louis Lourie, a Russian immigrant who
arrived in America knowing no English and
with little money in his pockets.
But Louis Lourie had cousins in St. Mat-
thews and Orangeburg and came to South
Carolina to work for room and board. In 1920, he met
Anne Friedman, a young Polish Jew
he shared with his old Turk buddy Sanders.
"The thing about him, he was a politician,
character, unimpeachable integrity and a heart
we call in Yiddish a 'mensch.' He had char-
from the state's segregationist past to
bridge from the state's segregationist past to
and, with her two eldest sons, Solomon and
her greatly.
I commend Dr. Cartwright and those at Kent
State involved in the foundation and the con-
tinuation of this meaningful program. I also
congratulate all of the students who have
part taken in this wonderful experience over
the past 30 years. I am certain, that with con-
tinued support, the Washington Program in
National Issues will celebrate many more anni-
ter-aryes to come.

KENT STATE UNIVERSITY’S WASH-
INGTON PROGRAM ON NATIONAL ISSUES: CELEBRATING 30 YEARS IN WASHINGTON, DC
HON. TIMOTHY J. RYAN
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003
Mr. RYAN of Ohio. Mr. Speaker, I rise today in recognition of Kent State University’s Wash-
ington Program in National Issues, known as WPNI. On May 1, 2003, WPNI will celebrate
its 30th Anniversary. This anniversary marks WPNI’s 30th year in Washington, D.C.,
but also symbolizes the impressive achieve-
ments of those faculty, staff, alumni and stu-
dents who are and who have been dedicated
to the success of WPNI. Dr. Carol Cartwright,
President of Kent State University, has been a
very strong supporter of the program and has contributed significantly to its continued suc-
cess.
WPNI has three primary objectives: (1) to facilitate learning about the U.S. political sys-
tem and its policy issues; (2) to develop an understanding of the interrelationship of public
issues and structures of government; and (3) to encourage individual initiative and provide
for experiences in internship and research. Dr. Carol Cartwright and Dr. Richard Robyn, Di-
rector of WPNI, have worked extremely hard to ensure that these objectives are met.
WPNI is a full 15-week academic program offered each Spring semester by Kent State
University. Since its creation in 1973, WPNI has sent more than 600 selected juniors and
seniors from various academic disciplines to Washington, D.C. to live, work and study.
Throughout the course of the program, the students are required to participate in an aca-
demic curriculum and maintain an internship position in government, a company or an or-
anization of their choice. Economic and professional benefits this program brings to its
students are extraordinary. At the same time, government entities, companies and organiza-
tions benefit enormously. I know this first-hand as my Washington office had the good fortune
to have Sarah Jones from Hubbard, Ohio, as a WPNI intern since February 2000. Sarah
made an invaluable contribution to the day-to-
day operation of my office and we will miss
her greatly.

Hon. Scott McNiss
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003
Mr. McNinss. Mr. Speaker, I would like to
take this opportunity to recognize an out-
standing athlete and a pioneer from my district
in the sport of woman’s snowmobile racing.
Ashley Durmas of Whitewater, Colorado is
only 17 years old, though she is already an
accomplished professional snowmobile racer.
Ashley started racing in junior competitions
during the winter of 1999-2000 against a field
of all boys. She crashed nearly every race, but
Ashley is a winner, and she refused to give
up. She continued riding and racing. She im-
proved so much that last year she turned pro-
fessional and finished second overall in the
Colorado women’s pro class. She still com-
petes in the male division and usually finishes
at or near the top. She recently entered the
Colorado state championships in the sport
class and beat 21 of the 23 men who com-
peted against her. Ashley is not only successful on the snow,
but she excels in the classroom too. Even
though her busy schedule often requires her
to study while on the road to out-of-state
events, this high school junior still finds the time and energy to hit the books and earn As and Bs on her report cards.

Ashley’s tenacity, hard work, and dedication have truly made her community and the state of Colorado proud. It is my privilege to bring her example to the attention of my colleagues here in this body today. Ashley embodies the old maxim, “If at first you don’t succeed, try, try again.” Ashley not only tried again, but has developed into an outstanding athlete and an inspiration to us all. I congratulate her on her success and wish her the best with all of her future endeavors.

HONORING OFFICER MARY ANN COLLURA OF THE FAIR LAWN POLICE DEPARTMENT

HON. FRANK PALLONE, JR. OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES
Tuesday April 29, 2003

Mr. PALLONE. Mr. Speaker, I rise today to honor the life and work of Officer MaryAnn Collura of the Fair Lawn Police Department in Fair Lawn, New Jersey.

Mr. Speaker, it pains me to report that on Thursday, April 17, 2003, at the age of 43, MaryAnn Collura was killed in the line of duty. Officer Collura is only the fifth female to be killed while serving as a police officer in the State of New Jersey. Her loss has sent shockwaves through the members of her department, the people of Fair Lawn, and the entire State of New Jersey.

MaryAnn Collura was born in New York City, the youngest daughter of Pasquale and Helen Collura. MaryAnn was a lifelong resident of the Borough of Fair Lawn, New Jersey. She lived in the same home on Morlot Avenue in Fair Lawn where she and her siblings had grown up. She attended the same church where she had been baptized as a baby and taken her first holy communion as a young girl. The streets that MaryAnn patrolled each day as a police officer were the same streets that she ran as a child. Fair Lawn was home in every sense of the word.

MaryAnn was known for her devotion to the community and to its people. So, it came as no surprise when MaryAnn decided to join the Fair Lawn Police Department in 1985, after serving for two years as a special officer. MaryAnn broke new ground in the department, becoming the first female officer in the town’s history.

It was her compassion for her neighbors, combined with her courage and skill as an officer, that made MaryAnn an inspiration to other young women and men who wished to dedicate their lives to becoming officers of the peace. MaryAnn cared about the details of her community. She went as far as to initiate a peace. MaryAnn cared about the details of her community and to its people. So, it came as no surprise when MaryAnn decided to join the Fair Lawn Police Department in 1985, after serving for two years as a special officer. MaryAnn broke new ground in the department, becoming the first female officer in the town’s history.

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Although I am not the Representative in Congress for the community of Fair Lawn, the loss of Officer Collura is one that hits particularly close to home. MaryAnn Collura was the aunt of my longtime staff member and campaign manager, Scott Snyder. To Scott, I would like to take this opportunity to say that the thoughts and prayers of the entire Pallone family and the Collura family are with you and your family in your time of loss.

Mr. Speaker, I ask my colleagues to join me in honoring the life and work of Officer MaryAnn Collura. I urge my colleagues to take a moment and recognize the bravery and selflessness of all of our nation’s police officers, and all of our heroes in uniform.

To MaryAnn’s family; her mother, Helen; her siblings Paul, Patricia, and Linda; and to Scott and his entire family—please know that MaryAnn’s commitment and sacrifice will never be forgotten by the people of Fair Lawn, the State of New Jersey or by the Congress of the United States.

HONORING LIEUTENANT THOMAS A. PETRELLA, UNITED STATES NAVY

HON. ROB SIMMONS OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. SIMMONS. Mr. Speaker, during this time of war, our thoughts are constantly with our active duty military personnel overseas, and also with all of the men and women who wore the uniform of the United States military through the years. I rise today to honor an individual who will retire this month following a long tour of service to this country.

Lieutenant Thomas A. Petrella enlisted in the United States Navy in 1978 and served as an intelligence specialist aboard four different aircraft carriers, a cruiser, and a nuclear attack submarine. Thom served 10 great years of commissioned service using his knowledge and extensive experience to better his community.

Throughout his successful 23-year career, Thom focused on his duties to aid our Nation and the United States Navy. He concludes his spectacular career as a Vietnam War analyst at the Department of Defense where he analyzed cases of Americans missing from the Vietnam War, including that of Captain Arnold Holm, a resident of Connecticut’s Second District of whose greatness I have spoken here before.

Lieutenant Petrella epitomizes the type of person we would like to have serving in our Armed Forces, someone who believes in this country, in its values, someone who believes in faith and family and hard work, and someone who has a great appreciation for the blessings of freedom and who worked during these years to ensure the lives that have made this country a great place to be.

