House of Representatives

The House met at 10 a.m. The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Because You are the Lord God, all relate to You, each in his or her own way. Because You are the Creator of the heavens and all on Earth, from the beginning, even until now everything and everyone is interrelated and held by You. Teach us, Lord, how to relate to one another.

Guide all in this Nation, especially the Members of this Chamber, how to relate to the problems and the human concerns that confront the family of nations. Your word tells us, Lord: “In Your relations with one another, clothe yourself with humility because I, Your Lord God, am stern with the arrogant but to the humble I show kindness.”

Let us bow humbly under Your hand, O Lord, that in due time You may lift our heads high with joy. Humbly let us cast all our cares on You because You care for us now and forever. Amen.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Michigan (Mrs. MILLER) come forward and lead the House in the Pledge of Allegiance. Mrs. MILLER of Michigan 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.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:

H.R. 1610. An act to redesignate the facility of the United States Postal Service located at 120 East Ritchie Avenue in Marceline, Missouri, as the “Walt Disney Post Office Building”.

H.R. 1882. An act to designate the facility of the United States Postal Service located at 440 South Orange Blossom Trail in Orlando, Florida, as the “Arthur ‘Pappy’ Kennedy Post Office”.

H.R. 1883. An act to designate the facility of the United States Postal Service located at 1601-1 Main Street in Jacksonville, Florida, as the “Eddie Mae Steward Post Office”.

H.R. 2075. An act to designate the facility of the United States Postal Service located at 1905 West Blue Heron Boulevard in West Palm Beach, Florida, as the “Judge Edward Rodgers Post Office Building”.

H.R. 2254. An act to designate the facility of the United States Postal Service located at 57 Old Tappan Road in Tappan, New York, as the “Bruce Woodbury Post Office Building”.

H.R. 2396. An act to designate the facility of the United States Postal Service located at 2001 East Willard Street in Philadelphia, Pennsylvania, as the “Robert A. Borski Post Office Building”.

The message also announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 1405. An act to designate the facility of the United States Postal Service located at 315 Empire Boulevard in Crown Heights, Brooklyn, New York, as the “Robert A. Borski Post Office Building”.

S. 1590. An act to designate the facility of the United States Postal Service located at 10703 Abercorn Street in Savannah, Georgia, as the “Thomas S. Fannin Post Office Building”.

The message also announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will enter in the Jour- nal the following amendment to the bill before the House:

H.R. 2328. An act to designate the facility of the United States Postal Service located at 339 Hicksville Road in Bethpage, New York, as the “Brian C. Hickey Post Office Building”.

H.R. 2533. An act to designate the facility of the United States Postal Service located at 1410 Willard Street in Hartford, Connecticut, as the “Barbara B. Kennedy Post Office Building”.

H.R. 3011. An act to designate the facility of the United States Postal Service located at 125 East Avenue in Burbank, California, as the “Bob Hope Post Office Building”.

The message also announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 1590. An act to designate the facility of the United States Postal Service located at 10703 Abercorn Street in Savannah, Georgia, as the “J.C. Lewis, Jr. Post Office Building”.

S. 1718. An act to designate the facility of the United States Postal Service located at 3710 West 73rd Terrace in Prairie Village, Kansas, as the “Senator James B. Pearson Post Office Building”.

This symbol represents the time of day during the House proceedings, e.g., 10:00 a.m. 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.
BREAST CANCER AWARENESS MONTH

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

Mr. BURGESS. Mr. Speaker, as we come to the close of October, I wanted to remind Members that October is designated as Breast Cancer Awareness Month. Each year in the United States, breast cancer is diagnosed in more than 170,000 women. Several recent critical advances, including the development of high throughput techniques for identifying DNA-sequence variants, have accelerated the pace of research aimed at preventing and curing breast cancer.

Drugs such as Tamoxifen have helped to successfully treat thousands of women with breast cancer. Even more advanced, third-generation aromatase inhibitors are challenging Tamoxifen, the current gold standard of care, and providing more satisfying results in this field.

Groundbreaking research is yielding important findings on reducing the recurrence of breast cancer in women who have previously been treated. This is all the more important, because with breast cancer, unlike other malignancies, the symptom-free intervals in some women may be decades.

With these great advances in science and medicine, the medical community is more able to accurately diagnose and treat women with breast cancer. But with over 40,000 women who will die of this disease this year, our work is clearly not done. This month we are reminded of how far we have come, but how far we have to go in fighting this deadly disease.

BREAST CANCER AWARENESS MONTH

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

Ms. CARSON of Indiana. Mr. Speaker, October is National Breast Cancer Awareness Month, and I rise to address the issue of the early detection and prevention of breast cancer.

Breast cancer is the most common form of cancer in women in the United States, aside from cancers of the skin. Both its cause and cure remain undiscovered.

In my home State of Indiana, the American Cancer Society estimates that 5,000 new cases of breast cancer will be diagnosed, and approximately 900 women will die of breast cancer in 2003.

With early detection, breast cancer can be treated effectively with surgery that preserves the breast, followed by radiation therapy. Local therapy is often followed by chemotherapy and/or hormonal therapy.

Raising awareness and promoting the continuation of breast cancer research has contributed to more than 2 million breast cancer survivors in the United States today.

In Indianapolis, we have benefited by the 2003 Komen Indianapolis Race for the Cure that registered 37,000 individuals and the BMW Ultimate Drive to donate one dollar on each mile driven during BMW test-drives.

We must continue to raise awareness and support legislation that will aid in the prevention and eventual development of a cure for breast cancer.

ECONOMIC GROWTH

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

Mrs. MILLER of Michigan. Mr. Speaker, tomorrow is Halloween, which means tricks and treats for every American. Today, our economy received a treat of its own, thanks to President Bush’s pro-jobs agenda and economic growth tax cuts. For instance, the economy grew at a staggering 7.2 percent in the third quarter, the fastest pace since 1984. In addition, consumer confidence is on the rise, thanks in large part to a more favorable job market and a belief that this trend will continue.

These are some pretty good treats for the American people and for our economy. But the Democratic candidates for President are offering some pretty frightening tricks. For example, every one of them wants to repeal some or all of the Bush tax cuts. That trick on our economy. But the Democratic candidates for President are offering some pretty frightening tricks. For example, every one of them wants to repeal some or all of the Bush tax cuts. That trick on our people will take the steam out of our robust recovery and kill new job growth.

To the American people I say, be very careful when you are examining who should lead our Nation, because the tricks being offered up are downright scary. Happy Halloween.

DOMESTIC VIOLENCE BILLS

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

Ms. SOLIS. Mr. Speaker, I rise today to recognize two pieces of important legislation that I would like to reintroduce today regarding Domestic Violence Awareness Month. I believe the two bills will help end violence against women.

In the United States, nearly 2 million women are victims of domestic violence. Every 30 seconds, a woman is beaten by her aggressor. This is why there is a continuing need to address this issue.

The Domestic Violence Court Assistance Act will provide grant money from the Violence Against Women Act to establish specific domestic violence courts and provide important functions of a domestic violence court, such as translation and interpretation services for women whose first language may not be English.

The Domestic Violence Prevention, Education and Awareness Act would help bring much-needed attention to racial and ethnic minority and immigrant communities that are often overlooked and underserved by providing grants and developing informational media outreach campaigns to address specific communities that are currently underserved.

TRIBUTE TO POLK COUNTY NATIVE

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

Mr. PUTNAM. Mr. Speaker, I rise today to pay tribute to a man of honor and a dear friend, a man who touched so many lives and dedicated himself to making Polk County, Florida, a better place.

Charles Richardson rose from humble beginnings in Polk County and helped to integrate what is now Bartow High School. He began his political career on the Winter Haven City Commission, and rose to be, as a Republican, the first African American ever to serve on the Polk County commission.

He was described as a family man and a jovial leader, with a keen intellect as were six of his colleagues and wisdom. He was also known as a strong role model for young people, who encouraged them to get an education and to go to college and achieve the American Dream. He is survived by his wife, Karen; two daughters, Ericka and J anine; and two sons, Charles, Jr., and Elden.

Mr. Speaker, even after being diagnosed with pancreatic and liver cancer, Charles Richardson continued to perform his county commission duties right up to the night he passed. Charles Richardson blessed our community through his hard work and generous nature, and our thoughts and prayers are with his family.

VIETNAM CRACKS DOWN ON UNIFIED BUDDHIST CHURCH OF VIETNAM

(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 outrage over the government of Vietnam’s recent crackdown on the United Buddhist Church of Vietnam.

I just concluded a telephone conversation with the Venerable Thich Tue Sy, a senior monk in that church, who was just sentenced to 2 years of administrative detention for exercising the basic right of freedom of religion, a right scary. Happy Halloween.
new leadership, and to verify the Vietnamese Prime Minister's promise of a new era of respect and understanding for religious freedom. In stark contrast to the promise of respect and understanding, Vietnamese authorities disrupted the meeting, intimidated and ultimately arrested the UBCV leadership.

The Venerable Thich Huyen Quang and Thich Quang Do, both of whom have been nominated for the Nobel Peace prize, are once again under house arrest. These actions are unconscionable.

Today, I will introduce a resolution regarding the courageous leadership of the UBCV and the urgent need for religious reform in Vietnam.

THE SUPREME COURT CONSIDERS THE PLEDGE

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

Mr. PITTS. Mr. Speaker, this year, the Supreme Court will take up the case of whether children should be allowed to say the Pledge of Allegiance. This cartoon captures an important point of this case: Does the first amendment allow porn but not God in public discourse? The ACLU would like you to think so. Their challenge to our laws, which protect our kids from online porn predators, is ridiculous. They want to be this teacher in the cartoon holding up a computer in front of your child saying, "You cannot pledge allegiance 'under God' but, here, look at some pornography."

The fact that this case even made it so far as the courts is a travesty. Something is very wrong with our courts. They say child pornography on the computer is perfectly legal, but the pledge is so offensive that we have to get rid of the words "under God."

The ACLU is out to sacrifice religion on their own little altar of pornographic speech. This is wrong. The Court should do the right thing for this country, for our children: uphold the pledge and the freedom that is ours to pledge allegiance under God.

BREAST CANCER SURVIVORS AND THEIR FAMILIES

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

Mr. SCOTT. Mr. Speaker, as a Georgia State senator, I fought for funding for breast cancer research, and I authored the law that gives breast cancer patients the right to determine their length of stay in the hospital and the medical treatment they receive rather than the insurance companies.

Our inspiration is great: breast cancer survivors who have won their fight, and the friends and families of those women who did not. I urge us to work harder and make sure that we bring a cure to this deadly disease.

IRAQ SUPPLEMENTAL FUNDING

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

Mr. PENCE. Mr. Speaker, I rise to express my profound disappointment this morning with the news that House and Senate conferees have come to an agreement on Iraq supplemental bill that will have a negative impact on America and on America's image. As we have made a portion of the reconstruction dollars the American people are sending to Iraq the take the form of a loan, I had unsuccessfully offered an amendment in the House which would have made one-half of the reconstruction dollars be repaid to the American taxpayers, and I believe the overwhelming majority of the people of this country believe this oil-rich nation should bear some of the cost of rebuilding its own civil society.

I regret Congress has chosen to reject the counsel of the majority of the American people and the world community. A decent respect for the opinions of mankind should cause Congress to reflect on the fact that at this week-end conference in Madrid, two-thirds of the $13 billion made available for reconstruction by foreign countries in Iraq takes the form of loans and credits.

In the end, regardless of my disagreement with the means, I will support the Iraq supplemental bill which will go far to ensure the safe return of our troops and the triumph of freedom in this tyranny-weary land.

BREAST CANCER AWARENESS MONTH

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

Ms. WOOLSEY. Mr. Speaker, in the San Francisco Bay area, especially in Marin County in my congressional district, we have some of the highest rates of breast cancer in the Nation. While the toll on Bay area residents has been enormous and heart-breaking, community activists and local health officials are meeting this challenge, providing support to patients and survivors and working to find causes of this epidemic.

We men feel powerless when confronted with the increasing likelihood of contracting breast cancer; but as the Marin County breast cancer community has demonstrated through prevention and research, with hard work and dedication, we will beat this disease. The story of those who have died of breast cancer and in support of those fighting this terrible disease, and with hope that our daughters and granddaughters will not face this epidemic, I recognize the 19th anniversary of National Breast Cancer Awareness Month by taking care of their own health and joining with others to win the war against breast cancer.

BREAST CANCER AWARENESS MONTH

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

Mr. HENSARLING. Mr. Speaker, as has been noted earlier, this October we recognize the 19th anniversary of National Breast Cancer Awareness Month. This year alone, more than 100,000 of our mothers, daughters, sisters, and wives will be diagnosed with breast cancer, and close to 40,000 will die from this dreadful disease.

My wife and I first became aware of National Breast Cancer Awareness Month through our volunteer work with the American Cancer Society. We decided to get involved because so many of our friends and families had been impacted by this terrible disease and we wanted to make a difference. Over its short history, the National Breast Cancer Awareness Month has successfully raised awareness for the early detection and prevention of breast cancer. As a result, mammography screening rates have doubled since 1985, and breast cancer mortality rates have steadily declined.

Mr. Speaker, the best way for all of us to join in the battle against breast cancer is to help spread the word to as many women as possible that early detection saves lives.

BREAST CANCER AWARENESS MONTH

(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, almost everyone has a family member, a friend or a co-worker who has been personally affected by breast cancer. This year, 1400 women will be diagnosed with invasive breast cancer and 300 women will die from this devastating disease in my State of Nevada.

Two of my closest professional associates, two women who I work with every day, won their battle against breast cancer; they are cancer free. Unfortunately this is not always the case. I lost my own mother this past July after her 14-year battle against breast cancer.

From these battles I have learned the importance of mammography screening and early detection which have led to higher survival rates. Nevada has the lowest percentage of mammograms performed per capita than any other State in the country, only 65 percent of Nevada women age 40 and over have had mammograms within the last 2 years; this leaves 35 percent of the women in Nevada without any necessary information to arm themselves against this disease and the ability to fight it early on. We must continue to get the word out to women that early detection and early detection which have led to higher survival rates. Nevada has the lowest percentage of mammograms performed per capita than any other State in the country, only 65 percent of Nevada women age 40 and over have had mammograms within the last 2 years; this leaves 35 percent of the women in Nevada without any necessary information to arm themselves against this disease and the ability to fight it early on. We must continue to get the word out to women that early detection is critical.

I urge my colleagues to support it.

Mr. BACA. Mr. Speaker, I rise today in celebration of Red Ribbon Week, the annual campaign to prevent illegal drug use and promote drug-free communities. All of our children have so much potential. All of our children deserve a chance at life. But it is so sad when families, friends and communities and faith fail a child and they become addicted to drugs. Caring for our children and making sure they do not get addicted to drugs is all of our responsibility.

Mr. Speaker, 81 percent of teenagers ages 14 to 20 have used drugs. One out of four high school seniors has used illegal drugs in the past 30 days; almost 30 percent of young adults have used marijuana in the past.

This must change. Our children deserve better. Red Ribbon Week uses community action to educate and help prevent drug abuse. Throughout the United States, many of our schools are participating in this program, informing our children to stay away from drugs. I ask support for Red Ribbon Week in the State of California, and I support for Red Ribbon Week throughout our Nation.

WHERE ARE THE JOBS?

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

Mr. WYNN. Mr. Speaker, today the American public should ask a simple question: Where are the jobs? The American public ought to ask the question, Where are the jobs? We hear the Republicans talk about increases in the GDP do not equal jobs. It does not pay families who have been in the manufacturing sector.

Since this President came into office, we have lost 3 million jobs in this country, and 25 million of those jobs have been in the manufacturing sector. The American public ought to ask the question, Where are the jobs? What is the Republican response? They are going to bring to this floor a bill that grants tax credits to American companies that take jobs overseas. That is right, two-thirds of the benefits in the so-called manufacturing jobs bill that the Republicans are introducing would give tax breaks to companies creating jobs in China and other countries.

Today the American public has every right to ask the question, Where are the jobs for Americans? Where are the tax credits for American small businesses that help them expand and grow jobs? Unfortunately, they are going overseas.

Mr. Speaker, where are the jobs?

CELEBRATING RED RIBBON WEEK

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

Mr. BACA. Mr. Speaker, I rise today in celebration of Red Ribbon Week, the annual campaign to prevent illegal drug use and promote drug-free communities. All of our children have so much potential. All of our children deserve a chance at life. But it is so sad when families, friends and communities and faith fail a child and they become addicted to drugs. Caring for our children and making sure they do not get addicted to drugs is all of our responsibility.

Mr. Speaker, 81 percent of teenagers ages 14 to 20 have used drugs. One out of four high school seniors has used illegal drugs in the past 30 days; almost 30 percent of young adults have used marijuana in the past.

This must change. Our children deserve better. Red Ribbon Week uses community action to educate and help prevent drug abuse. Throughout the United States, many of our schools are participating in this program, informing our children to stay away from drugs. I ask support for Red Ribbon Week in the State of California, and I support for Red Ribbon Week throughout our Nation.
The SPEAKER pro tempore. The question is on the motion to adjourn offered by the gentleman from Massachusetts (Mr. McGovern).

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

Mr. McGovern, Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clauses 8 of rule XX, this 15-minute vote on the motion to adjourn will be followed by 5-minute votes on the Journals de novo and on House Concurrent Resolution 291, by the ayes and nays.

The vote was taken by electronic device, and there were—ayes 365, nays 317, not voting 31, as follows:

AYES—365

BACA changed their vote from "yea" to "nay."

Mr. HONDA and Ms. DEGETTE changed their vote from "nay" to "yea."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

RECORDED VOTE

Mr. McGovern, Mr. Speaker, I demand a recorded vote. A recorded vote was ordered. The Speaker pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 345, nays 308, answered "present," 1, not voting 30, as follows:

AYES—345

BACA changed their vote from "yea" to "nay."

Mr. HONDA and Ms. DEGETTE changed their vote from "nay" to "yea."

The question is on the Speaker's approval of the Journals of the last day's proceedings.

The question was on the Speaker's approval. The vote was taken by electronic device, and there were—ayes 365, nays 317, not voting 31, as follows:

NOT VOTING—31

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. THORNBERY) (during the vote). Members are advised 2 minutes remain in the voting.

1052

Messrs. GUTKNECHT, TERRY, NEUBAEGER, BEAUPREZ, DAVIS of Tennessee, DAVIS of Florida, WU, and BACA changed their vote from "yea" to "nay."

Mr. HONDA and Ms. DEGETTE changed their vote from "nay" to "yea."

The JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the pending business is the question of the Speaker's approval of the Journals of the last day's proceedings.

The question is on the Speaker's approval of the Journals. The vote was taken by electronic device, and the Speaker pro tempore announced that the ayes appeared to have it.
The Speaker pro tempore (Mr. Thornberry). The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 291.

The Clerk read the title of the concurrent resolution.

The Speaker pro tempore. The question is on the motion offered by the gentleman from New York (Mr. McHugh) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 291, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 402, nays 0, not voting 32, as follows:

[Roll No. 582]

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NOES—58

Andrews (NC)  
Baird (WA)  
Baldwin (WI)  
Berry (NC)  
Brady (PA)  
Brown (NC)  
Capuano (MA)  
Costello (PA)  
Crane (CA)  
Delfino (NY)  
English (NY)  
Filner (CA)  
Ford (MI)  
Fossella (NY)  
Gillmor (OH)  
Hastings (FL)  
Hefley (MO)  
Honda (CA)  
Hooley (OR)  
Hulshof (WA)  

APPROVED—1

An  
N  

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NOT VOTING—30

Akin (TX)  
Blumenauer (OR)  
Blunt (MO)  
Bradley (NH)  
Burton (IN)  
Census (IN)  

NOT VOTING—32

Aiken (SC)  
Baton (TX)  
Blumenauer (OR)  
Boehlert (NY)  
Bradley (NH)  
Burton (IN)  
Census (IN)  

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H10138  CONGRESSIONAL RECORD — HOUSE  October 30, 2003

Sanchez, Linda  
T. Sandlin  
Young (AK)  

Harris  
Hart  
Hastings (FL)  
Hastings (WA)  
Hayes  
Hayworth  
Hays  
Hensarling  
Herrera  
Hill  
Hinckley  
Hinojosa  
Hinojosa (TX)  
Hoya  
Hoyt  

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ANSWERED “PRESENT”—1  

T.  

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NOT VOTING—30  

Akin (TX)  
Blumenauer (OR)  
Blunt (MO)  
Bradley (NH)  
Burton (IN)  
Census (IN)  

NOT VOTING—32  

Aiken (SC)  
Baton (TX)  
Blumenauer (OR)  
Boehlert (NY)  
Bradley (NH)  
Burton (IN)  
Census (IN)  

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CONGRESSIONAL RECORD — HOUSE

October 30, 2003

H10139

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are reminded that 2 minutes remain in this vote.

110

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrence 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. POMEROY. Mr. Speaker, on October 30, 2003, I missed rollcall vote No. 582. Had I been present, I would have voted "aye" on this vote, expressing my strong support for H. Con. Res. 291.

PERSONAL EXPLANATION

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, due to a meeting within the Department of Justice, I unfortunately missed three recorded votes on the House floor earlier today.

I ask unanimous consent that my statement appear in the Record that had I not been unavoidably detained at this meeting, I would have voted "yes" on rollcall vote No. 580 (On Motion to Adjourn); "yes" on rollcall vote No. 581 (On Approving the Journal); and "yes" on rollcall vote No. 582 (On Motion to Amend). Members are reminded that 2 minutes remain in this vote. I would have voted "aye" on this vote, expressing my strong support for H. Con. Res. 291.

PERSONAL EXPLANATION

Ms. JACkSON-LEE of Texas. Mr. Speaker, I was unavoidably detained in my district on official business on October 28, 2003. Had I been present, I would have voted "yes" on rollcall votes Nos. 580, 581, and 582.

PERSONAL EXPLANATION

Mr. SANDLIN. Mr. Speaker, on Thursday, October 30, 2003, I was unavoidably detained by official business. Had I been present, I would have voted "yes" on rollcall vote No. 580 (On Motion to Adjourn); "yes" on rollcall vote No. 581 (On Approving the Journal); and "yes" on rollcall vote No. 582 (On Motion to Amend). Members are reminded that 2 minutes remain in this vote. I would have voted "aye" on this vote, expressing my strong support for H. Con. Res. 291.

CONFERENCE REPORT ON H.R. 3289, EMERGENCY, SUPPLEMENTAL APPROPRIATIONS ACT FOR DEFENSE AND FOR THE RECONSTRUCTION OF IRAQ AND AFGHANISTAN, 2004

Mr. YOUNG of Florida submitted the following conference report and statement on the bill (H.R. 3289) making emergency supplemental appropriations for defense and for the reconstruction of Iraq and Afghanistan for the fiscal year ending September 30, 2004, and for other purposes:

CONFERENCE REPORT (H. REPT. 108-337)

The conferees of conference report on the disapproving vote of the two Houses on the amendment of the Senate to the bill (H.R. 3289) "making emergency supplemental appropriations for defense and for the reconstruction of Iraq and Afghanistan for the fiscal year ending September 30, 2004, and for other purposes", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recoile from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2004, and for other purposes, namely:

TITLE I—NATIONAL SECURITY

DEPARTMENT OF DEFENSE—MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for "Military Personnel, Army", $12,858,870,000.

MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy", $816,100,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for "Military Personnel, Marine Corps", $753,190,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force", $3,384,700,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and Maintenance, Army", $73,997,064,000.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and Maintenance, Navy" (including transfer of funds), $1,956,258,000, of which up to $80,000,000 may be transferred to the Department of Homeland Security for Coast Guard Operations.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and Maintenance, Marine Corps", $1,198,981,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", $5,416,368,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for "Operation and Maintenance, Defense-Wide", $4,355,452,000, of which:

(1) not to exceed $15,000,000 may be used for the CINC Initiative Fund account, to be used primarily in Iraq and Afghanistan;

(2) $52,000,000 is only for the Family Advocacy Program; and

(3) not to exceed $1,150,000,000, to remain available until expended, may be used, notwithstanding any other provision of law, for payments to reimburse Pakistan, Jordan, and other key cooperating nations, for logistical and military support provided, or to be provided, to United States military operations in connection with military action against the global war on terrorism: Provided, That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such documentation is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees; and

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for "Operation and Maintenance, Marine Corps Reserve", $10,000,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Air National Guard", $214,000,000.00.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For an additional amount for "Overseas Humanitarian, Disaster, and Civic Aid", $35,500.000.

IRAQ FREEDOM FUND (INCLUDING TRANSFER OF FUNDS)

For "Iraq Freedom Fund", $1,988,600,000, to remain available for transfer until September 30, 2005, for the purposes authorized under this heading in Public Law 108-11; Provided, That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; military construction; the Defense Health Program; and working capital funds: Provided further, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: Provided further, That this transfer authority is in addition to any other transfer authority available to the Department of Defense; Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfers; Provided further, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation: Provided further, That $10,000,000 shall be transferred to "Other Procurement, Army" for the procurement of Up-armeded High Mobility Multipurpose Wheeled Vehicles and associated equipment: Provided further, That $10,000,000 shall be for the Family Readiness Program of the National Guard.

PROCUREMENT

PROCUREMENT OF WEAPONS AND TRUCKED COMBAT VEHICLES

For an additional amount for "Procurement of Weapons and Tracked Combat Vehicles, Army", $101,600,000, to remain available until September 30, 2006.

OTHER PROCUREMENT, ARMED FORCES RESERVE

For an additional amount for "Other Procurement, Army", $1,143,687,000, to remain available until September 30, 2006.
AIRCRAFT PROCUREMENT, NAVY
For an additional amount for "Aircraft Procurement, Navy", $158,600,000, to remain available until September 30, 2006.

OTHER PROCUREMENT, NAVY
For an additional amount for "Other Procurement, Navy", $676,000,000, to remain available until September 30, 2006.

PROCUREMENT, MARINE CORPS
For an additional amount for "Procurement, Marine Corps", $123,397,000, to remain available until September 30, 2006.

AIRCRAFT PROCUREMENT, AIR FORCE
For an additional amount for "Aircraft Procurement, Air Force", $53,972,000, to remain available until September 30, 2006.

MISCELLANEOUS PROCUREMENT, AIR FORCE
For an additional amount for "Miscellaneous Procurement, Air Force", $20,450,000, to remain available until September 30, 2006.

OTHER PROCUREMENT, AIR FORCE
For an additional amount for "Other Procurement, Air Force", $3,438,006,000, to remain available until September 30, 2006.

DEFENSE-WIDE
For an additional amount for "Procurement, Defense-Wide", $418,635,000, to remain available until September 30, 2006.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY
For an additional amount for "Research, Development, Test and Evaluation, Navy", $34,000,000, to remain available until September 30, 2006.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE
For an additional amount for "Research, Development, Test and Evaluation, Air Force", $24,000,000, to remain available until September 30, 2006.

DEFENSE WORKING CAPITAL FUND
For an additional amount for "Defense Working Capital Fund", $660,000,000.

DEFENSE SEALIFT FUND
For an additional amount for "National Defense Sealift Fund", $24,000,000, to remain available until expended.

OTHER DEPARTMENT OF DEFENSE PROGRAMS
DEFENSE HEALTH PROGRAM
For an additional amount for "Defense Health Program", $658,380,000 for Operation and maintenance.

DRUG INTERDICT AND COUNTER-DRUG ACTIVITIES, DEFENSE
INCLUDING TRANSFER OF FUNDS
For an additional amount for "Drug Interdiction and Counter-Drug Activities, Defense", $73,000,000: Provided, That these funds may be used only for such activities related to Afghanistan: Provided further, That the Secretary of Defense may transfer the funds provided herein only to appropriations for military personnel: operation and maintenance: procurement: and research, development: test and evaluation: Provided further, That the funds transferred shall be merged with and be available for the same purposes and for the same time period, as the appropriated funds: Provided further, That the authorization provided in this paragraph is in addition to any other transfers of funds: Provided further, That the authority to provide assistance to foreign nations: Provided further, That the Secretary of Defense shall notify the congressional defense committees not less than 15 days before providing assistance under the authority of this section.

SEC. 1108. None of the funds provided in this chapter may be used to finance programs or activities excepted by Congress in fiscal year 2004 appropriations to the Department of Defense or to initiate a procurement or research: development: test and evaluation new start program without prior notification to the congressional defense committees.

SEC. 1109. In addition to amounts made available elsewhere in this Act, there is hereby appropriated to the Department of Defense: Provided, That the funds transferred shall be merged with and be available for the same purposes: Provided further, That the Secretary of Defense shall notify the congressional defense committees not less than 15 days before providing assistance under the authority of this section.

"Operation and Maintenance, Army", $47,100,000;
"Operation and Maintenance, Navy", $27,600,000;
"Operation and Maintenance, Marine Corps", $6,700,000;
"Operation and Maintenance, Air Force", $169,300,000; and
"Other Procurement, Air Force", $2,300,000.

SEC. 1110. During the current fiscal year, from funds made available in this Act to the Department of Defense for operation and maintenance, not to exceed $180,000,000 may be paid, notwithstanding any other provision of law, to fund the Commander's Emergency Response Program, established by the Administrator of the Coalition Provisional Authority for the purpose of enabling military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their area of responsibility by carrying out programs that will immediately assist the Iraqi people, and to establish and fund a similar program to assist the people of Afghanistan: Provided, That the Secretary of Defense shall provide quarterly reports, beginning on January 15, 2004, to the congressional defense committees regarding the source of funds and the allocation and use of funds made available pursuant to the authority provided in this section.

SEC. 1111. Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report describing an analysis of Alternatives for replacing the capabilities of the existing Air Force fleet of KC-135 tanker aircraft.

ENHANCEMENTS TO EXEMPTION FOR MEMBERS WITH COMBAT-RELATED INJURIES FROM REQUIREMENTS FOR PAYMENT OF SUBSISTENCE CHARGES WHILE HOSPITALIZED

SEC. 1112. (a) EXEMPTION MADE PERMANENT.—Subsection (c) of section 1075 of title 10, United States Code (as added by section 8146(a)(2) of the Department of Defense Appropriations Act, 2004 (Public Law 108-87), is repealed.

(b) RETROACTIVITY.—Subsection (b) of section 8146 of the Department of Defense Appropriations Act, 2004 (Public Law 108-87), is amended to read as follows:

"(b) EFFECTIVE DATE.—(1) Subsection (b)(2) of section 1075 of title 10, United States Code, as added by subsection (a), shall apply with respect to any period of hospitalization on or after November 11, 2001, because of an injury covered by that subsection that is incurred on or after that date.

(2) The Secretary concerned (as defined in section 1075 of title 10, United States Code) shall take such action as necessary to implement paragraph (1), including—

(A) refunding any amount previously paid under section 1075 of title 31, United States Code, by a person who, by reason of paragraph (1), is not required to make such payment; and
under an employer-sponsored health benefits
program under this section.

and receive benefits under such enrollment for
subject to subsection (h), to enroll in TRICARE
prescribed in section 10144(b) of this title is eligible,
to the congressional defense committees.
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In this section, the term
means an order
to active duty, the administering Secretaries may
provide to each such member any medical and
dental screening and care that is necessary to
ensure that the member meets the applicable
medical and dental standards for deployment.

The Secretary concerned shall promptly
transmit to each member of the Ready Reserve
eligible for screening and care under this sub-
section a notification of eligibility for such
screening and care.

A member provided medical or dental
screening or care under paragraph (1) may not
be charged for the screening or care.

Screening and care may not be
provided under this subsection after

In this section, the term
is amended by adding after sec-
tion 1076a the following new section:

SEC. 1114. Section 1074a of title 10, United
States Code, is amended by inserting after sec-
tion 1076a the following new section:

SEC. 1115. (a) Chapter 55 of title 10, United
States Code, is amended by inserting after sec-
tion 1076a the following new section:

SEC. 1119. The authority to utilize funds ap-
propriated for fiscal year 2003 for purposes pro-
vided by the first clause of section 1314(1) of
Public Law 108-11, shall apply to the utilization
of available funds appropriated for fiscal year
2004 for such purposes.

SEC. 1120. (a) Not later than April 30 and Oc-
tober 31 of each year, the Secretary of Defense
shall submit to Congress a report on the military
operations of the Armed Forces and the recon-
struction activities of the Department of Defense
in Iraq and Afghanistan.

(b) Each report shall include the following in-
formation:

(1) For each of Iraq and Afghanistan for the
half-fiscal year ending during the month pre-
ceding the due date of the report, the amount
expended for military operations of the Armed
Forces and the amount expended for reconstruc-
tion activities, together with the cumulative
total amounts expended for such operations and
activities.

(2) An assessment of the progress made toward
preventing attacks on United States personnel.

(3) An assessment of the effects of the oper-
ations and activities in Iraq and Afghanistan on
the readiness of the Armed Forces.

An assessment of the effects of the oper-
ations and activities in Iraq and Afghanistan on
the recruitment and retention of personnel for
the Armed Forces.
(5) For the half-fiscal year ending during the month preceding the due date of the report, the costs incurred for repair of Department of Defense equipment used in the operations and activities identified in paragraph (4) of this section.
(6) The foreign countries, international organizations, and nongovernmental organizations that are contributing support for the ongoing military construction activities, together with a discussion of the amount and types of support contributed by each during the half-fiscal year ending during the month preceding the due date of the report.
(7) The extent to which, and the schedule on which, the Selected Reserve of the Ready Reserve of the Armed Forces is being involuntarily ordered to active duty under section 2304 of title 10, United States Code.
(8) For each unit of the National Guard of the United States and the other reserve components of the Armed Forces on active duty pursuant to an order to active duty under section 2304 of title 10, United States Code, the following information:
(A) The unit.
(B) The projected date of return of the unit to its home station.
(C) The extent (by percentage) to which the forces deployed within the United States and outside the United States in support of a contingency operation are composed of reserve components of the United States military forces.
Sec. 1121. In addition to amounts made available elsewhere in this Act, there is hereby appropriated for the contingency operation $100,000,000, for ‘‘Operation and Maintenance, Army’’: Provided, That these funds are available only for the purpose of securing and de-stroying conventional munitions in Iraq, such as bombs, bomb materials, small arms, rocket propelled grenades, and shoulder-launched missiles.

CHAPTER 2
DEPARTMENT OF HOMELAND SECURITY
UNITED STATES COAST GUARD
OPERATING EXPENSES
For an additional amount for ‘‘Operating Expenses’’, $23,183,000, for costs related to Hurricane Isabel damage.

EMERGENCY PREPAREDNESS AND RESPONSE
DISASTER RELIEF
For an additional amount for ‘‘Disaster Relief’’, $500,000,000, to remain available until expended.

GENERAL PROVISION, THIS CHAPTER
Sec. 1201. Effective upon the enactment of the Project BioShield Act of 2003, the Department of Homeland Security Appropriations Act, 2004 (Public Law 108-106) is amended under the heading ‘‘Biological Countermeasures’’ by striking ‘‘securing medical countermeasures against biological terror attacks’’ and inserting the following: ‘‘procuring security countermeasures under section 319F–2(c) of the Public Health Service Act, as authorized under section 510(a) of the Homeland Security Act of 2002’’.

CHAPTER 3
MILITARY CONSTRUCTION
MILITARY CONSTRUCTION, ARMY
For an additional amount for ‘‘Military Construction, Army’’, $162,100,000, to remain available until September 30, 2008: Provided, That notwithstanding any other provision of law, such funds may be obligated or expended to carry out planning and design and military construction projects not otherwise authorized by law.

MILITARY CONSTRUCTION, NAVY
For an additional amount for ‘‘Military Construction, Navy’’, $45,530,000, to remain available until September 30, 2008: Provided, That notwithstanding any other provision of law, such funds may be obligated or expended to carry out military construction projects not otherwise authorized by law.

MILITARY CONSTRUCTION, AIR FORCE
For an additional amount for ‘‘Military Construction, Air Force’’, $292,550,000, to remain available until September 30, 2008: Provided, That notwithstanding any other provision of law, such funds may be obligated or expended to carry out planning and design and military construction projects not otherwise authorized by law.

FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY
For an additional amount for ‘‘Family Housing Operation and Maintenance, Army’’, $11,420,000.

FAMILY HOUSING OPERATION AND MAINTENANCE, NAVY AND MARINE CORPS
For an additional amount for ‘‘Family Housing Operation and Maintenance, Navy and Marine Corps’’, $6,981,000.

FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE
For an additional amount for ‘‘Family Housing Operation and Maintenance, Air Force’’, $6,981,000.

GENERAL PROVISION, THIS CHAPTER
Sec. 1301. (a) TEMPORARY AUTHORITY TO USE OPERATION AND MAINTENANCE FUNDS FOR MILITARY CONSTRUCTION PROJECTS.—During fiscal year 2005, the Secretary of the Armed Forces may use funds as authority to obligate appropriated funds available for operation and maintenance to carry out a construction project outside the United States if the Secretary determines that appropriated funds available for operation and maintenance to carry out construction projects.
(b) CONGRESSIONAL COMMITTEES.—The congressional committees referred to in this section are the:
(1) The Committee on Armed Services and the Subcommittees on Defense and Military Construction of the Committee on Appropriations of the Senate;
(2) The Committee on Armed Services and the Subcommittees on Defense and Military Construction of the Committee on Appropriations of the House.

TITLE II—IRAQ AND AFGHANISTAN RECONSTRUCTION AND INTERNATIONAL ASSISTANCE
CHAPTER 1
DEPARTMENT OF JUSTICE
LEGAL ACTIVITIES
GENERAL LEGAL ACTIVITIES
For necessary expenses for ‘‘Salaries and Expenses, General Legal Activities’’, $15,000,000.