I ask my colleagues to join me in thanking and congratulating Lieutenant Thomas Petrella for his dedicated and committed service to this Nation. Your best years are still to come. I would also like to extend these wishes to his wife Renee and their children Kara, Ryan and Cody.

IN HONOR OF WILLIAM T. "BILL" ROBINSON

HON. KEN LUCAS OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. LUCAS of Kentucky. Mr. Speaker, I rise to congratulate William T. ("Bill") Robinson III for receiving the prestigious Themis Award. The criteria for this award is “Extraordinary service by an attorney to the Cincinnati Bar Association, the legal profession and/or the community.” Bill Robinson has certainly met this criteria.

Bill currently serves as Chair of the Finance Committee and member of the Executive Committee of the Board of Governors of the American Bar Association (ABA). The ABA has served as State Delegate to the ABA Nominating Committee, President of the National Caucus of State Bar Associations, member of the Executive Committee of the National Conference of Bar Presidents and Chairing the ABA Standing Committee on Bar Activities and Services and the ABA Standing Committee on Substance Abuse. Bill served as 50th President of the Kentucky Bar Association, founding Chair of the Kentucky IOLTA Fund, President of the Kentucky Bar Foundation, Co-Founder & President of the Salmon P. Chase American Inn of Court. Bill is a Fellow of the International Society of Barristers, a Fellow of the American Academy of Appellate Lawyers, a Sustaining Member of the American Bar Foundation, Member of the Sixth Circuit Judicial Conference, and a Sustaining Member of The American Law Institute.

In addition to his significant accomplishments in his chosen profession, Bill has a distinguished history of serving our local business community. As a co-founder of the Metropolitan Growth Alliance of Greater Cincinnati, he played a key role in the creation of the "Gallis Report" which has become a catalyst for a multi-jurisdictional, regional approach toward a wide range of strategic policy, planning and development initiatives throughout our Tri-State region. Bill also was a Founding Board Member and Secretary/Treasurer of the Tri-County Economic Development Corporation, the Vice Chair for Economic Development for the Greater Cincinnati Chamber of Commerce, the Chair of the Board of Directors of the Northern Kentucky International Airport where he has served on the Board and helped direct the airport’s emergence as one of the world’s most modern and efficient airports.

Bill grew up in Cincinnati, was educated at the Antioch College of Ohio and St. Gregory Seminary, Thomas More College and the College of Law at the University of Kentucky. He
is an educator and serves on the Board of Mount St. Joseph College. He has served on the Board of Thomas More College, the Board of the Anthenaeum of Ohio, the Board of Covington Latin School and on the Board of the Greater Cincinnati Literacy Task Force, the Visiting Committee at the College of Law, University of Cincinnati and Visiting Committee at Chase College of Law, Northern Kentucky University, Adjunct Professor at Chase, and President of Redwood School and Rehabilitation Center where he is currently Chair of the Dorothy Wood Foundation.

Bill has served and continues to serve the legal profession, the community, and the Cincinnati Bar Association with the highest level of dedication, professionalism, and commitment. Bill can be proud of the positive impact that he has had on the quality of life in our regional community and I commend him on his many accomplishments.

DONALD J. JOHNSTONE FINNIE

HON. SCOTT McINNIS
OF COLORADO

IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. McINNIS. Mr. Speaker, it is with profound sadness that I take this opportunity to pay tribute to the life and memory of an outstanding resident of my state. Mr. Donald Johnstone Finnie of Lakewood, Colorado passed away recently at the age of 84. As we mourn his passing, I think it is fitting to remember this outstanding husband, father, and friend who spent a lifetime in service to others.

Mr. Finnie, like so many members of his great generation, contributed to the Allied victory in World War II. He fought for our country in New Guinea and Germany before returning home to Colorado, where in 1948 he joined the El Jebel Shrine, which does charity work with the Shriners Hospitals. He became president of the Jefferson County Shrine Club a decade later. Mr. Finnie and his beloved wife Doris also participated in a number of youth programs in support of their two daughters, including the Jefferson County YMCA and the Campfire Girls.

Donald Finnie knew the meaning of the word dedication. In his 43-year association with the Rotary Club, Mr. Finnie never missed a meeting. His good works also extended into the political arena as district chairman of the Republican Party and as a founding father of the city. In 1968, Mr. Finnie served on the incorporation committee for Jefferson City, which later changed its name to Lakewood.

Mr. Speaker, we are all saddened by the loss of Donald Johnstone Finnie, but take comfort knowing that our grief is overshadowed by the legacy of courage, selflessness, and generosity he left with all who knew him. Donald’s life embodies the virtues that helped make this country great, and I am deeply honored for the opportunity to pay tribute to him today. Donald Johnstone Finnie will be missed by his family, friends and the many people in his community who were fortunate enough to have known him.

HON. LUIS V. GUTIERREZ
OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. GUTIERREZ. Mr. Speaker, I rise today to announce the introduction of my bill, the “Fairness for America’s Heroes Act.” Currently, there are more than 37,000 non-citizens on active duty in our military and each year approximately 7,000 new non-citizens join the armed forces.

These brave men and women are willing to die defending our nation, and it is imperative that we recognize their selflessness and spirit—not only when someone is killed in battle, but from the moment they are called up for combat duty.

We need laws that reflect non-citizen soldiers’ heroism and their patriotism. That say we are grateful for your sacrifice; we understand the risks and dangers of combat duty; and to honor your dedication and devotion, we are granting you citizenship. This is a right that these men and women have earned and deserve.

Throughout history non-citizen soldiers have stood shoulder-to-shoulder with native-born Americans in defending our country. They fight with vigor and valor to protect the American dream, and they risk their lives everyday for the safety and security of our country.

All of those who serve—regardless of race, regardless of gender, regardless of country of origin—are recognized as America’s heroes. The legislation I am introducing today will allow them, rightfully and justly, to also be recognized as Americans. This is a distinction they have certainly earned and deserve.

The “Fairness for America’s Heroes Act” grants citizenship automatically to non-citizen soldiers assigned to combat duty.

The legislation says that no soldier will ever again have to come home in a body bag to be recognized as an American. No soldier’s family will ever again have to sort through mounds of paperwork so their loved ones can receive citizenship posthumously. It also says that no soldier will ever again have to be preoccupied or worry what will happen to their family’s immigration status if they are killed in battle.

It enables immediate family members of servicemen and servicewomen to receive expedited processing of their immigration status, and, perhaps most important, it honors the enormous contributions immigrants make to our military and to our society every day.

To understand these contributions, you have to look no further than the young men who heroically and valiantly served their adopted country in the war against Iraq: Lance Corporal Jose Gutierrez, Corporal Jose Garibay, Private First Class Francisco Martinez-Flores, Lance Corporal Jesus Suarez del Solar.

These brave young men, barely in their twenties, died fighting for our country, but the ideals and principles they fought for must not. Those ideals can be summed up most eloquently with the words of Lance Corporal Gutierrez’ brother, who said that Jose joined the Marines “to pay a little back of what he’d gotten from the U.S.”

These young men, many of whom left war-torn, war-ravaged countries, understood that America is the type of place that permits you to dream as big as your heart will allow. They were willing to fight and die for that dream, and our immigration system should reflect and respect that sacrifice.

You see, Mr. Speaker, immigrants’ presence in our military is nothing new. Immigrants have fought in every war in American Revolution. In fact, immigrants account for 20 percent of the recipients of the Congressional Medal of Honor.

In Silvis, Illinois, just west of Chicago, Ill., there is a street called Hero Street U.S.A. This street stands as a tribute to honor eight young Latino men who lost their lives courageously defending our country during World War II and Korea. They went to war without hesitation even though people often ignored them or treated them as second-class individuals. The sacrifice and strength of these young men sparked an unrivaled and unmatched wave of service in their community.

The Department of Defense has documented that no street of comparable size has sent as many men and women to serve in the Armed Forces.