DEPARTMENT OF STATE AND RELATED AGENCY
DEPARTMENT OF STATE
ADMINISTRATION OF FOREIGN AFFAIRS
DIPLOMATIC AND CONSULAR PROGRAMS
INCLUDING REappointment
For necessary expenses for ‘‘Diplomatic and Consular Programs’’, $156,300,000, of which $35,800,000 are rescinded.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE
For necessary expenses for ‘‘Embassy Security, Construction, and Maintenance’’, $43,900,000, to remain available until expended: Provided, That funds provided under this heading do not include facilities requirements specific to the United States Agency for International Development, which are provided under the heading ‘‘United States Agency for International Development, Operating Expenses’’.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE
INCLUDING TRANSFER OF FUNDS
For necessary expenses for ‘‘Emergencies in the Diplomatic and Consular Service’’, $115,500,000, to remain available until expended, which may be transferred to, and merged with, the appropriate accounts for ‘‘Diplomatic and Consular Programs’’: Provided, That of the funds made available under this heading, $65,500,000 may be transferred to, and merged with, the appropriations for ‘‘Protection of Foreign Missions and Officials’’; and that $32,000,000 is for the reimbursement of the City of New York for costs associated with the protection of foreign missions and officials.

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For necessary expenses for ‘‘International Broadcasting Operations’’, $245,000,000, to remain available until expended.

INTERNATIONAL ORGANIZATIONS
CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES
For necessary expenses for ‘‘Contributions for International Peacekeeping Activities’’, $245,000,000, to remain available until expended.

RELATED AGENCY
BROADCASTING BOARD OF GOVERNORS
INTERNATIONAL BROADCASTING OPERATIONS
For necessary expenses for ‘‘International Broadcasting Operations’’, for activities related to the Middle East Television Network broadcasting to Iraq, $40,000,000.

GENERAL PROVISION—THIS CHAPTER
SEC. 201. Funds appropriated under this chapter for the Broadcasting Board of Governors shall be used exclusively for the development and implementation of programs designed to promote democracy and a free, independent PRESS in the region.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT
BILATERAL ECONOMIC ASSISTANCE
Funds Appropriated to the President
For an additional amount for ‘‘Bilateral Economic Assistance Funds Appropriated to the President United States Agency for International Development Operating Expenses of the United States Agency for International Development’’, $38,100,000, for direct support of operations in Afghanistan, to remain available until September 30, 2005.

In addition, for direct support of operations in Iraq, $1,900,000, which shall be transferred to and made available for ‘‘Operating Expenses of the United States Agency for International Development Office of Inspector General’’ for financial and performance audits of the Iraq Relief and Reconstruction Fund and other assistance to Iraq, to remain available until September 30, 2005.

CAPITAL INVESTMENT FUND
For an additional amount for ‘‘Capital Investment Fund’’, $16,600,000, to remain available until expended:
Provided, That the Administrator of the United States Agency for International Development shall assess fair and reasonable rental payments for the use of space by agencies in buildings constructed using funds appropriated by this Act, and reasonable rental payments shall be deposited into this account as an offsetting collection: Provided further, That the rental payments collected pursuant to the preceding proviso and deposited as an offsetting collection shall be available for obligation only pursuant to the regular notification procedures of the Committees on Appropriations.

OTHER FORMS OF ECONOMIC ASSISTANCE
Funds Appropriated to the President
IRAQ RELIEF AND RECONSTRUCTION FUND (INCLUDING TRANSFERS OF FUNDS)
For necessary expenses to carry out the purposes of the Foreign Assistance Act of 1961, for security force assistance and reconstruction in Iraq, $18,649,000,000, to remain available until September 30, 2006, to be allocated as follows:

$3,243,000,000 for security and law enforcement; $1,318,000,000 for justice, public safety infrastructure, and civil society, of which $100,000,000 shall be made available for demobilization and reintegration; $10,000,000 shall be made available to the United States Institute for Peace for activities supporting peace enforcement, peacekeeping and post-conflict reconstruction in Iraq; $180,000,000 shall be made available for the Iraqi Electricity Sector; $1,890,000,000 for oil infrastructure; $4,332,000,000 for water resources and sanitation; $500,000,000 for transportation and telecommunications; $793,000,000 for health care; $153,000,000 for private sector development; and $280,000,000 for refugees, human rights, and governance: Provided, That the President may reallocate up to 10 percent of any of the preceding allocations, except that the total for the amount appropriated in this heading may not be increased by more than 20 percent: Provided further, That the President may increase one such allocation only by up to an additional 20 percent in the event of unforeseen or emergency circumstances: Provided further, That such reallocations shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961: Provided further, That of the amount appropriated in this heading, if the National Commission on the American Military in Vietnam, hereafter referred to as the ‘‘Commission’’, determines that monies shall be transferred back to this appropriation: Provided further, That the President may issue such instructions as may be necessary to ensure that all funds shall be transferred back to this appropriation.

For necessary expenses of the Coalition Provisional Authority in Iraq, established pursuant to United Nations Security Council resolutions including Resolution 1483, for personnel costs, standing section 600 of the Foreign Assistance Act of 1961, and section 620(q) of that Act or any comparable provision of law: Provided further, That these funds may be used for activities needed to oversee and manage the relief and reconstruction of Iraq and the transition to democracy, $933,000,000, to remain available until September 30, 2005: Provided, That the President may, in his discretion, reallocate the amounts made available by this Act or any prior appropriations Act for the purpose of deploying and supporting senior advisors to the United States Chief of Mission in Kabul, Afghanistan, subject to the regular reprogramming and notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961, and section 620(q) of that Act or any comparable provision of law: Provided further, That not less than $672,000,000 is available only for accelerated assistance for Afghanistan: Provided further, That these funds may be used for activities related to the global war on terrorism, not to exceed $8,000,000 is available for additional assistance for Jordan, $100,000,000 of which shall be transferred to and consolidated with funds appropriated by this Act for ‘‘International Disaster and Famine Assistance’’ for assistance for Liberia, and $10,000,000 of which shall be transferred to and consolidated with funds appropriated by this Act for ‘‘International Disaster and Famine Assistance’’ for assistance for Sudan.

OPERATING EXPENSES OF THE COALITION PROVISIONAL AUTHORITY
For necessary expenses of the Coalition Provisional Authority in Iraq, established pursuant to United Nations Security Council resolutions including Resolution 1483, for personnel costs, standing section 600 of the Foreign Assistance Act of 1961, and section 620(q) of that Act or any comparable provision of law: Provided further, That these funds may be used for activities related to the global war on terrorism, not to exceed $8,000,000 is available for additional assistance for Afghanistan, $100,000,000 of which shall be transferred to and consolidated with funds appropriated by this Act for ‘‘International Disaster and Famine Assistance’’ for assistance for Liberia, and $10,000,000 of which shall be transferred to and consolidated with funds appropriated by this Act for ‘‘International Disaster and Famine Assistance’’ for assistance for Sudan.
purposes of provisions of law limiting assistance to a country.

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

INCLUDING TRANSFERS OF FUNDS

For an additional amount for "International Disaster and Famine Assistance utilizing the general authorities of section 491 of the Foreign Assistance Act of 1961, to respond to or prevent unforeseen complex foreign crises in Liberia and Sudan, $110,000,000, and by transfer not to exceed 0.5 percent of the funds appropriated under any other heading in this chapter, to remain available until September 30, 2005.

provided. That funds appropriated under this heading may be made available only pursuant to a determination by the President, after consultation with the appropriate congressional committees, that it is in the national interest and essential to efforts to reduce international terrorism to furnish assistance on such terms and conditions as he may determine for such purposes, including support for peace and humanitarian intervention operations: Provided further, That none of these funds shall be available, to respond to natural disasters: Provided further, That funds made available under this heading to the Committees on Appropriations: Provided further. That not less than $100,000,000 of the funds appropriated under this heading shall be made available for assistance to Liberia.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for "International Narcotics Control and Law Enforcement”, $700,000,000, to remain available until December 31, 2004, for accelerated assistance for Afghanistan.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for "Nonproliferation, Anti-Terrorism, Demining and Related Programs”, $35,000,000, for accelerated assistance for Afghanistan.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for the "Foreign Military Financing Program”, $287,000,000, for accelerated assistance for Afghanistan.

PEACEKEEPING OPERATIONS

For an additional amount for "Peacekeeping Operations”, $50,000,000, to support the global war on terrorism.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 2201. None of the funds appropriated by this Act or any unexpended funds provided in Public Law 108-11 may be used to repay, in whole or in part, principal or interest on any loan or guarantee agreement entered into by the Government of Iraq with any private or public sector entity, including with the government of any country (including any agency of such government or any entity owned in whole or in part by the government of such country) or with any international institution, prior to May 1, 2003: Provided, That for the purpose of this section, the term "international financial institution" shall mean those institutions contained in section 502 of division E of Public Law 108-7.

SEC. 2202 (a) Notwithstanding any other provision of law, none of the funds appropriated by this Act for the financing of Iraq Relief and Reconstruction Funds and under the heading "Iraq Relief and Reconstruction Fund" and under the same heading in Public Law 108-11 may be used for entering into any Federal contract (including follow-on contracts entered into after full and open competition, except in accordance with the Federal Property and Administrative Procedures Act (41 U.S.C. 251 et seq.), and any exception, if deemed necessary, shall be only upon the written approval of the Administrator of the Coalition Provisional Authority and the head of the appropriate agency or department managing such contract and such authority shall not be delegated.

(b) In any case in which procedures other than full and open competitive procedures are to be used to enter into a contract, the Administrator of the Coalition Provisional Authority or the head of such executive agency of the United States shall submit to the President within 7 calendar days before the award of the contract a notification to the Committees on Appropriations, and the Committees on Government Reform and Oversight and International Relations of Representatives, and the Committees on Governmental Affairs and Foreign Relations of the Senate. Such notification shall provide the justification for use of other than full and open competitive procedures, a brief description of the contract’s scope, the amount of the contract, a discussion of how the contracting agency identified and solicited offers from contractors, a list of the contractors solicited, and the justification and approval documents (as required under section 4205(f)(1) of the Accountability and Transparency Act of 1999 and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)) on which was based the determination of use of procedures other than full and open competitive procedures.

(c)(1) This section shall not apply to contracts of less than $5,000,000.

(2) This section also shall apply to any extension, amendment or modification of contracts entered into prior to the enactment of this Act using other than full and open competitive procedures using Iraq Relief and Reconstruction Funds in this Act and under Public Law 108-11 or funds made available in prior Foreign Operations, Export Financing and Related Programs Appropriations Acts.

(3) This section shall not apply to contracts authorized by the Small Business Act (15 U.S.C. 631 et seq.).

SEC. 2203. (a) DISCLOSURE REQUIRED.

SEC. 2204. Section 1503 of Public Law 108-11 is amended—

SEC. 2205. Section 1504 of Public Law 108-11 is amended by—

SEC. 2206. Section 202(b) of the Afghanistan Freedom Support Act of 2002 (Public Law 107-171) is amended by striking $175,000,000 and inserting in lieu thereof $150,000,000.

SEC. 2207. (a) The Director of the Office of Management and Budget, in consultation with the Administrator of the Coalition Provisional Authority (CPA) and the Committees on Appropriations, shall submit to the Committees on Appropriations not later than January 5, 2004 and prior to the initial obligation of funds appropriated by this Act under the heading "Iraq Relief and Reconstruction Fund" a report on the proposed uses of all funds under this heading and the justification for such project; and the obligations of funds is anticipated during the 3 month period from such date, including estimates by the CPA of the costs required to complete each such project. Not less than 20 percent of funds appropriated under such heading may be obligated before the submission of

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the report: Provided further, That in addition such report shall include the following:

(1) The use of all funds on a project-by-project basis for which funds appropriated under such heading were obligated prior to the date of the report, including estimates by the CPA of the costs required to complete each project.

(2) The distribution of duties and responsibilities among the agencies of the United States Government.

(3) Revenues to the CPA attributable to or consisting of funds provided by foreign governments, international organizations, and agencies or otherwise obtained, and expenditures of such revenues, and the purpose of such obligations and expenditures.

(4) Any proposed new projects and increases in funding of ongoing projects shall be reported to the Committees on Appropriations in accordance with regular notification procedures.

(c) The report required by subsection (a) shall be updated and submitted to the Committees on Appropriations every 3 months and shall include the estimated amounts.

The assumptions contained in previous reports have changed.

The requirements of this section shall expire on December 31, 2006:

SEC. 2208. Any reference in this chapter to the "Coalition Provisional Authority in Iraq" or the "Coalition Provisional Authority" shall be deemed to include any successor United States Government entity with the same or substantially the same authorities and responsibilities as the Coalition Provisional Authority in Iraq.

SEC. 2209. Any other financial assistance, as defined in chapter 2 of this title, or transferred to the CPA attributable to or consisting of funds transferred: Provided, That the total appropriations, to be available for the same purposes for fiscal years 2002, 2003, and 2004, as herein specified, are $425,000,000 for each of fiscal years 2005 and 2006.

SEC. 2215. REPORTS ON IRAQ AND AFGHANISTAN.

(1) The Coalition Provisional Authority (CPA) shall, on a monthly basis until September 30, 2006, submit a report to the Committees on Appropriations which details, for the preceding month, Iraqi oil production and oil revenues, and uses of such revenues.

(2) The report required by this subsection shall be submitted not later than 30 days after enactment of this Act.

The reports required by this subsection shall also be made publicly available in both English and Arabic, including through the CPA’s Internet website.

The Secretary of State, in consultation with the heads of other relevant Federal agencies, shall submit a report to the Committees on Appropriations not later than 30 days after enactment of this Act detailing:

(1) the amount of debt incurred by the Government of Saddam Hussein in Iraq, the impact of that debt on future economic stability and growth, and the estimated amount that Iraq will pay, or that will be paid on behalf of Iraq, to a foreign country or international financial institution for fiscal year 2004;

(2) the efforts of the Government of the United States to increase resources contributed by foreign countries and international organizations, including the United Nations, to the reconstitution and rehabilitation of Iraq and to increase international participation in peacekeeping and security efforts in Iraq;

(3) the manner in which the needs of people with disabilities are being addressed in the development and implementation of programs, projects and activities by the United States Government in Iraq and Afghanistan;

(4) the progress being made toward vindicating and trying leaders of the former Iraqi regime for war crimes, genocide, and crimes against humanity;

(5) the efforts of relevant Iraqi officials and legal advisors to ensure that a new Iraqi constitution preserves religious freedom and tolerates all faiths.

(c) Title III—Inspector General of the Coalition Provisional Authority.

SEC. 3001. INSPECTOR GENERAL OF THE COALITION PROVISIONAL AUTHORITY.

(a) PURPOSES. The purposes of this section are as follows:

(1) To provide for the independent and objective oversight and supervision of, and investigations relating to the programs and operations of the Coalition Provisional Authority (CPA);

(2) To provide for the independent and objective leadership and coordination of, and recommendations on, policies designed to—

(A) promote economy, efficiency, and effectiveness in the administration of such programs and operations; and

(B) prevent and detect fraud and abuse in such programs and operations.

(3) To provide for an independent and objective means of keeping the head of the Coalition Provisional Authority fully and currently informed of problems and deficiencies relating to the programs and operations and the necessity for and progress for corrective action.

(b) OFFICE OF INSPECTOR GENERAL. There is hereby established the Office of the Inspector General of the Coalition Provisional Authority.

(c) APPOINTMENT OF INSPECTOR GENERAL. Removal.—(1) The head of the Office of the Inspector General of the Coalition Provisional Authority is the Inspector General of the Coalition Provisional Authority, who shall be appointed by the Secretary of Defense, in consultation with the Secretary of State.

(2) The appointment of Inspector General shall be made solely on the basis of integrity.
October 30, 2003

H10146

CONGRESSIONAL RECORD—HOUSE

and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

(3) The nomination of an individual as Inspector General shall be made not later than 30 days after the date of the enactment of this Act.

(4) The Inspector General shall be removable from office by the President with the concurrence of the Senate. A contract entered into by the Coalition Provisional Authority during the re representation of the Inspector General under section 7324 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS-15 of the General Schedule of such title.

(2) Each report under this subsection may include a classified annex if the head of the Coalition Provisional Authority considers appropriate.

(1) Not later than March 30, 2004, and every calendar quarter thereafter, the Inspector General shall submit to the appropriate committees of Congress a report summarizing the activities of the Inspector General and the Coalition Provisional Authority during the 120-day period ending on the date of such report. Each report shall include, for the period covered by such report, a detailed statement of all obligations, expenditures, and revenues associated with reconstruction and rehabilitation activities in Iraq, including the following:

(A) Obligations and expenditures of appropriated funds.

(B) A project-by-project and program-by-program accounting of the costs incurred to date for the reconstruction of Iraq, together with the estimate of the Coalition Provisional Authority of the costs to complete each project and each program.

(C) Revenues attributable to or consisting of funds provided by foreign nations or international organizations, and any obligations or expenditures of such revenues.

(D) Revenues attributable to or consisting of foreign assets seized or frozen, and any obligations or expenditures of such revenues.

(E) Operating expenses of the Coalition Provisional Authority and of any other agencies or entities receiving appropriated funds.

(F) In the case of any contract described in paragraph (2) of subsection (f), the Inspector General shall coordinate with, and receive the cooperation of, the Inspector General of the United States Agency for International Development.

(2) Prior to the date of the enactment of this Act, the Inspector General shall be responsible for supervising the performance of investigative activities relating to such programs and operations.

(3) The nomination of an individual as Inspector General shall be made not later than 30 days after the date of the enactment of this Act.

(4) The Inspector General shall be removable from office by the President with the concurrence of the Senate.

(5) Each report under this subsection may include a classified annex if the head of the Coalition Provisional Authority considers appropriate.

(1) Not later than March 30, 2004, and every calendar quarter thereafter, the Inspector General shall submit to the appropriate committees of Congress a report summarizing the activities of the Inspector General and the Coalition Provisional Authority during the 120-day period ending on the date of such report. Each report shall include, for the period covered by such report, a detailed statement of all obligations, expenditures, and revenues associated with reconstruction and rehabilitation activities in Iraq, including the following:

(A) Obligations and expenditures of appropriated funds.

(B) A project-by-project and program-by-program accounting of the costs incurred to date for the reconstruction of Iraq, together with the estimate of the Coalition Provisional Authority of the costs to complete each project and each program.

(C) Revenues attributable to or consisting of funds provided by foreign nations or international organizations, and any obligations or expenditures of such revenues.

(D) Revenues attributable to or consisting of foreign assets seized or frozen, and any obligations or expenditures of such revenues.

(E) Operating expenses of the Coalition Provisional Authority and of any other agencies or entities receiving appropriated funds.

(F) In the case of any contract described in paragraph (2) of subsection (f), the Inspector General shall coordinate with, and receive the cooperation of, the Inspector General of the United States Agency for International Development.
2. The President shall publish a notice of each waiver made under this subsection in the Federal Register no later than the date on which the reports required under paragraph (1) or (3) of subsection (i) are submitted to Congress. The reports required under paragraph (1) or (3) of subsection (i) shall specify whether waivers under this subsection were made and with respect to which elements.

(m) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term “appropriate committees of Congress” means:

(1) the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate; and

(2) the Committees on Appropriations, Armed Services, and International Relations of the House of Representatives.

(n) FUNDING.—(1) Of the amounts appropriated for fiscal year 2004 for the Operating Expenses of the Coalition Provisional Authority in title II of this Act, $75,000,000 shall be available to carry out this section.

(2) The amount available under paragraph (1) shall remain available until expended.

(o) The Office of Inspector General shall terminate 6 months after the authorities and duties of the Coalition Provisional Authority cease to exist.

TITLE IV—GENERAL PROVISIONS, THIS ACT

SEC. 4001. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 4002. The amounts provided in this Act are determined by the Congress as an emergency requirement pursuant to section 502 of H. Con. Res. 95 (108th Congress).

SEC. 4003. For purposes of computing the amount of payment for an eligible local educational agency under section 8003(a) of the Elementary and Secondary Education Act of 2001 (20 U.S.C. 7703(a)) for school year 2003–2004, children enrolled in a school of such agency who would otherwise be eligible to be claimed for purposes of section 8003(a)(1)(B) of such Act, but due to the death of a military parent or legal guardian having sole custody of such children, or due to the death of a military parent or legal guardian while on active duty (so long as such children reside on Federal property as described in section 8003(a)(1)(B)), are no longer eligible under such section, shall be considered as eligible students under such section, provided such students remain in average daily attendance at a school in the same local educational agency they attended prior to their change in eligibility status.

This Act may be cited as the “Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004.”

And the Senate agree to the same.

BILL YOUNG, JERRY LEWIS, MAL ROGERS, FRANK WOLF, JIM COLBE, JAMES T. WALSH, JOE KOLNLEBERG, JOHN P. MURTHA, NITA M. LOWEY, CHET EDWARDS, MANAGERS ON THE PART OF THE HOUSE.

TED STEVENS, THAD COCHRAN, ARLEN SPECTER, PETE DOMENIC, MITCH MCCONNELL, CHUCK GRASSLEY, RICHARD C. SHELBY, JUDD GREGG, ROBERT F. BENNETT, BEN NIGHTOW, CAMPBELL, LARRY CRAIG, KAY BAILEY HUTCHISON, MIKE DEWINE, SAM BROWNBACK, DANIEL K. INOUYE, ERNEST P. HOLLINGS, PATRICK J. LEAHY (EXCEPT TITLE II), TROY HARRIN (EXCEPT TITLE II), BARBARA A. MIKULSKA (EXCEPT TITLE II), [IN THOUSANDS OF DOLLARS]

<table>
<thead>
<tr>
<th>Military Personnel</th>
<th>Request</th>
<th>House</th>
<th>Senate</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Military Personnel, Army</td>
<td>12,858,870</td>
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<td>816,000</td>
<td>816,000</td>
<td>816,000</td>
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<tr>
<td>Military Personnel, Marine Corps</td>
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<td>753,190</td>
<td>753,190</td>
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<td>3,384,700</td>
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<table>
<thead>
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<th>Request</th>
<th>House</th>
<th>Senate</th>
<th>Conference</th>
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</thead>
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<tr>
<td>O&amp;M, Navy</td>
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<tr>
<td>O&amp;M, Marine Corps</td>
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<tr>
<td>O&amp;M, Air Force</td>
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<td>5,948,368</td>
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<tr>
<td>O&amp;M, Defense-Wide</td>
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<td>O&amp;M, Air Force Reserve</td>
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<td>O&amp;M, Air National Guard</td>
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<td>Overseas Humanitarian, Disaster and Civic Aid</td>
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<td>35,500</td>
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<td>Iraq Freedom Fund</td>
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<td><strong>Total Operation and Maintenance</strong></td>
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<td><strong>40,369,623</strong></td>
<td><strong>40,369,623</strong></td>
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<table>
<thead>
<tr>
<th>Procurement</th>
<th>Request</th>
<th>House</th>
<th>Senate</th>
<th>Conference</th>
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<tbody>
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<td>Missile Procurement, Army</td>
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<td>Procurement of WTCV, Army</td>
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<td>Other Procurement, Army</td>
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<td>Missile Procurement, Air Force</td>
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<td>Other Procurement, Air Force</td>
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<td><strong>Total Procurement</strong></td>
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<td><strong>5,249,304</strong></td>
<td><strong>5,249,304</strong></td>
<td><strong>5,249,304</strong></td>
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</table>

<table>
<thead>
<tr>
<th>Research, Development, Test and Evaluation</th>
<th>Request</th>
<th>House</th>
<th>Senate</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td>ROTAE, Navy</td>
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<td>ROTAE, Air Force</td>
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<td>265,817</td>
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<td><strong>Total ROTAE</strong></td>
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<td><strong>338,887</strong></td>
<td><strong>338,887</strong></td>
<td><strong>338,887</strong></td>
</tr>
</tbody>
</table>
### Fiscal Year 2004 Appropriations Reporting Requirements

The conferees agree with the House report on this subject, except that the comprehensive financial analysis and update for fiscal year 2004 should be submitted to the congressional defense committees on or no later than April 30, 2004.

#### Classified Programs

Recommendations and adjustments to classified programs are addressed in a classified annex accompanying this conference report.

#### Military Personnel

The conference agreement recommends $17,612,900,000 for the military personnel accounts, the amount proposed by the President's request and the Senate, instead of $17,422,900,000 as proposed by the House. The conferees' recommendation will fund incremental costs of pays and allowances for active duty and Reserve personnel deployed in support of Operation Iraqi Freedom, Operation Enduring Freedom, and Operation Noble Eagle through the end of fiscal year 2004.

The conferees do not agree to transfer $670,000,000 from Military Personnel, Army, to Operation and Maintenance, Army, as proposed by the House, to support contracting for civilian security guards to replace Reserve component soldiers who are currently performing security duty for Army installations.

#### Operation and Maintenance

The conference agreement recommends $39,231,223,000 for the Operation and Maintenance accounts, instead of $39,879,623,000 as proposed by the House, and $40,163,223,000 as proposed by the Senate. Adjustments to the Operation and Maintenance accounts are shown below:

<table>
<thead>
<tr>
<th>Description</th>
<th>Request</th>
</tr>
</thead>
<tbody>
<tr>
<td>Defense Working Capital Funds</td>
<td>600,000</td>
</tr>
<tr>
<td>National Defense StockFund</td>
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<tr>
<td>Total Defense Working Capital Funds</td>
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<tr>
<td>Missile Procurement, Army</td>
<td>600,000</td>
</tr>
<tr>
<td>Missile Launch Equipment System</td>
<td>600,000</td>
</tr>
<tr>
<td>Weapons, Tracked Combat Vehicles, Army</td>
<td>600,000</td>
</tr>
<tr>
<td>Paladin</td>
<td>600,000</td>
</tr>
<tr>
<td>Rapier</td>
<td>600,000</td>
</tr>
<tr>
<td>Rapid Fielding Initiative</td>
<td>600,000</td>
</tr>
<tr>
<td>Enhanced Separate Brigades</td>
<td>600,000</td>
</tr>
<tr>
<td>APL-5 Replacement</td>
<td>600,000</td>
</tr>
<tr>
<td>Other Procurement, Army</td>
<td>600,000</td>
</tr>
<tr>
<td>Logistics Support Equipment</td>
<td>600,000</td>
</tr>
<tr>
<td>C2 Intelligence, Surveillance and Reconnaissance</td>
<td>600,000</td>
</tr>
<tr>
<td>Radio Frequency Identification Tags</td>
<td>600,000</td>
</tr>
<tr>
<td>Technical Intelligence (Globecom)</td>
<td>600,000</td>
</tr>
<tr>
<td>Enhanced Separate Brigades</td>
<td>600,000</td>
</tr>
<tr>
<td>Up-armed HIMMVs</td>
<td>600,000</td>
</tr>
<tr>
<td>Rapid Fielding Initiative</td>
<td>600,000</td>
</tr>
<tr>
<td>Base Camp Housing Units</td>
<td>600,000</td>
</tr>
<tr>
<td>Mobile Search Devices</td>
<td>600,000</td>
</tr>
<tr>
<td>Basic Language Translation Service</td>
<td>600,000</td>
</tr>
<tr>
<td>Packets</td>
<td>600,000</td>
</tr>
<tr>
<td>Total Other</td>
<td>731,800</td>
</tr>
<tr>
<td>Total Revolving &amp; Management Funds</td>
<td>624,000</td>
</tr>
<tr>
<td>Total Other</td>
<td>624,000</td>
</tr>
<tr>
<td>Total House</td>
<td>624,000</td>
</tr>
<tr>
<td>Total Senate</td>
<td>624,000</td>
</tr>
<tr>
<td>Total Conference</td>
<td>624,000</td>
</tr>
</tbody>
</table>

The conferees recommend an additional $10,000,000 in Operation and Maintenance, Army, to support Contracting for military personnel.

The conferees agree that, to the maximum extent practicable, the commercial airline industry should charge Armed Forces members and their families the lowest available fares for air travel in connection with rest and recuperation leave.

#### Family Advocacy Program

The conferees recommend that the funds provided in Operation and Maintenance, Defense-Wide, $32,000,000 be used only for the Family Advocacy Program to address wartime community needs such as family counseling, domestic violence training and prevention programs, and readjustment counseling for military personnel.

#### National Guard Family Readiness Program

The conferees recommend that the funds provided in the Iraq Freedom Fund, $10,000,000 shall be used only for the National Guard Family Readiness Program of the National Guard, which provides information, referral and outreach assistance to military families during the deployment process.

#### Procurement

The conference agreement recommends $5,534,704,000 for the Procurement accounts, instead of $5,621,304,000 as proposed by the House and $5,455,304,000 as proposed by the Senate.

Recommendations for the Procurement accounts are shown below:

<table>
<thead>
<tr>
<th>Description</th>
<th>Request</th>
</tr>
</thead>
<tbody>
<tr>
<td>Missile Procurement, Army</td>
<td>600,000</td>
</tr>
<tr>
<td>Missile Launch Equipment System</td>
<td>600,000</td>
</tr>
<tr>
<td>Weapons, Tracked Combat Vehicles, Army</td>
<td>600,000</td>
</tr>
<tr>
<td>Paladin</td>
<td>600,000</td>
</tr>
<tr>
<td>Rapier</td>
<td>600,000</td>
</tr>
<tr>
<td>Rapid Fielding Initiative</td>
<td>600,000</td>
</tr>
<tr>
<td>Enhanced Separate Brigades</td>
<td>600,000</td>
</tr>
<tr>
<td>APL-5 Replacement</td>
<td>600,000</td>
</tr>
<tr>
<td>Other Procurement, Army</td>
<td>600,000</td>
</tr>
<tr>
<td>Logistics Support Equipment</td>
<td>600,000</td>
</tr>
<tr>
<td>C2 Intelligence, Surveillance and Reconnaissance</td>
<td>600,000</td>
</tr>
<tr>
<td>Radio Frequency Identification Tags</td>
<td>600,000</td>
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<tr>
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<tr>
<td>Up-armed HIMMVs</td>
<td>600,000</td>
</tr>
<tr>
<td>Rapid Fielding Initiative</td>
<td>600,000</td>
</tr>
<tr>
<td>Base Camp Housing Units</td>
<td>600,000</td>
</tr>
<tr>
<td>Mobile Search Devices</td>
<td>600,000</td>
</tr>
<tr>
<td>Basic Language Translation Service</td>
<td>600,000</td>
</tr>
<tr>
<td>Packets</td>
<td>600,000</td>
</tr>
<tr>
<td>Total Other</td>
<td>731,800</td>
</tr>
<tr>
<td>Total Revolving &amp; Management Funds</td>
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<tr>
<td>Total Other</td>
<td>624,000</td>
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<tr>
<td>Total House</td>
<td>624,000</td>
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<tr>
<td>Total Senate</td>
<td>624,000</td>
</tr>
<tr>
<td>Total Conference</td>
<td>624,000</td>
</tr>
</tbody>
</table>

The travel costs of troops on rest and recuperation leave. Specifically, these funds shall be used to cover any additional costs incurred by troops returning from the Iraq or Afghanistan theaters to reach their home of record (in the United States, or its territories and commonwealths) from established disembarkation points in the United States. Department officials may use these funds to cover troop travel costs from established disembarkation points to places other than their home of record in a manner consistent with current Department of Defense travel regulations and guidelines. Further, the conferees agree that, to the maximum extent practicable, the commercial airline industry should charge Armed Forces members and their families the lowest available fares for air travel in connection with rest and recuperation leave.
UP-ARMORED HMMWVS

The conferees recommend a total of $239,300,000 for Up-armored HMMWVs and associated support requirements in Iraq. This amount includes $177,200,000 in "Other Procurement, Army", as proposed in the budget request, and $62,100,000 from amounts made available in the Iraqi Freedom Fund. The conferees agree that this funding will provide for a total of 1,065 Up-armored HMMWVs, which is an increase of 318 above the budget request.

**Equipment Shortages**

The conferees note that, despite recent efforts by the Department of Defense to address equipment shortages, many individuals and units in the active and reserve forces continue to experience shortages in equipment that would enhance both survivability and mission effectiveness. The conferees believe that it must be the Secretary of Defense's highest priority to eliminate such shortages. Accordingly, the conferees encourage the Secretary of Defense to apply additional funds provided in this Act for the most pressing needs. The conferees also direct the Secretary of Defense to submit quarterly update reports to the congressional defense committees, starting December 31, 2003 through December 31, 2004, that identify significant soldier equipment, weapon system, or spare parts shortages in the Iraq and Afghanistan theaters of operations for all major active and reserve component units. These updates will present the solutions and timelines for procuring and distributing equipment and parts to address any identified shortages.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The conference agreement recommends $333,887,000 for the Research, Development, Test and Evaluation accounts, instead of $288,887,000 as proposed by the House and $336,887,000 as proposed by the Senate.

Recommendations for the Research, Development, Test and Evaluation accounts are shown below:

| ![Table](https://example.com/table.png) |

**General Provisions—This Chapter**

The conferees agree to remain and amend section 1101, as proposed by the House, which provides the Secretary of Defense with $3 billion in additional transfer authority, only for funds in this chapter. The Senate included similar language.
The conferees agree to retain section 1102, as proposed by the House, which provides that funds appropriated in this Act are deemed specifically authorized for the purposes of section 111 of the National Security Act of 1947. The Senate included similar language.

The conferees agree to retain section 1103, as proposed by the House, which extends the authorization during fiscal year 2004 of travel and transportation allowances for family members of service members who are ill or injured in support of Operation Iraqi Freedom, Operation Enduring Freedom or Operation Noble Eagle; and authorizes the Department to provide civilian clothing for wear by the service member during their hospital stay. The Senate included similar language.

The conferees agree to retain section 1104, as proposed by the House, which extends the authorization for the Department to make the higher rates of Imminent Danger Pay and Family Separation Allowance to all eligible service members during fiscal year 2004. The Senate included similar language.

The conferees agree to retain section 1105, as proposed by the House, which provides that adjustments to obligations that would have been properly chargeable to the Defense Emergency Response Program Fund shall be charged to any national defense activities in the Department of Defense for the same purpose. The Senate included similar language.

The conferees agree to retain section 1106, as proposed by the House, which permits the Secretary of Defense, no later than April 15, 2004, to adjust rates that are deemed specifically authorized for the purposes of section 111 of the National Security Act of 1947. The Senate included similar language.

The conferees agree to retain section 1107, as proposed by the House, which provides $150,000,000 from funds available in “Operation and Maintenance, Defense-Wide” to provide training and equipment only to the New Iraqi Army and the Afghan National Army to combat terrorism and support U.S. military operations. The Senate included similar language.

The conferees agree to retain section 1108, as proposed by the House, which prohibits funds provided in this Act from being used to finance programs or activities denied by Congress, or to initiate a new start program without prior notification to the congressional defense committees. The Senate included similar language.

The conferees agree to retain and amend section 1109, as proposed by the House, which prohibits funds in this Act from being used for defense of weapons systems or to support military operations in Afghanistan, Iraq, and other national defense activities authorized by Congress. The Senate included similar language.

The conferees agree to retain and amend section 1110, as proposed by the House, to provide $531,000,000 in funding for Operation and Maintenance and Procurement accounts, as opposed to $413,300,000 as recommended by the House, for the military services in order to accomplish recovery and repair made necessary by recent natural disasters including Hurricane Isabel. These funds are allocated as follows:

- Operation and Maintenance, Army: $471,000,000
- Operation and Maintenance, Navy: $87,600,000
- Operation and Maintenance, Marine Corps: $6,700,000
- Operation and Maintenance, Air Force: $169,300,000

Other Procurement, Air Force: $2,300,000

Of the amount provided in this section for “Operation and Maintenance, Air Force,” $6,500,000 is for repair of facilities at the NASA Langley Research Center, including facilities used for Department of Defense research activities.

The conferees agree to retain section 1110, as proposed by the House, which makes $180,000,000 from funds available in this Act for operation and maintenance for the Commander’s Emergency Response Program for military commanders to respond to urgent humanitarian needs in Afghanistan. The conferees agree to retain section 1111, as proposed by the House, which requires the Secretary of Defense to provide a description of an alternative for replacing Air Force KC-135 aircraft.

The conferees agree to retain section 1112, as proposed by the House, which exempts members of the armed forces from the requirement to pay subsistence charges while hospitalized, makes the exemption permanent, and makes the exemption retroactive to September 11, 2001. The Senate included similar language.

The conferees agree to retain and amend section 1113, which prohibits the use of funds in this Act to alter command responsibility or permanent assignment of forces until 270 days after notification to the congressional defense committees.

The conferees agree to retain and amend section 1114, as proposed by the Senate, which amends the Transitional Assistance Medical Program (TAMP) benefit program from 60 days to 180 days beginning on the date on which the member is separated from active duty.

These four new provisions (sections 1114, 1115, 1116, and 1117) enhance TRICARE access to health care benefits under an employer-sponsored health benefits plan.

The conferees agree to retain and amend section 1115, as proposed by the Senate, which extends the TRICARE benefit to active reserve and national guard members who are ill or injured in support of operations under the authority of the Secretary of Defense. The Senate included similar language.

The conferees agree to retain and amend section 1116, as proposed by the Senate, which amends section 1074 of title 10, U.S.C. to expand the definition of “Reservist” to consider TRICARE eligible to all Reserve components. The conferees’ intent that these provisions constitute a one-year demonstration program to determine whether all Reserve components should apply for a permanent benefit beyond fiscal year 2004 should be authorized.