While tributes like these are important, and speeches are moving, we must back up our rhetoric with action. The swift passage of this legislation is an important place to begin. It will say to these heroic young service members that we recognize and respect your contributions; we honor your spirit and your service; and that you personify the pride and patriotism that makes this Nation so great.

I urge my colleagues to properly recognize these brave men and women by supporting the “Fairness for America’s Heroes Act.”

TRIBUTE TO JAMES L. FERMAN, SR.

HON. JIM DAVIS
OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. DAVIS of Florida. Mr. Speaker, I rise in honor of the late James L. Ferman Sr., a pillar in the Tampa Bay society, whose devotion to his company was second only to his dedication to family and his remarkable commitment to strengthening his community.

A native of Tampa, Ferman joined the Navy in 1942 after graduating from H.B. Plant High School and Emory University. After serving his country in both the Atlantic and Pacific as an intelligence officer and commander of a submarine chaser, James Ferman Sr. came home to oversee the expansion of his father’s automobile company. Under his watch, Ferman Motor Car Company became the oldest continuously operating dealership in the country and one of the biggest dealerships in the state.

Today Ferman Motor Car Company employs almost 1,000 people in four counties, and James Ferman Sr., the father of this company, was known for treating these employees like his own family. The integrity with which he led Ferman Motor explains why so many employees have stayed with the company for decades as a tribute to his family.

James Ferman Sr. was also known for his work outside of the company. The 1966 Civilian Club’s Citizen of the Year dedicated
CONGRESSIONAL RECORD — Extensions of Remarks

Mr. SCOTT of Georgia. Mr. Speaker, thank you for the opportunity to discuss legislation that I am introducing today that will coordinate government agencies and non profit organizations to provide information counseling to victims who have been victims of predatory lending practices. This legislation is intended to improve consumer literacy, reduce harmful mortgage lending practices, and provide borrowers with nationwide toll-free telephone numbers to receive complaints regarding predatory lenders and create a resource database of information.

While expanded access to credit from both prime and subprime lenders has contributed to the highest homeownership rates in the nation’s history, there is growing evidence that some lenders are engaging in predatory lending practices—excessive front-end fees, single premium credit life insurance, and exorbitant prepayment penalties—that make homeownership much more costly for families that can least afford it. Predatory loans are said to have grown rapidly in minority neighborhoods, often stripping away wealth that may have taken homeowners decades or a lifetime to accumulate. Some communities which lacked access to traditional institutions were being victimized by second mortgage lenders, home improvement contractors, and finance companies that peddled high interest rate home equity loans with high loan fees to cash-poor homeowners.

A joint report by the Department of Housing and Urban Development and the Treasury Department, issued June 21, 2000, on Curbing Predatory Home Mortgage Lending, urged Congress to adopt legislation that would restrict abusive terms and conditions on high-cost loans, prohibit harmful sales practices in mortgage markets, improve consumer literacy and disclosures, and prohibit government-sponsored enterprises from purchasing loans with predatory features and establishing predatory lending as a factor in CRA evaluations.

Therefore, I urge my colleagues to support this legislation that will assist borrowers who already have predatory loans, educate consumers about the dangers and pitfalls of entering into a home loan, and refer consumers to appropriate governmental agencies or consumer protection organizations for assistance.

I ask unanimous consent that the text of the legislation and my statement are printed into the RECORD.

HONORING FLANNERY DAVIS AND GUS JOLLEY
HON. SCOTT MCINNIS
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize Flannery Davis and Gus Jolley for their creativity in sharing their love of horses. Flannery and Gus run the Walk On Therapeutic Riding Center in Florence, Colorado and offer programs that give disabled people the opportunity to experience riding in Colorado's beautiful mountains. Today I want to honor their efforts before this body of Congress and this nation.

Gus began thinking about offering services for disabled riders when he was driving a shuttle van for the disabled as a part-time job in Santa Fe. Both he and Flannery spent two years volunteering with therapeutic riding centers and undergoing training as riding instructors before starting Walk On. Walk On Riding Center helps to make riding accessible to diverse groups of people by using adaptive teaching techniques and equipment to accommodate disabilities, both physical and mental. Their programs build independence, confidence, and self-esteem by introducing disabled citizens to the freedom and fun that riding can provide.

Mr. Speaker, it is a great privilege to recognize Flannery Davis and Gus Jolley for their outreach to the disabled in their community. On horseback and off, disabled riders can feel capable, empowered, independent, and healthy. Everyone deserves the opportunity to experience a slice of our western tradition, and I am proud to salute a program that expands access to one of the best recreational opportunities Colorado has to offer.

COMMEMORATING YOM HASHOAH
HON. HENRY A. WAXMAN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. WAXMAN. Mr. Speaker, I rise today to commemorate Yom Hashoah, Holocaust Martyrs’ and Heroes’ Remembrance Day, which memorializes the six million Jews murdered by the Nazis during World War II. Each year this day is one of grief and hope. We mourn the innocent lives and vibrant communities destroyed while the world shamefully stood silent, and encourage the strides being taken to advance Holocaust education and the battle against resurgent anti-Semitism and intolerance around the world.

We observe the anniversary of the Warsaw ghetto uprising, when a brave cadre of fighters battled a Nazi siege to liquidate the community’s last remaining Jews, and resolve ourselves to provide comfort and support for the aging community of Holocaust survivors who continue to battle the horrors of their past.

This year, as we mark the 50th anniversary of the dedication of Yad Vashem in Israel and the 10th anniversary of the founding of the U.S. Holocaust Memorial Museum in Washington, we have tremendous accomplishments to be proud of, but difficult challenges remain ahead.

In European and Arab countries, where the domestic rise of anti-Semitism and Holocaust denial is fomenting attacks against Jews and exacerbating tensions in the Middle East, we must do more to counteract the steady stream of hatred.

In the United States and around the world, where elderly Holocaust survivors are struggling to find adequate health and home care to alleviate the traumatic scars of their experiences, communities must join together to find ways to meet these vital needs.

And in the vast settlements negotiated by the United States with European governments and corporations to atone for the crimes of slave labor and theft of assets, companies responsible for Holocaust-era insurance policies must be held accountable for their denials, delays, and stonewalling tactics against survivors and families seeking restitution. The wrongful denial in violation of the standards set by the International Commission on Holocaust-Era Insurance Claims (ICHEIC) must be reviewed and overturned. Companies routinely extending the 90-day period allotted by ICHEIC to research the validity of claims into year-long sagas with no status updates to the claimant must be mandated to act more expeditiously. And most urgently, companies refusing to publish the basic policyholder information from their archives must be penalized for their inaction.

Survivors who are still alive were only children when the Holocaust began. While many have vivid recollections about insurance agents visiting their home or policies their families spoke of, few have documents to identify the right company and cannot do so because the companies haven’t provided comprehensive lists for them to search for the names of their parents and relatives. As a result, more than 80 percent of the claims filed with ICHEIC are incomplete, and barely 2 percent of the over 88,000 claims submitted to ICHEIC have received offers.

Today I am encouraged that some progress is being made. This week, the German insurance industry agreed to publish the names on 363,232 policies issued by German companies to people identified on a comprehensive list of Jews who lived in Germany before the war. This is a vast improvement over the meager 308 policyholder names previously made available from Germany’s largest insurer, Allianz.

More must be done, however, to get Generali, Axa, Winterthur, and Zurich to live up to their responsibilities as ICHEIC members. In November 2001, when I organized a hearing on the Government Reform Committee to shed light on these problems, Axa had provided 191 names to ICHEIC, Zurich had given 40 names, and Winterthur just 31. Generali, a company that was the most popular pre-war insurer among Jews in Poland and Hungary, had released only 8,740 names out of the nearly 90,000 policies in effect when the war began. It is unacceptable and reprehensible that these companies have still not taken the steps to provide the needed information.

We must pressure these companies to do more. If they will not open their archives voluntarily, we must compel them to do so by
supporting the implementation of state laws like California’s Holocaust Victims Insurance Relief Act or the enactment of federal legislation like H.R. 1210, the Holocaust Victims Insurance Relief Act, which I introduced earlier this year.