The conferees direct the Department of Defense to report to the congressional defense committees no later than May 30, 2004 on the implementation of this demonstration program and its associated impact on recruiting and retaining both active and reserve component personnel.

Based on information provided to the Congress from the Congressional Budget Office, the conferees have been advised that the cost of this demonstration program is approximately $200,000,000. However, the conferees recognize that these are estimates based on projected utilization rates. Accordingly, the conferees agree that not more than $400,000,000 shall be required to implement this demonstration program in fiscal year 2004.

The conferees further direct the Department of Defense, no later than April 15, 2004, to provide the congressional defense committees with a description of this demonstration program based on actual and projected utilization rates.

The conferees agree to retain and amend section 1117, as proposed by the Senate, which requires the Department to notify each Reservist who is ordered to active duty in writing of the expected period during which they will be mobilized.

The conferees agree to retain and amend section 1119, as proposed by the Senate, which provides that authority in section 131(1) of Public Law 108-11, making funds available to build an Infantry Brigade Rifle Range for the South Carolina National Guard, shall apply to the purchase of additional funds appropriated for fiscal year 2004.

The conferees agree to include a new provision, section 1120, which directs the Secretary of Homeland Security to report on Iraq and Afghanistan to the Congress.

The conferees agree to include a new provision, section 1121, which provides an additional $100,000,000 for securing and destroying conventional munitions in Iraq.

CHAPTER 2
DEPARTMENT OF HOMELAND SECURITY
UNITED STATES COAST GUARD
OPERATING EXPENSES
The conferees agree to provide an additional $23,183,000 for “Operating Expenses” to repair damages the Coast Guard incurred during Hurricane Isabel.

EMERGENCY PREPAREDNESS AND RESPONSE
DISASTER RELIEF
The conferees agree to provide an additional $500,000,000 for disaster relief activities associated with recently declared disasters, such as Hurricane Isabel and the California wildfires.

OTHER ACTIVITIES
Within current authorities, the conferees direct the Emergency Preparedness and Response Directorate to work expeditiously with the Borough of Philadelphia, Pennsylvania, and the National Energy Technology Laboratory to remediate the problem where high gas readings due to the over 600 abandoned gas wells force the evacuation of residents and businesses in Pennsylvania.

SCIENCE AND TECHNOLOGY
The conferees are aware that the Department of Homeland Security has begun research and development on Man-Portable Air Defense Systems (MANPADS) countermeasures for commercial airline crews pursuant to the “Program Plan for the Development of an Anti-Missile Device for Commercial Aircraft” approved by the Domestic Nuclear Detection Office of the Department of Energy.

The conferees agree to include a new provision, section 1111, which amends the Homeland Security Act of 2002 to authorize the Secretary of Homeland Security to establish a program to enable Department of Homeland Security personnel to train and maintain skills in combating nuclear proliferation.

GENERAL PROVISION, THIS CHAPTER
Sec. 1201. The conferees agree to amend the Department of Homeland Security Appropriations Act, 2004 (Public Law 108-90) to make Biodefense Countermeasures funds subject to the authorization of the Project Bioshield Act of 2003, upon the enactment of that Act.

PROVISIONS NOT ADOPTED
The conference agreement deletes section 334 of the Senate bill changing the Federal share of the cost of any disaster relief payment for damage caused by Hurricane Isabel.

The conference agreement deletes section 5008 of the Senate bill on equipping aircraft with countermeasures against the threat of shoulder-fired missiles.

CHAPTER 3
DEPARTMENT OF DEFENSE
MILITARY CONSTRUCTION
ITEMS OF GENERAL INTEREST
As a result of the United States' commitment to fighting the Global War on Terrorism, there has been an increase in operational requirements in the Central Command's area of responsibility. The footprint
of American military forces has expanded to include the construction and management of military facilities in overseas locations to house service members and to stage operational resources. The conferees direct the Central Command to report to the congressional defense and military construction subcommittees, in both classified and unclassified form, on its master plan for facilities in the Central Command area of responsibility, including the operational requirements and the planned disposition of equipment, aircraft and personnel, no later than December 1, 2003.

**MILITARY CONSTRUCTION, ARMY**

The conference agreement appropriates $120,000,000 for Military Construction, Army, instead of $185,100,000 as proposed by the House and $119,900,000 as proposed by the Senate. Of the funds appropriated, $119,900,000 is provided to finance projects required to support the Global War on Terrorism and Operation Iraqi Freedom as follows:

<table>
<thead>
<tr>
<th>Location/facility</th>
<th>Project description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Al Fallujah (ME)</td>
<td>Power Plant and Electrical Distribution</td>
<td>$8,000,000</td>
</tr>
<tr>
<td>Baghdad—Victory Base</td>
<td>Entry Control Points</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>Baghdad FOB Falcon</td>
<td>Power Plant and Electrical Distribution</td>
<td>$7,000,000</td>
</tr>
<tr>
<td>Balad Airfield</td>
<td>Power Plant and Electrical Distribution</td>
<td>$16,000,000</td>
</tr>
<tr>
<td>Balad</td>
<td>Base Camp Water Treatment Plant</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>Baghdad—Victory Base</td>
<td>Base Camp Water Treatment Plant</td>
<td>$16,000,000</td>
</tr>
<tr>
<td>Baghdad</td>
<td>Power Plant</td>
<td>$11,500,000</td>
</tr>
<tr>
<td>Baghdad—Radwaniya Palace Complex</td>
<td>Security Improvised manners Information Facility</td>
<td>$5,000,000</td>
</tr>
<tr>
<td>Baghdad—Radwaniya Palace Complex</td>
<td>Joint Operations Center</td>
<td>$3,000,000</td>
</tr>
<tr>
<td>Baghdad—Radwaniya Palace Complex</td>
<td>Training Facility</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>Baghdad—Military Complex</td>
<td>Power Plant and Electrical Distribution</td>
<td>$16,500,000</td>
</tr>
<tr>
<td>Baghdad—Military Complex</td>
<td>Power Plant and Electrical Distribution</td>
<td>$16,500,000</td>
</tr>
<tr>
<td>Baghdad—Military Complex</td>
<td>Planning and Design</td>
<td>$2,400,000</td>
</tr>
<tr>
<td>Various Locations</td>
<td></td>
<td>$119,900,000</td>
</tr>
</tbody>
</table>

An additional $42,200,000 is provided to repair facilities damaged by Hurricane Isabel at Fort Monroe, Virginia. As proposed by the House, the conferees agree to include bill language that authorizes the use of funds for planning and design and for construction. The conferees recommend a reduction of $23,000,000 from the amount proposed by the House, to enter minor construction funds because the request was not explained in sufficient detail to justify the appropriation.

**MILITARY CONSTRUCTION, NAVY**

As proposed by the House, the conference agreement appropriates $45,530,000 for Military Construction, Navy, to repair two Naval facilities damaged by Hurricane Isabel. The Senate bill provides no similar provision.

**MILITARY CONSTRUCTION, AIR FORCE**

As proposed by the House and the Senate, the conference agreement appropriates $292,550,000 for Military Construction, Air Force, to finance various projects around the world in support of the Global War on Terrorism and Operation Iraqi Freedom. As proposed by the House, the conferees agree to include bill language that authorizes the use of funds for planning and design and for construction.

**FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY**

The conference agreement appropriates $11,420,000 for Family Housing Operation and Maintenance, Army, instead of $8,151,000 as proposed by the House. The Senate bill contained no similar provision. These funds are provided for storm related damage caused by Hurricane Isabel at Langley AFB, Virginia.

**GENERAL PROVISION—THIS CHAPTER**

The conference agreement includes one general provision, section 1301, as proposed by the House and modified by the Senate. This provision gives the Secretary of Defense authority to use up to $150,000,000 in operation and maintenance funds for construction projects to support Operation Iraqi Freedom or the Global War on Terrorism. The purpose of the provision is to provide troops in the field flexibility to construct emergency projects using operation and maintenance funds. The provision requires DOD to submit a quarterly report that describes the project, includes supporting documentation, and provides the amount of funds obligated for these purposes. The Senate modification requires DOD to provide Congress with notification of the project 15 days after obligation of funds.

**TITLE II—IRAQ AND AFGHANISTAN RECONSTRUCTION AND INTERNATIONAL ASSISTANCE**

**CHAPTER 1 DEPARTMENT OF JUSTICE**

**LEGAL ACTIVITIES**

**GENERAL LEGAL ACTIVITIES**

The conference agreement includes $15,000,000 for ‘Salaries and Expenses, General Legal, for the Department of Justice;’ as proposed by the House, instead of no funds as proposed by the Senate. This funding will support additional Civil Division expenses related to the administration of the September 11th Victims Compensation Program.

**DEPARTMENT OF STATE AND RELATED AGENCY**

**DEPARTMENT OF STATE**

**ADMINISTRATION OF FOREIGN AFFAIRS**

**DIPLOMATIC AND CONSULAR PROGRAMS**

The conference agreement includes $16,170,000 under this account as proposed by the House, instead of no funds as proposed by the Senate. The conference agreement includes $65,500,000 for costs associated with the protection of foreign missions and diplomatic and consular activities in New York City, as well as security and protection costs associated with the 2003 Free Trade in the Americas Ministerial and the 2004 Summit of the Industrialized Nations. In addition, the conference agreement includes language allowing the use of prior year funds under this heading for rewards for an individual who provided information to the Special Court for Sierra Leone, who has been charged by the Special Court with being “most responsible” for the atrocities committed during Sierra Leone’s civil war, is not yet in the custody of the Special Court. The conferees direct the Department to use all available resources in order to find the handover of this indictee of the Special Court.

**INTERNATIONAL ORGANIZATIONS**

**CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES**

The conference agreement includes $245,000,000 for assessed costs of United Nations peacekeeping in Liberia as proposed in the House bill, instead of no funds as proposed by the Senate.
October 30, 2003

H10152

CONGRESSIONAL RECORD—HOUSE

Where in Kabul until an interim, secure compound adjacent to the embassy is available. It is the managers’ intention that embassy facilities and vehicles funded by USAID be used primarily by USAID personnel, and be available for other agencies only with the prior written concurrence of the USAID mission director in Kabul and, when feasible, on a reimbursable basis.

Should United States military air transport remain scarce or unavailable to support reconstruction in Afghanistan, and to the extent required by security conditions in the field, a portion of this appropriation may be used for dedicated contract air service within Afghanistan and access to neighboring countries. The conferences expect the Department of State Coordinator for Afghan Assistance and USAID to consult with the Committees prior to obligating funds for this purpose.

The conference report provides for operating expenses of USAID in Iraq elsewhere in this chapter.

Capital Investment Fund

The conference report recommends $16,600,000 for the Capital Investment Fund of the United States Agency for International Development to remain available until expended, instead of $60,000,000 as proposed by the Senate. The House bill did not address this matter. The managers have included language requiring the Administrator of the United States Agency for International Development to assess fair and reasonable rental payments for the use of space by employees of other United States Government agencies in buildings constructed using funds appropriated under this heading, and provides that such rental payments shall be deposited into this account as an offsetting collection. Such rental payments shall be available for obligation only pursuant to the regular reprogramming notification procedures of the Committees on Appropriations.

Iraq Relief and Reconstruction Fund

The conference report recommends $18,649,000,000, to remain available until September 30, 2006, for the “Iraq Relief and Reconstruction Fund” (the Fund), the same level as recommended by the House and $200,000,000 above the Senate. This figure represents a reduction of $1,655,000,000 below the request and an increase of $16,174,000,000 above the level provided in the fiscal year 2003 Emergency Wartime Supplemental Appropriations Act when this account was created. The supplemental request proposed an appropriation of $20,304,000,000 to remain available until expended.

The conference report provides $2,100,000,000 for the oil infrastructure, an $80,000,000 reduction, instead of $2,180,000,000 as proposed by the House and $1,900,000,000 as proposed by the Senate.

The following table provides amounts for functional categories and programs within categories. The total amount for these functional categories is reflected in the bill language as proposed by both the House and Senate. The following table provides the baseline for the financial plan required in section 2007 of this Act.

IRAQ RELIEF AND RECONSTRUCTION FUND

INCLUDING TRANSFERS OF FUNDS

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The following table provides amounts for functional categories and programs within categories. The total amount for these functional categories is reflected in the bill language as proposed by both the House and Senate. The following table provides the baseline for the financial plan required in section 2007 of this Act.
The table above indicates programs that were supported in the House and Senate and those that raised questions and concerns and were reduced or eliminated, such as the procurement of trash trucks, development of business courses, zip code and 911 projects, housing projects, and the construction of two prisons for $400,000,000 at $50,000 per bed. The conferences have included bill language providing that the Iraq Relief and Reconstruction Fund shall be used to protect and promote public health and safety, including the arrest, detention and prosecution of criminals and terrorists.

The conference report includes bill language, requires the Administrator of the CPA to seek similar to that in the Senate bill, that reprogramming of funds. The conferees note that within the functional categories none of the funds provided are available to support any program, project or activity for which funds have been denied or restricted unless the Appropriations Committees are notified 15 days in advance and approve such reprogramming of funds.

Under section 2207 of the general provisions of this chapter, the conference report includes a requirement by the Office of Management and Budget, in consultation with the CPA and the Committees on Appropriations, to submit a financial plan beginning on January 1, 2004 and quarterly thereafter. This financial plan is similar to that proposed by the House under the heading "Iraq Relief and Reconstruction Fund".

The conferences have reinstated bill language, enacted in the fiscal year 2003 Iraq Relief and Reconstruction Fund but not included in the supplemental request, which specifies agencies that may receive apportionment from the Fund. Consistent with previous language, the conference report again lists the Department of Defense, the Department of Health and Human Services, the Department of State, the Department of the Treasury and the United States Agency for International Development. The conferees have added the Coalition Provisional Authority (CPA) to this list, and allow the CPA to receive direct apportionment of IRRF funds for the first time, with the understanding that the CPA establishes a Chief Financial Officer operating in accordance with the responsibilities and functions specified in the Chief Financial Officer Act.

The conferences have included bill language, similar to that in the Senate bill, that requires the Administrator of the CPA to seek
to ensure that programs in Iraq comply with the “Policy Paper: Disability.”

The conference agreement includes a provision, similar to one in P.L. 108-181, which requires a technical assistance strategy to be made available to Iraqi civilians who have suffered losses as a result of military operations. The managers support medical, rehabilitation, shelter, microenterprise, and educational assistance to these individuals and expect all relevant agencies and organizations to coordinate efforts in providing this assistance.

The conference report recommends $100,000,000 for the ongoing operating costs of USAID and $65,000,000 for the State Department Bureau of International Narcotics Control and Law Enforcement programs, to ensure that agencies supporting the CPA and the reconstruction effort in Iraq are fully financed for administrative expenses through the funds appropriated in the Iraq Relief and Reconstruction Fund, in an amount equal to up to 10 percent of programs administered. The conference report also includes bill language protecting that up to 1 percent of the total appropriated for the Fund may be transferred for Operating Expenses of the Coalition Provisional Authority.

The conference agreement includes bill language, similar to that included in House and Senate bills, that the CPA shall consult with relevant Iraqi officials, to ensure that a new Iraqi constitution preserves all rights to freedom and tolerance for all Iraqis and reflect the conference expectation that the CPA will work with Iraqis to include a guarantee of a number of other fundamental rights and individual freedoms, particularly basic human rights that were violated or denied during the tyrannical regime of Saddam Hussein.

The conference agreement includes language providing that $983,000,000 be contained in the Senate bill providing $100,000,000 for democracy building activities in Iraq. The managers endorse Senate report language on the use of these funds, and believe that elections are essential to restoring Iraqi sovereignty. The conference expects the Committees on Appropriations to be consulted on the use of democracy building and governance funds in Iraq. The conference report also includes bill language providing that $10,000,000 be provided for schools and education for Afghanistan, $25,000,000 for medical assistance, and $50,000,000 above the request. The conferees are recommending $25,000,000 for media outreach activities in Afghanistan.

Finally, the managers have provided for the transfer of $210,000,000 to support other high-priority foreign assistance programs, including $100,000,000 for Jordan, $100,000,000 for Liberia, and $10,000,000 for Sudan.

The conference report recommends $983,000,000 for “Operating Expenses of the Coalition Provisional Authority” under this new heading as proposed by the House, instead of providing for administrative costs of the Coalition Provisional Authority (CPA) in Iraq within the total amount under the heading “Management, Construction, and Support” requested in the supplemental request and included in the Senate bill. The conference agreement provides an amount that is $25,000,000 above the House bill, or $75,000,000 for the expenses of a new CPA Inspector General and office as provided in Title III of this Act, and $50,000,000 for reporting requirements and other supporting costs. The conferees have included language to ensure that the Department of Defense is able to continue to furnish assistance and services and any other support to the CPA.

The CPA currently oversees the reconstruction of Iraq and its non-military programs described in the Iraq Relief and Reconstruction Fund section of this report, from building waste water treatment systems to training law enforcement officials to providing computer training for Iraqi youth.

The conference report acknowledges CPA’s leading role in Iraq and endorses Senate report language similar to that contained in the Senate report.

The conference agreement includes bill language to ensure that the Department of Management and Budget to ensure that agencies supporting the CPA and the reconstruction effort in Iraq are fully financed for administrative expenses through the funds appropriated in the Iraq Relief and Reconstruction Fund, in an amount equal to up to 10 percent of programs administered. The conference report also includes bill language protecting that up to 1 percent of the total appropriated for the Fund may be transferred for Operating Expenses of the Coalition Provisional Authority.

The conference report recommends $60,000,000 for Afghan women and girls to ensure that programs, projects and activities funded in this Act include the participation of women and advance the social, economic, political, legal, and educational rights and opportunities of women in Afghanistan.

The State Department Coordinator of Assistance to Afghanistan and the Administrator of USAID are requested to provide the Committees not later than December 15, 2003, a fiscal year 2004 strategic and financial plan to ensure that 50 percent of the $100,000,000 for international trust fund to pay government employees, and $100,000,000 for Jordan, $100,000,000 for support to the Government of Afghanistan (GoA). Of the recommended $70,000,000, not less than $25,000,000 will meet key GoA infrastructure needs, especially telecommunications between Kabul and the provinces. The Ministry of Finance will use up to $20,000,000 to improve customs collections at Afghanistan’s 11 official border posts and remitting of customs to the ministry on a timely basis.

The conference report recommends an additional $70,000,000 for support to the Government of Afghanistan (GoA). Of the recommended $70,000,000, not less than $25,000,000 will meet key GoA infrastructure needs, especially telecommunications between Kabul and the provinces. The Ministry of Finance will use up to $20,000,000 to improve customs collections at Afghanistan’s 11 official border posts and remitting of customs to the ministry on a timely basis.

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Taliban. Women were severely affected by their inability during those times to partici-
\[\ldots\]
\[\ldots\]
The conference report recommends $50,000,000 for the "Peacekeeping Operations" as proposed by both the Senate and the House. This level would support bilateral peacekeeping operations and Afghanistan, including the United States business sector and activities needed to ensure that the economic and political situation is acted to meet emergency needs, and the managers are of the opinion that paying foreign debtors out of United States funds is not among those needs. The conference report includes section 2201, a general provision included in the House bill and similar to the Senate bill, that prohibits the use of funds appropriated in this Act, or in the 2003 Iraq Supplemental Appropriations Act (P.L. 108–11), to be used for any debt entered into by the Iraqi government before the defeat and overthrow of Saddam Hussein. Nothing in this provision, however, should be construed as discouraging the Department of Treasury from working with lenders in reducing and restructuring Iraq's debt burden. The House addressed this matter in section 2001 and the Senate addressed it in section 210.

Both the House and Senate bills included a number of provisions intended to require greater adherence to full and open competition. The managers support these provisions in both the House and Senate bills, and the conference agreement provides that when other than full and open competition is pursued, if necessary, then the agency using other than full and open competition must inform the Congress and the American public.

It is in the best interests of most involved, including the United States business sector and the Iraqi people, to use open and full competition for all but a very limited number of provisions intended to require open and full competitive procedures, including so called "limited competition". Contracts below a value of $5,000,000 are exempted from these requirements as are small businesses as defined in 15 USC 63 et seq. The House addressed this matter in sections 2202, 2203, and 2007 and the Senate addressed these issues in section 5003.

In sections 2205 and 2007, the managers recommend language similar to that requested by the President to clarify, extend and broaden authorities provided in Public Law 108–11. The conference agreement includes relevant provisions of the Iraq Sanctions Act and make inapplicable to Iraq certain provisions of law that restrict assistance to countries of strategic importance. They authorize the export of arms to specific Iraqi security forces. Instead of making permanent these authorities as requested by the President, the conference report provides for an extension for another year. The House and Senate bills each provided similar language.

Although the President on May 7, 2003, exercised his authority under section 1503 in Public Law 108–11 as originally enacted to make permanently inapplicable to Iraq any provisions of law that apply to countries of strategic importance, the conference agreement extends them for another year. The House and Senate bills each provided similar language.
In section 2212, the conference report includes a provision similar to the Senate amendment that allows transfers among international assistance programs in this chapter, not to exceed $100,000,000. The House did not address this matter.

Section 2213 of the conference report reflects the Senate language on extending the waiver on Pakistan sanctions. The House did not address this matter.

Section 2214 amends the authorization levels in the Afghanistan Freedom Support Act to be consistent with the levels of funding provided in this Act and H.R. 2800. The reporting requirements in section 2312 of the Senate bill are addressed in section 2215 of the conference report. The House bill did not address this matter.

Section 2215 is a new section that consolidates many of the reporting requirements of the House and Senate bills under one provision entitled "Reports on Iraq and Afghanistan". This includes issues relating to debts owed by the government of Saddam Hussein in Iraq, efforts of the United States to increase resources contributed by foreign countries and international organizations to the reconstruction of Iraq, the manner in which the needs of people with disabilities are being met in the development and implementation of reconstruction activities in Afghanistan and Iraq, progress made in indicting leaders of the former Iraqi regime for war crimes, efforts by the Coalition Provisional Authority and relevant Iraqi officials to preserve religious freedoms. In addition, this provision includes a monthly reporting of Iraqi oil production and oil revenues, and the use of such revenues, and progress made in accomplishing United States assistance and development goals in Iraq.

This section reflects the requirement of House section 2207 and Senate sections 2309 and 2314.

In the conference report, this provision prohibits funds appropriated or otherwise made available by chapter 2 of title II of this Act from being obligated for any activity in contravention of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts. This is similar to Senate section 2318, and the managers believe this matters.

Section 2217 is a new general provision that relates to women's participation in the reconstruction of Afghanistan and Iraq.

The conference does not include language from the Senate bill expressing the sense of Congress on certain matters. The managers endorsed the intent of this language, specifying further the definition of countries that owed a debt to Iraq that was incurred during the regime of Saddam Hussein should forgive such debt; arbitrary deadlines should not be set for the dissolution of the Coalition Provisional Authority, and that transfer of authority should occur only after the ratification of the constitution and the establishment of an elected government in Iraq takes place; the United States should make every effort to increase the level of financial commitment from other nations to reconstruction in Iraq, and that the United States contributions to these efforts should be done in a manner that promotes economic growth in Iraq and limits the long-term cost to America taxpayers; and, the removal of the Government of Iraq under Saddam Hussein enhanced the security of Israel and other United States allies.

The managers do not include House sections 2212 and 2213 and Senate sections 2308, 2310, 2313, 2314, 2315, 2316, 2317, 2319, and 2320. 

The Inspector General of the Coalition Provisional Authority (CPA). This title is in lieu of provisions in the Senate version of the bill to establish an Inspector General of the CPA. The House bill did not contain comparable provision. The Inspector General will perform oversight and promote transparency on tracking of funds; continue reviewing and accumulating data concerning both reconstruction activities and contracting; monitor the constant flow of information, particularly the accounting of the use of funds and the transfer of funds between agencies and other third parties; and establish controls and a record-keeping system that can accumulate and maintain consistent rules for future reviews, investigations, and/or audits.

Funding is provided for the Inspector General within the Operating Expenses of the Coalition Provisional Authority account in Title II of this Act.

TITLE IV—GENERAL PROVISIONS—THIS ACT

The conference agreement includes a provision, as proposed by the House, which limits the availability of funds provided in this Act.

The conference agreement includes a provision, as proposed by the Senate, designating the amounts provided in the Act as emergency requirements. The House did not include a similar provision, but did include individual emergency designations with each appropriation account.

The conference agreement contains modified language proposed by the House which ensures that schools serving the children of military personnel continue to receive impact funds when their parents are deployed or killed while on active duty and the child continues to attend the same local educational agency. The Senate bill did not include this provision.

The conference agreement does not include additional funds for the Department of Veterans Affairs. The Senate proposal included $1,300,000,000 for medical care. The House proposal did not include supplemental funds. The conference agreement does not include a provision proposed by the Senate (Sec. 5001) requiring the President to submit to each Member of Congress a report on the projected total costs of United States operations and reconstruction in Iraq, and a record-keeping system that can accumulate and maintain consistent rules for future reviews, investigations, and/or audits. The House did not include this provision. The conference agreement does not include a provision proposed by the Senate (Sec. 5006) to permit personal injury claims by United States citizens and their spouses and children against a foreign state relating to such citizens being held hostage between 1979 and 1981. House did not include a similar provision. The conference agreement does not include House section 3004, prohibiting funds from being provided to any unit of security forces of a foreign country if these forces credibly have been alleged to have been involved in abuses of human rights. As this is also a general provision in the annual foreign operations appropriations Acts, the managers expect these criteria to apply to all funds provided in fiscal year 2004.

The managers do not include House sections 3002, 3004, 3005, 3006 and 3007 and Senate sections 5003, 5004, 5005, and 5007.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for this conference is recommended by the Committee of Conference, with comparisons to the 2004 budget estimates, and the House and Senate bills for 2004 follow:

<table>
<thead>
<tr>
<th>Item</th>
<th>Conference Agreement</th>
<th>House Bill, Fiscal Year 2004</th>
<th>Senate Bill, Fiscal Year 2004</th>
</tr>
</thead>
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<tr>
<td>Title II</td>
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<td>$97,442,198</td>
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<tr>
<td>Total</td>
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</table>

GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. J. Res. 75, and that I may include tabular and extraneous material. The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2004

Mr. YOUNG of Florida. Mr. Speaker, pursuant to House Resolution 417, I call up the joint resolution (H.J. Res. 75) making further continuing appropriations for the fiscal year 2004, and
Mr. Speaker, I believe this CR is noncontroversial, and I urge the House to move this legislation to the Senate so that the government can continue to function smoothly and efficiently and so that we can continue to finish our work on the appropriations bills.

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

1115

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

Mr. Speaker, as everyone knows, we are supposed to have our appropriation bills done by the beginning of the fiscal year on October 1. Right now, even if we pass the Interior bill today, the bill to which the distinguished gentleman from Florida has just referred, we will still have 9 of 13 appropriation bills that are pending, and only God knows when we are going to finish them.

This continuing resolution keeps the government open until November 7. It is a very short CR, highly unrealistic in my view, if people have any expectation that this is going to be the last CR that we need. That means that the Members of this Chamber have got to do this this all over again next week and the following week and probably the following week. I distinctly hope that we can be finished here by Thanksgiving. I desperately hope that we can, but my experience is that Members are beginning to tell me that that is not at all likely.

I notice that the reports this morning in the National Journal’s Congress Daily, I notice the report there, and in one of the newspapers this morning, I have forgotten if it was Roll Call or The Hill, which indicated that the Speaker himself is contemplating the possibility of our adjourning until January 15 because of the inability of the House and the Senate to get together on a way forward in doing this this all over again next week and the following week and probably the following week. I distinctly hope that we can be finished here by Thanksgiving. I desperately hope that we can, but my experience is that Members are beginning to tell me that that is not at all likely.

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law enforcement because the White House budget tries to pretend that it is funding homeland security items by reducing funding for the normal aid to local governments, local police departments, in the form of the Byrne Grants and other regular law enforcement programs.

We also have the problem of the Labor Health and Education bill where the education funding falls billions of dollars behind the No Child Left Behind Act which the President trumpeted so loudly just 2 years ago. We have a dispute between Republicans in both Houses over adequate funding levels for NIH, and I think there is considerable discomfort within the Republican Party, and certainly within ours, about the inadequate level of funding for special education for handicapped children.

My point is simply that we are here, late in the year certainly it is not unprecedented. It has happened before under both parties, but I do not recall in quite some time it being this chaotic. And I also believe that it would have been very easy to avoid had we at least modest efforts at reaching a bipartisan approach to the budget resolution, for instance, which has caused the squeeze on appropriation bills.

So, Mr. Speaker, I think we have no choice but to pass this continuing resolution, but I think it is simply another small bridge to next week when we will have to pass yet another one, and I think the best way to break through this problem is not by exhorting people to reach agreement where there is no agreement. I think the best way to break through this problem is by changing the parameters so that we consider a broader-based compromise on some of these bills than has been considered to date.

That is the only way that I see that we can break this bridge. We can give turkey time with any degree of satisfaction and self-respect. Certainly the gentleman from Florida was able to put his bills through the House in a timely fashion, but when such limitations have been imposed, as is the case in this session, it becomes almost impossible for the House and the Senate to reach agreement on time even when one party is in control of all the levers of government as the majority party now is.

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

Mr. YOUNG of Florida. Mr. Speaker, I have no further requests for time, and I only have a brief closing statement. I wonder if the gentleman from Wisconsin said. We still have not the money to adequately fund veterans health care, as the gentleman from Wisconsin said. We still have not adequately funded and taken care of identified problems with veterans health care, and yet money to do that in the bill coming up later today was stripped from the legislation late in the night.

We have the issue of homeland security. I serve on the Select Committee on Homeland Security, and we know that we are not meeting the needs adequately of aviation security; of port security; of the other aspects of homeland security; of first responders, those who we are going to call on, our fire, our police, and others in our home States who do not have the tools they need to respond day to day, let alone to simply catastrophicencies and terrorist attacks. Yet here we find ourselves again on the floor of the House, yet again continuing through a temporary measure the operations of the government.

Things would not be this way if the Republicans held the White House and controlled both the House and the Senate. Oh, well, actually, they do. That is right, I forgot. So it must be the Democrats that are holding things up. Maybe it is Bill Clinton who is responsible for this. I think maybe it is his fault, actually, because he left us with a surplus and now we have a $500 billion deficit and we do not have the money to adequately fund these programs, and we cannot get the votes together to pass anemic bills that will not meet the needs of homeland security, will not meet the needs of America’s young people, will not meet the needs of our veterans or our seniors. We just do not have the money to do it. We do not have any money at all. We are just stuck here.

Except, wait a minute, later today we are going to take up a bill to borrow $87 billion to continue the conflict in Iraq and to build an infrastructure that is gold plated, a wonderful gold-plated infrastructure; but we do not have money here in the United States to perform some of the same functions. We are going to put another $50 million into the Port of Um Qasr. I cannot get $8 million to dredge the ports in my district. The President says we are simply out of money. But we can borrow $50 million for the Port of Um Qasr, and we will be voting on that later today.

Mr. Bremer, the proconsul in charge of Iraq, is appalled that many people
Mr. MURTHA. Mr. Speaker, I yield to the gentleman from Florida, Mr. YOUNG.

Mr. YOUNG of Florida. Mr. Speaker, I yield the gentleman from Florida.

Mr. MURTHA. Mr. Speaker, I yield to the gentleman from California, Mr. LEWIS.

Mr. LEWIS of California. Mr. Speaker, I yield to the gentleman from California, Mr. MURTHA.

Mr. MURTHA. Mr. Speaker, I yield to the gentleman from Florida, Mr. YOUNG.

Mr. YOUNG of Florida. Mr. Speaker, I yield the gentleman from Florida.

Mr. MURTHA. Mr. Speaker, I yield to the gentleman from California, Mr. LEWIS.

Mr. LEWIS of California. Mr. Speaker, I yield to the gentleman from California, Mr. MURTHA.

Mr. MURTHA. Mr. Speaker, I yield to the gentleman from Florida, Mr. YOUNG.

Mr. YOUNG of Florida. Mr. Speaker, I yield the gentleman from Florida.

Mr. MURTHA. Mr. Speaker, I yield to the gentleman from California, Mr. LEWIS.

Mr. LEWIS of California. Mr. Speaker, I yield to the gentleman from California, Mr. MURTHA.

Mr. MURTHA. Mr. Speaker, I yield to the gentleman from Florida, Mr. YOUNG.

Mr. YOUNG of Florida. Mr. Speaker, I yield the gentleman from Florida.

Mr. MURTHA. Mr. Speaker, I yield to the gentleman from California, Mr. LEWIS.

Mr. LEWIS of California. Mr. Speaker, I yield to the gentleman from California, Mr. MURTHA.

Mr. MURTHA. Mr. Speaker, I yield to the gentleman from Florida, Mr. YOUNG.

Mr. YOUNG of Florida. Mr. Speaker, I yield the gentleman from Florida.

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Mr. LEWIS of California. Mr. Speaker, I yield to the gentleman from California, Mr. MURTHA.

Mr. MURTHA. Mr. Speaker, I yield to the gentleman from Florida, Mr. YOUNG.

Mr. YOUNG of Florida. Mr. Speaker, I yield the gentleman from Florida.

Mr. MURTHA. Mr. Speaker, I yield to the gentleman from California, Mr. LEWIS.

Mr. LEWIS of California. Mr. Speaker, I yield to the gentleman from California, Mr. MURTHA.

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Mr. YOUNG of Florida. Mr. Speaker, I yield the gentleman from Florida.

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Mr. LEWIS of California. Mr. Speaker, I yield to the gentleman from California, Mr. MURTHA.

Mr. MURTHA. Mr. Speaker, I yield to the gentleman from Florida, Mr. YOUNG.

Mr. YOUNG of Florida. Mr. Speaker, I yield the gentleman from Florida.

Mr. MURTHA. Mr. Speaker, I yield to the gentleman from California, Mr. LEWIS.

Mr. LEWIS of California. Mr. Speaker, I yield to the gentleman from California, Mr. MURTHA.

Mr. MURTHA. Mr. Speaker, I yield to the gentleman from Florida, Mr. YOUNG.

Mr. YOUNG of Florida. Mr. Speaker, I yield the gentleman from Florida.

Mr. MURTHA. Mr. Speaker, I yield to the gentleman from California, Mr. LEWIS.

Mr. LEWIS of California. Mr. Speaker, I yield to the gentleman from California, Mr. MURTHA.

Mr. MURTHA. Mr. Speaker, I yield to the gentleman from Florida, Mr. YOUNG.

Mr. YOUNG of Florida. Mr. Speaker, I yield the gentleman from Florida.
Without the help they need and deserve through monies that are held in the Federal unemployment trust account. There is $20 billion there. We should be using this time to extend the unemployment insurance system for people who are going to need that help. Instead, the next week goes by with no action at all.

Mr. Speaker, let me mention the second issue which my friend from Arkansas mentioned earlier, and that is the prescription drug issue. Since last week I have had three or four town hall meetings in my district in which the seniors have asked me what is going on on the prescription drug issue, and I have to tell them I do not know because the conference has not met in the open. The House Democrats have been excluded from the conference. I do not know why that is true. After all, one would think that this is an issue that we would want to get completed this year, where we have a real benefit within the Medicare system for our seniors to cover their prescription drug needs.

In my district, there are literally thousands of seniors who cannot afford their prescription drugs. They are cutting pills in half. They are taking a pill every other day when they should be taking it every day. We need to get that done before Congress adjourns. But the only way, as my friend from Arkansas pointed out, that is going to be done is if we have a true, open conference in which Democrats and Republicans can work together to bring out a bill that really provides a real benefit within the Medicare system to get our work done.

So I understand we are going to extend the CR for another 7 days so that Congress can try to work its will on the appropriation bills. I also understand we are nearing the end of the session, whether it is Thanksgiving or Christmas; and one way, I would hope, must-do bills is the prescription drug bill. But not just any bill; not a bill that will hurt seniors, not a bill that is going to affect those who already have prescription drugs and they are going to find out their employer is going to terminate their prescription drug coverage because of what we are doing here; not a prescription drug bill that has no true benefit our seniors can rely on; not a prescription drug bill that has gaps in coverage where seniors are wondering why they are paying high premiums and not getting any benefits; not a prescription drug bill that does not do something to bring down the cost of prescription drugs in our country. That is not what they want.

The only way we are going to make sure that we carry out our commitment on prescription drugs is we openly meet, with the public looking at what we are doing, and resolve these differences in a way that makes sure that we get our job done well and right.

So, Mr. Speaker, I hope that we use these next 7 days not only to reconcile the differences on the nine remaining appropriation bills that should have been passed by October 1, which we should have done well before this date, but we reconcile our differences on the other mandatory bills before Congress adjourns to provide prescription drug benefits for seniors. What we desperately need is within the Medicare system, a real benefit, a benefit that they know will help them deal with the ever-increasing costs of prescription medicines, and a bill that will extend the unemployment benefits not just to those 80,000 Americans every week who are exhausting their State benefits, but also the million and a half who already have exhausted their Federal benefits that need extra weeks that are included in the legislation that has been filed by the gentleman from New York (Mr. Rangel) and me.

1145

Mr. Speaker, I thank the gentleman from Wisconsin (Mr. O'KEY) for yielding me this time so we can put this particular legislation in context. It is not just about extending government; it is also giving us an opportunity to get our work done before we adjourn this session of Congress.

Mr. O'BEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, since I first came to this body in 1969, we have had divided government for all but 6 years. The only time we have had Democratic control of all of the power levels of government was the 4 year period under President Carter and the first 2 years under President Clinton. For the rest of that time, we have had divided government until the Republicans took the whole shebang in the last election.