Justice delayed is justice denied. Today, on Yom HaShoah as we mourn the victims of the Holocaust we must renew our determination to help the remaining survivors attain justice in their lifetimes.

PRESIDENT OF POLISH HERITAGE ALLIANCE, JOHN J. WALLOCH, TO BE HONORED

HON. GERALD D. KLECZKA
OF WISCONSIN
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. KLECZKA. Mr. Speaker, on Sunday, May 4, 2003, the Pulaski Council of Milwaukee will be honoring John Walloch, President of Polish Heritage Alliance, at its twenty-third Heritage Award Dinner.

Mr. Walloch’s ties in our Polish community run deep. The proud son of Leonard and Helen Walloch, John grew up on Milwaukee’s southside where he graduated from my alma mater, Don Bosco High School. Following his time at Don Bosco, he entered the Milwaukee Institute of Mortuary Science and graduated in 1961 with certification as both a Funeral Director and Embalmer. With the assistance of his parents, he opened the John J. Walloch Funeral Home in 1966 and has been overseeing its operations ever since.

Despite his hectic professional schedule, John has always found time to serve his fellow Milwaukeeans. He has previously held leadership roles for the South Side Business Club and Xavierian Missionary Fathers Advisory Board, and is currently a member of St. Joseph’s Foundation, the Knights of Columbus, St. Alexander’s, and St. Roman’s Parishes.

For many years, John has also played an important role in the Polish-American community in the Milwaukee area. He is an active member, and past president, of the Milwaukee Society of Polish National Alliance, a fraternal Polish-Americans organization. In 2002, he assumed the presidency of the Polish Heritage Alliance. Under John’s leadership, the Polish Heritage Alliance has continued to gain notoriety as the directing organization for Milwaukee’s famous Polish Fest, America’s largest Polish Festival. During each visit to the festival, attendees are sure to see him dancing the polka while donning a red czapka.

John, the avid outdoorsman, likes to spend his “free time” boating, hiking and entertaining friends and his two daughters, Linda and Christi, and his son, Jason, at his recently refurbished second home on Elk Lake. In the past years, John has been collecting stamps in his passport, and had the opportunity to visit the homeland of his ancestors, Poland.

Mr. Speaker, it is with great pride that I extend my congratulations to John Walloch for his efforts to bring each Polish-American family closer in the Polish-American community. May he continue to be blessed with happiness and success for years to come. Sto Lat!

HON. RUBEN HINOJOSA
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. HINOJOSA. Mr. Speaker, tomorrow is a very important day. It is “El Día De Los Niños (The Day of the Children)—Celebrating Young Americans. This traditional Latin American holiday has been observed nationally since April 30, 1998.

In preparation for that first El Día De Los Niños, young Americans in dozens of cities across the nation signed petitions and testified before city councils to ask for local recognition of the celebration. It is a day for parents, families and communities to value and uplift Latino children and all other children in the United States.

Across the Nation, communities are organizing their own activities to celebrate their children on April 30th. I am proud that my 15th Congressional district of Texas celebrates El Día De Los Niños with great enthusiasm and fanfare. This week 600 hundred elementary school children will enjoy a day of festivities at Edinburg Municipal Park. Another 600 children will be celebrating in McAllen at Seguin Elementary School.

These celebrations are possible because the entire community—schools, community-based organizations, colleges, and local businesses come together to uplift the children of the Lower Rio Grande Valley to show them how much we care about them, and how important they are to our future.

El Día De Los Niños has a powerful message for us all. El Día De Los Niños provides a bridge for children to learn more about being American.

Their first hands-on civics lesson is to ask their city council to declare and celebrate the Day of the Children. Young Americans have told the Nation what it should be doing. They have accepted the gift of a special day from the Latin American community, building a national celebration of hope and diversity for all children in the United States—a gift we can all cherish.

I encourage my colleagues to help celebrate this important day in their own communities and with their own children.

TRIBUTE TO LINDA MOSEMAN RAYMOND

HON. MAURICE D. HINCHLEY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. HINCHLEY. Mr. Speaker, I rise today to pay tribute to my constituent, Linda Moseman Raymond, for her exceptional leadership and community service. Mrs. Raymond is a resident of Woodstock, New York and is currently serving as Department President of the American Legion Auxiliary, Department of New York. The American Legion Auxiliary is the largest women’s patriotic service organization in the world. Their primary goals are to serve veterans, their families, and children in their communities and to promote patriotism and Americanism.

Mrs. Raymond is a charter member of the Woodstock Unit #1026 in Ulster County. She is presently employed at AMETEK Rotron as the Customer Service Manager. She manages the Department and is responsible for all European accounts and export compliance for the company.

Mrs. Raymond has been very active in her community, serving as an EMT on the Woodstock Rescue Squad, firefighter in the Woodstock Fire Department and an Instructor in CPR and Water Safety.

Each year the Department President chooses a project of particular interest to her and raises funds to assist in that effort. Having dealt closely with community emergency situations, Mrs. Raymond has chosen to raise funds for two children’s burn camps— the New York City Firefighters Burn Center Foundation and the Strong Memorial Hospital Burn Camp in Rochester.

These activities came together in 1998 when Mrs. Raymond, along with a group of fellow Auxiliary Officers, created a program serving children who have suffered the devastating effects of burns to spend some time in a summer camp with specially trained counselors, nurses, psychologists and firefighters. Through her community volunteer work, Mrs. Raymond has seen first hand the tragic effects that severe burns have on the lives of children. To be able to spend time with other children that do not stare or judge, tease or ridicule their burn injuries is necessary for these children. To date, more than $40,000 has been raised through the efforts of the members in The American Legion Auxiliary in New York.

Mrs. Raymond has always been a strong supporter of children’s programs, and she has clearly demonstrated her dedication again as she promotes this worthwhile cause. The American Legion Auxiliary is proud of the efforts made on her behalf. During these difficult times for our nation, Mrs. Raymond’s service to the children of our nation is most noteworthy.

Mr. Speaker, I am delighted to join the American Legion Auxiliary in honoring Linda Moseman Raymond for her ongoing commitment to children and to her community.

HONORING BONIFACIO COSYLEON RAYMOND

HON. SCOTT MCINNIS
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 29, 2003

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to recognize Mr. Bonifacio “Boney” Cosyleon for his leadership in the Pueblo, Colorado business community. In addition to becoming a successful businessman himself, Boney has volunteered his time to a wide range of community organizations and today I want to honor his accomplishments before this body of Congress and this nation.

“Boney” has served the Pueblo community for nearly twenty-three years as a member of the Greater Pueblo Chamber of Commerce and the Pueblo Economic Development Corporation. As the owner of a construction company, Byerly and Cosyleon, Inc., he has been an instrumental player in the Colorado Contractors Association’s outreach to minority businesses. From 1988 to 1992, “Boney” served as chairman of the CCA’s Affirmative Action Committee, helping to develop the Emerging Small Businesses Program. ESB offers training opportunities, technical assistance and referrals to eligible small businesses and
has helped to secure almost $60 million in construction contracts for these businesses. Recently the Colorado Department of Transportation presented him with the Emerging Small Business Award for his work on ESB and for his advocacy on behalf of small business.

Mr. Speaker, it is a great privilege to recognize “Boney” Cosyleon for his service to Colorado. His work has helped innumerable new small businesses achieve success in the construction industry. His community involvement is a credit to small businesses everywhere, and it is my distinct pleasure to honor him here today.
SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extension of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 1, 2003 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 6

9:30 a.m. Commerce, Science, and Transportation
To hold hearings to examine media ownership.

10 a.m. Appropriations
Homeland Security Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2004 for border and transportation security.

Energy and Natural Resources
National Parks Subcommittee
To hold hearings to examine S. 324, to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for certain trails in the National Trails System, S. 634, to amend the National Trails System Act to direct the Secretary of the Interior to carry out a study on the feasibility of designating the Trail of the Ancients as a national historic trail, S. 635, to amend the National Trails System Act to require the Secretary of the interior to update the feasibility and suitability studies of four national historic trails, and S. 651, to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for the majority of the trails in the system.