It is clear that regardless of what we want to talk about in yesterday's chapters, the chapter being written today is the Democratic majority is in control of all of the power levels of government, and they are in a very big debate with themselves. As a consequence, we again, as was the case last year, do not have the work done. That is not the fault of the gentleman from Florida. I do believe it is the fault of those who have decided that every issue will be decided within the Republican caucus rather than trying to work out more broad-based bipartisan bills.

Nonetheless, that having been said, we have no choice but to pass this resolution. I would hope that we would have a sense of realism about how to get the job done between now and the next work done before we are going to, so I am afraid the gentleman from Florida (Mr. YOUNG) and I will be back on the floor next week and the following week pursuing these week-to-week extensions. Sooner or later, we simply have to change the mind-set which has allowed this drift to continue.

Mr. Speaker, I ask for an "aye" vote on the resolution.

Mr. YOUNG of Florida. Mr. Speaker. I yield myself the balance of my time. First, I want to needle the gentleman from Pennsylvania (Mr. MURTHA) and then I am going to compliment the gentleman from Wisconsin (Mr. O'BEY), and then I am going to offer a few comments about the issues on the CR.

When the gentleman from Pennsylvania (Mr. MURTHA) said in a friendly way that he was going to needle me, I want the gentleman to know that I have been, well, so many, times there is not much room left to put needles in, but I am prepared, willing, and able.

Mr. Speaker, I want to compliment the gentleman from Wisconsin (Mr. O'BEY) for several reasons. The truth of the matter is that the House's part of this appropriations process has worked very well. The gentleman from Wisconsin (Mr. O'BEY) has been a major player in making this process work. Now, I would say we do not always agree with each other, but in fact, we disagree a lot. But occasionally we agree with the gentleman from Wisconsin and we support what he wants to do. But when we do not agree, we do not agree; and we are the majority so we can outvote him.

The year when the gentleman from Wisconsin (Mr. O'BEY) was chairman, we did not have any CRs. All 13 appropriations bills were passed by October 1, which is the beginning of the fiscal year, and I complimented the gentleman for that because that does not happen very often. In fact, in the last 16-18 years, it has only happened twice. Once was under the watch of the gentleman from Wisconsin (Mr. O'BEY), and he deserves a lot of credit for that. But I would also remind the gentleman that he had 82 more Democrats than Republicans, and that made his life a lot easier.

Mr. Speaker, the House has been very successful this year. Let me just relate to what he is talking about, what happened in the House. The gentleman from Wisconsin (Mr. O'BEY) said he did not want a repeat of last year, and I say Amen to that. We do not want a repeat of last year when we could not even get our CRs voted to the floor, although we had marked them up in committee.

So at the beginning of this year, we completed 11 of last year's 13 appropriations bills. We completed, conferred, and passed them, and they were signed into law. We also completed, in the House and conference, one major supplemental. We have passed all 13 of our regular fiscal year 2004 bills. We have also passed a mini-supplemental that has been conference and sent to the President which has now been signed. We have filed the major supplemental, which will take up in the House this afternoon. So we have had a very, very busy year on the Committee on Appropriations front, here in the House of Representatives.

Our work is not done yet. When we pass the Department of Interior bill today, that will be only four of the 13
bills completed. There are four more in conference: military construction, energy and water, Labor-HHS and transportation. We expect to send to conference the foreign operations bill next week. There are still four bills in the Senate waiting action by the full Senate. The Appropriations Committee on Appropriations bills, the minority are aware of anything that are excluded; and I communicate on a regular basis. Members sign up to get their paychecks every month, and should be allowed to do it. Members are still not at the end of the year. We will conclude our business before then, but if someone is anxious to get out of here, they should look for different employment.

Mr. Speaker, I yield back the balance of my time and ask for a yes vote on the CR.
MOTION TO ADJOURN

Mr. BERRY. Mr. Speaker, I move that the House do now adjourn.

Mr. Speaker, I would briefly remind the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) that the House is, of course, primarily responsible for the safety of the Nation's skies through activities ranging from the continued monitoring by air traffic controllers to the development of new airspace technologies.

The district that I am honored to represent contains Miami International Airport, consistently one of the nation's busiest.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SWEENEY) during the vote. Members are advised there are 2 minutes remaining on this vote.

SO THE MOTION TO ADJOURN WAS REJECTED.

The result of the vote was announced as above recorded.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2115, VISION 100—CENTURY OF AVIATION REAUTHORIZATION ACT

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 422 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2115) to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from Florida (Mr. LINCOLN DIAZ-BALART) is recognized for 1 hour.

Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending during consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. LINCOLN DIAZ-BALART (Florida asked and was given permission to revise and extend his remarks.)

Mr. Speaker, I would briefly remind Congress of the essential authorizations provided through this bill. First and foremost, the legislation reauthorizes the FAA for 4 years and $3.4 billion in fiscal 2004, increasing by $100 million each year thereafter. The FAA is, of course, primarily responsible for the safety of the Nation's skies through activities ranging from the continued monitoring by air traffic controllers to the development of new airspace technologies.

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the Nation's busiest, both for international and domestic travel. I am always impressed by the level of public-private cooperation between such organizations as the FAA and Miami International. This cooperation is evident, as well, through many provisions in this legislation. For example, $500 million for airport security improvements at airports; grants and tax credits for low emissions; compensation to general aviation for losses from security mandates; and war risk insurance to the airlines through March 30, 2008.

This Congress was quick to assist airlines after the tragedy of 9-11, and rightfully so. The economic benefits from the movement of people and goods the airlines provide obviously demanded our attention. However, we must also consider those smaller aircraft which were restricted for months. Accordingly, this Congress will act through the underlying legislation to help general aviation return to financial viability by providing compensation for the hardships on their business. This bill authorizes $100 million for these general aviators that were greatly affected by increased security restrictions.

I would like to thank the gentleman from Alaska (Chairman YOUNG) and the gentleman from Florida (Chairman MICA) for their extraordinary leadership on this important reauthorization, and I urge my colleagues to support this important rule and the underlying legislation.

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

Mr. MCGOVERN. Mr. Speaker, I thank my friend from Florida for yielding me the customary 30 minutes, and I yield myself 5 minutes.

Mr. Speaker, I rise in strong opposition to this rule, and I urge my colleagues to vote it down. Just when I think I have seen everything, the Republican leadership comes up with a new surprise. We are seeing appropriation bills that no one can amend. We have seen huge multibillion dollar omnibus spending bills being written in secret and shoved through the House. We have seen twisted arms and broken promises. But tomorrow is Halloween and the leadership has come up with a brand-new trick: the invisible conference committee.

As everyone knows, just 2 days ago, the Republican leadership, after nearly 5 weeks of delay, finally brought up a rule to send the seriously flawed FAAA conference report back to the conference committee. The House, in a bipartisan way, approved that rule, with the hope that the flaws in this bill could be fixed and we could reauthorize important aviation and safety programs. Instead, the invisible conference committee did not hold a single public meeting, a violation of House rules, and did not give Democratic members any opportunity for input or amendment. In fact, Democratic members of the conference were never even notified that a conference was taking place, and they were never notified that a new report was ready until after this new conference report was filed.

Now, I do not even know if Republican members of the conference committee met, or if some leadership aide or some lobbyist changed the bill himself on the back of a napkin and that he would talk to his leadership about it. With all due respect, Mr. Speaker, it is not enough to feel our pain. What we are looking for is fairness. Last night, the Committee on Rules Republicans could have stood with Democrats and demanded that the House rules and procedures be respected. They had their chance to make their actions match their rhetoric. But sadly, they chose, once again, to follow their leaders, rather than follow the rules.

Again, this is not an isolated incident; this is part of a continuing pattern of disregard for the rules of this House, disregard for other points of view, disregard for open debate, disregard for the will of this chamber, and disregard for the American people.

As I have said before, I understand that the majority has the responsibility to manage the House and that the Committee on Rules can be a tool in that effort. But under this Republican leadership, the Committee on Rules has become not a tool, but a weapon, a weapon used to smother, stifle, and suppress; a weapon used to cover up bad behavior and undermine the democratic process.

These matters, Mr. Speaker, are not just "inside baseball." They are matters that directly impact the American people. In this case, the conference report for the FAAA bill does not just reflect the Republican will of both the House and the Senate; it also jeopardizes the safety of the people we represent.

The bill still allows for the privatization of air traffic control, despite the fact that both the House and the Senate voted to prohibit privatization. If this provision becomes law, it will begin the dismantling of the air traffic control system as we know it.

We cannot allow our air traffic control system to be chartered to the lowest bidder. Safety must come first, and we cannot do it on the cheap.

A while back, some Republican Members claimed that they opposed privatization so strongly that they pledged to vote against the conference report. I hope they follow through with that promise today.

And the bill, Mr. Speaker, still changes antiterrorism training for flight crews from mandatory to discretionary. The Transportation Security Act of 2002 directed the Transportation Security Administration to issue security training guidelines for flight crews. Section 603 of the FAAA conference report guts this directive in order to give air carriers the authority to establish those training requirements at their discretion. The TSA has developed the training for Federal flight deck officers and the Federal air marshals. It only makes sense that the TSA should be responsible for setting the antiterrorism training for flight attendants so that there is a coordinated response from the entire flight crew in the event of a terrorist attack. To do anything less, Mr. Speaker, is to place special interests above passenger safety, and that is absolutely unacceptable.

Mr. Speaker, this is not the way the people's House is supposed to run. What has happened with this conference report is an outrage and an insult, not only to Members of both parties, but to the people we represent. I strongly urge my colleagues to defeat the previous question and defeat the rule.

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

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume.

I certainly have not seen it all, but I am learning a lot this morning, hearing the debate. Approximately 150 towers were privatized during the Clinton years. This legislation does not mandate any privatization of towers, and yet trying to reconcile with this reality and these facts, what I am hearing.

Mr. Speaker, at this time, in order to elicit some information and some facts about what the legislation is doing, I yield such time as he may consume to the gentleman from Alaska (Mr. YOUNG), the chairman of the Committee on Transportation.

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. Speaker, this is outrageous.

Mr. Speaker, again, I would like to thank the gentleman from Florida (Mr. MICA) for carrying this load. I had to come to this floor because there has been a lot of misunderstanding about this legislation.

All the way through this legislation the gentleman from Minnesota (Mr. OBERSTAR) and his staff, Stacy, were involved in this legislation as it passed from the committee and to the House floor. I was charged as chairman of the committee to meet with the Senate, and it is a two-way street, and the Senate and the House did meet.

By the way, in this bill, for the other side, the Democrat side, the provision included a special rule to maintain the minimum AIP entitlement at small airports that had lost passengers. That was the gentleman from Massachusetts' (Mr. MCGOVERN) piece of legislation. It included a sense of Congress on freedom of the air for the newest flights. That was the gentleman from Illinois (Mr. LIPINSKI). Increase the Metropolitan Planning Organization, MPO, participation in airport planning...
Mr. MICA. The gentleman will state his inquiry.

Mr. ROTHMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. Under the precedents of the House, a conference report must be the product of an actual meeting of the managers appointed by the two Houses.

Mr. PASCRELL. Mr. Speaker, has that been the case with this bill?

The SPEAKER pro tempore. The pending resolution proposes to waive all points of order against the conference report. Members may debate the necessity or advisability of doing so.

Mr. PASCRELL. Mr. Speaker, so in other words, the Committee on Rules made their statement, therefore, that this is the answer to the question, really.

Correct, Mr. Speaker.

The SPEAKER pro tempore. The Chair will just reiterate what was just stated.

Mr. PASCRELL. Mr. Speaker, let me say this. That on 911, this public system that we have in the United States was able to land 700 planes in a very short period of time. They cleared the air in 2 hours. And as the ranking member of this committee has stated most eloquently, if the control of the national air space and the safety of the traveling public is not a governmental function, one has to question what is. And I think that sums it up in a nutshell.

We have had a failure of privatized baggage screening in this country, and that is why we moved into the public sector. And while those on the opposition would say that this does not, this does not advocate privatization, we know what the agenda is down the street, a part-timing of the workforce in this country, no question about it, and trying to do everything we can to undermine organized labor. My colleagues know it and I know it, regardless of where one stands on this legislation.

If one says this has nothing to do with this legislation, then what are we debating for? Why did this House vote 418 to 8, which is a pretty startling number, 418 to 8, the Committee on Transportation, and Infrastructure voted, they made their decision very clear. And it is an absolute abomination that we have taken that vote and tried to strain it, cleanse it, to do everything we possibly could to it, to bring back any of the floor legislation that we had bipartisan support, that did have bipartisan support, in order to divide this Chamber. Division, division, division. Because you have in sight your objective, and your objective is to part-time the workforce in America. You have not gone far enough. And you are afraid to talk head-on to it.

This is not the end of it. There is going to be more than adjournments, it is going to be more than debates. It is a central issue in American politics today.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Florida (Mr. MICA), chairman of the Subcommittee on Aviation.

(Mr. MICA asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. MICA. Mr. Speaker, I am pleased to respond to some of the points that have been raised on this particular rule. Having participated in the development of this legislation on this conference report, I am familiar with some of the details that I think we should, again, separate fact from fiction.

First of all, the conference did meet. I have a copy of the transcript of the conference. Let me say, first of all, in the development of this bill, I have heard comments about this not being a bipartisan effort. I can say that I have been in the Congress for 11 years. And I was in the minority, and I saw how things operated in an oppressed fashion, being part of the minority I said that would never happen when I was given the opportunity to be in a leadership position.

So I conducted more hearings on the reauthorization of AIR-21, FAA reauthorization, than we did on AIR-21’s original hearings. And I have a list of all of the hearings that we conducted. I went into the home districts of the ranking member and conducted a hearing. I can tell you with every single issue in this piece of legislation, the minority was consulted.

The chairman of the committee, the gentleman from Alaska (Mr. YOUNG), just got up and told you that much of this legislation, in fact, is the work product of the minority. Opportunities I could not have dreamed of when I was in the minority.

So to say that somehow this has been unfairly conducted, or some opportunity not given, is not correct. It is not factual.

But we get to the point of the conference. A conference was held and the major issue, there has only been one point of contention on this legislation from the beginning. That is the question of the contract towers. We held a hearing and we had an actual vote on that issue.

Here is the vote. Here is the transcript. Let me read: “Mr. OBERSTAR. Mr. Chairman, if I am recognized for the purpose of a motion, I move to adopt the language that has been referenced with respect to the language of air traffic control privatization and the air traffic control tower language.” There was a vote and they lost.
We put in the provision 69 towers. It was done in an open meeting. They were given an opportunity for a vote. This is the vote.

Mr. Speaker at this point I will insert this into the RECORD.

Mr. PASCRELL. Mr. Chairman, if I am recognized for the purpose of a motion, I move to adopt the language I have referenced with respect to the language on air traffic control privatization and the air traffic control tower language.

Mr. YOUNG. On the House side, all in favor, saying aye. All opposed, by saying no. The noes have it.

So this was done in fairness.

Now, I do not remember too many conference reports that have been filed and been out there. We filed this the July 24. The conference has been out there. And we would have taken this up the week that we left, but we did not have time on the floor.

And in the meantime, NATCA has spent, I am told, do not know if this is accurate, but $6 to $7 million in a campaign of disinformation to take this provision out. Now, what we have done is we won in an open conference, and now we have recommitted the bill and we have agreed to take out the disinformation, so we lost. We gave again to the side to take out the provision, and they still are not happy. They say they are not being treated fairly.

We had a vote, we had an open conference, and we have taken out the issue of contention. All the other issues, every issue, was debated, every issue was discussed in hearings. And I have copies of all the hearings. I would be glad to have them made part of the RECORD.

So, again, the question of unfairness is unfair. Let me say to the gentleman from New Jersey (Mr. PASCRELL) who just spoke, and I have the greatest respect for the gentleman, the planes that I heard that Monday, November 11 that they brought down, half the towers in the country, almost half the towers in the country, 219 are contract towers. They are supervised by the Federal Aviation Administration. They are managed by private contractors. So on September 11, those people performed well.

The issue of the 69 towers, the 69 towers we did not pick out of the vacuum, out of the sky to put in the bill to look at for possible conversion to contract towers. Most of the FAA towers were examined in the year 2000 by the Inspector General. Not by the CBO, not by some partisan group, but by the Inspector General.

The Inspector General looked at those towers. He compared them in 2000 and found that the all FAA towers had 2.5 times more safety errors than their counterparts, the contract towers. And the cost was substantially more.

This did not satisfy the union, so they said you did not do the right comparison. You have to compare the flights, the number of flights, hours of operation. So they did that. And they just completed that. You know what? An even more exact comparison found, that three times the error rate in the FIA towers are less safe. And they cost, look at it, the report, an average of 12 of them, $917,000 more to run.

So, we have taken out the provision that was objectionable to the other side, and they are still not happy. This reminds me of a song, the Hokie Pokie: You put your right foot in. What else can we do?

So we are here today, folks, to stop the Hokie Pokie. This is very serious because our aviation system depends on it. Our improvements of our airports depend on it, and that is in this legislation. The security improvements depend on it, and many of our airports are lacking those security improvements. They are being held up because this bill is not passing.

Essential air service to our small and rural communities, never before have we produced a piece of legislation that will do more to expand air service with an aviation system that now has been underestimated in our business, which is bizarre. There is $9 million right back. This will do more of the job to create employment and opportunities for all Americans.

So the argument that we have not given a fair opportunity to the other side to be heard. The argument that is being posed here today that we somehow did something in the dark, without consultation, here is the record. This is the record. We have had fair. We have been open. We have even acquiesced to their number one demand and to what the union has spent $7 million on in an unprecedented campaign of lies and distortion and misinformation, so we can move this legislation forward, so we can help our ailing aviation industry.

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. DeFazio), who is the ranking Democrat on the committee.

Mr. DeFAZIO. Mr. Speaker, that was a wonderful exercise in obfuscation.

The critical thing is that the House voted unanimously to send a failed bill, a bill which had inserted privatization into a system that no one voted to privatize when the bill passed the House and the Senate will take up and a majority voted to not privatize, and they had a press conference and then they brought the bill back. I was supposedly a member of the privatization committee. There was no conference committee. We did not meet. We found out from the press that they had reported back the conference.

The conference in July, which was called in a very hurried way, yes, we agreed to take right off towards my hotel room. Every morning I look out and there is the open right side. That is interesting experience and I want to make sure everything is done right in that field.

So somehow in Alaska, nowhere near as busy as many of the other airports down here, this is going to privatize, but somehow it is safe to privatize other major facilities. In fact, what the majority has done is they took out these 69 airports and they have opened the door wide because the chairman has stripped the original exclusion of the House and the Senate on privatization from air traffic control from the bill entirely.

So now the President has determined that the air traffic control of this country, the control of our air space, the safety of the traveling public, is not an inherently governmental function. That is what the President has done, reversing an executive order of the previous Clinton administration. He has opened the door to privatize the entire system or, worse yet, to fragment it up and cherry-pick out some profitable areas to be subcontracted or contracted to Halliburton or others.

So this is what is going on that we have the most productive and safest air traffic control system in the world, bar none. What problem are we fixing? We are fixing the problem that nobody is making money on it. It is run by the government. That is the problem. We should put this on the model of the private security we had at airports before 9/11.

Have we so soon forgotten the firms, Argusbright and others, who hired and maintained on staff known felons to provide screening at airports, paid minimum wage, had a turnover of 140 percent, that would be the model for our air traffic control system? They want to open it, dummy it down. As one of my colleagues said, rent-a-controller.

Maybe we can get temporary. Maybe we could transmit all the data, but then people have to think about our aircraft spacing. Come on. This is the safest, best run, most efficient system in the world, bar none. What problem are you fixing here? You are not...
against their safety. So I commend the people that fly; and a vote against this investment in the safety of the American rects the deficiency. This bill is an in-
what has been corrected. This bill cor-
ference report is all about safety, not-
ений with cries for needs of money 
ports will receive. It removes us from 
mmandating. This bill puts into statute 
of the post 9/11 period, an airport that 
port that is gone through the trauma 
s major airport in this country, an air-
things that I have just heard.

First of all, this bill is about the 
safety of the American people and a 
failure to adopt this conference com-
mittee would be turning the back on 
the safety of the American people. 
That is number one.

Number two is about if you represent 
a major airport in this country, an 
airport that is gone through the trauma 
of the post 9/11 period, an airport that 
is now working with the CX 9000 equi-
ment and the other equipment we are 
mandating. This bill puts into statute 
the conference committee report, the 
reimbursements in law that those air-
ports will receive. It removes us from 
last-minute supplemental appropria-
tions with cries for needs of money 
from airports and the moving of the 
shell game.

This conference committee report 
addresses the rural and smaller airports 
in this country. This conference com-
mittee report is all about safety, not-
withstanding what one's policy may 
have been on the issue that took us to 
the controversy that caused the bring-
ing back of this conference report and 
for it to be rewritten.

The fact of the matter is it is obfus-
cation if someone stands here in this 
House and says that this bill continues 
what has been corrected. This bill cor-
rects that deficiency. This bill is an 
vestment in the safety of the American 
people that fly; and a vote against this 
rule or against this bill would be a vote 
against their safety. So I commend the 
chairman. I commend the gentleman 
from Florida (Mr. Mica), and I com-
mand all the Members of this House 
who care about the safety of the Amer-
ican people, the safety and security of 
our airports, and the continued great 
aviation industry we have. I urge Mem-
bers to vote for the rule and for the 
final report.

The SPEAKER pro tempore (Mr. 
Sweeney). The Chair will notify Mem-
bers that the gentleman from Florida 
(Mr. Lincoln Diaz-Balart) has 9 1/2 
minutes remaining.

Mr. McGovern. Mr. Speaker, I yield 
3 1/2 minutes to the distinguished gen-
tlewoman from the District of Colum-
bia (Ms. Norton), who is a member of 
the committee.

Ms. Norton. Mr. Speaker, I thank 
the gentleman for yielding me time.

I can identify with the frustration of 
the gentleman from Alaska (Mr. 
Young) and the gentleman from Flor-
da (Mr. Mica) because you really did 
do your job. You have gotten a good bi-
partisan bill out of committee, and I 
know it because up close there were 
things that both chairmen worked with 
me on and got right.

Their bipartisan bill did not have pri-
vatization. It is really hard to find out 
who are the folks that are for privat-
ization because you will not find them 
in the Senate, you will not find them 
in the House, and the Senate, and 
that is who I thought we were. This 
breaks my heart because both chair-
men worked so closely with me to get 
changes in this bill that I wanted and 
some of them were controversial. An 
example is the slots, very controver-
sial.

I did not get all I wanted, but instead 
of the proposed 36, it is down to 20 and 
we worked together to get that. I 
worked with the gentleman from Flor-
da (Mr. Mica) and the gentleman from 
Alaska (Mr. Young) because general 
aviation here had not been reimbursed 
and everybody else had been reim-
bursed. They said we will work with 
you and they did. There is $100 million 
here for the small airports that were 
not reimbursed the way the big airlines 
were.

D.C. was hit especially hard because 
we are not open yet. They worked with 
me on that and there is language in 
the Senate committee report of the 
Homeland Security to develop and im-
plement a plan to open to general avia-
tion, including charters, to the airports 
so that they can come in.

They worked with them on language 
to get airplanes here, state-of-the-art 
airplanes that take more passengers, 
but they are quieter and more fuel effi-
cient. My only regret in this bill for 
myself is that the Metropolitan Air-
port Authority has to come here to ask 
for grant funds, and everybody else in 
the country gets automatically. Having 
all of that good stuff and it is full of other 
good stuff for the entire country in here, 
the chairmen did not want privatization 
here. We have privatization messing up 
the bill and causing a huge controversy 
in this House.

First, the small airports will be the 
guinea pigs. The poor 69 airports they 
have come and screamed to high heav-
universally. My friends, are we 
safest if we believe that se-
guinea pigs. The poor 69 airports they 
have come and screamed to high heav-
universally. My friends, are we 
safest if we believe that se-

Now, the House rules governing con-
ference committee requires that at 
least one conference committee be held 
and that means is that all of the 
conference, all of the conferences get 
involvement by the House of Represen-
tatives, a chance to promote, to debate, 
and to give the House the best chance for 
representing the American public. 

Mr. Young. Mr. Speaker, this confer-
ence report which is the subject of the 
rule represents only the second time in modern 
history that a conference report filed 
by the Committee on Transportation 
and Infrastructure does not include a 
single Democrat signature. The first 
time this happened was the first con-
ference report on this same bill which 
subsequently had to be recommitted, 
and this last conference report is no 
better; and we will be back here again 
because this bill will simply not pass 
the Senate.

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the Senate.
in Iraq. We are in Afghanistan, but here in the greatest democracy in the world, Democrats representing 134 million Americans in this country through the 206 members of the Democratic Caucus do not get invited to a conference to help shape the House rules and the conference, you corrupted the will of the House that voted overwhelmingly in a bipartisan manner on this question of privatization of air traffic controllers.

The House clearly said we do not want rent-a-controllers. The chairman of the full committee in the first conference report did not want it for Alaska. So if it is not good for Alaska, it is not good for any other State of the Nation. I agree with him and his wisdom. Also, you corrupt the process when you do not permit the opportunity for our colleagues to participate on behalf of those 134 million Americans. After September 11 we did not privatize screwing up what was already privatized. They federalized them. And on the September 11 day, it was these air traffic controllers that brought to the ground hundreds and hundreds of planes across the country in a very incredibly short period of time. The process to ensure that the safety of those who were traveling was greater than those planes and the safety of all Americans should those airplanes be used as they were used in New York and in the Pentagon as weapons of mass destruction.

So let us give to air traffic controllers in a privatized function the responsibility for air security as well.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I might consume.

America cannot afford, in terms of the traveling public's safety once they are in the air, to have those airplanes which we have seen can be turned into weapons of mass destruction, ultimately be controlled by some privatized entity.

We need to continue to keep it as it is. It is the safest, most reliable system in the world. I simply do not know why we are trying to undo that, and I certainly do not know what is so terrible about the concept of ideas that my colleagues cannot have us in the conference room and the opportunity to make sure that the rest of America knows what they are doing.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume.

I sympathize with my good friends on the other side of the aisle. When I arrived in this Congress along with the gentleman from Florida (Mr. Mica) 11 years ago, I was in the minority, and I remember having to have the votes, the majority of the votes to get one's ideas passed and to come into law. So I sympathize when now our colleagues on the other side of the aisle do not have the majority of the votes, how they must feel, but I think it is important that some facts now be put on the record, Mr. Speaker.

This legislation before us mandates no privatization of towers. During the years of the Clinton Presidency, approximately 150 such towers were privatized. I do not recall my friends protesting, but this legislation, which obviously they are complaining about today, mandates no such privatization of towers. Before we had 150 during the Clinton years.

Despite the fact that we on this side of the aisle have the majority of the votes, it is important to point out that in the writing of the bill and the original conference report, our friends on the other side of the aisle were intimately involved. Many provisions, in fact, were included in the bill at the request of our friends on the other side of the aisle.

For example, a special rule to maintain the minimum AIP entitlement at small airports that have lost passengers, I am told the gentleman from Massachusetts (Mr. MCGOVERN) came forth with that idea.

A sense of presence on 5th freedom and 7th freedom flights, I believe the distinguished gentleman from Illinois (Mr. LIPINSKI) brought forth that idea.

An increase in the MPO participation in the airport planning process, I believe the gentleman from Oregon (Mr. BLUMENAUER) had that idea.

Requirement to provide additional information to families affected by aircraft accidents, I believe the gentleman from New Jersey (Mr. ROTHMAN) had that idea.

Flight attendant certification, deadline for issuance of Stage 4 noise reduction rule, curriculum standards for maintenance technicians, provision on foreign repair station security, all of these ideas came from our friends on the other side of the aisle.

So it is important for the facts to be known. There is frustration in being in the minority. I remember my first term here, but let us not negate the facts that in the fairness of the majority, many ideas of the minority were included and considered. I think that is required by democracy, respect for the minority, and we see in this legislation the fruits of much respect for the minority, but in addition to ideas that were brought forth by the minority, there are many ideas brought forth, I would say more many, by the majority that are very important to the safety of aviation in this country, Mr. Speaker, and that is why we must pass this legislation today.

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

Mr. MCGOVERN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished member of the Committee on Rules for yielding me the time.

I thank the Speaker and I guess my good friend on the other side of the aisle, the good friend of his that if I must answer the question about our frustration, it is because democracy has been hijacked. The simple question is on this FAA reauthorization is why this could not have been sent back to the conference committee.

And now, without further details, we have an incidence on this campus dealing with some potential danger. We are living in a new climate, Mr. Speaker. We are living where Americans are afraid because we suffered through 911 and the tragic loss of life. What an outrage to suggest that in this climate, we will begin to privatize air traffic controllers, the most crucial aspect of flight operation, and to my good friend, the 150 privatized that he has included in this legislation, that is wrong. They were not under FAA authorization, Mr. Speaker. We are grabbing these from FAA authorization.

Let me just say, Mr. Speaker, in conclusion, we do not have trained flight attendants. My colleagues have taken out the language about settling the question of 65-year-old pilots.

This is a bad bill. They have hijacked democracy. We should vote no for this, and the other side realizes that it has treated us unfairly. This rule should be voted down.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I might consume.

I just to reiterate, we reiterate some facts that I attempted to bring out before. First of all, with regard to the towers privatized, airports privatized, during the Clinton administration, about 100 of them were former FAA staffed towers. I repeat, that in the legislation brought forth today, there is mandated no privatization of towers.

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

Mr. MCGOVERN. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Speaker, I rise on behalf of the largest general aviation airport in this country, Van Nuys, and the millions of people who live in its environs. This bill is designed to selectively privatize air traffic control. That is unsafe, and it is inherently going to be political.

The chairman of the committee said, 'my hotel room is on the top floor of the Sheraton, and airplanes take off right towards that room.' That is why Alaska was not going to be included in earlier drafts of this bill. The gentleman from Florida (Mr. Mica) announced to the Avison Corp. that he was going to selectively include and exclude airports based upon which political support he needed for the bill. But at least the prior drafts of this bill...
represented an open, corrupt, political process for deciding which constituents must live with unsafe conditions, that the chairman of the committee would not subject himself to. This bill [in its final form] provides us with a political decision-making, with the White House doing everything [which air traffic control towers to privatize] behind closed doors. Vote against the rule, and against the bill.

Mr. MCGOVERN. Mr. Speaker, can I inquire how much time is remaining on both sides?

The SPEAKER pro tempore (Mr. SWEENY). The gentleman from Massachusetts (Mr. MCGOVERN) has 4½ minutes remaining. The gentleman from Florida (Mr. LINCOLN DIAZ-BALART) has 6 minutes remaining.

Mr. MCGOVERN. Speaker, I yield 4½ minutes to the distinguished gentleman from Minnesota (Mr. OBERSTAR), who is the ranking Democrat on the Committee on Transportation and Infrastructure.

Mr. OBERSTAR. Speaker, I thank the gentleman for yielding the time.

I am somewhat bemused by the quaint reconstruction of history to which we have been treated by the chairman of the subcommittee, reconstruction of what took place in the House-Senate conference that met for 1 day July 24 and has not met since.

The gentleman also said there was only one issue, only one amendment offered. It was a conceptual amendment that we treated to a concept to which we had been treated but for which we did not have paper. And so since we did not have, and contrast every conference I have previously participated in over 24 years, I offered an amendment in concept, one that we have decided what the issue was. There

We were notified of votes in the House and in the Senate. The conference adjourned with a reference by the chairman of the conference that we might meet again, if we could somehow get together, but it was urgent and important to get this bill through conference, to the House and Senate floor, so that it could be passed before the August recess. The reason there was only one subject discussed was that all that we were given time to discuss. There are at least four major issues. One, the traffic control privatization which has been said time and again in this Chamber and the House voted clearly to prohibit the privatization of the air traffic control system; the other body did the same. And yet the conference report that appeared the day before, after this very important meeting that we had to conclude the work of the conference and never met again that night, magically a document appeared, and the item that had been voted on and recorded votes in the House and Senate, just disappeared.

We never had, in the conference, an opportunity to discuss other issues such as mandatory training of flight attendants. We never had an opportunity to discuss the cabotage issue in Alaska, and we never had an opportunity to discuss the matter that the gentleman from Pennsylvania (Mr. Peterson) the day before yesterday, so forcefully brought up. This, which was essential air service and requiring small communities to pay for air service, never had that discussion in that conference, and this document appeared full blown from the head of Zeus, magic.

Why could we not have documentation at the conference 24 hours earlier? This is beyond me, but that did not happen. So then 94 days expired without that urgent bill being brought to the House floor, and then finally the majority decided that either there were not the votes in the Senate or there were not the votes in the House to pass the document as reported from the conference. So they came back to the House Committee. The Committee on Rules brought a bill to the floor. We all voted, record vote, unanimous on both sides, urged all Members on our side, vote for it.

This is exactly what we had asked for back to back to back, and we had a gentlemanly discussion about conference and then it did not happen.

That is unprecedented in our committee, and I think an insult to the Members of the House, and I take it personally. It has been 40 years on the Committee on Transportation and Infrastructure. Never have I seen this happen. Voices were stifled. I see the gentleman from Illinois who presided at the event honoring the previous minority leader with the words, The greatest speaker who never was, Mr. MICA, who said at that ceremony, I never felt in the minority that I was excluded because of the rules of the House protect the voice of the minority. The rules were suppressed, absconded with when they the majority failed to reconvene the conference as the rules of the House require. That is what is wrong.

Mr. LINCOLN DIAZ-BALART of Florida. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. MICA), the distinguished chairman of the Subcommittee on Aviation.

Mr. MICA. Speaker, as we conclude the debate on this rule, again I urge Members of Congress not to vote for this rule. We have tried to be fair in this process. We have tried to be fair. There is one issue. I mean we can talk about a host of other issues, and in this system of 435 Members, I have over 40 Members on the subcommittee. There are over 70 on the full Committee on Transportation and Infrastructure. We all know that we all do not get all of our ways.

We heard the gentleman from the District of Columbia (Ms. NORTON) give a very eloquent reminder of her contribution of us working together. This bill does represent 99.9 percent of us working together to solve issues and move our aviation industry forward.

It does boil down, unfortunately, to the one issue that is divided us. We have acquiesced to the other side. We did put in 69 towers out of the 71 towers identified.

The two from Alaska, and please do not pick on my chairman, the gentleman from Alaska (Mr. Young), he represents an area that is just unbelievable. You have to go see Alaska to believe it. It takes 3½ hours by jet from one end of the State to the other. And the two towers that were named in this report, first of all, the gentleman from Alaska (Mr. Young) is probably more contract towers than any 30 States put together, but the two that were mentioned in this, one is being converted to a capstone, that is the Juneau, Alaska, tower, and the other one, if you go and look at the Anchorage tower, it is quite unique. It has a combination of military, private sector, and FAA operations. So they really do not fit into this program. And that is why that was exempted. But what we have done here is we have taken on all 69.

Now, yes, I offered if anyone wanted to read this report that says that a contract tower which is FAA supervised and privately managed is 4½ times safer, really it has 4½ times less an all-FAA tower and it costs less. Heaven forbid in Congress we should deal with saving the taxpayer money and have something that is safer and costs less, like this report identifies. I suggested we give the other side the opportunity, but they do not want to do that. I said I will give that opportunity. If people want to do that, fine.

The conference participants really have decided what the issue was. There is one issue. Here is the record. So if in fact, boils down, we have taken out the 69 towers from any potential of privatization. There is no mention of privatization in this bill. We gave them basically what they want, and they are still not happy. So, again, it boils down to the vote. We have to vote on this measure.

Again, the question of the executive order, President Clinton, for 7 years and 9 months practically, had the ability to look at any of these towers. He made some of them private with contract arrangements, and then he changed it. We know why he changed it, a huge amount of money, look at the record, you see what happens in campaigns and elections; and this President changed it back to where it was when the President Clinton had it.

And this is the safest system. We have 219 contract towers in the United States. Almost half of the towers in the United States are contract towers, and they are safe. And they also helped in the tragic arrangements, and then it changed. We heard the gentleman from the District of Columbia (Ms. NORTON) give a very eloquent reminder of her contribution of us working together. This bill does represent 99.9 percent of us working together to solve issues and move our aviation industry forward.

That is what we are asking for, plus all the good things that we have
worked together on to make this a better piece of legislation for our country and our American aviation system.

Mr. McGovern. Mr. Speaker, I yield 30 seconds to the gentleman from Oregon (Mr. DeFazio).

Mr. DeFazio. Mr. Speaker, the gentleman has raised several issues. This bill opens the door even wider to privatization. The original House and Senate bills prohibited privatization. This bill does not. The President has determined that air traffic control is not an inherently governmental function. They want to contract it out. They want to make it into private for profit.

And on the so-called operational areas, guess what. They are voluntarily reported. And of the 219 contract towers, only eight of them voluntarily reported an error. To say they had a very low error rate, the GAO determined, the IG determined that this was not a valid study, because we do not have a mandatory reporting. We do not know whether there were errors or not. We cannot say they are 4½ times safer.

And to say that we did this because we want to make this a better piece of legislation, the House and Senate bills referred to the House Calendar and ordered to be printed.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2115, VISION 100-CENTURY OF AVIATION REAUTHORIZATION ACT

The SPEAKER pro tempore. The question was taken; and the Yeas and Nays appeared to have it.

The vote was taken by electronic device, and there were—yes 88, nays 346, not voting 20, as follows:

RECESS

The SPEAKER pro tempore. Without objection, the House stands in recess until 12 o'clock, accordingly (at 12 o'clock), the House stood in recess subject to the call of the Chair.