Aging
To hold hearings to examine Medicare reform and competition.

Joint Economic Committee
To hold joint hearings to examine financing the nation's roads.

2:30 p.m. Judiciary
Constitution, Civil Rights and Property Rights Subcommittee
To hold hearings to examine judicial nominations, filibusters, and the Constitution, focusing on when a majority is denied its right to consent.

9:30 a.m. Armed Services
Emerging Threats and Capabilities Subcommittee
Closed business meeting to mark up those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2004 for military activities of the Department of Defense.

Energy and Natural Resources
To hold oversight hearings to examine the Department of the Interior program’s addressing western water issues.

SD–124

MAY 7

9 a.m. Armed Services
Airland Subcommittee
Closed business meeting to mark up those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2004 for military activities of the Department of Defense.

4:30 p.m. Armed Services
Personnel Subcommittee
Closed business meeting to mark up those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2004 for military activities of the Department of Defense.

MAY 8

9:30 a.m. Armed Services
Closed business meeting to mark up proposed legislation authorizing appropriations for fiscal year 2004 for military activities of the Department of Defense.

SR–222

MAY 9

9:30 a.m. Armed Services
Closed business meeting to mark up proposed legislation authorizing appropriations for fiscal year 2004 for military activities of the Department of Defense.

SR–222

MAY 13

10: a.m. Energy and Natural Resources
National Parks Subcommittee
To hold hearings to examine budget estimates for fiscal year 2004 for military activities of the Department of Defense.

SR–222

11:30 a.m. Armed Services
Strategic Forces Subcommittee
Closed business meeting to mark up those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2004 for military activities of the Department of Defense.

SR–222

2:30 p.m. Armed Services
Closed business meeting to mark up proposed legislation authorizing appropriations for fiscal year 2004 for military activities of the Department of Defense.

SR–222

1:30 p.m. Appropriations
Legislative Branch Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2004 for the Secretary of the Senate and the Architect of the Capitol.

SD–124

MAY 10

10 a.m. Energy and Natural Resources
National Parks Subcommittee
To hold hearings to examine the impact of the global settlement.

SD–538

SD–192

10:15 a.m. Appropriations
Defense Subcommittee
To hold hearings to examine the National Guard and Reserve.

SD–192

11:30 a.m. Armed Services
Strategic Forces Subcommittee
Closed business meeting to mark up those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2004 for military activities of the Department of Defense.

SR–222

SD–366
the Secretary of the Interior to conduct a study of the San Gabriel River Watershed, and H.R. 519, to authorize the Secretary of the Interior to conduct a study of the San Gabriel River Watershed.

SD–366

MAY 14

9:30 a.m.
Foreign Relations
To hold hearings to examine an original bill to authorize foreign assistance for fiscal year 2004, to make technical and administrative changes to the Foreign Assistance and Arms Export Control Acts and to authorize a Millennium Challenge Account.

SD–419

MAY 15

9:30 a.m.
Foreign Relations
To continue hearings to examine an original bill to authorize foreign assistance for fiscal year 2004, to make technical and administrative changes to the Foreign Assistance and Arms Export Control Acts and to authorize a Millennium Challenge Account.

SD–419

Governmental Affairs
To hold hearings to examine the nominations of Susanne T. Marshall, of Virginia, to be Chairman of the Merit Systems Protection Board, Neil McPhie, of Virginia, to be a Member of the Merit Systems Protection Board, Terrence A. Duffy, of Illinois, to be a Member of of the Federal Retirement Thrift Investment Board, and Thomas Waters Grant, of New York, to be a Director of the Securities Investor Protection Corporation.

SD–342

MAY 20

2:30 p.m.
Foreign Relations
To hold hearings to examine the future of U.S. economic relations in the Western Hemisphere.

SD–419

MAY 22

10 a.m.
Indian Affairs
To hold oversight hearings to examine the status of telecommunications in Indian Country.

SR–485

JUNE 3

10 a.m.
Indian Affairs
To hold hearings to examine the status of tribal fish and wildlife management programs.

SR–485

JUNE 4

10 a.m.
Indian Affairs
To hold hearings to examine the impacts on tribal fish and wildlife management programs in the Pacific Northwest.

SR–485

JUNE 11

10 a.m.
Indian Affairs
To hold hearings to examine the nomination of Charles W. Grim, of Oklahoma, to be Director of the Indian Health Service, Department of Health and Human Services.

SR–485

JUNE 18

10 a.m.
Indian Affairs
To hold oversight hearings to examine Indian sacred places.

SR–485
Wednesday, April 30, 2003

Daily Digest

HIGHLIGHTS

The House passed H.R. 1350, Individuals with Disabilities Education Act Reauthorization.

Senate

Chamber Action

Routine Proceedings, pages S5501-S5617

Measures Introduced: Sixteen bills and six resolutions were introduced, as follows: S. 14, S. 950-964, S. Res. 126-129, and S. Con. Res. 40-41.

Measures Reported:

S. Con. Res. 26, condemning the punishment of execution by stoning as a gross violation of human rights.

Measures Passed:

Digital and Wireless Network Technology Program Act: By a unanimous vote of 97 yea (Vote No. 136), Senate passed S. 196, to establish a digital and wireless network technology program, after agreeing to the following amendment proposed thereto:

Allen Amendment No. 532, to ensure that the educational assistance is focused on supporting science, mathematics, engineering, and technology at eligible institutions, and provide for appropriate review of grant proposals.

Commending Sally Goffinet: Senate agreed to S. Res. 128, to commend Sally Goffinet on thirty-one years of service to the United States Senate.

Commending University of Minnesota Men’s Hockey Team: Senate agreed to S. Res. 126, commending the University of Minnesota Golden Gophers for winning the 2002-2003 National Collegiate Athletic Association Division I National Collegiate Men’s Ice Hockey Championship.

Congratulating U.S. Capitol Police: Senate agreed to H. Con. Res. 156, extending congratulations to the United States Capitol Police on the occasion of its 175th anniversary and expressing gratitude to the men and women of the United States Capitol Police and their families for their devotion to duty and service in safeguarding the freedoms of the American people.

Measures Indefinitely Postponed:

Clean Diamond Trade Act: Senate indefinitely postponed S. 760, to implement effective measures to stop trade in conflict diamonds.

Nomination Referral: A unanimous-consent agreement was reached providing that Executive Calendar No. 35, the nomination of John G. Roberts, Jr., of Maryland, to be United States Circuit Judge for the District of Columbia Circuit, be recommitted to the Committee on the Judiciary.

Nomination Considered: Senate continued consideration of the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit.

A unanimous-consent-time agreement was reached providing for further consideration of the nomination at 9:15 a.m., on Thursday, May 1, 2003, with one hour of debate, followed by a vote on the motion to close further debate thereon.

Nomination Agreement: A unanimous-consent agreement was reached providing that, if the motion to invoke cloture on the nomination of Priscilla Owen (listed above) is not agreed to, Senate will begin consideration of the nomination of Edward C. Prado, of Texas, to be United States Circuit Judge for the Fifth Circuit.

Removal of Injunction of Secrecy: The injunction of secrecy was removed from the following treaties:

Amendments to Constitution and Convention of International Telecommunication Union (ITU) (Geneva 1992) (Treaty Doc. No. 108-5); and

The treaties were transmitted to the Senate today, considered as having been read for the first time, and referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed.

Executive Reports of Committees: Senate received the following executive report of a committee:

Report to accompany Protocols to the North Atlantic Treaty of 1949 on the Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia. These protocols were opened for signature at Brussels on March 26, 2003, and signed that day on behalf of the United States and the other parties to the North Atlantic Treaty With Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovak, Slovenia (Treaty Doc. 108-4) (Ex. Rept. 108-6).

Nominations Received: Senate received the following nominations:

- Robert W. Fitts, of New Hampshire, to be Ambassador to Papua New Guinea, and to serve concurrently and without additional compensation as Ambassador to the Solomon Islands and Ambassador to the Republic of Vanuatu.
- John E. Herbst, of Virginia, to be Ambassador to Ukraine.
- William B. Wood, of New York, to be Ambassador to the Republic of Colombia.
- Harry K. Thomas, Jr., of New York, to be Ambassador to the People's Republic of Bangladesh.
- Tracey Ann Jacobson, of the District of Columbia, a Foreign Service Officer of Class One, to be Ambassador to Turkmenistan.
- Lisa Genevieve Nason, of Alaska, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring October 18, 2004.
- Georgianna E. Ignace, of Wisconsin, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring October 18, 2004.
- John Richard Grimes, of Massachusetts, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 2006.

Committee Meetings

(Committees not listed did not meet)

HEALTH CARE ACCESS

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, and Education concluded hearings to examine health care access and affordability, focusing on the effects of uninsurance on individuals, families, and communities, after receiving testimony from Risa Lavizzo-Mourey, Robert Wood Johnson Foundation, Princeton, New Jersey; Arthur L. Kellermann, Emory University, Atlanta, Georgia; Carolyn F. Scanlan, Hospital and Healthsystem Association of Pennsylvania, Harrisburg; Lanette Kane, People's Clinic, Cedar Falls, Iowa; and Chris Peterson, Clear Lake, Iowa.

APPROPRIATIONS: HOMELAND SECURITY


APPROPRIATIONS: DISTRICT OF COLUMBIA COURTS

Committee on Appropriations: Subcommittee on District of Columbia concluded hearings to examine proposed budget estimates for fiscal year 2004 for the District of Columbia Courts, after receiving testimony from Annice M. Wagner, Chair, Joint Committee on Judicial Administration, Washington, D.C.; and Doug Nelson, Director, National Capitol Region Property
Development Division, Public Buildings Service, General Services Administration.

APPROPRIATIONS: DOD MEDICAL PROGRAMS
Committee on Appropriations: Subcommittee on Defense concluded hearings to examine proposed budget estimates for fiscal year 2004 for the medical programs of the Department of Defense, after receiving testimony from Lieutenant General James B. Peake, Surgeon General, U.S. Army; Vice Admiral Michael L. Cowan, Surgeon General, and Rear Admiral Kathleen L. Martin, Deputy Surgeon General, both of the U.S. Navy; Lieutenant General George Peach Taylor, Jr., Surgeon General, and Brigadier General Barbara Brannon, Assistant Surgeon General, both of the U.S. Air Force; and Brigadier General William T. Bester, Chief, Army Nurse Corps.

APPROPRIATIONS: FOREIGN OPERATIONS
Committee on Appropriations: Subcommittee on Foreign Operations concluded hearings to examine proposed budget estimates for fiscal year 2004 for foreign assistance programs, after receiving testimony from Colin L. Powell, Secretary of State.

FIRE SERVICE
Committee on Commerce, Science, and Transportation: Committee concluded hearings to examine S. 321, the Firefighting Research and Coordination Act, focusing on the programs and services of the U.S. Fire Administration of the Department of Homeland Security, including the Firefighters Grant Program, Fire Service Training, public education and awareness, data collection, research and technology, and challenges, after receiving testimony from Representatives Camp and Weldon; Arden L. Bement, Jr., Director, National Institute of Standards and Technology, Department of Commerce; R. David Paulison, Director, Preparedness Division, Emergency Preparedness and Response Directorate, Department of Homeland Security; Randy R. Bruegman, Clackamas County Fire District, Portland, Oregon, on behalf of the International Association of Fire Chiefs; James M. Shannon, National Fire Protection Association, Quincy, Massachusetts; and Kevin O’Connor, International Association of Fire Fighters, and Philip C. Stittleburg, National Volunteer Fire Council, both of Washington, D.C.

BUSINESS MEETING: COMPREHENSIVE ENERGY LEGISLATION
Committee on Energy and Natural Resources: Committee ordered favorably reported an original bill entitled “Energy Policy Act of 2003”.

BUSINESS MEETING
Committee on Foreign Relations: Committee ordered favorably reported the following business items:

Protocols to the North Atlantic Treaty of 1949 on the Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia. These protocols were opened for signature at Brussels on March 26, 2003, and signed that day on behalf of the United States and the other parties to the North Atlantic Treaty (Treaty Doc. 108–4), with 9 declarations and 3 conditions; and

S. Con. Res. 26, condemning the punishment of execution by stoning as a gross violation of human rights.

ENERGY SECURITY
Committee on Foreign Relations: Subcommittee on International Economic Policy, Export and Trade Promotion concluded hearings to examine U.S. energy security issues, focusing on the importance of Russia and the Caspian to global energy production, after receiving testimony from Anna Borg, Deputy Assistant Secretary of State for Energy, Sanctions, and Commodities, Bureau of Economic and Business Affairs; Leonard L. Coburn, Director, Russian and Eurasian Affairs, Office of Policy and International Affairs, Department of Energy; Julia Nanay, PFC Energy, and Edward C. Chow, Carnegie Endowment for International Peace, both of Washington, D.C.; and Andrew B. Somers, Commercial Energy Dialogue with Russia, Moscow, on behalf of the American Chamber of Commerce in Russia.

INDIAN ECONOMIC DEVELOPMENT
Committee on Indian Affairs: Committee concluded hearings to examine S. 519, to establish a Native American-owned financial entity to provide financial services to Indian tribes, Native American organizations, and Native Americans after receiving testimony from William O. Russell, Deputy Assistant Secretary of Housing and Urban Development for Public and Indian Housing; Tex G. Hall, National Congress of American Indians, and Chris Paisano, Navajo Nation, both of Washington, D.C.; Derrick Watchman, Native American Bancorporation, Denver, Colorado; Cris E. Stainbrook, Indian Land Tenure Foundation, Little Canada, Minnesota; Eric Conrad Henson, Lexecon, Inc., Cambridge, Massachusetts, on behalf of the Harvard Project on American Indian Economic Development; and Mike Irwin, Alaska Federation of Natives, Anchorage.

NOMINATIONS
Committee on the Judiciary: Committee concluded hearings to examine the nominations of John G. Roberts, Jr., of Maryland, to be United States Circuit Judge for the District of Columbia Circuit, and
William Emil Moschella, of Virginia, to be an Assistant Attorney General, Department of Justice, who were both introduced by Senator Warner, David G. Campbell, to be United States District Judge for the District of Arizona, S. Maurice Hicks, Jr., to be United States District Judge for the Western District of Louisiana, who was introduced by Senator Breaux and Representative McCrery, after each nominee testified and answered questions in their own behalf.

House of Representatives

Chamber Action

Measures Introduced: 29 public bills, H.R. 1873–1901; and 5 resolutions, H. Con. Res. 158 and H. Res. 208–211, were introduced.

Additional Cosponsors:

Reports Filed:

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Simpson to act as Speaker Pro Tempore for today.

Guest Chaplain: The prayer was offered by the guest Chaplain, Rabbi Manny Behar, Executive Director, Queens Jewish Community Council of Forest Hills, New York.

Individuals with Disabilities Education Act Reauthorization: The House passed H.R. 1350, to reauthorize the Individuals with Disabilities Education Act by yea-and-nay vote of 251 yeas to 171 nays, Roll No. 154.

Pursuant to the rule the amendment in the nature of a substitute recommended by the Committee on Education and the Workforce now printed in the bill (H. Rept. 108–77) was considered as an original bill for the purpose of amendment.