There was no objection.

Accordingly (at 1 o'clock and 40 minutes p.m.), the House stood in recess subject to the call of the Chair.
ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). Members are advised there are 2 minutes to vote.

Mr. LEWIS of Kentucky, Mrs. JOHN-SON of Connecticut and Mr. RUPPERSBERGER changed their vote from “yea” to “nay.”

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.
The Senate met at 9 a.m. and was called to order by the President pro tempore [Mr. STEVENS].

**Pledge of Allegiance**

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

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

**Recognition of Acting Majority Leader**

The PRESIDENT pro tempore. The acting majority leader is recognized.

**Schedule**

Mr. LOTT. Mr. President, we will have the opening statement from the leader ready in a moment. He has been detained, but he will be here. I will review the schedule.

I do believe the first schedule of events would be statements regarding the nominee to the Fifth Circuit Court of Appeals, Judge Charles Pickering of Mississippi. I believe we will be ready to begin with that momentarily.

Mr. President, this morning we will be proceeding to the debate, as I just outlined, on the nomination of Charles Pickering to the Fifth Circuit Court of Appeals. There will be an hour of debate prior to the vote on invoking cloture on this nomination. The vote will occur sometime shortly after 10 a.m.

Following the vote, the Senate will return to debate on S. 139, the climate change legislation. There will be 2 additional hours for debate prior to the vote on that legislation.

Following the vote, the Senate will resume consideration of the Healthy Forests bill. We expect to have rollcall votes on amendments to that bill throughout the afternoon and hopefully we can complete action on the bill today. It sounds to me as if those involved in that legislation made real progress on the bill. It would be very positive if we could complete that action today.

**Recognition of Acting Minority Leader**

The PRESIDENT pro tempore. The acting minority leader is recognized.

**Recognition of Speaker’s Designee**

The President pro tempore. Following the vote, the Senate will proceed to executive session to consider Calendar No. 400, which the clerk will report.

The legislative clerk read the nomination of Charles W. Pickering, Sr., of Mississippi, to be United States Circuit Judge for the Fifth Circuit.

The President pro tempore. Under the previous order, the Senate will proceed to executive session to consider Calendar No. 400, which the clerk will report.

The legislative clerk read the nomination of Charles W. Pickering, Sr., of Mississippi, to be United States Circuit Judge for the Fifth Circuit.

The President pro tempore. Following the vote, the Senate will return to debate on S. 139, the climate change legislation. There will be 2 additional hours for debate prior to the vote on that legislation.

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The President pro tempore. Following the vote, the Senate will return to debate on S. 139, the climate change legislation. There will be 2 additional hours for debate prior to the vote on that legislation.

The President pro tempore. Under the previous order, there will be 60 minutes equally divided between the chairman and ranking member, with the final 10 minutes divided, with the first 5 minutes under the control of the Democratic leader or his designee and the final 5 minutes under the control of the majority leader or his designee.

The Senator from Utah.

Mr. HATCH. Mr. President, I rise today in support of the nomination of Charles W. Pickering, Sr., of Mississippi, to be United States Circuit Judge for the Fifth Circuit. I am pleased that the Majority Leader has brought this nomination to the floor, as it has been nearly 2½ years since Judge Pickering was first nominated to this position. Since then, his record has been carefully considered. He appeared before the Judiciary Committee in not one, but two lengthy hearings. So there has been plenty of opportunity to consider the qualifications of Judge Pickering.

We have received hundreds of letters of support for Judge Pickering from the public, members of the bar, as well as political, academic, and religious leaders as political, academic, and religious leaders.
leaders. The overwhelming support for Judge Pickering’s nomination from his home state of Mississippi speaks volumes, especially since that support comes from across the political spectrum and from various racial and ethnic groups.

Last month, the Governor of Mississippi and the other Democratic elected statewide officials of Mississippi sent a letter endorsing Judge Pickering stating they believe he should be confirmed. In that letter they noted that Judge Pickering has worked for racial reconciliation and “helped unify our communities.” They go on to state, “Judge Pickering’s record demonstrates his commitment to equal protection, equal rights and fairness for all. His values demand respect the law and constitutional precedents and rule accordingly. He does... As a judge, he is consistent in his fairness to everyone, and deemed well qualified by those who independently review his rulings, temperament, and work.”

Unfortunately, there has also been an unjutified campaign against Judge Pickering, driven largely by Washington special interest groups who do not like Judge Pickering and who have an ideological axe to grind. Make no mistake about it—these groups’ political agenda is to paint President Bush’s fair and qualified nominees as extremists in order to keep them off the federal bench. And it has been reported that a member of this body has accused the President of “loading up the judiciary with right-wingers who want to turn the clock back to the 1890s,” stating that America is under attack from “the hard right, the mean people.” That news report also quoted that same Senator as having said, “They have this sort of little patina of philosophy but underneath it all is meanness, selfishness and narrow-mindedness.”

Noted that that this is the level of discourse that Members of this body lower themselves to in their attempt to score political points or pandering to their supporters. That is their right, if they choose to do so, but it is unfortunate that the opponents of Judge Pickering have attempted to vilify and destroy his good character and exemplary record with distortions and disparaging remarks. For example, at a recent press event in Arkansas opponents continued their smear campaign, with one group describing Judge Pickering as a “racist,” a “bigot” and a “woman-hater.” Such remarks reveal which side is based on meanness.

So today I must stand and defend the character and record of Judge Pickering as he attempts to clear the falsehoods, distortions and mean-spirited remarks in the trash bin where they belong. I was pleased that, despite this intimidation campaign, President Bush in January of this year renominated Judge Pickering for the federal bench. The Propaganda easily gets in the way, so let me remind my colleagues that after fully evaluating Judge Pickering’s integrity, competence, and temperament, the American Bar Association gave him its highest rating of “Well Qualified” not once, but twice—both when he was first nominated in May 2001 and again at the outset of the current Court.

Now I expect we will hear complaints from the other side that this nomination should not be before the Senate. There are those who say the President should not have renominated Judge Pickering, since the Judiciary Committee had already acted on the nomination. That position, of course, ignores the President’s constitutional authority to nominate judges. And the extraordinary action taken by the Judiciary Committee in the last Congress denied the full Senate its constitutional right to advise and consent. Going forward with this nomination today is fair to Judge Pickering, fair to the Senate, and fair to President Bush.

In addition to these procedural complaints, we have heard and will likely continue to hear a recycling of the tired arguments and well-worn parade of horribles—which are horrible in large part because of their gross distortion of Judge Pickering’s upstanding reputation. I fervently hope that opponents of this nomination do not resort to attacks on Judge Pickering based on his personal convictions in an effort to justify their opposition to his nomination. However, I am not optimistic that these attacks can be real-ized, if the unfortunate attack by the extremist abortion group, NARAL, the National Abortion Rights Action League, is any indication. That group, which represents what this debate is all about, says what this debate is all about, states “Charles Pickering of Mississippi was a founding father of the anti-choice movement, and a clear risk to substitute far-right ideology for common-sense interpretation of the law.”

I reject that characterization, but in any event Judge Pickering’s private views on abortion, like any judicial nominee’s personal views on political issues, are irrelevant to the confirmation decision. Judge Pickering has publicly affirmed in his confirmation hear-ings that he will follow established law and Supreme Court precedents—even those with which he disagrees. His record as a jurist demonstrates his commitment to the rule of law and his adherence to those precedents in all his courts, including the 5th Circuit, are bound by Roe and by the more recent Supreme Court decision in Planned Parenthood v. Casey.

For the record, in 1976, then-political advocate Charles Pickering joined a long line of famous Democrats and liberals who believed that Roe v. Wade was wrongly decided. Some who shared his view include Byron White, President Kennedy’s appointee to the Supreme Court, Archibald Cox, the special prosecutor who investigated President Nixon, and Professor William Van Alstyne, a former board member of the ACLU. But I repeat—Judge Pickering’s political views are less important than his expressed commitment to follow Supreme Court precedent, even preced-ents with which he may not agree.

It is outrageous that Judge Pickering, who has three daughters and 11 grandchildren, has been smeared as a “woman-hater” or “anti-woman.” Indeed, numerous women who know and have worked with Judge Pickering have endorsed his nomination, including civil rights attorney Deborah Koren silver and Deputy U.S. Marshal Melanie Rube.

Unlike some of my friends on the other side, I have steadfastly resisted efforts to inject personal ideology into the confirmation process. We have all seen the destructive effects of such tactics on this institution, on the judicial nominations process, and on the nominees themselves. So as we debate the qualifications of Judge Pickering’s nomination, I hope that the Senators get engaged in the issues to such an extent that the personal side of individual nominees might be forgotten. By many opponents, Charles Pickering is portrayed as the stereotype of the Southern white male, locked in the thought, culture and traditions of his upbringing in the deep South of yester-year. This is the caricature they at-tack, but it is not the reality of who Judge Pickering is and who he is. In Charles Pickering we have a nominee with a lifetime record of civic and community service in improving racial relations and enforcing laws protecting civil and constitutional rights.

Judge Pickering’s life story includes an outstanding academic record, an exceptional legal career and a life com-mitted to serving others. He graduated first in his law school class at the University of Mississippi in 1961. While in law school, he was the Law Journal and served as Chairman of the Moot Court Board. Upon graduating, he be-came a partner in a law firm in Mis-sissippi.

During the 1960s, when racial tensions were prevalent throughout Mississippi, Judge Pickering served as City Prosecuting Attorney of Laurel and was elected and served four years as County Prosecuting Attorney of Jones County. During his tenure in office, he put an end to the Klan’s attacks on African Americans and civil rights workers. During his time as County Attorney, the KKK infiltrated the Woodworkers
Union at the Masonite pulpwood plant in Jones County. Klan members beat people, shot into houses, fire bombed homes, and even committed a murder at the Masonite plant. Judge Pickering signed the affidavit supporting the murder warrant of reputed KKK leader Dubie Lee for the murder at the Masonite plant. He also testified against the Imperial Wizard of the KKK, Sam Bowers, at a trial for the firebombing death of a civil rights activist and thus put himself and his family at risk.

Now some may downplay Judge Pickering’s actions during this era, but I want to emphasize the moral courage that he consistently displayed. Let me remind my colleagues of a statement by the chairman of the Mississippi Legislative Black Caucus, state Rep. Philip West, who is a supporter of Judge Pickering and has defended the judge’s civil rights record. Representative West observed, “For him to say one word against the Klan was right in his life.” Mr. President, to hear Judge Pickering now described as a racist or bigot is simply despicable, and I will challenge anybody who does that on this floor.

Throughout his career Judge Pickering has shown a commitment to his community in both a professional and personal capacity. His numerous civic contributions include serving as the head of the March of Dimes campaign in Jones County; as the chairman of the Jones County Chapter of the American National Red Cross; and as the chairman of the Jones County Heart Fund. In 1963 he was recognized as one of the three Outstanding Young Men in Mississippi. Judge Pickering is active in his church and has served many years as a Sunday school teacher, as chairman of the deacons, Sunday school superintendent, and church treasurer.

He has worked with organizations to advance issues that promote equal opportunity for all individuals in his community, church, political party and State. His work with the race relations committee for Jones County and the Institute of Racial Reconciliation at the University of Mississippi are just two examples of his leadership for equal rights in this area. That is why we find such a broad outpouring of support for Judge Pickering across all groups and parties.

I have already mentioned the letter of support from the current Governor of Mississippi and other Democratic statewide officials. Another letter came from William Winter, the former Democratic Governor of Mississippi, who writes, “I have known Judge Pickering personally and professionally for all his adult life. I am convinced that he possesses the intellect, the integrity and the strength of character to serve without taint on that [Fifth Circuit] court. He is wise, compassionate and fair, and he is precisely the kind of judge that I would want to decide matters that would personally affect me or my family. While Judge Pickering and I are members of different political parties and do not hold to the same view on many public issues, I have always respected his fairness, objectivity, and decency.”

Many Senators are familiar with the name Jorge Rangel, who was nominated to the Fifth Circuit by President Clinton. In his letter supporting Judge Pickering’s nomination, Mr. Rangel explains, “I first met Judge Pickering in 1990 in my capacity as a member of the ABA’s Standing Committee on the Federal Judiciary. As the Fifth Circuit’s representative on the Committee, I conducted the primary investigation into his professional qualifications when he was nominated to a federal district judgeship in Mississippi. The Charles W. Pickering that I have read about in press reports during the pendancy of this nomination does not comport with the Charles W. Pickering that I have come to know in the last thirteen years. Competent, compassionate, sensitive and free from bias are terms that aptly describe him. Attempts to demonize him are both unfair and putrid attempts to stifle judicial confirmation proceeding.” Mr. Rangel notes that Judge Pickering called him during the pendency of his own nomination with words of encouragement, and concludes, “The current impasse in the confirmation process is an unfortunate one, because it continues to ensnare many nominees of goodwill who have answered the call to serve. For their sake and for the ongoing viability of our federal judiciary, I would hope that you and your colleagues can find common ground. A good starting point would be the confirmation of Judge Pickering.”

Yet another letter of support came from renowned Las Vegas criminal defense lawyer David Chesnoff, a registered Democrat who serves on the ABA’s Standing Committee on Criminal Defense Lawyers. Mr. Chesnoff, who tried a case before Judge Pickering, writes, “At no time during my experience before Judge Pickering . . . did I ever note even a scintilla of evidence that Judge Pickering did not treat every citizen of our great country with equal fairness and consideration. Based on my experience, the overturning of convictions is an unfortunate one, because it continues to ensnare many nominees of goodwill who have answered the call to serve. For their sake and for the ongoing viability of our federal judiciary, I would hope that you and your colleagues can find common ground. A good starting point would be the confirmation of Judge Pickering.”

Another young African-American drug defendant with no previous felony convictions faced a 40-month sentence under the guidelines for drug crime. Judge Pickering continued his case for a year, placed him under strict supervised home release for 1 year, and then used his good conduct during home release to establish the basis for a downward departure. Judge Pickering ultimately sentenced him to 6 months of home confinement, 5 years probation and no prison time.

A third 20-year-old African-American male faced between 70 and 87 months under the guideline sentence. Judge Pickering downward departed to 48 months and recommended that he participate in intensive confinement, which further reduced his sentence. The defendant’s lawyer called Judge Pickering’s compassionate sentence a “life changing experience” for this defendant.

In another case, an African-American woman faced a minimum sentence of 188 months. The government made a motion for a downward departure. Judge Pickering downward departed to 150 months but plea bargained with her to 63 months.

The last case I want to discuss is the Barnett case. The Barnett, an interracial couple, were both before Judge Pickering, charged with drug crimes. Both were facing sentences between 120 and 180 months, but plea bargained with the government for a maximum 5-year sentence. Judge Pickering sentenced Mr. Barnett to the 5 years but with
Mrs. Barnett, who had Crohn’s disease and was taking care of one of her sick children, he departed downward 22 levels and sentenced her to 12 months of home confinement. At a later time, the government made a motion for a downward. Mr. Barnett later wrote a letter, as she said, out of gratitude for all Judge Pickering did for her and her family. She stated she had learned a valuable lesson, that her family had been brought closer together, and that her husband had changed in many positive ways. She concluded, “I want to thank you for your part in all of this, and I can assure you that your thoughtfulness and just consideration is greatly appreciated and will never be forgotten.”

Thirteen years ago Judge Pickering began his service as a U.S. District Judge. He was unanimously confirmed by the U.S. Senate, which included a good number of members who are still serving in the Senate today, including 25 members of the Democratic Caucus. That affirmative vote was well deserved given Judge Pickering’s excellent academic record, his distinguished legal career, his outstanding character, and his superb record of public and community service. That record has only been enhanced by his service on the bench.

Judge Pickering deserves an up or down vote on the Senate floor. So I urge my colleagues to use proper standards, consider the entire record, and use a fair process for considering Judge Pickering’s nomination. Those who know him best, Democrats and Republicans, representing a broad cross section of citizens, endorse his nomination. An unbiased consideration of Judge Pickering’s character and experience will lead every fair-minded person that Judge Pickering’s record fully justifies our confirmation to the Fifth Circuit Court of Appeals.

As the President said recently, “The United States Senate must step up to serious constitutional responsibilities. I’ve nominated many distinguished and highly-qualified Americans to fill vacancies on the federal, district and circuit courts. Because a small group of Senators is willfully obstructing the process, some of these nominees have been denied up or down votes for months. More than two-thirds of my nominees for the circuit courts are still awaiting a vote. The needlessly delays in the system are harming the administration of justice and they are deeply unfair to the nominees, themselves. The Senate Judiciary Committee should give a prompt and fair hearing to every single nominee, and send every nomination to the Senate floor for an up or down vote.”

I agree with President Bush that this obstruction is unfair and harmful. I have taken to the Senate floor on numerous occasions to condemn the tactic of forcing judicial nominees through cloture votes. My position has been the same regardless of whether the nominee was appointed by a Democratic president or a Republican president. I am proud to say that during my nearly 30 years in the Senate, I have never voted against cloture for a judicial nominee, even on the rare occasion that I opposed nomination and ultimately voted against it.

Yet, once again, some Senate Democrats are filibustering another “Well Qualified” nominee—preventing an up-or-down vote. This is supported by a majority of the Senate. This is tyranny of the minority and it is unfair. Senator KENNEDY has asked “What’s the point of pushing yet again for a nominee who probably cannot get enough support to be confirmed because he doesn’t deserve to be confirmed?” With all due respect, I must disagree with the premise of his question. Judge Pickering does deserve to be confirmed, and, if an up-or-down vote were allowed, he would have enough support to be confirmed.

As I have stated before, requiring a supermajority vote on this or any judicial nominee thwarts the Senate from exercising its constitutional role and authority in advise and consent. The Constitution is clear on this matter; it contemplates that a vote by a simple majority of the Senate will determine the fate of a judicial nominee. There is nothing in the Constitution that gives that power to a minority of 41 Senators.

Furthermore, a supermajority requirement for judicial nominees needlessly injects even more politics into the already over-politicized confirmation process. I believe that there are certain areas that should be designated as off-limits from political activity. The Senate’s role in confirming lifetime-appointed Article III judges—and the underlying principle that the Senate perform that role through the majority vote of its members—is one such issue. Nothing less depends on the recognition of these principles than the continued, unembarrassed respect in which the branch of Government—the one branch of Government intended to be above political influence.

Over the past 2 years I have been accused of changing or breaking committee rules and of pushing ideological nominees. The record will show that these charges are without foundation. In fact, it is Senate Democrats that have pushed the notion of injecting ideology into the nomination process and have taken unprecedented steps to oppose judicial nominees.

Opponents are using a variety of tactics to obstruct President Bush’s judicial nominees. Supported by the extremely powerful interest groups, who themselves use even more shameful tactics to defeat these nominees, we have seen opponents distort the record, make unreasonable demands for privileged information, and force multiple cloture votes. This is all part of the strategy of changing the ground rules on judicial nominations that Senate Democrats have implemented.

I am not the only one who is concerned about the dangerous precedents that some Democrats have established. Before Miguel Estrada, the filibuster was never used to defeat a circuit court nominee. The Washington Post—hardly a supporter of conservatives—in a February 5, 2003, editorial that staging a filibuster against a judicial nominee would be “a dramatic escalation of the judicial nomination wars.” The Post urged Democrats to “stand down” on any attempt to deny a vote on the particular judicial nominee, Miguel Estrada. The editorial went on to warn that “a world in which filibusters serve as an active instrument of nomination politics is not one either party should want.”

Similarly, the Wall Street Journal, on February 6, 2003 stated “Filibusters against judges are almost unheard of. . . . If Republicans let Democrats get away with this abuse of the system now, it will happen again and again.” Unfortunately, that prediction came true, as the Senate is now blocked from acting on numerous judicial nominees because of filibusters.

It is not just editorial pages which have denounced the use of the filibuster. In fact, some of my Democratic colleagues have expressed similar views. For example, Senator DUDLEY, the Democratic Leader stated: “Un Chief Justice Rehnquist has recognized: ‘The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or down and let him down.’ An up or down vote, that is all we ask.”

Similarly, Senator LEAHY, my friend, colleague, and ranking member of the Judiciary Committee said “…I, too, do not want to see the Senate go down a path where this abuse of the Senate is determining a judge’s fate on votes of 41.” And Senator KENNEDY, the senior member on the Judiciary Committee stated, “Nominees deserve a vote. If our Republican colleagues don’t like them, vote them down. But don’t just sit on them—that’s obstruction of justice.”

I hope that Judge Pickering’s nomination is not another example of a double standard or a strategy of some of my Democratic colleagues to change the ground rules on judicial nominees. I hope that my Democratic colleagues will exercise the same independence that I did when I joined them to invoke cloture on the nominations of Clinton judicial nominees. Judge Pickering deserves an up-or-down vote, and he deserves to be confirmed.

Mr. President, there are so many other things I could say, but I want to leave enough time for our Mississippi Senators.

Let me just say this. I know Judge Pickering. I have gotten to know him.
DEAR MR. CHAIRMAN: Please permit me to express to you my support for the confirmation of the Honorable Charles Pickering of Mississippi for a position on the Fifth Circuit Court of Appeals.

As a former Democratic Governor of Mississippi and as a past colleague of Judge Pickering in the legal profession and in the public service, I can vouch for him as one of our state’s most respected leaders. We have had the opportunity to work together on certain public issues, I know that he is a man of reason and sound judgment. He is a right-thinking intellectual. He will bring a fair, open and perceptive mind to the consideration of all issues before the court.

I have been particularly impressed with his commitment to racial justice and equity. He and I have worked together for a number of years in the advancement of racial reconciliation and have been at the board of the Institute for Racial Reconciliation at the University of Mississippi. He has been one of this state’s most dedicated and effective voices for breaking down racial barriers.

Judge Pickering has demonstrated in every position of leadership which he has held a firm commitment to the maintenance of a just society. He will reflect those values as a member of the Fifth Circuit Court of Appeals, and I commend him to you as one who in my opinion will be a worthy addition to that body.

Sincerely,

WILLIAM F. WINTER.

Chairman ORRIN HATCH,
Committee on the Judiciary, U.S. Senate,
Senate, Hart Office Building, Washington, DC.

RE: The Honorable Judge Charles W. Pickering, Sr.’s nomination to the United States Court of Appeals for the Fifth Circuit.

Chairman Orrin Hatch,
Committee on the Judiciary, U.S. Senate,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS HATCH AND LEAHY: I write this letter to urge approval of Judge Charles W. Pickering, Sr.’s nomination to the United States Court of Appeals for the Fifth Circuit.

I met Judge Pickering in 1990 in my capacity as a member of the ABA’s Standing Committee on the Federal Judiciary. As the Fifth Circuit’s representative on the Committee, I conducted the primary investigations into his qualifications when he was nominated to a federal district judgeship in Mississippi. I spent many hours discussing his qualifications with judges, lawyers and lay people throughout the state. I also interviewed Judge Pickering, during which we touched on matters relevant to his qualifications to serve as a federal judge.

The Charles W. Pickering that I have come to know in the last thirteen years. Competent, compassionate, sensitive and free from bias are terms that aptly describe him. Throughout his professional career as a lawyer and as a judge, Judge Pickering has tried to do what he thought was right, consistent with his oath as an officer of the court and as a judge. Attempts to demonize him are both unfair and out of place in a judicial confirmation proceeding.

On a more personal note, I still remember the words of encouragement I received from Judge Pickering while my own nomination to the Fifth Circuit was pending before the Judiciary Committee. On one occasion, Judge Pickering personally offered to contact Senator Lott’s office to see if anything could be done to secure a hearing for my nomination. The word came back that Senator Lott didn’t feel there was anything he could do, but that he would keep an open mind and listen to our position and give me as fair a hearing as he could. That is the kind of judge I expect to serve on the Fifth Circuit.

Sincerely,

WILLIAM F. WINTER.

Chairman, Judiciary Committee, U.S. Senate,

Hon. Orrin G. Hatch, Chairman, Judiciary Committee, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Please permit me to express my support for the confirmation of Judge Charles W. Pickering of Mississippi to the Fifth Circuit Court of Appeals.

I consider Judge Pickering to be one of the fine Congress people here, and everybody who knows him knows it. What they have done to him is awful. It is awful. I think it is time for the Democrats to break free from these rotten outside groups that just play politics on everything and bring everything down to the issue of abortion.

I ask unanimous consent that relevant material be printed in the RECORD.

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

WATKINS LUDLAM WINTER & STYNNS, P.A.
Jackson, MS, October 25, 2003.

Hon. Patrick J. Leahy, Chairman, Judiciary Committee, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Please permit me to express to you my support for the confirmation of Judge Charles W. Pickering as being most worthy of confirmation as a judge of the Fifth Circuit Court of Appeals.

Sincerely,

WILLIAM F. WINTER.

Chairman, Judiciary Committee, U.S. Senate,

Hon. Orrin G. Hatch, Chairman, Judiciary Committee, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Please permit me to express to you my support for the confirmation of Judge Charles W. Pickering, Sr., as being most worthy of confirmation as a judge of the Fifth Circuit Court of Appeals.

Judge Pickering has demonstrated in every position of leadership which he has held a firm commitment to the maintenance of a just society. He will reflect those values as a member of the Fifth Circuit Court of Appeals, and I commend him to you as one who in my opinion will be a worthy addition to that body.

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WILLIAM F. WINTER.

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Committee on the Judiciary, U.S. Senate,
Dirksen Senate Office Building, Washington, DC.

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Judge Pickering has demonstrated in every position of leadership which he has held a firm commitment to the maintenance of a just society. He will reflect those values as a member of the Fifth Circuit Court of Appeals, and I commend him to you as one who in my opinion will be a worthy addition to that body.

Sincerely,

WILLIAM F. WINTER.
of Appeals for the Fifth Circuit, of which I am admitted and have appeared. Very truly yours, DAVID Z. CHERNOFF, ESQ.

TENTH CHANCERY COURT DISTRICT OF MISSISSIPPI, Hattiesburg, MS.

BE THE APPOINTMENT OF CHARLES PICKERING.

HON. PATRICK LEAHY,
Chairman Senate Judiciary Committee, U.S. Senate, Dirksen Office Building, Washington, DC.

Dear Senator Leahy: I write in support of the appointment of United States Judge Charles W. Pickering, III to the Fifth Circuit Court of Appeals. Charles Pickering is an able, outstanding and fair minded judge. I could not conceive that he would exhibit gender bias toward women inside or outside a court of law.

As an African American I have personal knowledge and experience of his efforts to heal the wounds of racial prejudice, and to resolve conflicts between the races in our state. As someone who experiences racial prejudice, both open and subtle, I can only say that my admiration for Judge Pickering is immense.

I sincerely appreciate all the efforts made by you and your committee in order to ensure fairness in our federal judiciary. I urge you and your fellow committee members to recognize diverse opinions of persons, as well as myself, who function and work at ground level in our local communities.

Thank you for your time and consideration.

Sincerely, JOHNNY L. WILLIAMS.

DEBORAH JONES GAMBLER, & ASSOCIATES, Hattiesburg, MS, October 25, 2001.

Re Judge Charles Pickering; Nominee: Fifth Circuit Court of Appeals.

HON. PATRICK J. LEAHY, Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Office Building, Washington, DC.

Dear Senator Leahy: A few days ago I ran into Judge Pickering at lunch and congratulated him on his selection for an appointment to the Fifth Circuit Court of Appeals. I thereupon learned of opposition to his appointment and felt compelled to write this letter in support.

As an African American attorney who practices in the federal courts of the Southern District of Mississippi, where Judge Pickering has sat for the past eleven (11) years, I am concerned that he has come under scrutiny. I have appeared before Judge Pickering on numerous occasions during the past eleven (11) years, most often than not, in cases involving violations of civil rights and employment discrimination matters. I have found Judge Pickering not only to be a fair judge, but one who is concerned with the integrity of the entire judicial process and assures every participant of a “level playing field” and a judge who will apply the law without regard for the sensitive nature of cases of this sort, which may have caused him personal discomfort.

I have personally seen him go overboard in working to bring reconciliation in matters wherein parties, because of lack of understanding of the law or actual ill will, may have committed violations because of lack of knowledge. I have also been appointed by Judge Pickering to represent indigents who have legitimate claims but not the expertise or money to litigate the same, when he could have appointed attorneys who do, but not bring the passion and true concern to bear to insure that the litigants rights are protected. Even when I don’t prevail, my clients know that they have had their “day in court” before a judge who is open-minded, fair and just and will follow the law without regard to color, economic status or political persuasion.

I have known Judge Pickering prior to his taking the bench and have seen him advocate the rights of the poor and those disenfranchised by the system. Over the past 11 years, I have seen him bring the same passion for fairness and equity to the federal bench.

Though I personally hate to see him leave the Southern District, I am proud to say that his honest and fair play would make him an excellent candidate for the Fifth Circuit Court of Appeals.

Sincerely, DEBORAH JONES GAMBLER.

HATTIESBURG, MS, October 25, 2001.

HON. PATRICK J. LEAHY, Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Office Building, Washington, DC.

Dear Senator Leahy: I am writing to urge you to confirm Judge Charles Pickering as a Fifth Circuit Court of Appeals Judge. I have had the privilege of working in Judge Pickering’s courtroom for the past two years as a Deputy United States Marshal. Judge Pickering brings honor and compassion to the bench. His courtroom is truly a center of justice and fairness for men and women of every race and religion. As a Deputy U.S. Marshal, I have been present for most of his courtroom sessions. I am always impressed by Judge Pickering’s rulings and opinions. He puts his heart and soul into preparing each case.

I am overwhelmed at the compassion that Judge Pickering shows each and every defendant. He truly cares for the welfare of these defendants and their families. I believe it grieves him to see mothers and fathers separated from their loved ones. As a man of great conviction, I know that Judge Pickering would make a positive impact on the Fifth Circuit.

As a Deputy U.S. Marshal, I am proud to serve under a man who personifies justice. As a citizen of the United States, I am glad to know that in times like these, we have a Judge Charles Pickering in the position to maintain dignity and responsibility in our courtroom. As a man, I am filled with the thought that we will lose Judge Pickering looking out for the rights of women and children from the Fifth Circuit Court of Appeals.

Sincerely, MELANIE RUBE.


Re U.S. District Judge Charles Pickering.

Senator Patrick Leahy, U.S. Senate, Washington, DC.

Dear Senator Leahy: This letter is to submit for your consideration my unqualified endorsement of U.S. District Judge Charles Pickering for confirmation of his appointment by the President to the Court of Appeals for the Fifth Circuit.

I have practiced law in the State of Mississippi for more than 40 years. I am a past president of the Mississippi Bar Association, and a past member of the Board of Governors of the American Bar Association. I am a fellow of the American College of Trial Lawyers and have known Judge Pickering personally and by judicial reputation for many years.

I am a Democrat and would not want you to confirm any person to the federal courts of this nation who I felt was gender or racially biased. I have never known Judge Pickering to be a person or judge that was anything other than fair and impartial in his conduct toward women or minorities.

I do not think anyone questions his judicial qualifications. The American Bar Association has deemed him “well qualified.”

For these reasons, I strongly endorse his confirmation to the Court of Appeals for the Fifth Circuit.

Respectfully, JACK F. DUNBAR.


Re Charles Pickering, United States District Court of Appeals Nominee.

HON. PATRICK J. LEAHY, Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Office Building, Washington, DC.

Dear Senator Leahy: I have known Charles Pickering for probably twenty years or more. He served as a Senator from a nearby county in the Mississippi Legislature, and I served in the House of Representatives myself for 13 years. I have practiced in his Court on many occasions throughout the last 12 or 13 years and I can only say this is the most fair Judge before whom I have ever appeared. Not only is he fair, he wants to be fair to all parties. I have never known of any indifference or prejudice that he has shown against blacks or women and in my own humble opinion, it is regrettable that he has been accused of such.

I presently serve as Chairman of the Forrest County Democratic Executive Committee and although Charles was prior to his judicial service, a Republican, I do not hesitate to signify to any person that he is fair and impartial, and has been so even to myself, a Democrat.

Very sincerely yours, WILLIAM H. JONES.

Mr. Hatch. Mr. President, I reserve the remainder of my time. I am happy to yield whatever time the distinguished senior Senator from Mississippi desires.

The President pro tempore. The Senator from Mississippi.

Mr. Lott. Thank you, Mr. President. I thank Senator Hatch. It is a pleasure to serve with my distinguished colleague from Mississippi who will be speaking later today. Senator Hatch, thank you for your leadership, your sensitivity as chairman of the Judiciary Committee, and for your specific help in the confirmation process of Judge Charles Pickering to be on the Fifth Circuit Court of Appeals.

I also want to express appreciation to Senator Frist, the leader, for giving us time in a very busy schedule to take up...
Mr. President, as I say, I rise today in strong support of Judge Charles Pickering to be nomination to be nomination on the U.S. Court of Appeals for the Fifth Circuit. I am pleased that this day has finally come, and that after almost 2½ years of waiting, we are finally moving forward with the consideration of Pickering’s nomination here on the floor of the Senate. I am grateful to Senator HATCH for his hard work in leading the Judiciary Committee to its recent approval of Judge Pickering’s nomination to the Fifth Circuit, and this important vote has led to our being able to begin debate on this outstanding nominee.

As many Senators will recall, Judge Pickering was unanimously approved by the Judiciary Committee in the fall of 1990 to be a United States District Court judge for the Southern District of Mississippi. He was then unanimously confirmed by the full Senate. He has served honorably in this position for 13 years, and I am happy that the President has re-nominated Judge Pickering to the Fifth Circuit after his nomination was blocked from consideration by the full Senate during the 107th Congress.

Charles Pickering and I have known each other for over 40 years, which doesn’t seem possible, and I can personally attest that there is no other person in the State of Mississippi who is more eminently qualified to serve on the Fifth Circuit Court of Appeals.

Mr. President, Charles Pickering graduated first in his class from the University of Mississippi Law School in 1961, and received his B.A. degree from Ole Miss with honors in 1959. He practiced law for almost 30 years in Jones County, Mississippi, and during this time served as the prosecuting attorney for Jones County and the City of Laurel during the 1960’s. From 1972 to 1980, Charles served in the Mississippi State Senate. This was a part-time position, with full-time demands I might add, that allowed him to continue his law practice during this period.

Judge Pickering has had an impeccable reputation on the bench in Mississippi, and he is respected by all secters in Mississippi and the legal community. Scores of attorneys, community leaders, and other Mississippians from all walks of life have applauded his nomination to the Fifth Circuit. What a compliment to Judge Pickering, Mr. President, for him to have the support of those who know him best—the people he works with in his professional life and spends time with in his personal endeavors. It is no surprise that the ABA’s Standing Committee on the Federal Judiciary found him “Well-Qualified” for appointment as a Fifth Circuit judge.

Furthermore, he is highly respected within the federal judiciary. He served on the Board of Directors of the Federal Judges Association from 1997 until 2001, and was a member of the Executive Committee for the final 2 years of his term. He recently completed a term of service on the Judicial Branch Committee of the Judicial Conference of the United States.

Judge Pickering has been involved in numerous community and public service endeavors. He has headed the March of Dimes campaign in Jones County, Mississippi, and served as Chairman of the Jones County Chapter of the American National Red Cross. He was also a major participant in the formation of the Jones County Economic Development Authority, serving as its first chairman.

Charles Pickering has been a leader in his community and in the state on race relations, and in standing up for what is right. In 1967, at the risk of harm to himself and his family, he testified against the Imperial Wizard of the Ku Klux Klan for the firc-bombing death of civil rights activist Vernon Dahmer. He was active in his community’s efforts to integrate their public schools, sending all four of his children to the integrated schools. In 1981, Charles Pickering represented an African American man falsely accused of robbing a white teen-aged girl. Although his decision to provide this legal representation was not supported by some in his community, he aggressively defended the client, who was found not guilty. He was a motivating force behind and currently serves on the Board of Directors of the William Winter Institute for Racial Reconciliation at the University of Mississippi, our mutual alma mater.

He has also volunteered for the Jones County Heart Fund, the Jones County Drug Education Council, and the Economic Development Authority of Jones County. He has always been very active in his community, serving as a Sunday school teacher, Chairman of the Deacons, Sunday school superintendent, and church treasurer. From 1983-85, he was the President of the Mississippi Baptist Convention.

In addition to his many professional and civic activities, Charles Pickering has also been a good farmer. He was the first president of the National Catfish Farmers Association and was a leader in catfish farming during its early years. One of the dark habits of the 1960s was that he has always put his family first, even with the commitments I have just described. He has a wonderful wife and four grown children with spouses and families of their own, including his son, Congressman Chip Pickering, who is a former member of my staff. Representative Pickering’s integrity is a further testament to the caliber of Judge Charles Pickering’s character.

Mr. President, I am pleased that the Senate is considering this important nomination today, because the Senate needs to act now to confirm Judge Pickering. He is exceptionally well-qualified for elevation to the Fifth Circuit, and I strongly endorse his nomination. He has been waiting far, too long for a debate and vote on his nomination. I urge my colleagues to support moving forward with an up-or-down vote on this important nomination. I know that Judge Pickering’s elevation to the Fifth Circuit is supported by a majority of Senators, and it is time for this majority to be heard.

It is said, he has been waiting 2½ years in this process. Unfortunately, last year he was defeated on a party-line vote and prevented from being reported out of the Judiciary Committee. But this year he was reported to the floor. He deserves to have his story told, and even a vote to occur on his nomination.

I have known this man and his family and his neighbors, the people in his church, the school officials, the minority leaders in his community for over 40 years.

I think there used to be a time when a Senator vouched for a person, a nominee from his State, and it carried weight. I am here to say this is one of the finest men, one of the finest family men, one of the smartest individuals, one of the best judges I have known in my life. There is no question that he has the educational background, the life experience, the judicial demeanor, and also the leadership to bring about unity, not division.

That has been the story of his life. He has always been a unifier. He has always been willing to step up and take on the tough battles in his home county and in our State of Mississippi.

Senator HATCH made reference to the fact that when he was county attorney, years ago, in the late 1960s he had the courage to actually work with the FBI and to testify against the Imperial Wizard of the Ku Klux Klan, something not very healthy for your political career or even your life at the time. But he stood and was defeated for re-election, to a large degree because of that.

He continued to work in his community and provide leadership. He practiced law for 30 years. If you want to look at his qualifications, here they are listed. He was not just an average student. He graduated in his class from law school. He graduated from undergraduate school with honors. He has the highest rating by Martindale Hubbell—7.5. He was unanimously confirmed by the Senate to be a district judge. He has been very good in his rulings. In fact, of those that were appealed, the reversal rate is only 7.9 percent, which is extraordinarily good. He is respected—by the American Bar Association—not once but twice—their highest rating of well qualified. They looked into allegations that were made against him after his first consideration by the committee and came back and said: He is still well qualified—not a group known for dismissing allegations or charges that were made against him.
The Senate is the body within the Federal judiciary. It is currently under the leadership of Majority Leader, U.S. Senate. The Senate is responsible for confirming or rejecting presidential nominations. The nomination in question is for the Fifth Circuit Court of Appeals. The nominee, Judge Charles W. Pickering, Sr., has faced opposition from certain senators due to his past actions and beliefs. The debate has centered on his record of being harsh on civil rights issues, particularly his role in a Ku Klux Klan case, and his support for the one-man one-vote principle.

President Bush has nominated Judge Pickering to fill a vacant seat on the Fifth Circuit Court of Appeals. The Senate is considering his nomination, with some senators expressing reservations due to his past actions and beliefs, while others support his nomination. The Senate is expected to make a decision on his nomination in the near future.

The Senate is primarily concerned with the nominee's qualifications, past actions, and future potential impact on the bench. The debate has been centered on whether his past actions and beliefs align with the Senate's current values and principles. The Senate will vote on his nomination, and the outcome will shape the future of the Fifth Circuit Court of Appeals and possibly influence the direction of civil rights cases in the region.
Thank you for being a human being and for caring what happens to other human beings. I am especially mindful of your commitment to racial reconciliation over the past twenty years. Because of this commitment, our future looks better.

I’ll contact you regarding the developments at the hearing around the 15th of November. My best to you.

Sincerely yours,

Constance Slaughter-Harvey

FROM THE ATLANTA JOURNAL-CONSTITUTION, MAR. 9, 2003

TRIALS OF A SOUTHERN JUDGE

EVIDENCE DON'T SUPPORT CHARGES OF RACISM AGAINST PICKERING

(By Janita Poe and Tom Baxter)

When court is not in session, Deborah Gambrell and U.S. District Judge Charles W. Pickering often hole up with other lawyers in a courthouse anteroom—and debate the law.

They’re there to schedule trials or sentencings. But Gambrell, a liberal African-American lawyer, and Pickering, a conservative white judge, invariably fall into spirited exchanges on legal issues and philosophies.

“We’ve had debates over everything from Clarence Thomas to the details of some case,” Gambrell said. “Judge Pickering is a conservative, so you can’t agree. And he’s amenable to having his mind changed, too.”

Gambrell is often the racial bias in the judge. On the contrary, she said, he appoints motivated lawyers such as her to represent workers—many of them black—who claim they were wronged by employers.

“I love the law and want to represent your client well,” Gambrell said, “and I don’t think that’s discriminatory.”

Strange as it sounds, Gambrell is talking about the same Charles Pickering who made headlines last year as a reputed old-line Southern bigot. The liberal lobbying group Southern Baptist connection as religion, and Pickering was reared in a state where such a life and work wasn’t always easy or appreciated.

Pickering isn’t a Johnny-Come-Lately to the concept of meaningful racial reconciliation. He’s been part of the solution to Mississippi’s vexing racial conundrum for decades. He has been an able jurist, a contributing citizen and a responsible political and judicial nominee of former President Bill Clinton, the politics of personal destruction in the case of Pickering has taken a new low.

By any reasonable standard, Charles Pickering Sr. has lived the life and done the work of a man with his heart in the right place on race in a state where such a life and work wasn’t always easy or appreciated.

Pickering is a 42-year member at First Baptist Church of Laurel, where he has been a Sunday School teacher and church treasurer. In the mid-’80s, he was president of the Southern Baptists in Mississippi and was allied with the “radio preachers,” who made the Bible the word of God and its accounts are factual. Pickering once had as strong a grip on the region as religion, and Pickering was reared in a period of open segregation apart from any of the events that would unfold.

“We got on our bus and went to our school, and they got on their bus and went to theirs,” she said. “I think the South accepted those things when even other areas of the country did not.”

Pickering’s 1969 paper on “miscegenation,” one of mixed-race marriage, reflects that acceptance. In the article, which was based on a case of that era, Pickering suggests that Mississippi lawmakers could strengthen the state’s anti-miscegenation law by amending laws that would require a trial in the case of civil challenge for review by similar laws in 23 other states. Pickering published the article in the Mississippi Law Journal, where he was a staff writer.

The judge’s son, U.S. Rep. “Chip” Pickering, 39, explains the article as nothing more than an assigned “exercise” in which students “assessed laws on interracial marriage and told why the Mississippi law was struck down.”

The congressman’s account, however, does not fully convey the tone of the brief. The article did not simply analyze problems with the law, but suggested how it could better withstand constitutional challenges. As People for the American Way points out, Pickering “expressed no moral outrage over laws prohibiting and criminalizing interracial marriage” but instead calmly offered a strategy for maintaining a ban—as if the law were morally neutral as, say, restrictions on double-parking.

Elsewhere, by the 1960s, people inside and outside the state were calling Mississippi’s adherence to Jim Crow structures. In 1955, Pickering’s junior college near Laurel achieved a breakthrough of sorts when its all-white football team won the national championship. Mississippi’s adherence to Jim Crow structures. In 1955, Pickering’s junior college near Laurel achieved a breakthrough of sorts when its all-white football team won the national championship.
protests from the state's racist establishment.

In 1962, as Pickering started his law practice, the Federal government forced the University of Mississippi to admit James Meredith, a black Air Force veteran. Students and locals responded by staging a riot that killed two people and injured hundreds.

And with relatively gentle Oxford, Laurel, a rougher place to begin with, became a flash point of racial and class tensions. Bowers—whose trial ended in harm, social ostracism and economic degradation—of Klan reprisals.

Pickering, then serving as Jones County prosecutor, could have avoided the trial, as the slaying took place in a neighboring county. But Jim Dukes, the prosecutor, who presented the case against Bowers, asked his colleagues from the Mississippi Bureau of Investigation and Pickering agreed—despite the risk of Klan reprisals.

"He was putting himself at risk of bodily harm, social ostracism and economic destruction," Dukes said. "These were turbulent times, and testifying against the Klan was not a popular thing to do."

Pickering lost a race for a State House seat later that year. Bowers—whose trial ended in 1962 and was followed by a bruiser between supporters of Gerald Ford and Ronald Reagan at the 1976 Republican national Convention—was later killed in an airplane crash. In 1976, serving with then-Executive Director of the Mississippi Sovereignty Commission, Pickering was elected state GOP chairman in a primary. He lost again in a run for state attorney general a year later, ending his career in elective politics.

The Sovereignty Commission

Pickering's terms as a state senator coincided with the final years of the infamous Mississippi Sovereignty Commission. Created in 1947 and officially dissolved in 1977, the agency used its charge to spy on, informants and newsmen and legal segregation, and the agency was trying to retool itself as a general investigatory organization.

As a state senator Pickering voted twice, in 1972 and 1973, along with the majority, to continue funding for the agency. He was putting himself at risk of bodily harm, social ostracism and economic destruction," Dukes said. "These were turbulent times, and testifying against the Klan was not a popular thing to do."

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Like many Mississippians of his generation, Pickering began political life as a Democrat and switched to the GOP. He did so, however, before the party had become a haven for Southern whites disaffected with the national Democrats' liberal racial policies.

Pickering changed parties in 1964, a time when Mississippi's Democratic leadership stood for continued segregation. Most notably, the Dixiecrats, Ross Barnett's followers, and personally turned Meredith away from Ole Miss and helped provoke the later rioting. The Mississippi Democratic establishment, in the meantime, sent a delegation to the 1964 national convention and was denied seating.

The small but growing Mississippi GOP leaned to the right on many issues, as it still does, reflecting a pro-business bent. But compared with the Democratic leadership, many Republicans were moderate or even progressive on desegregation and on compliance with federal court orders.

The state GOP "was characterized by some very powerful business types who could afford to vote in the state in their political views," said Marty Wiseman, director of the John Stennis Institute of Government at Mississippi State University.

Laurel's powerful state senator, E.K. Collins, led the all-white delegation to the Democratic convention. In 1971, Pickering took Collins on and beat him. "It was considered nervy for a young upstart to run against an established longtime Dixiecrat like E.K.," recalled former Rep. Tucker Buchanan, a Democrat who was friends with Pickering in the Legislature.

In the Senate, Pickering developed a reputation for being able to talk with all sides and was often able to broker deals—even though, as one of only two Republicans, he was excluded from Senate leadership.

"He was right down the middle. He was a moderate," said former Gov. William Winter, a progressive Democrat who was lieutenant governor when Pickering arrived at the Legislature.

The new governor, Democrat William Waller, was the first in many years who had not made race the focus of his campaign, and as a result was unsuccessful in fully mounting two cases against white supremacist Byron de la Beckwith for the murder of the NAACP's Medgar Evers. "We shared that stripe. " We shared that stripe." Winter said.

Pickering was cordial. "He was one who didn't mind coming up to me to shake hands at, 'Boy, how are you doing today, Rep. Clark?'"

Pickering was elected state GOP chairman in 1964 and was still running for state attorney general a year later, ending his career in elective politics.

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As a state senator Pickering voted twice, in 1972 and 1973, along with the majority, to continue funding for the commission—votes his critics have highlighted during the confirmation hearings. By the early '70s, however, Mississippi had generally dismantled legal segregation, and the agency was trying to retool itself as a general investigatory organization.

Waller vetoed the funding in 1973, and the commission was officially dissolved in 1977, its files sealed. In the end, Pickering voted with the majority to end the commission and seal the records.

In 1996, during hearings on his nomination as district judge, Pickering said he "never had any contact" with the commission and that he knew "very little about what is in those records." His opponents point out, however, that when the Sovereignty Commission's files were subsequently opened, an investigator's memo was found naming him.

The document suggested Pickering and two other legislators had communicated with the commission on its investigation of Meredith. One of the three lawmakers were "very interested" and "requested to be advised of developments," according to the memo.

Pickering, a congressman, says the agency had approached his father, not the other way around. "His only contact came in 1972, when a Sovereignty Commission employee approached him and said he had information about a radical group infiltrating a union in Jones County. My father's only response was to keep his distance.

Again, this may be too easy a dismissal. The nature of the supposed union infiltration is in dispute. The commission memo says the documents "are focusing on Black Rights groups, but in Pickering's confirmation hearing last year, the judge said he was concerned about Klan activity.

"I expect of a white man. The rest is our responsibility," Melvin Mack, a black county supervisor, grew up about four miles from Pickering's home, and has seen him at dozens of black gatherings. Pickering may have been reared in an era when discrimination was the rule, he said, but he has always been friendly with blacks.

"You will see him at black family reunions," Mack said. "You will see him at funerals when a black family's loved one has died."

In the '90s, Pickering was an early, prominent supporter for establishing what became known as the Winter Institute. It was a black and white reconciliation at Ole Miss. Among its other functions, the institute promotes programs to combat racial prejudice.

Pickering has also responded to complaints about the abuse of black State prison inmates. Sometimes he has ordered changes in the thrall of Jim Crow, sent an all-white council and had any contact'' with the commission and...
from the bench and other times, when evi-
dence did not fully substantiate the abuse,
worked informally. Pickering “will call me
afterward and ask that we look into what is
going on,” said Vincent, Georgia’s general
counsel for the State Corrections Depart-
ment.

In one case, such informal intervention led to
two resignations.

“Judge Pickering was the only white lead-
er we could get to stand up against the
guards and the penal system,” said a local
civic activist, who spoke on condition of ano-
crator. The couple, who now live in
Houston, say the judge helped them get
their lives together with lenient sentences
and advice.

“If he wasn’t racist, he wouldn’t even be
thinking about helping us,” Barnett said.

“Would have said ‘Heck, no, she’s married
to a black man, I’m not going to help
them’...”

When the Senate debates Pickering’s nom-
ination, his conservative views—on abortion,
Federalism, the role of the judiciary and
other matters—will be fair game. The judge
is quite conservative by most measures, and
many people would prefer more moderate or
liberal presidents.

But in Mississippi, the notion that Pick-
ering is a racial throwback and a friend to
cross-burners doesn’t sell.

Pascagoula attorney Richard “Dickie”
Scruggs, for example, is a believer in Pick-
ering’s record isn’t erased just
because he has African-American friends in
his community,” said NAACP Chairman
Chairman Chip Pickering is tells you a lot
about the father who brought him into
life. I think the kind of
man CHIP PICKERING is tells you a lot
about the father who brought him into
life. I think the kind of
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about the father who brought him into
life. I think the kind of

Mr. LOTT. One of the criticisms was,
well, the Judge was the intermediary
in sending some of the letters of sup-
port. I am not going to belabor the
point, but as a matter of fact, I have
the list of who wrote. They
were people he had known for 30 years,
former college friends, law school
friends, people he practiced law with.

It was in the aftermath of the anthrax at-
tack here on the Capitol. The only way
he could make sure the letters got to
the Judiciary Committee in a timely
way was to send them himself. The
allegation that there was something in-
appropriate about that is totally base-
less, and it is just the type of thing
that has been used against him.

Another allegation is that, when he
was a State senator he had some rela-
tionship with what was then known as the
Sovereignty Commission. When
he went into the Senate, I think when he
was first sworn in, representatives from that
organization said they had
some concerns about Klan activity
with regard to labor unions down in his
home county.

He said: Keep me posted.

Seldom do they note the fact that he
subsequently voted to abolish the So-
vereignty Commission—again, they had
a very frugal charge. To have your name
mentioned 30 years later in a report,
that they had some happenstance con-
tact with him, certainly should not be
disqualifying.

From all walks of life in Mississippi,
people are very much in support of this
nomination. He hasn’t just been a law-
ner and a judge and a family man. He has
been involved. He helped bring his home county into
school desegregation. His kids went to the
public schools.

The first time I saw his son—now a
Congressman—CHIP PICKERING, he was
playing linebacker for the football
team for the Laurel Torremode, R. H. 
White High School. He was a
great athlete on a team that was prob-
ably 80 percent African American.

They have always been willing to take a
stand. He was head of the local March of
Dimes. He headed the local Red Cross.

He has been involved in economic de-
velopment. He has been involved in the
Heart Fund, the Drug Education Coun-
cil, Sunday school teacher, chairman of
the deacons, church treasurer, presi-
dent of the Missippi Convention.

Some people look at that almost
like it is an indictment. It is a great
honor for the people of your faith to
honor you to head their organization
statewide. He has even been a farmer and was
the first president of the National Cat-
fish Farmers Association. I had contact
with him then.

President Reagan once wrote in a
note where there was a picture of a
man I know of than Congressman CHIP
PICKERING who has labored valiantly to
tell the truth about his dad. If you
want to get emotional, watch a son
work for his father. I think the kind
of man CHIP PICKERING is tells you a lot
about the father who brought him into
life. Along with this, I agree with
the distinguished Senator from Georgia.

The President pro tempore. The
Senator has 11 minutes 9 seconds.

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

Mr. HATCH. Mr. President, the
time remains?

Mr. LOTT. The President pro tempore. The
Senator has 15 minutes 9 seconds.

Mr. HATCH. Mr. President, the
time remains?

Mr. HATCH. Mr. President, the
time remains?

Mr. HATCH. Mr. President, the
time remains?
Mr. MILLER. Mr. President, I rise today to talk about a good and brave man from the State of Mississippi, Judge Charles Pickering. I also rise today to talk about a judicial nominating process that is badly broken and out of control. Judge Charles Pickering has been the target of by inaccurate and false attacks by the liberal special interest groups in this body who have aided and abetted the mob's doing.

Speaking of lynching mobs, my all-time favorite movie is “To Kill a Mockingbird.” In the movie’s key scene, you recall how the hero, Atticus Finch, a lawyer who is raising two small children, is defending a black man unjustly accused of rape. That lynch mob also tries to take justice into its own hands. Atticus confronts them at the jailhouse door. His daughter Scout joins him and sees that the leader of the mob is someone she knows. She calls to him by name: Hey, Mr. Cunningham. Remember me? You are Walter’s daddy. Walter is a good boy. Tell him I said hello.

After a dramatic pause, Mr. Cunningham turns away and says to the mob: Let’s go home, boys.

This group, bent on injustice, was turned aside by a small girl who appealed to them as individuals.

My friends in this Chamber, I know you, and I appeal to each of you as individuals, as fathers, mothers, colleagues and friends. Most of you were individuals, as fathers, mothers, colleagues and friends. Most of you were taught in Sunday school to do unto others as you would have them do unto you. This is not treating someone as you would want to be treated yourself. This extreme partisanship and deliberately planned obstructionism has gone on long enough in this body. I wish we could do away with the 60-vote rule that lets a small minority rule the Senate.

Mr. MILLER. I hope we can have an up-or-down vote—just an up-or-down vote, Mr. President.

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

Mr. MILLER. The Senate’s time has expired.

The PRESIDENT pro tempore. Mr. MILLER. I ask unanimous consent to add 5 minutes to each side.

Mr. HATCH. The request is to add 5 minutes to each side.

The PRESIDENT pro tempore. Is there objection? The Chair understands the request is to add 5 minutes to each side.

Mr. HATCH. Right.

Mr. LEAHY. The PRESIDENT pro tempore. Under the control of—

Mr. LEAHY. The same way.

The PRESIDENT pro tempore. The same persons controlling the time.

Mr. HATCH. With the understanding that Senator COCHRAN will be given the same time.

The PRESIDENT pro tempore. Senator COCHRAN will be given the same time.

Mr. LEAHY. Senator COCHRAN will be given the same time.

Mr. LEAHY. Will the Chair repeat that, please? I didn’t hear what the Chair said.

The PRESIDENT pro tempore. There are 35 minutes on the Democratic side and 10 minutes on the Republican side.

Mr. LEAHY. Will the Chair repeat that, please? I didn’t hear what the Chair said.

The PRESIDENT pro tempore. There are 35 minutes on the Democratic side and 10 minutes on the Republican side.

Mr. LEAHY. The Chair reminds the Senators that the last 5 minutes on each side is under the control of the leaders or their designees.

Mr. HATCH. Mr. President, I yield 2 minutes to the distinguished Senator from Georgia, Mr. CHAMBLISS.

Mr. CHAMBLISS. Mr. President, I appreciate the Chair’s strong leadership on this issue. I rise in the strong support of the nomination of Charles Pickering to the Fifth Circuit Court of Appeals.

I want to say, first, that I appreciate the honest, the integrity, and the forthrightness of my colleague from Georgia on every issue, but particularly on this issue. He has been very much out front, and this Senator greatly appreciates his attitude and his dedication to ensuring that quality judges are confirmed to every circuit of the United States and every district of the Federal bench.

I rise with some special appreciation for Judge Pickering’s nomination because he is nominated to the Fifth Circuit Court of Appeals. In 1969, when this Senator became a member of the Georgia bar, Georgia was a member of the Fifth Circuit. So I have been a member of the Fifth Circuit bar since my early days. The Eleventh Circuit was created in 1980. I feel that Senator Pickering will be the last to speak for 5 minutes.

Mr. LEAHY. Mr. President, what is the current order—I was off the floor when the order was entered last night—what is the current order on what speaks last?

The PRESIDENT pro tempore. The final 5 minutes is to the majority leader or his designee, and the previous 5 minutes is to the minority leader or his designee.

Mr. LEAHY. It is perfectly all right. I think the Senator from Utah has proposed a very fair proposal. I have no objection.

The PRESIDENT pro tempore. Is there objection? The Chair understands the request is to add 5 minutes to each side.

Mr. Hatch. The PRESIDENT pro tempore. Under the control of—

Mr. LEAHY. The same way.

The PRESIDENT pro tempore. The same persons controlling the time.

Mr. HATCH. With the understanding that Senator COCHRAN will be given the leader’s 5 minutes at the very end of the debate.

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

Mr. HATCH. Does the distinguished Senator care to go ahead?

The PRESIDENT pro tempore. There are 35 minutes on the Democratic side and 10 minutes on the Republican side.

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I rise with some special appreciation for Judge Pickering’s nomination because he is nominated to the Fifth Circuit Court of Appeals.
The Fifth Circuit has been very blessed with a number of great judges. Look at the judges who came from difficult times, such as my very good friend Judge Griffin Bell who, after serving as a member of the Fifth Circuit, came to be Attorney General; Elbert Tuttle, Judge Frank Johnson; a very number of judges such as these judges at the district court level—Judge W.A. Bootle. These individuals came through very difficult times and distinguished themselves as judges.

Judge Charles Pickering came through that same very difficult time in the South, a time in the South when race was a very critical and the most forthright issue. Charles Pickering looked the racial issue in the eye and provided the kind of leadership of which every American would be very proud.

As we now consider his nomination to the Fifth Circuit Court of Appeals, I could not be prouder of any individual than I am of the nomination of Charles Pickering. I am going to have a lot more to say about this, but today we have the opportunity to bring this nomination to an up-or-down vote. I encourage all of my colleagues to give the vote on the floor of the Senate. Let's put this good man, this good judge on the Fifth Circuit.

The PRESIDING OFFICER. (Mr. SUNDU). The Senator's time has expired.

Mr. HATCH. I yield the remainder of my time to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee has 3 minutes remaining—2 minutes remaining.

Mr. HATCH. How much time is remaining?

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. ALEXANDER. Mr. President, I come at this differently than the Senator from Tennessee. I don't know how Charles Pickering. I have met him briefly only twice. But I care about the Fifth Circuit Court of Appeals. Bridget Lipscomb and I have studied his record diligently.

Nearly 40 years ago, I was a law clerk on the Fifth Circuit for the great Judge John Minor Wisdom. I have been trying to think of something to say to the Members on the other side to help them change their minds on this nomination.

Judge Wisdom was a member of the Federal court that ordered the University of Mississippi to admit James Meredith to Ole Miss. The Fifth Circuit played a crucial role in desegregating the South. Judges Tuttle, Rives, Brown, and Wisdom were real heroes at that time. Crosses were burned in front of their homes. I will have more to say about this, but Judge Pickering is a worthy successor to the court of Judges Wisdom, Tuttle, Rives, and Brown.

While those judges were ordering the desegregation of Deep South schools, while crosses were being burned in front of their homes, Judge Pickering was enrolling children in those same newly desegregated schools, and Judge Pickering in his hometown was testifying in court against Sam Bowens, the man the Baton Rouge Advocate called the “most violent living racist,” and a time when people were killing people based on race.

Many of my generation have changed their minds about race in the South over the last 40 years. That is why the opposition to Judge Pickering to me seems so strange. He hasn’t changed his mind. There is nothing to forgive him for. There is nothing to condemn. There is nothing to excuse. He was not a product of his times. He led his times. He spoke out for racial justice. He testified against the most dangerous of the cross burners. He did it in his own hometown, with his own neighbors, at a time in our Nation’s history when it was hardest to do. He stuck his neck out for civil rights.

Mr. President, will our message to the world be: Stick out your neck for civil rights for Mississippi in the 1960s and then we will cut your neck off in the Senate in 2003, all in the name of civil rights? I certainly hope not.

Charles Pickering earned this nomination. He is a worthy successor to the court of Judge Wisdom, Judge Tuttle, Judge Rives, and Judge Brown.

The PRESIDING OFFICER. The Senator’s time has expired.

Mr. HATCH. Mr. President, I understand the time has been used. I know the remarks of the distinguished Senator from Tennessee are much more lengthy. I ask unanimous consent that immediately following the vote, he be given time to finish his remarks.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. What was the request?

Mr. HATCH. That will be fine with me.

Mr. ALEXANDER. Mr. President, this is the Senator from Utah for their generosity. Let me remake my first point. I care about this case because I care about the Fifth Circuit Court of Appeals. Many of the Senators know or knew Judge John Minor Wisdom. They knew what a great judge he was.

They knew what the times were like in the Deep South during the 1960s and 1970s. I remember Judge Wisdom once telling me the Ku Klux Klan had burned a cross in the intersection because someone had endorsed Judge Pickering. I have lived in the South for a long time, about the same amount of time as Judge Pickering. I have lived in the South for a long time, about the same amount of time as Judge Pickering. I have learned to tell those who are racists, those who stood silently by, and those who stuck their necks out.

Let me invite my colleagues to go back with me to Mississippi, to the late 1960s. James Meredith had become the only Black to graduate from the undergraduate school at Ole Miss. Reuben Anderson, who has endorsed Judge Pickering, had become the first Black graduate of the Ole Miss Law School.

In Nashville, where I went to school at Vanderbilt, the first integrated class had just graduated from Vanderbilt University. Robert Clark became the first black elected to the Mississippi Legislature since the Reconstruction. It was not until 1968, that the first blacks were permitted to participate in intercollegiate athletics at the University of Florida and Georgia and Tennessee and other Southeastern Conference schools.

The law had changed but there were still plenty of “colored only” signs on restroom doors in plenty old southern cities during the late 1960s. Martin Luther King was murdered in Memphis during 1968. Alabama Governor George Wallace won the Democrat primary for president in 1976 in Mississippi, and in Boston, Massachusetts.
Charles Pickering made public statements condemning Klan violence. He worked with the FBI to prosecute and stop Klan violence. In the late 1960s, Bowers came up for trial for the murder of the slain civil rights worker, Vernon Dahmer, and Judge Pickering testified publicly against Bowers.

I ask unanimous consent to submit for the record two documents. The first is a Klan newsletter from 1967 criticizing Pickering for cooperating with the FBI. The second is Bowers’ own magazine published in Federal court, asking Pickering to remove himself from hearing a case involving Bowers because of Pickering’s previous testimony against Bowers and taking credit for defeating Judge Pickering in a statewide race for attorney general.

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

**[From the Citizen-Patriot]**

**A NEWSLETTER DEDICATED TO TRUTH AND THE PREVENTION OF KLAN VIOLENCE**

"Where the Spirit of the Lord is, there is Liberty." — 2 Corinthians 3:17.

When in the course of human events it becomes necessary for the Truth to be told in the interest of the true concern for the people. In Public Office, it is the Duty of the Public Press to inform the Citizens. Unfortunately for the citizens of Jones County, J.W. West, the County Attorney, not only refuses to tell the Truth, but actually takes a leading part in the direction of the evil public corruption which is strangling liberty in America. The Responsibility to Truth comes necessary for the Truth to be told. It is the Duty of the Public Office, it is the Duty of the Public Press to inform the Citizens. Unfortunately for the citizens of Jones County, J.W. West, the County Attorney, not only refuses to tell the Truth, but actually takes a leading part in the direction of the evil public corruption which is strangling liberty in America.

**PUBLIC OFFICE IS A PUBLIC TRUST**

Its successful administration requires from its Officials a Fear of God, rather than a Fear of men, and those Officials who serve justly must be ambitious for the Glory of the Heavenly Father rather than for their own personal advancement or the advancement of some device to which they have a vested attachment. Our Father has promised and promised that in the establishment of a National Police establishment will prosper a Nation whose Officers serve Him. And, conversely, He will wreak vengeance and punishment upon a Nation whose officers are in self-serving民政 services own high duty to law and government, and all men owe a higher duty to our Heavenly Father, the Author of Truth and Liberty.

**LET FACTS BE SUBMITTED TO A CANDID POPULATION**

The Base of the Political Corruption which is sweeping our Beloved Land of America lies in the Establishment of a National Police Bureau, which is to fear to the local officials. A calculated means of Fear and Lust for Reward, this Beast of Satan directs its pressure in such a way that the local government will prosper against the local citizens and their local interests.

The honest citizens of Jones County have recently been defrauded by certain officials in their political office. The local officials are charged with the crime of fraud.

The honest citizens of Jones County have recently been defrauded by certain officials in their political office. The local officials are charged with the crime of fraud.
and torture of Lawrence Byrd. The FBI men stood in the bushes out of sight and directed Byrd's statements while Watkins tortured Byrd. This was the confession which resulted in the taking of a cold or so innocent white men in the Dahmer case.

At first, it seemed that the evil plot of the FBI was to destroy the West by giving them massive doses of propaganda in order to convince the men before the ever entered the courtroom and to the general public they were looking like 'Lynden's Little Angels.' But there was a cloud on the horizon. The plot started coming to pieces when Strickland was arrested on a drunk charge early in 1967 in FBI Chief John K. Moore, was getting worried about Strickland, as was Ford O'Neill. They wanted him to stay out of Jones County until after the Dahmer trial. Strickland was trying to come back to Jones County at frequent intervals and going on drinking sprees. All during 1966 rumors had been circulated to the effect that Strickland knew something about the Lawrence Byrd kidnapping-torture, and there was an ever-present danger that Strickland might reveal the whole thing on the stand in the trial of Lawrence Byrd, his binges. Roy K. Moore could not rest easy as long as Roy Strickland was in Jones County, whether in or out of jail, but it was finally agreed by everybody to keep him in jail, and try to ease him off to Parchman, even if it meant double-crossing him.

However, Strickland began to realize that the FBI was going to try everybody against everybody, and then betray everybody for the sole benefit and advancement of the FBI. Strickland decided to tell the whole truth and take his chances in open court. He contacted the defense attorneys in the Dahmer case and gave them the full facts about the FBI engineering torture of Lawrence Byrd. This, and much other supporting evidence was turned over to C. H. Dillard in order to obtain a just indictment for kidnapping against Roy K. Moore, Bill Duke, Ford O'Neill, Steve Hendrickson and Jack Watkins. When first given the evidence, Dillard appeared to be interested in enforcing the law without fear or favor, but when the proper FBI pressure was applied to him he caved in like a ripe watermelon, and defended the FBI instead of letting them do their duty and present the whole body of evidence to the Jones County Grand Jury. (The District Attorney is permitted to lie before a grand jury so long as he is under oath, all witnesses must testify under the oath.)

The FBI is desperately trying to suppress the truth in this case (just as they did in the Kennedy assassination) and Dillard and Pickering are helping the FBI to conceal its kidnapping and torture of Sam Bowers into confessing, which result, if ever ratified, voted on by the constitution of 1890, which all state officials are appointed from a northern state, or from a new federal court judge and magistrate be from the unconstitutional national police bureaucracy? Are you going to do your duty as public officials of the United States or are you going to continue to try and confuse, mislead and manipulate the Grand Jury? Why were Dillard and Pickering so anxious to get rid of Sam Bowers for a few hundred dollars, yet so reluctant to indict the F.B.I. criminals who are stealing the life and liberty of the whole country. Which way is the money moving now?

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI, HATTIESBURG, MISSISSIPPI

Sam Bowers, Katie Perrone, Michelle O'Hara, Jeff Rexroad, and Shawn O'Hara (Plaintiffs), vs. Mike Moore and the State of Mississippi (Defendants).

COMES NOW Shawn Richard O'Hara, on his behalf, and on the behalf of Sam Bowers, Michelle O'Hara, and Jeff Rexroad, asking that both Judge Charles Pickering and the honorable magistrate both judge and magistrate do this civil action to remove themselves as a result of some or all of the reasons listed below.

1. Both men live in Mississippi and cannot face this case and the plaintiffs claim Mississippi has no legal state constitution, thus meaning that if either of the said judge or magistrate was licensed to practice law in said state, since there is, and was no legal state constitution, said judge and/or magistrate may not be legally licensed to practice law.

2. Specifically Judge Pickering has personally prejudiced himself against Sam Bowers by testifying against him in one of Mr. Bowers state hearing, saying Sam Bowers was an "undesirable individual."

3. Specifically Judge Pickering has prejudiced himself against Shawn O'Hara, by tainting this court document, and cannot prove Shawn O'Hara's arrest to be-was legal due to the "law" in said state hearing, saying Sam Bowers was an "undesirable individual."

4. In conclusion, since both Judge Charles Pickering and the honorable magistrate both judge and magistrate are appointed from the unconstitutional national police bureaucracy, both have the right to be removed from office. Whether judge and magistrate are doing their job and presenting the whole body of evidence to the Jones County Grand Jury. They offer as their lame excuse that "too many important persons are involved."

Since when has the LAW been a respecter of persons?

It is high time that we found out the real truth about the American Gestapo, the F.B.I. and the State of Mississippi.

CONCLUSION

It is prayfully requested of this court, that a new federal court judge and magistrate be appointed from a northern state, or from a western state, since a southern judge will not fairly hear the issue that the State of Mississippi is operating under an illegal constitution, thus meaning that if either of the said judge or magistrate was licensed to practice law in said state, since there is, and was no legal state constitution, said judge and/or magistrate may not be legally licensed to practice law.

Respectfully submitted by: on behalf of Shawn Richard O'Hara, Sam Bowers, Michelle O'Hara, and Jeff Rexroad.

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Respectfully submitted by: on behalf of Shawn Richard O'Hara, Sam Bowers, Michelle O'Hara, and Jeff Rexroad.
The case went to trial in Pickering’s courtroom. During the course of testimony, Pickering expressed both to the government and to counsel for the juvenile serious reservations about not imposing a sentence is clearly the most egregious instance of disproportionate sentencing recommended by the government in any case pending before this court,” Pickering wrote. “The defendant [Swan] clearly had less racial animus than the juvenile.”

Compounding Pickering’s concern was a conflict between two federal appeals-court rulings that set statutory mandatory minimum sentence to the case. The Justice Department insisted that Swan be sentenced to a minimum of five years under one statute and two and a half years under a separate law. Pickering doubted whether both were applicable to the case and asked Civil Rights Division lawyers whether the sentence we used in cases in other federal circuits. The prosecutors said they would check with Washington for an answer.

Pickering set a sentencing date of January 3, 1995. As the date approached, he waited for an answer from the Justice Department. He asked in November, 1994 and received no response. He asked again in December and received no response. He asked again on January 2, the day before the sentencing, and still received no response. He delayed sentencing, and on January 4 wrote a strongly-worded order to prosecutors demanding not only that they respond to his questions but that they “get their act together.” At the sentencing hearing, Pickering told Swan, “You’re going to the penitentiary because of what you did. And it’s an area that we’ve got to stamp out; that we’ve got to learn to live, races among each other. And the type of conduct that you exhibited cannot and will not be tolerated . . . You did that which does hinder good race relations and was a despicable act . . . . I would suggest to you that during the time you’re in the prison that you do some reading on race relations and maintaining good race relations and how that can be done.’’

So Swan went to jail, for a bit more than two years rather than seven. Every lawyer in the case—the defense attorneys, the prosecutors, and the judge—faced the difficulty of dealing with an ugly situation and determining the appropriate punishment for a bad guy and a somewhat less-bad guy. Pickering, who had been asked about the case, along with another and on January 4 wrote a strongly-worded order to prosecutors demanding not only that they respond to his questions but that they “get their act together.” At the sentencing hearing, Pickering told Swan, “You’re going to the penitentiary because of what you did. And it’s an area that we’ve got to stamp out; that we’ve got to learn to live, races among each other. And the type of conduct that you exhibited cannot and will not be tolerated . . . You did that which does hinder good race relations and was a despicable act . . . . I would suggest to you that during the time you’re in the prison that you do some reading on race relations and maintaining good race relations and how that can be done.’’

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shot into the home of the mixed-race couple in whose yard he and Swan would later burn a cross. (The Justice Department allowed the 17-year-old to plead guilty to a felony in whose yard he and Swan would later burn a cross. The 17-year-old agreed to plead guilty, which often helps a defendant receive a reduced sentence. (It’s not clear why the Justice Department chose to offer a plea bargain.) Swan agreed to do nothing with that shooting, and had no criminal record. The other evidence of racial animus came out during the sentencing phase of the trial, well after the government had agreed to the juvenile’s plea deal. This is how Pickering explained it in his February 12, 2002 letter to Hatch:

“At sentencing...courts must also take into account evidence of the defendant’s history of violence, which is required for a heavy sentence under the hate crimes statute. They could not undo the damage...suggest, it is possible that Swam—and perhaps the government should have realized that he did not like ‘blacks’ and his own mother stated that he ‘hated N---ers’.” (Emphasis added.) In contrast, seven witnesses and Swan’s mother stated that he had no racial animus; only one witness stated that Swan did not like African Americans. Moreover, the 17-year-old had acted out of “hate” by fighting with African Americans at school, resulting in a suspension. While the 17-year-old and Swan had an “N---er”-previously, the 17-year-old’s own grandmother stated that he did not like “blacks” and his own mother stated that he “hated N---ers.”

The first and clearest reason is the earlier treatment given to the 17-year-old is that he was convicted. At that point, there was no question he would go to prison. Pickering told Hatch: “I departed downward to 30 months. I also departed downward to 30 months.”