Agreed To:

Castle amendment No. 1 printed in H. Rept. 108–79 that clarifies changes to GAO reports; increases the level of State reserves for high cost education needs; changes issues that can be raised at due process hearings; makes language dealing with local control over curriculum the same as that in the No Child Left Behind Act; changes part D programs to insure that the needs of children with limited English proficiency are met; and permits the support for the captioning of news programs; Pages H3510–12

Vitter amendment No. 2 printed in H. Rept. 108–79 that mandates GAO reviews to include recommendations to reduce or eliminate excessive paperwork burdens (recorded vote of 413 ayes with none voting “no”, Roll No. 150); Pages H3512, H3522–23

Bradley amendment No. 3 printed in H. Rept. 108–79 that increases the Part B set-aside funding cap to $750,000; Pages H3512–13

Woolsey amendment No. 4 printed in H. Rept. 108–79 that defines a free public education as one that is reasonably calculated to provide educational benefit to enable the child with a disability to access the general curriculum; Pages H3513–14

Shadegg Amendment No. 7 printed in H. Rept. 108–79 that expresses the sense of Congress that students who have not been diagnosed by a physician or other person certified by a State health board as having a disability should not be classified as disabled; Pages H3519–20

Kirk amendment No. 9 printed in H. Rept. 108–79 that expresses the sense of Congress that safe and drug-free schools are essential for the learning and development of children with disabilities; Pages H3525–26

McKeon amendment No. 10 printed in H. Rept. 108–79 that requires additional Federal increases above FY 2003 levels to be passed directly to the local level; Pages H3526–27

Nethercutt amendment No. 11 printed in H. Rept. 108–79 that allows parents in consultation with the Individualized Family Service Plan (IFSP) team to determine the appropriate educational setting for each child; Pages H3527–28

Davis of California amendment No. 12 printed in H. Rept. 108–79 that authorizes the use of funding to train school safety personnel and first responders who work at qualified educational facilities in the recognition of autism spectrum disorders; Pages H3528–29
Wu amendment No. 13 printed in H. Rept. 108–79 that gives priority to grants that provide for the establishment of programs regarding methods of early and appropriate identification of children with disabilities; and
Garrett amendment No. 14 printed in H. Rept. 108–79 that requires the Secretary of Education to conduct a study within two years of enactment on the cost to each state for compliance with the Act.

Rejected:
DeMint Amendment No. 5 printed in H. Rept. 108–79 that sought to allow the Secretary of Education to use Part D funding to design, develop, and initially implement parental choice and customized programs for students with disabilities (rejected by recorded vote of 182 ayes to 240 noes, Roll No. 151);
Musgrave Amendment No. 6 printed in H. Rept. 108–79 that sought to give school districts the option of offering parents of disabled children in private schools a certificate to be used for their child’s specific special education needs (rejected by recorded vote of 176 ayes to 247 noes, Roll No. 152); and
Tancredo amendment No. 8 printed in H. Rept. 108–79 that sought to define specific learning disability to mean a disorder due to a medically detectable and diagnosable physiological condition relying on physical and scientific evidence and not based on subjective evidence (rejected by recorded vote of 54 ayes to 367 noes, Roll No. 153).

The Clerk was authorized to make corrections and conforming changes in the engrossment of the bill.

The House agreed to H. Res. 206, the rule that provided for consideration of the bill by yea-and-nay vote of 211 yeas to 195 nays, Roll No. 149.

Consideration of Suspensions on Wednesdays:
Agreed that it be in order for the Speaker to entertain motions that the House suspend the rules on Wednesdays through June 25, 2003 as though under clause 1 of rule XV.

Committee Election:
The House agreed to H. Res. 209, electing Representative Miller of North Carolina to the Committee on Small Business.

Committee on Transportation and Infrastructure Resolutions:
Read a letter from the Chairman of the Committee on Transportation and Infrastructure wherein he transmitted resolutions agreed to by the committee on April 9. The resolutions were referred to the Committee on Appropriations.

Senate Messages: Message received from the Senate today appears on page H3455.
Referrals: S. Con. Res. 39 was referred to the Committee on Government Reform.
Quorum Calls—Votes: Two yea-and-nay votes and four recorded votes developed during the proceedings of the House today and appear on pages H3465–66, H3522–23, H3523, H3524, H3524–25, H3531. There were no quorum calls.
Adjournment: The House met at 10 a.m. and adjourned at 8:59 p.m.

Committee Meetings
ADMINISTRATION’S HEALTHY FORESTS INITIATIVE
Committee on Agriculture: Held a hearing on the Administration’s Healthy Forests Initiative. Testimony was heard from the following officials of the USDA: Mark Rey, Under Secretary, Natural Resources and the Environment; Dale Bosworth, Chief and Peter J. Roussopoulos, Director, Southern Research Station, Asheville, North Carolina, both with the U.S. Forest Service; and public witnesses.

DEFENSE APPROPRIATIONS
Committee on Appropriations: Subcommittee on Defense met in executive session to hold a hearing on U.S. Special Operations Command. Testimony was heard from Gen. Charles R. Holland, USAF, Combatant Commander, U.S. Special Operations, Department of Defense.

DISTRICT OF COLUMBIA APPROPRIATIONS
Committee on Appropriations: Subcommittee on the District of Columbia held a hearing on D.C. Courts. Testimony was heard from the following officials of the District of Columbia: Rufus G. King III, Chief Judge, Superior Court; and Lee F. Satterfield, Presiding Judge, Family Court, both with the Superior Court of the District of Columbia; Annice M. Wagner, Chairperson, Joint Committee on Judicial Administration and Chief Judge, Court of Appeals; and Ronald S. Sullivan, Jr., Director, Public Defender Service.

FOREIGN OPERATIONS, EXPORT FINANCING AND RELATED PROGRAMS APPROPRIATIONS
Committee on Appropriations: Subcommittee on Foreign Operations, Export Financing, and Related Programs held a hearing on Secretary of the Treasury. Testimony was heard from John W. Snow, Secretary of the Treasury.
HOMELAND SECURITY APPROPRIATIONS
Committee on Appropriations: Subcommittee on Homeland Security held a hearing on Emergency Preparedness and Response Directorate. Testimony was heard from Michael Brown, Under Secretary, Emergency Preparedness and Response Directorate, Department of Homeland Security.

LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES APPROPRIATIONS
Committee on Appropriations: Subcommittee on Labor, Health and Human Services, Education and Related Agencies held a hearing on Employment Assistance and Training Activities Panel. Testimony was heard from the following officials of the Department of Labor: Emily DeRocco, Assistant Secretary, Employment and Training Administration; Frederico Juarbe, Jr., Assistant Secretary, Veterans Employment Training; and Kathleen Utgoff, Commissioner, Bureau of Labor Statistics.

TRANSPORTATION AND TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS
Committee on Appropriations: Subcommittee on Transportation and Treasury, and Independent Agencies held a hearing on Executive Office of the President. Testimony was heard from Tim Campen, Director, Executive Office of the President.

MISCELLANEOUS MEASURES
Committee on Energy and Commerce: Ordered reported the following measures: H. Con. Res. 108, amended, encouraging corporations to contribute to faith-based organizations; H. Con. Res. 110, recognizing the sequencing of the human genome as one of the most significant scientific accomplishments of the past one hundred years and expressing support for the goals and ideals of Human Genome Month and DNA Day; H. Con. Res. 147, commemorating the 20th Anniversary of the Orphan Drug Act and the National Organization for Rare Disorders; H. Res. 201, expressing the sense of the House of Representatives that our Nation's businesses and business owners should be commended for their support of our troops and their families as they serve our country in many ways, especially in these days of increased engagement of our military in strategic locations around our Nation and around the world; and H.R. 1320, amended, Commercial Spectrum Enhancement Act.

TRAVEL AND TOURISM IN AMERICA TODAY
Committee on Energy and Commerce: Subcommittee on Commerce, Trade and Consumer Protection held a hearing entitled “Travel and Tourism in America Today.” Testimony was heard from public witnesses.

U.S. MONETARY AND ECONOMIC POLICY
Committee on Financial Services: Held a hearing on United States monetary and economic policy. Testimony was heard from Alan Greenspan, Chairman, Board of Governors, Federal Reserve System; and public witnesses.

SERVICES ACQUISITION REFORM
Committee on Government Reform: Held a hearing on “Better Training, Efficiency and Accountability: Services Acquisition Reform for the 21st Century.” Testimony was heard from William Woods, Director, Contracting Issues, GAO; Stephen Perry, Administrator, GSA; Angela B. Styles, Administrator, Office of Federal Procurement Policy, OMB; and public witnesses.

HUMAN RIGHTS PRACTICES REPORTS
Committee on International Relations: Subcommittee on International Terrorism, Nonproliferation and Human Rights held a hearing on a Review of the State Department Country Reports on Human Rights Practices. Testimony was heard from Lorne W. Craner, Assistant Secretary, Bureau of Democracy, Human Rights, and Labor, Department of State; and public witnesses.