The section of the Code to which Edwards referred is a rule intended to prevent judges from making secret deals with one side or another in a case. It says: “A judge should neither initiate nor consider exparte communications on the merits, of a pending or impending proceeding.” Pickering explained to the Judiciary Committee that he had previously discussed his concerns at length with the Justice Department’s position; Hunger told Pickering the case wasn’t within his area of responsibility, and the two men ended the conversation there.

In a February 12, 2002 letter to Republican Sen. Orrin Hatch, Pickering cited the transcript of a public court session in which Edwards commented: “I have departed downward in far more cases involving African Americans than I have in cases involving white defendants.”

Hendrickson said that as unjust.

Hod Pickering ever shown similar concerns about heavy sentencing of other defendants, particularly African Americans, in cases that had nothing to do with race? On March 14, 2002, at the Judiciary Committee meeting in which Democrats killed the Pickering nomination, Sen. Edward Kennedy suggested that Pickering practiced a selective enforcement of the mandatory minimum sentence under the hate crime statute. That claim was easy on a racist cross burner and tough on everybody else, including blacks convicted of crimes in his court. One week later, on March 21, Pickering sent Hatch a letter in which he said, “I have consistently sought to keep from imposing unduly harsh penalties on young people who I did not feel were hard-core criminals—touching the part-time offender.” Pickering went on to describe several cases in which “departed downward,” that is, reduced the sentences of first-time offenders from the mandatory minimum required by law.

“Case one involved a 20-year-old African American man who faced a mandatory minimum five-year sentence.” Pickering wrote, “I departed downward to 30 months. I also recommended that he be allowed to participate in the intensive confinement program which lighter reductions. Pickering also described the case of a 58-year-old black man who faced a five-year mandatory minimum sentence and was sentenced to a separate drug charge. Pickering again sentenced the man to 30 months. In two other cases, he threw out any jail time for men who were conviction for a five-year sentence, respectively. Both defendants were white. “I have departed downward in far more cases involving African Americans than I have in cases involving white defendants,” Pickering wrote.

Pickering sent Hatch the names of the cases, the case numbers, letters from the defendants, and letters to the Nashville Tennessean, and the numbers of people to call to check his account of his sentencing practices. Of course, by that time, Democrats on the committee had already killed his nomination on a straight party-line vote.

The Cross-Burning Trial, Judge’s Handling of One Case Gave His Critics Ammunition

(By Bill Rankin)

Charles Pickering has heard hundreds of legal arguments and handed down thousands of rulings, but his judicial reputation hangs almost entirely on one explosive case. In 1994, the federal judge put extraordinary pressure on federal prosecutors to slash the sentence of Daniel Swan, a man who had burned a cross outside an inter racial couple’s home in rural Mississippi. Democrats and liberal interest groups have hammered Pickering with the case, branding him as racially insensitive and unfit to serve on a federal appeals court.

“Young anywhere who go the whole 9 yards, and then some, to get a lighter sentence for a convicted cross-burner is beyond me,” Sen. Charles Schumer (D-N.Y.) said during a hearing on Pickering’s first appeals court nomination last year. “Why anyone would do that, and in a state with Mississippi’s sad history of race relations, is simply mind-boggling.”

But a review of the case by The Atlanta Journal-Constitution, part of the newspaper’s broad look at the judge’s record on the bench, finds that the judge apparently acted out of a concern for fairness. Two cross-burning co-defendants, including the purported ringleader, had received far lighter sentences than Swan, and Pickering saw that as unjust.

Hod Pickering ever shown similar concerns about heavy sentencing of other defendants, particularly African Americans, in cases that had nothing to do with race?
Prosecutors would have no reason to sympathize with the judge, as it was the stiff sentence they sought that the judge was attacking. Yet an internal Justice Department account of the confirmation hearing noted: Pickering shows the judge deeply troubled by the sentencing disparity.

At the same time, the Justice Department memorialembraced the 7½-year sentence in the case, indicating at least some support to the charges of Pickering’s opponents. It depicts the judge worrying about how a harsh sentence on Swan would play in the community—presumably the white community—a factor that should be irrelevant to the pursuit of justice.

In the case, two men and a 17-year-old boy were drinking in this car on Jan. 9, 1994. They set fire to an 8-foot-tall cross outside the Improve, Miss., home of a white man and his African-American wife. Two days later, the judge convicted Mickey Herbert Thomas, 17, of civil rights charges. Following recommendations from prosecutors, Pickering sentenced both to prison with home confinement. As it turned out, the 17-year-old was likely the instigator, who would later admit to firing a shot through the interracial couple’s windshield.

The final defendant, Swan, 20, went to trial. He admitted being at the scene but said he was drunk. Among his arguments were that he was a victim of racial animosity. The jury found otherwise, convicting him on three counts. Federal prosecutors then asked Pickering to sentence Swan to 7½ years in prison.

Pickering strongly criticized the sentencing disparity. He persuaded prosecutors to drop one count in order to void one conviction, and to reduce Swan’s sentences to two years and three months in prison.

FAITH IN JUSTICE “DESTROYED”

That move troubled Brenda Polkey, one of the victims of the cross-burning incident. Last year, she wrote to the Senate Judiciary Committee in opposition to Pickering’s appeals court nomination, fueling the Democratic war.

Polkey, who had lost a family member to a racial killing, said she had “experienced incredible feelings of relief and faith in the justice system” when a predominantly white jury convicted Swan.

“My faith in the justice system was destroyed,” she wrote to the committee. “I learned of Judge Pickering’s efforts to reduce the sentence of Mr. Swan,” she wrote. “I am astounded that the judge would have gone to such lengths to reduce the sentence of the jury and to reduce the sentence of a person who caused so much harm to me and my family.”

The AJC review of the judge’s rulings, however, shows that Pickering—like many other federal judges who face rigid U.S. sentencing rules—has gone out of his way many times to reduce prison sentences in cases where his predecessor would have held the defendant. And many of the defendants who benefited are black.

William Moody, an African-American drug defendant, was arrested in 2000, seven years after his indictment. Authorities could not find him because he was living in New York, holding a steady job and supporting his family. Upon learning about Moody’s apparent turnaround, Pickering delayed his sentencing a year, allowing his continued good behavior to be used as a basis for punishment with little likelihood of a sentence of more than six months. On another occasion, Pickering recommended he sentence a more culpable co-defendant also an African-American, to no more than nine years. Pickering quickly vacated Evans’ sentence and later sent him to prison for 10 years—five months less than what the co-defendant received.

“He committed a reprehensible crime and yet was treated fairly,” said Lloyd Miller, a U.S. probation officer who prepared sentencing reports in Pickering’s courtroom for more than a decade. “It didn’t matter what the defendant’s race was or whether you were a powder or if you had money.”

Pickering, who would not comment for this article perhaps because of his renomination, has said that in almost all the criminal cases that came before him involving nonviolent first offenders, he has tried to lessen their sentence, even to the extent of releasing them on bond.

“I have consistently sought to keep from imposing unduly harsh penalties on young people whom I did not feel were hardened criminals,” Pickering wrote in a letter to Senate Judiciary Chairman Orrin Hatch (R-Utah) following his combative confirmation hearings last year.

Pickering has not addressed his reported worry about a white backlash in the cross-burning case because the Justice Department memo has not been published until now. But that document, both from his civic life and judicial record, to believe that he does not cater to white people’s particular concerns.

In a 1999 essay on race relations in the South, Pickering wrote that “as a black, not white, judge, I’ve realized that African-Americans are treated differently by the system, he wrote, but “it is the truth and a most disturbing one if you are black.”

As a judge, I’ve known only two jury verdicts, both times because he felt the verdicts were biased against minority plaintiffs.

In one of the cases, in 1983, an African-American woman was injured at a restaurant. The jury awarded the woman only what the restaurant argued she should receive. Pickering ordered a new trial, and the second jury awarded the woman a larger judgment.

OTHER ISSUES

Interest groups opposing the judge maintain the cross-burning case is just part of a pattern of the judge’s racially questionable rulings.

Opponents point to the Pickering’s ruling in a Voting Rights Act case as an important civil rights law that mandates federal oversight of Southern elections to keep white authorities from suppressing the black vote. The law has allowed black-majority voting districts to be created in some cases, boosting the number of minorities elected to political office.

Laurel Landy, president of the American Civil Liberties Union’s Southern regional office in Atlanta, acknowledged that Pickering had enforced the Voting Rights Act to the satisfaction of minority plaintiffs in some cases.

“But what is disturbing is the philosophy that seems to pervade his decisions,” he said. “He has a most disturbing view of the federal courts getting involved in this issue.”

In several cases reviewed by the AJC, Pickering did question how far the federal courts should resolve certain civil rights issues. The judge wrote from the perspective of a former legislator who once had to draw lines for voting districts himself—and who still resents the courts getting involved in those cases.

In a 1993 decision, Pickering wrote at length about the history of the one-person, one-vote principle, suggesting courts may have applied it too rigidly sometimes.

The courts “should be cautious in their obstruction into what otherwise would be a legislative issue. One person, one vote was the challenge to election districts in Forrest County, Miss.,” he wrote. Court rulings that some districts be redrawn have shown, Pickering wrote, that they be based on “the very feasible responsibility of the legislature for handing down these decisions ever had the responsibility themselves of carrying out these decisions or trying to comply with them.”

Pickering’s appeal restraint is in line with that of many federal judges. Like many other jurists put on the bench by Republican presidents, Pickering appears destined to tinker at the margins of social dilemmas as a white activist judge.

As such, Pickering would find himself at home among the U.S. Circuit Court of Appeals, widely considered one of the more conservative appellate courts in the country.

A WILL TO GET HIS WAY

Liberal critics have complained about the judge’s “general tendency” to shun questions of how much those complaints would resonate without the cross-burning case against Swan and his two co-defendants. The case shows Pickering’s efforts to reduce the sentence he sought that the judge was at least concerned about the power of the federal bench to get his way from the Justice Department’s civil rights lawyers in Washington.

At trial, Swan was convicted of three counts: violating the interracial couple’s civil rights, interfering with their federally protected housing rights and using fire when he was committed a crime and for which he would have carried a mandatory, consecutive five-year sentence.

Pickering not only thought the 7½-year sentence sought by prosecutors for Swan was unfair, but he also questioned whether a five-year mandatory sentence for one of the counts applied to the cross-burning case, as prosecutors intended. Pickering noted there was a split in the federal appeals courts on that very issue.

Pickering also asked Civil Rights Division lawyers to explain to him whether the same sentencing standards were being used in other cases across the country. After some lawyers demanded the issue be addressed to then-U.S. Attorney General Janet Reno. Pickering even called Vice President Al Gore’s brother-in-law, Jim Gore Lavigne, who headed the Justice department’s Civil Division, to express his frustration.

Pickering summed up his thoughts about the sentencing disparities in the cross-burning case clearly when Swan was to be sentenced on Nov. 15, 1994.

“He committed a reprehensible crime, and a couple got away from him,” Pickering said. “He’s going to pay a price for it. And he’s going to pay a price. But I have never, since I’ve been on this bench, seen a more contradictory, inconsistent position by the government than they’re taking in this case.”

Bradford Berry, a civil rights prosecutor from Washington, responded by saying perhaps the Justice Department should have asked for harsher punishment against Swan’s two co-defendants.

“You’re the one working for the Justice Department, not me,” Pickering shot back. “I didn’t take that position. The Justice Department took that position.”

Pickering postponed the sentencing another two months. He advised the lawyers involved back to his chambers, without a court reporter to transcribe the discussion.
In a memo written after the meeting, Berry gave an extraordinary account of what transpired. Pickering told the lawyers about his civil rights background, saying that while not at the forefront of the movement, he was a supporter, according to Berry's memo. Pickering's account of the Klan leader, who lived in the Deep South, who directed the cross-burning case, disturbed him, Berry noted. The judge said that "in the current racial climate in that part of the state, such a harsh sentence would serve only to divide the community."

Pickering then asked prosecutors to consider agreeing to dismiss the count against Sam Bowers, who studied Berry's memo. Pickering's aggressive posture in the cross-burning case is not uncommon among the federal judiciary. "There are judges who want a just result and try to convince the parties to find a way that enables them to do so under the federal sentencing guidelines, which can be very harsh and rigid," Samuel said. "These things happen. Often it's very well-intentioned to get along and not to be cruel."

But Samuel said he found troubling Berry's account of Pickering's concern about a harsh sentence dividing the community. "That doesn't seem like a very good basis and it shouldn't be," the defense lawyer said.

University of Georgia criminal law professor Ron Carlson said the only part of the record to the Federal bench, some of them to the Federal bench, some of them Democrats, some of them Republicans.

What is especially ironic about this incident is that Judge Pickering was not one of those people whose ideas we have to excuse. He led his times. He was not one of those people whose ideas we would have to excuse. He led his times. He spoke out. He would have, I am certain, joined Judge Wisdom, Judge Tuttle, Judge Rives, and Judge Brown in ordering Ole Miss to admit James Meredith to the University of Mississippi 40 years ago.

Why would we not now recognize this man, who lived in the Deep South, who did what we all hope we would have had the courage to do, but might not have done in the late 1960s? Why would we not now honor and recognize that service by confirming his nomination to this appellate court?

I care about the court. I care about these issues. I admire the record as carefully as I could. All of the evidence supports the fact that Charles Pickering is a worthy successor on the Fifth Circuit to the court of Judge John Minor Wisdom, Judge Elbert Tuttle, Judge Richard Rives, and Judge John R. Brown.

Mr. President, I rise today to say a few words concerning the nomination of Judge Charles Pickering. Throughout the entire history of the Senate, no judicial nominee has ever been defeated by a filibuster. Yet in this session alone, four nominations have been defeated by what some have called constitutional obstruction. Soon, there will be five, six, and likely even more nominees facing partisan filibusters. This obstruction flies in the face of more than 200 years of Senate tradition, the constitutional rule of the Congress, and the consent of the governed.

While all of these filibusters are wrong, it seems to me that the tactics and strategies used to defeat the nominees is particularly disgraceful.

First, we witnessed the hostile attitude towards Leon Holmes, a nominee for the Eastern District of Arkansas. Despite having earned the support of both his home state Senators—both members of the minority—Mr. Holmes was sharply criticized—not for his legal work, but for his personal writings about his religious views.

Then we witnessed the unbridled animus directed toward Alabama Attorney General, Bill Pryor—who was repeatedly challenged over whether his "philosophy" and "deeply held views," particularly those arising from his religious background, would be acceptable today. A representative of one of these groups recently called Judge Pickering a "racist," a "bigot," and "a woman-hater."

It is sad to see this shameful caricature of a well-qualified, respected man. And it is sadder still to see these special interests dominate the other side. While I hoped we would never gain apologists among any members of this body, but hearing this debate today, I fear that my hope was all for naught.

This Nation, both North and South, has for too long suffered from the scourge of racism. We have made a great deal of progress so far, and there is more to go, but even as we condemn racism with all our might, we must also condemn false charges of racism. Every false charge of racism weakens a true charge of racism, and ultimately, that hurts us all.

Judge Pickering has been praised and supported by those who know him best, by those who have worked by his side, and seen him fight racism in his home state of Mississippi. As a Southern legislator, I believe James Meredith's words with respect to Senator Lister Hill: "If we are to meet the challenge realistically, common sense, an unflinching integrity, and a non-partisan approach will be required..."
protection, equal rights and fairness for all.” The senior Senator from Loui-
siana has applauded Pickering’s life-
long campaign against racism, charac-
terizing them as “acts of courage.”
And the Senators from Georgia have
written that, “Pickering’s critics have
and will continue to call him a racist
and segregationist,” and “nothing could be further from the truth.”

But perhaps the most compelling
views on this subject have been ex-
pressed by Mississippi Governor
Medgar Evers, and he has personally
known Judge Pickering for over 30
years. He is intimately familiar with
Judge Pickering’s numerous actions
throughout his career to fight racism,
often with deep sacrifice and personal
cost.

Mr. Evers wrote in the Wall Street
Journal in support of Judge Pickering,
saying,

“As someone who has spent all my adult life
fighting for equal treatment of African-
Americans, I can tell you with certainty
that Charles Pickering has an admirable
record concerning issues. He has taken
tough stands at tough times in the past,
and the treatment he and his record are receiv-
ing at the hands of certain interest groups is shameful. Those in Washington and New
York who criticize Judge Pickering are the
same people who have always looked down
on Mississippi and its people, and have done
devastating damage to their residents.
I hope that today the Senate will
take a stand against the despicable
tactics of radical special interest
groups. We must not allow the special
interests’ exploitation of religious
views, stereotypes, or false carica-
tures—concerning Southerners or any
other people—to decide a vote on any
nominee. Such reprehensible practices
have no place in this debate. And it is
a dark day for the Senate and for
America’s independent judiciary when we allow special interests to dictate the
basis for disqualification.

I ask my fellow Senators to vote to
confirm Judge Pickering, to reject the
hateful caricature that has been
drawn by special interest groups intent
on vilifying and demonizing, and
marginalizing an admirable nominee. I
hope that my colleagues will give all
these qualified nominees what they de-
serve, and allow them to have an up or
down vote.

For the sake of the Senate, the Na-
tion, and our independent judiciary, I
hope that these days of obstruction fi-
nally end.

Mr. Bunning. Mr. President, I speak
today in support of Judge Charles
Pickering upon his nomination to the
Fifth Circuit Court of Appeals.

Judge Pickering was unanimously
confirmed to be a Federal district
judge in 1990, where he has served hon-
orably ever since. He graduated first
in his law school class at the University
of Mississippi School of Law, serving on the Law
Journal and Moot Court. In addition to
practicing in a law firm, Judge Pick-
ering was both a city and county pros-
secutor and a municipal court judge.
Judge Pickering continued his public
service in the Mississippi State Senate.
He also has served his fellow man by
helping others through organizations
like the Red Cross and the March of
Dimes. Judge Pickering has also de-
icevoted his life to the practice of law,
attending law school at the University
of Mississippi in 1966 and subsequent
years. He has served as an educator and
municipal judge. He has been a
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Rogers Brown, Bill Pryor, Priscilla Owen, and Henry Saad. Each nominee has a fantastic story and a stellar record. Each has been singled out for his or her adherence to the law and the traditional roles of government.

Randall have long fancied themselves as the champions of women and minorities in this country, and I have no doubt that many on the left do strive for equality for all Americans. But the radical left has achieved its power through the politics of division. A conservative Hispanic or conservative woman or conservative Arab or conservative black woman or conservative religious man is anathema to their dominance of these issues. Rather than celebrating the achievements of these gifted human beings ascending to the job for which he or she was selected by the President of the United States, these ultra liberals would rather defame their characters and demagogue their beliefs.

There seems to be no end in sight to these tactics and political showdowns. But I hope and pray that day will soon come.

Mr. MCCONNELL. Mr. President, today we will vote on whether the Senate should simply to consider the nomination of Charles Pickering to the Fifth Circuit Court of Appeals. From my review of Judge Pickering’s record, I have been struck by one resounding virtue—moral courage.

As the tide of racial equality swept America in the 1950s and 1960s, it unfortunately met with fierce resistance in certain areas. Laurel, MS was one. Unlike New England, integration was not popular in Jones County. Unlike New York, the press was not friendly to integration in Jones County. Unlike large Southern cities such as Atlanta and Birmingham, there was no substantial segment of the community that had an enlightened view on race relations. The town of Laurel, MS, with a small population was the home territory of the Imperial Wizard of the Ku Klux Klan, Sam Bowers.

In the 1960s, Klan-incited violence escalated in Jones County, MS. The Klan would drive by homes in the middle of the night and shoot into them. The Klan would firebomb the homes of African Americans and those who helped them. The Klan would murder its enemies who stood for civil rights.

Beating, shootings, bombings, and murders violated the law, the victims looked for justice. They found it in Jones County Attorney Charles Pickering.

On the one hand, Charles Pickering had his duty to enforce the law. On the other hand, he had public opinion, the press, and most state law enforcement personnel against vigorously prosecuting Klan violence. A 27-year-old Charles Pickering stared in the face his political future, many in his community, and the press and chose to do his duty of enforcing the law against the men who committed such violence. In the 1960s in Mississippi, this took courage.

Soon County Attorney Charles Pickering found that he had to choose against between those in law enforcement who would only go through the motions and those who sought to vigorously prosecute and imprison Klansmen. He chose to work with the FBI to investigate, prosecute, and imprison Klansmen. In the mid-1960s in Mississippi, this took courage.

Then came the threats. The Klan threatened to have County Attorney Pickering whipped. With the Klan already firebombing and murdering other whites whom it viewed as helping black citizens, the Pickering family could have easily been next.

At night, County Attorney Charles Pickering would come back to his small home and look into the eyes of his young wife Margaret. He would look into the eyes of his four small children. What could he do? What could anyone do anything and who did not understand hate and murder. One can only imagine how his wife Margaret would lie awake in fear, hoping that she would hear his husband’s footsteps coming home. And Charles Pickering had the courage to protect his family. He had no press to stand up for him and his family. He had no covering of popular opinion to hide behind. And in this time of hate, bombings and murder, Charles Pickering reached down deep in his soul, embraced the only thing he did have, his religious faith.

He then testified against Sam Bowes, the Imperial Wizard of the Ku Klux Klan in the firebombing trial of civil rights activist Vernon Dahmer in 1967. And Charles Pickering signed the affidavit supporting the murder indictment of Klansman Dubie Lee for a murder committed at the Masonite Corporation’s pulpwod plant in Jones County, MS.

While it is easy in Washington, DC, in 2003, to make a speech or sign a bill in favor of civil rights after decades have changed racial attitudes in schools, in society, and in the press, who among us would have had the courage of Charles Pickering in Laurel, MS in 1967? Who among us would have had the courage of his wife Margaret to stand with him?

There are those who would say “We are pleased that Judge Pickering was one of the few prosecutors who actually prosecuted crimes committed by the KKK in the 1960s, but he should have also gone further by calling for immediate integration of schools and the workplace.”

That argument is tantamount to saying, “We are pleased that Harry Truman integrated the federal armed forces in 1948, but he should have gone further and called for the integration of the state national guards as well.”

We are pleased that Lyndon Johnson signed the Civil Rights Act in 1964, after opposing civil rights, but he should have gone further and demanded that all businesses adopt an affirmative action hiring plan.”

To judge the words and actions of these Civil Rights Champions in the 1940s, 50s, and 60s, by a 2003 standard, would leave them wanting. We must remember that in Mississippi and other Southern States in the 1960s, most elected prosecutors sat on their hands when the Klan committed acts of violence. Young Charles Pickering had to deal with white citizens and politicians who resisted integration and civil rights. He had to deal with those people in language that would not incite further violence and with requests for action that he had a chance of getting people to take. He did so with moral courage.

And because he acted with courage at such a young age, Charles Pickering was able to continue with more progressive actions decade after decade. In 1976, he hired the first African American field representative for the Mississippi Democratic party. In 1980 he defended a young black man who had been falsely accused of the armed robbery of a teenage white girl. In 1999, he joined the University of Mississippi’s Racial Reconciliation Commission.

In 2000 he helped a program for at-risk kids, most of whom were African Americans, in Laurel, MS—where 35 years earlier he had backed his principles with his and his family’s lives. This is a record of courage. It is a record to be commended.

In the years since the 1960s, attitudes in Mississippi and elsewhere have dramatically improved. Schools are integrated. The Klan is no longer a powerful force capable of intimidating whole communities. And the support from Mississippians—black and white, men and women—who have known Charles Pickering for decades has been overwhelming. This support no doubt results from the moral courage of Charles Pickering.

In 1990, the Judiciary Committee unanimously reported the nomination of Charles Pickering, and the Senate unanimously confirmed him to the district court bench. In his 12 years on the bench, he had handled 4,500 cases. In approximately 99.5 percent of these cases, his rulings have stood. The American Bar Association rated Judge Pickering “well qualified” for the Fifth Circuit Court of Appeals—once upon a time, the vaunted “gold standard of any Democratic candidate.”

I was present at Judge Pickering’s confirmation hearing. I listened to the testimony and reviewed the record. I have measured the allegations and those who made them, against the entire record and the conduct of Judge Pickering. I have found the allegations to be unfounded and the special interest group accusers lacking in the moral courage that Judge Pickering possesses.

The Senate now has a chance to show the courage that Charles Pickering has consistently demonstrated. Unfortunately, I fear it will shrink from this
moment. And for that I apologize, in advance, to Judge Pickering and his family. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SCHUMER. Mr. President, this is a difficult decision and one in a certain sense. I listened to the sincere words of my colleague from Tennessee. I think they were heartfelt and well spoken. I have tremendous respect for my two colleagues from Mississippi, and I know particularly to my friend Senator LOTT how much Judge Pickering's heart was, to take it another 3 minutes. He also wrote that there was one thing he has not figured out how to do yet.

I yield 5 minutes to the Senator from New York. Once he has finished, I will then speak and answer some of the things that have been said on the other side.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. I thank my colleague for yielding.

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Mr. SCHUMER. I thank my colleague for yieldi
legal precedents, especially those that protect rights. He has harshly criticized the Supreme Court’s “one person, one vote” rulings and has reversed numerous times by the Fifth Circuit Court of Appeals for his failure to follow “well-settled principles of law.”

In one case, Judge Pickering took extraordinary steps to reduce the sentence required by law for a man convicted of cross burning. In addition, he exerted extraordinary efforts to reduce the 30-year sentence mandated by Federal sentencing guidelines in the cross-burning case and went so far as to make an ex parte phone call to Justice Department officials in an attempt to assist the defendant.

And, since his hearing, Judge Pickering has actively solicited the support of this nomination from attorneys who appear in his courtroom. This behavior not only calls into question Judge Pickering’s commitment to protecting the constitutional rights of all Americans, but legal experts agree that his actions violated the canons of judicial ethics.

Unfortunately, some of our colleagues on the other side of the aisle, in their drive to push through every Bush judge at all costs, have turned this process into a personal attack on the integrity and motivations of those of us who oppose this nomination. We have been accused of anti-Southern bias. Of course, anyone listening to me or my colleagues would have to figure that I am the last person to hold an anti-Southern bias.

We have seen what happens when the President meets us halfway. He has done it before—rarely, but he has done it. He reached out to us on Allyson Duncan, an outstanding North Carolinian who just yesterday was formally instated as a judge on the Fourth Circuit Court of Appeals, breaking a logjam that had held our State back for a decade.

In that case, President Bush did more than just pay lip service to our constitutional obligation to advise and consent. He reached out to us before he made his decision. He consulted with us. He sought our advice. And in making his decision, the President selected a nominee who represents the mainstream of our State.

Throughout Judge Duncan’s confirmation process, I commended the President for consulting with us and making an excellent nomination. And I told him that if he takes this approach to future judicial nominations we have a real opportunity to find common ground in the search for excellence on the federal bench. When we work together, we find outstanding nominees like Allyson Duncan, who represents the best of North Carolina and America.

But rather than accept my call for consensus, the President just said no.

There is a saying that if you see a dog and a cat eating from the same dish, it might look like a compromise, but you can bet they are eating the cat’s food. That is how things seem to be working in Washington these days. My colleagues and I have tried and tried to find common ground. We have tried yes to Bush judges, time after time after time. We have said yes to more than 160 Bush judges. But my colleagues on the other side of the aisle have instead dug in their heels and demanded that unless we agree to every single nominee the President sends up here, no matter how unacceptable they are, we are being obstructionist.

We can do better than this. And we should do better. It is time for this President to stop saying no to judges who will fairly apply the law. Let’s say yes to judges who will fairly apply the law. Let’s say yes to judges who will protect our civil rights. Let’s say yes to judges who will stand up for civil rights. Let’s say yes to judges who will stand up for civil rights.

Ms. CANTWELL. Mr. President, Federal judges serve lifetime terms, and are responsible for interpreting our Constitution, and our laws, in ways that have real implications for the rights of regular Americans. Last year I joined my colleagues on the Judiciary Committee in voting not to report the nomination of Privacy and Civil Liberties Judge Charles Pickering to the Circuit Court of Appeals for the Senate floor. I stand by that vote. I continue to have very real concerns about Judge Pickering’s ability to be a fair and neutral Court of Appeals judge.

In evaluating judicial nominations, among the factors I consider are whether the nominee demonstrates the highest level of professional ethics and integrity, and has the ability to distinguish between law and policy when interpreting the law. Unfortunately, I believe Judge Pickering falls short in meeting these criteria. Judge Pickering is an honorable person, but he is simply the wrong person to fill this very important position.

Like my colleagues, I am troubled by Judge Pickering’s handling of the case of United States v. Swan, where a white defendant was tried for burning a cross on the lawn of an interracial couple. Judge Pickering had multiple ex parte conversations with prosecutors and Justice Department officials in an effort to reduce the sentence of Mr. Swan. In doing so, Judge Pickering seems to have lost sight of the ethical limitations on his actions, and the extent to which he was failing to maintain judicial independence. As Brenda Polkey, the victim of the cross burning, said, her “faith in the justice system was destroyed” by Pickering’s efforts to reduce Mr. Swan’s sentence. In every aspect of government we need to work hard and keep faith with the public.

This case indicates how deeply held Judge Pickering’s views are, and how far he will go to arrive at an outcome he believes to be correct. The difficulty that he has in keeping his personal views out of his judicial decision-making are obvious, not only in this case, but in several opinions in which he goes beyond the facts of the case to state his belief of what the law ought to be. Judge Pickering’s efforts to solicit letters of support from lawyers appearing before him in direct violation of the canons of judicial ethics is another example of understanding and adherence to the ethical guidelines that are critical to maintaining the independence and integrity of the Federal judiciary.

Because of this troubling record of not reducing precedent, and of overstepping ethical bounds to achieve a particular outcome, I asked Judge Pickering questions at his hearing that focused on the right to privacy. I asked Judge Pickering about privacy as it pertains to consumers’ rights, specifically medical and financial records, as it pertains to an individual’s right to privacy in the context of government surveillance, and with regard to a woman’s right to make personal decisions about her body. In response, he declined to state whether he believed that any right to privacy was conferred by our Constitution.

While my concern about how Judge Pickering would rule on cases of fundamental right is one factor in my decision to oppose his elevation to the Circuit Court, it is one I believe is important. The Fifth Circuit covers three States—Louisiana, Texas and Mississippi—that have passed more anti-choice legislation restricting a woman’s right to make personal choices about her own body than any other States. In fact, all three States continue to have unconstitutional and unlawful restrictions on women’s rights, prohibiting a woman from having an abortion, because the legislature in each of these States will not repeal the laws. This is the context against which we must consider the President’s nomination to fill this seat.

While Judge Pickering has repeatedly pledged to restrain his personal ideological views and follow the precedent of the Supreme Court, given the unique role that the Fifth Circuit plays in protecting not only the constitutional rights enunciated in Roe and affirmed in Casey, but also in protecting women’s access to abortion providers in the States with the Fifth
Circuit, I am concerned about Judge Pickering’s willingness to say where in the Constitution privacy is protected and his willingness to follow the law. Judge Pickering’s actions on the bench reveal a lack of understanding of the requirements of judicial ethics and a failure to meet the very highest standards of the legal profession. Judge Pickering has exhibited a lack of ability to distinguish his personal beliefs from the issues before the court, and I therefore cannot support his elevation to the Fifth Circuit.

Mr. FEINGOLD. Mr. President, I will vote no on cloture on the nomination of Charles Pickering to be a judge on the U.S. Court of Appeals for the Fifth Circuit.

We had a fair process in the last Congress on this nominee—two hearings, a lengthy period of deliberation and debate, and a fair vote. The nomination was defeated. The Judiciary Committee’s consideration of this nomination was thorough and fair. Obviously, some did not like the result, but I do not think they can in good faith find fault with the process.

It is my view that a process that gives a nominee a hearing, and then a vote in the Judiciary Committee is not an unfair process, or an “institutional breakdown,” as some critics of our work in the committee last year called it. It is the way the Judiciary Committee is supposed to work. During the 6 years prior to last Congress, the Judiciary Committee did not work this way. Literally dozens of nominees never got a hearing, as Charles Pickering did, and never got a vote, as Charles Pickering did. Those nominees were mistreated by the committee; Charles Pickering was not. What happened in the Judiciary Committee last year needs no justification whatever for the President’s unprecedented action of renominating someone who has been considered by the committee and rejected.

Judge Pickering now has a substantial record as a district court judge that he did not have in 1990, and Senators are entitled—indeed it is our duty—to review and evaluate that record. Even leaving that aside, a court of appeals judgeship is different from a district court judgeship.

There is another factor that I think requires us as a committee to give this nomination very careful consideration. During the last 6 years of the Clinton administration, this committee did not report out a single judge to the Fifth Circuit Court of Appeals. That is right. Not a single one.

And as we all know, that was not for lack of nominees to consider. President Clinton nominated three well-qualified lawyers to the Court of Appeals—Jorge Rangel, Enrique Moreno, and Alston Johnson. None of these nominees even received a hearing before this committee. When the chairman held a hearing in July 2001 on the nomination of Judge Pickering to the Fifth Circuit court, only a few months after she was nominated, it was the first hearing for a Fifth Circuit nominee since September 1994. We have since confirmed another Fifth Circuit nominee, Edward Prado.

So there is a history here and a special burden on the administration to consult with our side on nominees for this Circuit. Otherwise, we would simply be rewarding the obstructionism that the President’s nominees have encountered over the last 6 years by allowing him to fill with his choices seats that his party held open for years, even when qualified nominees were advanced by President Clinton. And I say once again, my colleagues on the Republican side bear some responsibility for this situation, and they can help resolve it by urging the administration to address the injustices suffered by so many Clinton nominees.

With that background, let me outline the concerns that have caused me to reach the conclusion that Judge Pickering should not be confirmed. Except for the DC Circuit, the Fifth Circuit has the largest percentage of residents who are minorities of any circuit—over 40 percent. It is a court that during the civil rights era issued some of the most significant decisions supporting the rights of African American citizens to participate as full members of our society. It understands the continuing problems of racism and discrimination in our country will continue to arise.

Judge Pickering’s record as a Federal district court judge leads me to conclude that he does not have the dedication to upholding the civil rights laws that I believe a judge on this circuit must have. Judge Pickering has a disturbing habit of injecting his own personal opinions about civil rights laws into his opinions and of criticizing the courts’ role in defining those laws. This is a failure to meet the very highest standards of the legal profession.

Another area of the law where Judge Pickering has demonstrated what seems like a hostility to certain kinds of claims is that of prisoner litigation. We all know that there is a significant problem of frivolous lawsuits being filed by prisoners. Congress addressed this problem in 1996 with the Prisoner Litigation Reform Act. As a result, the courts have provided certain sanctions for prisoners who file repeated frivolous claims. Judge Pickering, however, has taken
the law into his own hands on numerous occasions by threatening to order prison officials to restrict prisoners’ privileges if they filed another frivolous lawsuit. And he did this even after Congress specified certain sanctions for repeated frivolous lawsuits in the 1996 Act.

I believe that this kind of threat is inappropriate behavior for a Federal judge. Judge Pickering’s opinions could not help but chill even legitimate complaints from prisoners. While it is true that much frivolous litigation is filed by prisoners, it is also true that some celebrated cases upholding and explaining the constitutional rights of the accused have had their genesis in a prisoner complaint where the prisoner did not have a lawyer. Gideon v. Wainwright, which established the right to an attorney, was such a case. Just the day before Judge Pickering’s second hearing, the Washington Post ran a story about a prisoner who received a favorable Supreme Court decision in a case that began with such a complaint. And the petition for certiorari was filed by the prisoner without a lawyer, as well. I believe that judges at all levels must have an open mind toward all types of litigation in a way that will frighten people into not asserting their rights is a highly questionable thing to do.

Judge Pickering did respond to my written questions about his decisions in prisoner litigation. I was gratified to learn that he never actually imposed the sanctions he threatened, and I appreciate his and the Justice Department’s efforts to find legal authority for his orders. I find those efforts unconvincing, particularly with respect to the orders that he entered after Congress passed the Prisoner Litigation Reform Act. Judge Pickering states in answer to my questions that “[m]y objective was to stop prisoners who were filing frivolous litigation with no merit to it,” and that “[I do not believe that legitimate complaints by prisoners were chilled by this approach.” I simply do not know how Judge Pickering could be so certain now, or when he was making those orders, that threatening to order prison officials to take away unspecified privileges if a prisoner filed another frivolous complaint was a tactic that would discourage only frivolous suits by prisoners, but not legitimate ones.

I also have concerns about two different ethical issues that arose during the consideration of his confirmation. I questioned him about one such issue at his second hearing before Judiciary Committee last year. After his first hearing, Judge Pickering asked a number of lawyers who practice before him to submit letters of recommendation. He asked them to send those letters to his chambers so that he could fax them to Washington. And he testified that he read the letters before forwarding them to the Justice Department, which sent them on to the committee. Now when I asked Judge Pickering about this, he seemed confused by the questions, as if he thought I was objecting to the fact that the letters had been faxed rather than mailed. Let me be clear, I have no problem with faxes. I get them all the time. What I do have a problem with is a sitting judge directly asking lawyers who practice before him to send them letters supporting his nomination to a higher court and having those letters sent to him rather than directly to the Justice Department or the Senate. That seems to raise an obvious ethical issue, and I was surprised that Judge Pickering didn’t recognize it, even when I questioned him about what he did.

I asked Professor Stephen Gillers of NYU Law School, one of the leading experts on legal and judicial ethics in the country, for his views on this issue. Professor Gillers responded in a letter to me. He confirmed my concern about Judge Pickering’s actions. Let me read a portion of that letter. Professor Gillers wrote:

It was improper for Judge Pickering to solicit letters in support of his nomination from lawyers who regularly appear before him. It is important to my answer that the judge asked the lawyers to send him the letters so that he could send them to the Justice Department for transmittal to the Senate. That seems to raise an obvious ethical issue, and it is hard to understand why Judge Pickering didn’t recognize it, even when I questioned him about what he did.