HEALTHY FORESTS RESTORATION ACT
Committee on Resources: Ordered reported, as amended, the Healthy Forests Restoration Act of 2003.

U.S. LEADERSHIP AGAINST HIV/AIDS, TUBERCULOSIS, AND MALARIA ACT
Committee on Rules: Committee granted, by voice vote, a structured rule providing 1 hour of general debate on H.R. 1298, United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003. The rule provides that the amendment in the nature of a substitute recommended by the Committee on International Relations now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read. The rule makes in order only those amendments printed in the Rules Committee report accompanying the resolution. The rule provides that the amendments printed in the report shall be considered 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 a division of the question in the House or in the Committee of the Whole.
The rule waives all points of order against the amendments printed in the report. Finally, the rule provides one motion to reconsider with or without instructions. Testimony was heard from Chairman Hyde and Representatives Smith of New Jersey, Smith of Michigan, Pitts, Lantos, Crowley and Millender-McDonald.

U.S. FLAG DREDGES—INTERPRETATIONS OF EXISTING OWNERSHIP REQUIREMENTS
Committee on Transportation and Infrastructure Subcommittee on Coast Guard and Maritime Transportation and the Subcommittee on Water Resources and Environment held a joint hearing on Interpretations of Existing Ownership Requirements for U.S. Flag Dredges. Testimony was heard from Barry W. Holliday, Chief, Navigation and Operations Branch, U.S. Army Corps of Engineers, Department of the Army; Larry Burton, Director, International Trade Compliance Division, Office of Regulations and Rulings, Department of Commerce; and public witnesses.

OVERSIGHT—CURRENT AMTRAK ISSUES
Committee on Transportation and Infrastructure Subcommittee on Railroads held an oversight hearing on Current Amtrak Issues. Testimony was heard from Alan Rutter, Administrator, Federal Railroad Administration, Department of Transportation; Jayetta Hecker, Director, Physical Infrastructure, GAO; David L. Gunn, President and CEO, AMTRAK; and public witnesses.

VETERANS LEGISLATION
Committee on Veterans’ Affairs: Subcommittee on Benefits held a hearing on the following bills: H.R. 1460, Veterans Entrepreneurship Act of 2003; H.R. 1712, Veterans Federal Procurement Opportunity Act of 2003; and H.R. 1716, Veterans Earn and Learn Act. Testimony was heard from Representative Renzi; Leo S. Mackay, Jr., Deputy Secretary, Department of Veterans Affairs; Angela B. Styles, Administrator, Office of Federal Procurement Policy, OMB; representatives of veterans organizations; and public witnesses.

CHALLENGES FACING PENSION PLAN FUNDING
Committee on Ways and Means: Subcommittee on Select Revenue Measures held a hearing on Challenges Facing Pension Plan Funding. Testimony was heard from Peter Fisher, Under Secretary, Domestic Finance, Department of the Treasury; Steven A. Kandarian, Executive Director, Pension Benefit Guaranty Corporation; and public witnesses.

COMMITTEE MEETINGS FOR THURSDAY, MAY 1, 2003
(Committee meetings are open unless otherwise indicated)

Senate
Committee on Appropriations: Subcommittee on Legislative Branch, to hold hearings to examine proposed budget estimates for fiscal year 2004 for the U.S. Capitol Police Board and the Sergeant-at-Arms, 10 a.m., SD–138.
Subcommittee on Homeland Security, to hold hearings to examine proposed budget estimates for fiscal year 2004 for the Secret Service and Coast Guard, 10 a.m., SD–106.
Subcommittee on VA, HUD, and Independent Agencies, to hold hearings to examine proposed budget estimates for fiscal year 2004 for NASA, 10 a.m., SD–124.
Committee on Commerce, Science, and Transportation: business meeting to consider pending calendar business, 9:30 a.m., SR–253.
Full Committee, to hold hearings to examine nanotechnology, 2:30 p.m., SR–253.
Committee on Foreign Relations: to hold hearings to examine the nomination of Roger Francisco Noriega, of Kansas, to be an Assistant Secretary of State (Western Hemisphere Affairs), 10 a.m., SD–419.
Committee on Governmental Affairs: to hold hearings to examine the Department of Homeland Security, focusing on streamlining and enhancing homeland security, 10 a.m., SD–342.
Committee on the Judiciary: business meeting to consider S. Res. 75, commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers, and the nominations of Carolyn B. Kuhl, of California, to be United States Circuit Judge for the Ninth Circuit, John G. Roberts, Jr., of Maryland, to be United States Circuit Judge for the District of Columbia Circuit, J. Leon Holmes to be United States District Judge for the Eastern District of Arkansas, and Patricia Head Minaldi, to be United States District Judge for the Western District of Louisiana, 9:30 a.m., SD–226.
Select Committee on Intelligence: to hold hearings to examine proposed legislation authorizing funding for fiscal year 2004 for the intelligence community, 2:30 p.m., SH–219.

House
Committee on Appropriations, Subcommittee on Defense, executive, on Missile Defense, 9:30 a.m., H–140 Capitol.
Subcommittee on Homeland Security, on Federal Law Enforcement Training Center, 10 a.m., 2359 Rayburn.
Subcommittee on Labor, Health and Human Services, Education and Related Agencies, on Worker Protection Areas Panel, 10:15 a.m., 2358 Rayburn.
Committee on Armed Services, hearing on the Department of Defense Transformation for the 21st Century Act, 9 a.m., 2118 Rayburn.
Committee on Energy and Commerce, Subcommittee on Oversight and Investigations, hearing entitled “Review of the University of California’s Contract for Los Alamos National Laboratory,” 9:30 a.m., 2123 Rayburn.
Committee on the Judiciary, Subcommittee on the Constitution, to mark up H.J. Res. 22, proposing a balanced budget amendment to the Constitution of the United States, 12 p.m., 2141 Rayburn.

Subcommittee on Courts, the Internet, and Intellectual Property, hearing on H.R. 1839, Youth Smoking Prevention and State Revenue Enforcement Act, 10 a.m., 2141 Rayburn.

Committee on Resources, Subcommittee on Fisheries Conservation, Wildlife and Oceans, to mark up the following bills: H.R. 958, Hydrographic Services Amendments of 2003; and H.R. 1497, Sikes Act Reauthorization Act of 2003, 10 a.m., 1324 Longworth.

Committee on Science, to mark up the following bills: H.R. 766, Nanotechnology Research and Development Act of 2003; and H.R. 1578, Global Change Research and Data Management Act of 2003, 10 a.m., 2318 Rayburn.

Committee on Small Business, hearing entitled “IRS Compliance with the Regulatory Flexibility Act,” 9:30 a.m., 2360 Rayburn.

Committee on Transportation and Infrastructure, and the Committee on Education and the Workforce, joint hearing on Coordinating Human Services Transportation, 10 a.m., 2167 Rayburn.

Committee on Ways and Means, Subcommittee on Health, hearing on Medicare Cost-Sharing and Medigap, 12 p.m., 1100 Longworth.

Subcommittee on Social Security, hearing on Social Security Provisions Affecting Public Employees, 10 a.m., B-318 Rayburn.
Next Meeting of the Senate
9:15 a.m., Thursday, May 1

Program for Thursday: Senate will continue consideration of the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit, with a vote on the motion to close further debate on the nomination to occur at approximately 10:15 a.m.; following which, if the cloture motion is not invoked, Senate will begin consideration of Edward C. Prado, of Texas, to be United States Circuit Judge for the Fifth Circuit.

Also, Senate may consider S. 113, Foreign Intelligence Surveillance Act, S. 925, Foreign Relations Authorization Act, S. 15, Project BioShield Act, and any other cleared legislative and executive items.

Next Meeting of the House of Representatives
10 a.m., Thursday, May 1

Program for Thursday: Consideration of H.R. 1298, United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act (structured rule, one hour of general debate).

Extensions of Remarks, as inserted in this issue