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that suggests that Judge Pickering’s conduct presents even more serious ethical problems. In his response to my inquiry about Judge Pickering’s solicitation of letters of support, Prof. Gillers also noted the following:

The impropriety of asking you to submit letters of recommendation to a sitting judge seeking a position on a higher court seems particularly acute if lawyers or litigants with matters currently pending before the Judge were solicited. Then the desire to please the Judge or to get favorable rulings could be a coercive nature of the request even more apparent. In addition, soliciting favorable letters from lawyers or litigants in current matters could be seen to require that the Judge’s “impartiality might reasonably be questioned.” 28 U.S.C. § 455(a).

We identified 18 separate letters, all written in late October 2001, that came to the committee from Judge Pickering’s chambers. We now know that at least seven of the lawyers who wrote letters on behalf of Judge Pickering at his request actually had cases pending before him at the time. A number of those lawyers had more than one case pending. And you would write a letter of recommendation to me, improperly stepped out of his judicial role, to try to get a result that he favored in the case. He had an ex parte

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contact with the Justice Department about the case. He threatened to rule on a legal issue in a way that he apparently did not believe was correct if the Justice Department did not change its sentencing position. He twice told the Justice Department that he would order a new trial even though it was clearly outside of his authority to do so. And he took unusual and apparently unjustified steps to keep his order secret, which prevented public scrutiny of his actions.

Judges' confidences should not be like legislation that can be reintroduced and reconsidered by a succeeding Congress. The Senate, acting through this committee, and exercising its constitutional responsibility, refused to give its consent to this nomination last year. I believe it was wrong for the President to re-nominate Judge Pickering.

I do not believe Judge Pickering is a racist, nor do I believe that he is a bad person. I do believe that the letter sent to print in the RECORD the letter is the right choice for this position. I wish him well. I continued work on the district court.

Mr. President, I ask unanimous consent to print in the RECORD the letter to which I referred. The being re-nominated, the material was ordered to be printed in the RECORD, as follows:

NEW YORK UNIVERSITY,
School of Law,
Hon. RUSSELL D. FRINGOLD,
U.S. Senate,
Washington, DC.

DEAR SENATOR FRINGOLD: I am replying to your inquiry of February 12, 2002. I assume familiarity with Judge Pickering’s testimony and will address the two questions you ask. I do not question the Committee’s position on whether Judge Pickering should be confirmed for the Fifth Circuit or the weight, if any, that should be given to my analysis below. Many facts are relevant to a confirmation vote.

It was improper for Judge Pickering to solicit letters in support of his nomination from lawyers who regularly appear before him. It is important to my answer that the Judge asked the lawyers to fax him the letters so that he could send them to the Justice Department for transmittal to the Senate. He did not ask the lawyers to send any letters directly to Washington. Consequently, the Judge would know who submitted letters. This undermines the confidentiality by having the lawyers’ names appear on the original. (The Opinion states: “Of course, in the opinion of the Committee, during the period of time that the panel is evaluating the incumbent and considering what results it should make concerning reappointment, a perception would be created in reasonable minds that the judge had divested himself of the Judicial responsibilities with impartiality is impaired in any case involving an attorney or a party who is a member of the panel.”)

Here, of course, the situation is more serious because Judge Pickering would know what, if anything, a lawyer wrote.

Opinion 97 is consistent with court rulings that have disqualified judges, or reversed judgments, when the judge, personally or through another, was exploring the possibility of a job with a law firm or government law office, was exploring the possibility of a job with a law firm or government law office, or was exploring the possibility of a job with a law firm or government law office. See, e.g., Scott v. U.S., 559 A.2d 745 (D.C. 1989) (conviction reversed where judge was negotiating at the time for a job with the Justice Department). Pepsico, Inc. v. McMillon, 714 F.2d 458 (7th Cir. 1983) (judge disqualified after headhunter for judge contacted law firm appearing before him and judge also has been required where the judge’s contact with a litigant in a pending case was not employment-related but was otherwise pertinent. Home Placement Service, Inc. v. Providence Journal Co., 739 F.2d 671 (1st Cir. 1984) (recusal required where judge cooperated with a newspaper reporter to write an editorial about the judge and his wife while newspaper’s case was pending before judge).
The Code of Conduct for U.S. Judges requires judges to refrain from activity that could lead to unnecessary recusal. Canon 3 states that the "judicial duties of a judge take precedence over all other activities." Canon 5 instructs judges to "regulate extra-judicial activities to minimize the risk of conflict with judicial duties." Opinion 97 and the cases have given great latitude to the litigant whose case came before the Judge reasonably soon thereafter, but whose lawyer did not write (or whose lawyer did not write) a letter recommending the Judge a strong legal basis to seek to recuse the Judge in the litigant's case. A litigant whose case came before the Judge reasonably soon thereafter, but whose lawyer had not written a letter in response to the Judge's earlier request (as the Judge would be aware), would also have a basis for a recusal motion.

I hope this letter assists your important work.

Sincerely yours,
STEPHEN GILLERS.

Mr. KOHL. Mr. President, today we are considering the nomination of Charles Pickering to the Fifth Circuit Court of Appeals. Despite the fact that the Judiciary Committee rejected his confirmation little more than 18 months ago, the President has seen fit to renominate Judge Pickering for this appellate court judgeship. But nothing that has occurred in the intervening time should alter our conclusion that we should not confirm Judge Pickering.

The President's decision to again advance Judge Pickering's nomination at this time is hard to understand. Had new facts come to light regarding Judge Pickering's qualifications or record which assured our doubts concerning his fitness for this judgeship, or new explanations emerged for his rulings and actions while a district judge, we could understand the President's decision to renominate him. But absolutely nothing of the kind has happened. His record was scrutinized at length and in detail by this Committee last year, and a majority found it deficient. Rather than examining the quality and record of the nominees, we are once again rehashing the already well-documented and well-established problems with this nominee. And our conclusion today is the same as it was last year—Judge Pickering does not warrant a promotion to the Fifth Circuit.

As Judge Pickering's record became known last year, we grew more and more concerned about his ability to apply and make the law without interfering with his strongly held opinions. Many of Judge Pickering's decisions are far outside of the mainstream and appeared to be motivated by a rigid ideological agenda. For example, he has shown an unrelenting hostility to persons bringing cases of employment discrimination on the grounds of race, ethnicity or gender. In voting rights cases, he has demonstrated a callous attitude toward the core democratic principle that every vote must count.

And we are all aware of Judge Pickering's actual actions to reduce the sentence of a man convicted burning a cross in the front lawn of an interracial couple. Judge Pickering's extraordinary behavior on behalf of a defendant in a cross-burning case seriously calls into question his impartiality, his judgment, and his fitness to serve as an appeals court judge. This incident looks no better today than it did 18 months ago.

We are further troubled by Judge Pickering's continued active solicitation of support of letters of recommendation from lawyers practicing before him. Judge Pickering admitted at his hearing last year that he asked several lawyers who practiced before him to write letters of support and to send those letters to his chambers so that he could send them on to the Justice Department. This conduct obviously constitutes an abuse of a judge's position. Even after hearing the ethical concerns of many last year, he has continued this inappropriate practice. Such plain disregard for judicial proprieties and ethics speaks loudly against promoting Judge Pickering to the Fifth Circuit.

The deficiencies in Judge Pickering's record are particularly intolerable in a candidate for an appellate judgeship. Once confirmed to his positions for life, a judicial candidate is accountable to the Congress, the President, or the people. But this fact has special force when we are considering an appellate court nominee. On the circuit court, a judge enjoys the freedom to make policy if he chooses with little concern of being overruled. Subject only to the infrequent review by the Supreme Court, Court of Appeals judges are the last word with respect to our liberties, our Constitution, and our civil rights.

I also should stress that I do not oppose Judge Pickering because his political views might be different than mine. The President has a right to appoint judges of his own political leanings. But in the case of Judge Pickering, it appears his ideology is so strong, and his convictions so settled, as to interfere with his ability to fairly dispense justice and protect the rights of the most vulnerable in our society. Judge Pickering's record as a judge over the past decade has called into question his ability to perform his duties in the courtroom and apply the law fairly, objectively, and without prejudice. This reason alone compels us to oppose his nomination.

I must also dissent from the charge that filibustering this nomination is an abuse of our Constitutional duty to advise and consent. While such a step is not—and should not—be done routinely, filibusters of judicial nominations have been undertaken under the leadership of both parties several times in recent years. This does not even take into account the silent filibuster known as a "hold"—often anonymous—which permits one objector to block consideration of a judicial nominee. President Clinton's nominees were routinely defeated by anonymous holds. And those holds only defeated the nominees who were lucky enough to even get a hearing and a committee vote. In the case of Judge Pickering, his candidacy has been reviewed and debated twice by the Judiciary Committee. Plainly he has received fair consideration of his nomination.

Judge Pickering is simply unfit for promotion to the Fifth Circuit. No new facts have come forward which justifies reconsideration of the Judiciary Committee's decision to reject his nomination last year. For these reasons, I must vote against confirmation of his nomination tonight.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, over the years, I have spoken many times in the Chamber. In 29 years I have spoken on everything from arms control treaties to relatively routine matters. In this particular case, I come here with mixed feelings. The Senator from New York spoke about his two friends from Mississippi, Mr. C.O. CHAMBER, and I believe I am very much a creature of the Senate—on many issues, gets along with comity. The Senators from Mississippi are both good friends.

I consider the senior Senator from Mississippi, Mr. COCHRAN, one of my closest friends in this body. We traveled together in Mississippi, in Vermont, abroad, and we have always worked closely together on everything from appropriations to agricultural matters.

Senator LOTT has always been very courtious to me and is a good friend. We even compare photographs of our grandchildren. I think we have both come to the conclusion that is the best part of life.

We are at a challenging time in our Nation's history. Over the last several days more than 200 people have been killed or wounded in Baghdad. The number of unemployed Americans has been at or near levels not seen in years, poverty is on the rise in our country, and the current administration seems intent on saddling our children and grandchildren with trillions in deficits and debt. For the first time in a dozen years, charitable giving in this country is down. That is not the type of compassion we heard about just 3 short years ago.

While negative indicators are spiking, the Republican leadership of the Congress now is choosing to abandon work on very real problems in education, health care and national security to turn the Senate to wheel-spinning exercises involving the most controversial judicial nominees.

Ironically, in spite of the heated rhetoric on the other side of the aisle, we have made progress on judicial vacancies when and where the administration has been willing to work with the Senate. Indeed, just the other day the Senate confirmed the 167th of this President's judicial nominees—100 of them, confirmed by the previous Democratic-controlled Senate.

In less than 3 years' time, the number of President George W. Bush's judicial nominees confirmed by the Senate...
has exceeded the number of judicial nominees confirmed for President Reagan in all 4 years of his first term in office. Republicans acknowledge Ronald Reagan as the “all time champ” at appointing Federal judges, and all but declared that the Senate in confirming President George W. Bush’s nominees compares very favorably to his. Since July 2001, despite the fact that the Senate majority has shifted twice, a total of 167 judicial nominations have been confirmed, including 29 circuit court appointments. One hundred judges were confirmed in the 17 months of the Democratic Senate majority, and now 67 more have been confirmed during the comparative time of the Republican majority.

One would think that the White House and the Republicans in the Senate would be heralding this landmark. One would think they would be congratulating the Senate for putting more lifetime appointed judges on the Federal bench than President Reagan did in his entire first term and doing it in three-quarters of the time. But Republicans have a different partisan message. The truth is not consistent with their efforts to mislead the American people into thinking that Democrats have obstructed judicial nominations. Only a handful of the most extreme and controversial nominations have been denied consent by the Senate. Until today only three have failed. One has been successful to this point. That record is in stark contrast to the more than 60 judicial nominees from President Clinton who were blocked by a Republican-led Senate.

Not only has President Bush been accorded more confirmations than President Reagan was during his entire first term, but the Senate also has voted more confirmations this year than in any of the 6 years that Republicans controlled the Senate when President Clinton was in office. Not once since President Clinton allowed 67 confirmations in a year when Republicans controlled the pace of confirmations. Despite the high numbers of vacancies and availability of highly qualified nominees, Republicans never cooperated with President Clinton to the extent Senate Democrats have. President Bush has appointed more lifetime circuit and district court judges in 10 months this year than President Clinton was allowed in 1985, 1986, 1997, 1998, 1999, or 2000.

Last year, the Democratic majority in the Senate proceeded to confirm 72 of President Bush’s judicial nominees and was savagely attacked nonetheless. Likewise, in 1992, the last previous full year in which a Democratic Senate majority considered the nominees of a Republican President, 66 circuit and district court judges were confirmed. Historically, in the last year of an administration, already the record confirmed by the “Thurmond rule” is one-third, and vacancies are left to the winner of the Presidential election. In 1992, however, Democrats proceeded to confirm 66 of President Bush’s judicial nominees even though it was a Presidential election year. By contrast, in 1996, when Republicans controlled the pace for consideration of President Clinton’s judicial nominees, only 17 judges were confirmed, and not a single one of them was to a circuit or district court judgeship.

In fact, President Bush has now already appointed more judges in his third year in office than in the third year of the last five Presidential terms, including the years when Republicans controlled the Senate and President Clinton was leading the country to historic economic achievements. That year, in 1999, Republicans allowed only 34 judicial nominees of President Clinton to be confirmed all year, including only 7 circuit court nominees. Those are close to the average totals for the 6 years from 1995 to 2000 when a Republican Senate majority was determining how quickly to consider the judicial nominees of a Democratic President. By contrast, the Senate to this point has confirmed 67 judicial nominees, including 12 circuit court nominees, almost double the totals for 1999.

These facts stand in stark contrast to the false partisan rhetoric by which Republican partisans have sought to demonize the Senate for having blocked seemingly all of this President’s judicial nominations. The reality is that the Senate is proceeding at a record pace—more confirmations, more lifetime appointed judges on the Federal bench than at any time in modern times. Through his extreme judicial nominations, President George W. Bush is the most divisive President in modern times. Through his extreme judicial nominations, he is dividing the American people and he is dividing the Senate.

The nominee we are being asked by the majority to consider today is Charles W. Pickering, Sr., currently a lifetime appointee on the Federal trial court in Mississippi. Originally nominated in 2001 by President Bush, this nominee’s record underwent a thorough examination by the Senate Judiciary Committee and was found lacking. Rejected for this promotion by the committee last year because of his poor record as a judge and the ethical problems raised by his handling of his duties, in specific instances, Judge Pickering’s nomination was nonetheless sent back to the Senate this year by a President who is the first in our history to reject the judgment of the Judiciary Committee on a judicial nominee. This is the only President who has renominated someone rejected on a vote by the Judiciary Committee for a judicial appointment.

For a while this year this renomination lay dormant while Republicans planned a followup hearing in their effort to reinterpret the facts and the record. Every once in a while we would receive news accounts that some Republican official or other would insist that the nomination was to resurface. Judge Pickering himself told an audience at a recently delivered speech that several hearings on his nomination were scheduled and cancelled over the last year by the Republicans.

Recently, however, Republicans decided to forego any pretense at proceeding in regular order. They simply placed the name of Judge Pickering on the committee’s markup agenda and voted him out by means of the one-vote majority. There was no reason given for suddenly bringing this nomination to the fore again. There are plenty of nominees for the committee to consider whom it has not previously rejected. The committee had been told since the January that the hearing would first be held, but none was.

So the timing has begged the question: Why Judge Pickering, and why now? Why not move ahead to confirm well-qualified candidates, such as
Roger Titus or Gary Sharpe? Why expend the Senate’s valuable time rehashing arguments about a controversial nomination that has already been rejected once before?

Some have charged that the timing of this vote has been arranged to coincide with the gubernatorial election next Tuesday in Mississippi. That is because for month, after month, after month—10 months, in fact—this nomination has been pending before the Senate for more than four years. I have already noted that even after losing the cloture vote, Republicans led by Senator Sessions moved to indefinitely postpone a vote on Judge Paez’s nomination, and a number of Republican Senators currently serving voted to continue to block action on the Paez nomination in 2000. Yet some Republican Senators now claim that it is unprecedented to filibuster or deny a circuit court nominee an up or down confirmation vote on the Senate floor.

Their filibuster of Judge Paez’s nomination is just one example of Republican filibusters of Democratic nominees. Others include Dr. David Satcher to the Surgeon General in 1996; Dr. Henry Foster to be Surgeon General in 1995; Judge H. Lee Sarokin to the Third Circuit in 1994; Ricki Tigert to the Federal Deposit Insurance Corporation in 1994; Derek Shearer to be an ambassador in 1994; Rosemary Barkett, a Mexican-American attorney, nominated to the 11th Circuit, 1994; Larry Lawrence, to be ambassador in 1994; Janet Napolitano at the Justice Department in 1993; and Walter Dellinger to be Assistant Attorney General for the Office of Legal Counsel at the Justice Department in 1993.

The nominations of Dr. Foster and Mr. Brown were successfully filibustered on the Republican side. Similarly, the nomination of Abe Fortas by President Lyndon B. Johnson to the Supreme Court of the United States was successfully filibustered by Republicans with help from some Southern Democrats. In addition, to the nominees of Democratic Presidents whose nominations were subject to sometimes fatal delay on the floor, Republicans made an art form of killing nominations in the committee. They would never even have a vote on the floor. According to the public record, more than 60 of President Clinton’s judicial nominees were defeated by willful refusal to allow them a vote, and more than 200 executive branch nominees, including several Latinos, of President Clinton would never even have a vote on the floor. According to the public record, more than 60 of President Clinton’s judicial nominees were defeated by willful refusal to allow them a vote, and more than 200 executive branch nominees, including several Latinos, of President Clinton would never even have a vote on the floor. According to the public record, more than 60 of President Clinton’s judicial nominees were defeated by willful refusal to allow them a vote, and more than 200 executive branch nominees, including several Latinos, of President Clinton would never even have a vote on the floor. According to the public record, more than 60 of President Clinton’s judicial nominees were defeated by willful refusal to allow them a vote, and more than 200 executive branch nominees, including several Latinos, of President Clinton would never even have a vote on the floor. 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Senators were available to participate. Security and space constraints prevented all but a handful of people from attending. In preparation for the October 18 hearing, we determined that Judge Pickering had published a comparatively small number of his district court opinions over the years. In order to give the committee time to consider the large number of unpublished opinions that Judge Pickering estimated he had written in his 12 years on the bench, and because of the constraints on public access to the first hearing, the committee afforded the nominee an opportunity for a second hearing.

I continued to work with Senator LOTT and, as I told him in response to his inquiries that December, I proceeded to schedule that follow-up hearing for the first full week of the 2002 session. There was, of course, ample recent precedent for scheduling a follow-up session for a judicial nominee. Among those nominees who participated in two hearings over the last few years were Marsha Berzon, Richard Paez, Margaret Morrow, Arthur Gajarsa, Eric Clay, William Fletcher, Ann Aiken and Susan Molway, among others. Unlike those hearings, some of which were held years after the initial ones, we had written in his 12 years on the bench the large number of unpublished opinions to give the committee time to consider the Court of Appeals was given a fair opportunity for a second hearing.

At his hearing, I asked Judge Pickering about a toxic tort case, Abram v. Reichhold Chemicals. There he dismissed the law without publishing their decisions, which according to their rules and practice indicates that the appellate court regards its decision as based on well-settled issues. Those Fifth Circuit reversals on well-settled issues indicated that Judge Pickering had committed mistakes as a judge in either not knowing the law or in not applying the law in the cases before him. That is fundamental to judging. I asked Judge Pickering about many of these reversals. Looking at his record, I saw that he had been reversed by the Fifth Circuit at least 25 times. And in 15 of those cases, the Fifth Circuit reversed him without publishing their decisions, which according to their rules and practice indicates that the appellate court regards its decision as based on well-settled issues. Those Fifth Circuit reversals on well-settled issues indicated that Judge Pickering had committed mistakes as a judge in either not knowing the law or in not applying the law in the cases before him. That is fundamental to judging.

That was regrettable. While Democrats and most Republicans have kept to the merits of this nomination, it is most unfortunate that others chose to vilify, castigate, unfairly characterize and condemn without basis some Senators who were working conscientiously to fulfill their constitutional responsibilities.

The Judiciary Committee only asked Judge Pickering to produce a record of his judicial rulings. They are public documents but were not readily available to the public or the committee. Given the controversial nature of this nomination and the disproportionately high number of unpublished opinions, that this request was appropriate as part of our efforts to provide a full and fair record on which to evaluate this nomination, as some Republican Senators have conceded.

I set forth this background, for the record, to ensure that no one misunderstands how the committee went about evaluating Judge Pickering’s record. We did not engage in a game of tit-for-tat for past Republican practices, nor did we request that others produce records. Rather, the Senate Judiciary Committee seriously considered the nomination, gave the nominee two opportunities to be heard, and promptly scheduled a Committee vote. I also postponed a business meeting of the committee 1 week at the request of the Republican leader, out of deference and courtesy to him.

The responsibility to advise and consent to the President’s nominations is one that I take seriously. I firmly believe that Judge Pickering’s nomination to the Court of Appeals was given a fair hearing and a fair process before the Judiciary Committee. Those members who had concerns about the nomination raised them and gave the nominee the opportunity to respond, both at his hearing and in written follow-up questions. In particular, I thank Senator SCHUMER for chairing the Committee on October 18 and for following up then and, again, at the February follow-up hearing. I commend Senator FEINSTEIN for her fairness in chairing that follow-up hearing. I said at the time that I could not remember anyone being more fair than she was that day, and I reiterate that today.

My regret is that she and so many Democrats on the Judiciary Committee were subjected to unfair criticism and attacks on their character and judgment after last year’s committee vote defeating the nomination. I was distressed to hear that Senator FEINSTEIN received calls and criticism, as have I, that were based on our religious affiliations. That was wrong. I was distressed to see Senator FEINSTEIN subjected to criticism and insults and name-calling for asking questions. That was regrettable. While Democrats and most Republicans have kept to the merits of this nomination, it is most unfortunate that others chose to vilify, castigate, unfairly characterize and condemn without basis some Senators who were working conscientiously to fulfill their constitutional responsibilities.

I would like to explain exactly what it is about Judge Pickering’s record as a judge that so clearly argues against his confirmation. My first area of concern, which I raised at his hearing, is that Judge Pickering’s record on the United States District Court bench, as reflected by several troubling reversals, does not commend him for elevation. Instead, it indicates a pattern of not knowing or choosing not to follow the law, of relying to his detriment or that of others on his misunderstanding of the law, of relying to his detriment or that of others on his misunderstanding of the law, and of misstating the law.

At his hearing, I asked Judge Pickering about many of these reversals. Looking at his record, I saw that he had been reversed by the Fifth Circuit at least 25 times. And in 15 of those cases, the Fifth Circuit reversed him without publishing their decisions, which according to their rules and practice indicates that the appellate court regards its decision as based on well-settled issues. Those Fifth Circuit reversals on well-settled issues indicated that Judge Pickering had committed mistakes as a judge in either not knowing the law or in not applying the law in the cases before him. That is fundamental to judging.
abused his discretion because he had not tried to use lesser sanctions before throwing the plaintiffs out of court permanently, without hearing the case on the merits. Again, the Fifth Circuit did not publish its reversal, indicating that it held this law that a discharge with prejudice was appropriate only where the failure to comply was the result of purposeful delay or contumaciousness, and the record reflects that the district court employed lesser sanctions on that basis. The Fifth Circuit found none of those conditions existed.

Approximately 3 years before reversing Judge Pickering in the Abram case, it had reversed him on the same legal principle in a case called Heptinstall v. Blount. There the Fifth Circuit held that he had abused his discretion in dismissing a case with prejudice for a discovery violation without any indication that he had used this extreme measure as a remedy of last resort. And in its ruling in Heptinstall, the Court cited another of its previous rulings which stated the same principle of law. When this was pointed out by another Fifth Circuit judge, Judge Pickering was unfamiliar, he had been reversed on that basis once and committed the same error again. This was binding Fifth Circuit authority of which he was aware but chose not to follow. At his hearing, I asked Judge Pickering to explain his ruling in Abram, especially in light of the prior reversal by the Fifth Circuit on the same principle of law in another of his earlier cases and he offered no collection of the facts of the case, he offered no satisfactory explanation of why he ruled in a way contrary to settled and binding precedent.

I asked Judge Pickering about a first amendment case, Rayford Johnson v. Forrest County Sheriff's Department. This was a case in which a prisoner inmate filed a civil rights lawsuit claiming that a jail's rules prevented inmates from receiving religious magazines by mail violated his first amendment rights. In an unpublished one-paragraph judgment, Judge Pickering adopted the recommendation of a magistrate and granted the jail officials' motion to grant summary judgment. In other words, he said that the petitioner's claim of a first amendment right to religious materials which he wanted to get through the mail would be denied without further proceedings.

In my opinion, the Fifth Circuit Court of Appeals, not considering by many a liberal circuit or one that coddles prisoners, reversed Judge Pickering and said that the inmate's first amendment rights had been violated. Why he did this the Fifth Circuit relied on and cited a published decision of its own from several years before, Mann v. Smith. In that case, they struck down a jail rule prohibiting detainees from receiving newspapers and magazines, holding that it violated the first amendment.

What was of concern here was that in the Mann case, the prison officials had made much the same argument about fire hazards and clogged plumbing that were made by prison officials and accepted by Judge Pickering in the Johnson case. This was a case with almost identical facts in his own circuit, what he relied on was his enforcement with the Johnson case, and he did not cite it. Indeed, he turned his back on it and ruled the other way. We do not know whether he did not know the law or did not follow it. At the hearing, Judge Pickering denied that the magistrate who had worked on the matter and he had " goofed" and that he was unaware of the law and the recent, binding precedent in his own circuit.

There are many other reversals, which continue to concern me for the same reasons that I remain concerned about the Johnson case and about the Abram case.

One of them is a case called Arthur Loper v. United States. This is another case in which Judge Pickering was reversed in an unpublished Fifth Circuit opinion, which again means that he violated "well-settled principles of law." This case dealt with an enhanced sentence that the Fifth Circuit found he had imposed improperly on a criminal defendant. When the defendant made a motion for the sentence to be corrected or set aside, Judge Pickering denied the inmate's motion without giving him a hearing but without even waiting for the government to respond. On appeal, the Fifth Circuit reversed Judge Pickering's denial of the motion, noting that the government conceded that the defendant was correct, and that an error had been made that prohibited the judge from imposing the sentence that he did. The Fifth Circuit also cited the statute under which the inmate filed his motion, which requires that under ordinary circumstances, the trial judge "shall . . . grant a prompt hearing" and "make findings of fact and conclusions of law" on the petitioner's claims. The Fifth Circuit criticized Judge Pickering for denying the motion in a " one-page order that did not contain his reasoning." And then the court went on to remind him that "[a] statement of the court's findings of fact and conclusions of law is normally indispensable to appellate review." Reading this case, I can only wonder why Judge Pickering did not abide by the statute and follow the law. Was he unaware of the requirements of the law that he had to decide to follow? I cannot vouch for them that other judges, some appointed by Democrats, have higher numbers of unpublished reversals. Whatever these numbers purport to represent about the quantity of Judge Pickering's reversals—and I cannot vouch for them one way or another, not knowing their source or meaning—they do not in any case excuse the poor quality of his underlying opinions.

In addition to the many times that Judge Pickering has been reversed by the Court of Appeals for not knowing or following the law, there are numerous instances of Judge Pickering misstating the law in cases that were not appealed to a higher court and other cases in which he stated a conclusion without any legal support.

An example is a case of a defendant by Judge Pickering in a case called Barnes v. Mississippi Department of Corrections. In an earlier go-round in this case, the Fifth Circuit had reversed Judge Pickering on one point, and in this later opinion, he tried to explain that they did so, in part, on the basis of a 1993 Supreme Court case called Withrow v. Williams. In particular, Judge Pickering wrote that the Supreme Court, "acknowledge[d] in Withrow that the Miranda warning is not a constitutional mandate, that it was merely a misreading of Withrow. I trust that Judge Pickering would now acknowledge that the Supreme Court recently made clear in Dickerson v. United States that the Miranda warning is indeed derived from a constitutional mandate.

An example of an entirely unsupported conclusion comes in a case called Holtzclaw v. United States, where Judge Pickering presided over a habeas corpus petition by a Federal petitioner whom he had convicted. Although this was the first habeas petition the prisoner had filed, Pickering denied the petition frivolous. He regarded the motion as restating claims that had already been made at trial. He dismissed it, and stated that he would order prison officials to punish the petitioner if he filed another frivolous petition. Judge Pickering also conducted a "survey" of cases within his district to determine how many frivolous habeas corpus petitions by Federal petitioners whom he had convicted. However, in the section of his opinion dealing with the sanctions, he did not cite a single statute, rule of procedure, local
rule or case as support for his decision. He stated:

In the future, this Court will give serious consideration to requiring prison authorities to restrict rights and privileges of prison inmates without petitions filed in this Court. Specifically, this Court gives notice to Roger Franklin Holtzclaw that should he file another frivolous petition for habeas corpus in this Court without referring the matter to another judge, the petitioner filed affidavit that the judge before whom the matter is pending has a personal bias or prejudice him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.

According to the statute, the Judge had to allow another judge decide whether he should be recused or not. However, Judge Pickering did not follow the law, and he decided the case himself. That it was my view was false. In support of his decision, he cited the dissent in a Fifth Circuit case.

I am also concerned about Judge Pickering's rulings and the attitude they signal on one of the most precious rights we have as Americans: voting rights. In Fairly v. Forrest County, a 1993 case, Judge Pickering rejected a "one-person, one-vote" challenge to voting districts in population which Judge Pickering demonstrates to be non-constitutionality by the Supreme Court. He called the doctrine of one-person, one-vote "obtrusive," expressing skepticism about the role of the Federal courts in vindicating the Voting Rights Act in order to meaningful participation by all citizens in elections. In that case he also denigrates the value of each citizen's vote, arguing that the impact of any mal-apportionment is "minuscule" because an individual voter holds so little power. While we have always known about the power and value of individual votes, the last Presidential election has certainly taught us all of a new respect for the impact of each citizen. Judge Pickering's disregard for such a vital American right and for the worth of each American's vote is extremely troubling.

Additional questions arise from another recurring trend that emerges from a review of Judge Pickering's opinions, published and unpublished: his habit of inserting his personal views into written decisions in such a way as to create a terrible impression of bias to categories of plaintiffs and hostility to entire types of claims before the Federal courts.

One entire category of claims in which Judge Pickering demonstrates hostility and bias is employment discrimination actions. This is also a category of cases where an examination of the judge's unpublished opinions was crucial, because over the last 12 years on the Federal bench, he chose to publish only one of his employment discrimination decisions. The remaining 12 were all among the unpublished decisions he produced to the committee upon request after his first hearing last October.

What is significant in these cases are the times in the unpublished opinions that Judge Pickering went beyond merely ruling against the plaintiff to make unnecessary, off-the-cuff statements about all the reasons he believes plaintiffs claiming employment discrimination should not be in court, and about the general lack of substance of claims brought under the federal anti-discrimination statutes.

For example, in a 1996 case, Johnson v. Southern Mississippi Home Health, Judge Pickering did not limit his opinion to a legal conclusion based on the facts presented. Instead he made sure to note that:

- The fact that a black employee is terminated does not automatically indicate the discrimination. The Civil Rights Act was not passed to guarantee job security to employees who do not do their job adequately.

In a case called Seeley v. Hattiesburg, No. 2-96-CV-327-PG, (S.D. Miss. Feb. 17, 1998), where he should have limited himself to the facts and the law, Judge Pickering went on to comment about other matters relating to race discrimination lawsuits apparently on his mind at the time, writing that:

[T]he Courts are not super personnel managers charged with ensuring every employment decision made regarding minorities... The federal courts must never become havens for employees who are in a class protected from discrimination who in fact are employees who are derelict in their duties.

In a credit discrimination case, Judge Pickering ruled on the case before him, and then included a lengthy lecture giving his very personal views onto anti-discrimination laws. He wrote:

This case demonstrates one of the side effects resulting from anti-discrimination laws and racial polarization. When an adverse action is taken adversely by such laws, there is a tendency on the part of the person affected to spontaneously react that discrimination caused the action. Sometimes this is true and sometimes it is not true. All of us have difficulty accepting the fact that we sometimes create our own problems. When expectations are created that are incapable of fulfillment... Plaintiffs fail to recognize that whatever your race--black, white, or other--natural consequences flow from one's actions. The fact that one happens to be protected from discrimination does not give one insulation from one's own actions.

All of this unnecessary editorializing is ironic given Judge Pickering's testimony at his first hearing in October of last year, when he explained to the committee why he has chosen to publish so few of his opinions over the years. He explained that, "Americans were drowning in information," and that his opinion was "absolutely too much," expressing a desire to "simplify" the law written down. He testified that his view is, "[i]f you are not establishing precedent, why make lawyers have to read," and that, "there is too much being written out there." If you don't have anything to add... that is going to be helpful to somebody," he said, "you are just cluttering up the information."
the judge had already made up his mind.

Such blatant editorial comments, reflecting such a narrow view of the important goals of our Nation’s civil rights laws, and coming from the pen of the same judge who supported the strongest arguments in favor of a fair and just result, are troubling. Judges are not appointed to inject their own personal beliefs into a case.

Judge Pickering voiced another disturbing aspect of his views on employment discrimination cases almost as an afterthought at his second hearing. In an attempt to explain his statements on the weakness of many of these cases in response to Senator Kennedy, Judge Pickering demonstrated a troubling misunderstanding of the role of Equal Employment Opportunity Commission in reviewing employment cases. He stated that he believed that, “the EEOC engages in mediation and it is in my impression that most of the good cases are handled through mediation and they are resolved. The cases that come to court are generally the ones that the EEOC has investigated and found that there is no basis, so then they don’t go into court.” But this is completely wrong. The EEOC has a backlog of almost 35,000 cases. Both parties must agree to mediation. The commission lacks resources. Yet Judge Pickering had already prejudged employment discrimination cases filed in court without merit. That kind of erroneous and unfair a generalization about the strength of discrimination cases by a Federal judge responsible for presiding over them, was extremely disconcerting. That a Federal judge, on the bench for a dozen years, could so misunderstand the legal and practical mechanisms behind employment discrimination cases was disturbing.

While fair treatment in employment on the basis of race, sex, national origin, color and disability is fundamental to the American dream, and crucial to a free and thriving economy, due process in criminal proceedings can be a matter of life and death. Here, too, Judge Pickering has misunderstood the law and injected his personal views.

In a 1995 case, Barnes v. Mississippi Department of Corrections, Judge Pickering presided over a habeas corpus case in which a prisoner claimed that his confession was involuntary because it was obtained without merit. The judge denied the petition and the Fifth Circuit reversed his decision. The judge denied the petition and the Fifth Circuit reversed his decision. After remand, he again denied the petition, stating that granting such a habeas petition “is far more cruel than denying to a known murderer a procedural right regardless of how important that right is.” He cited the Bible and Coke’s treatise to make the point that habeas corpus should be limited to petitions in cases of actual innocence. That was a misstatement of the law in contradiction to Supreme Court precedent. He further stated that, “[i]t is the fundamental responsibility of government to protect the weak from the strong, but it is also a fundamental responsibility of government to protect the meek from the mean—the law-abiding from the law violating.” He cited no legal authority for his personal view that society’s natural law rights to be free from crime override the specific protections contained in the Bill of Rights.

In Drennan v. Hargett, a 1994 case over which Judge Pickering presided, a habeas corpus petitioner claimed that he had been denied access to the courts and received ineffective assistance of counsel. He had pleaded guilty to a charge of capital murder at age 15 and received a life sentence. He claimed that his attorney had threatened him with the gas chamber if he did not plead guilty and that his lawyer did not make important motions, such as a motion to suppress his confession. He further stated that he was denied access to the courts for several years because of his youth and because his representatives misled him. Judge Pickering denied the claim, and devoted a third of his opinion, three pages of a nine-page decision, to arguing that habeas corpus should not be allowed unless a petitioner can prove actual innocence. In this unusual opinion, he cited the nineteenth and tenth amendments, the Precedent of Independence in support of his views, adding that he believes the Bill of Rights is in tension with the preamble on this point. Again, he cited no legal precedent for these odd and extremely personal views, almost entirely unrelated to the controlling law.

And in Washington v. Hargett, a 1995 habeas corpus case, Judge Pickering rejected the plaintiff’s request for DNA testing required to prove his actual innocence, but stated that an attempt to prove innocence was “the only reason why this Court or any other federal court should be considering a petition for habeas corpus,” so long after the trial. While that may be Judge Pickering’s personal opinion, it is undeniable contrary to Supreme Court and statutory law. They state that a prisoner petitioning for a writ of habeas corpus is contesting the legality of his detention. The Supreme Court explained as much two years before Judge Pickering’s decision. They stated that a prisoner petitioning for a writ of habeas corpus is contesting the legality of his detention. The Supreme Court explained as much two years before Judge Pickering’s decision. They stated that a prisoner petitioning for a writ of habeas corpus is contesting the legality of his detention. The Supreme Court explained as much two years before Judge Pickering’s decision.

Interestingly, whatever the answer to that question, in the same case where Judge Pickering declared the importance of actual innocence, he denied a petitioner the only thing that could have possibly proved his—a DNA test. It was in that case of Washington v. Hargett that Judge Pickering summarily rejected the plaintiff’s motion for a DNA test in order to prove his claim of innocence. The case involved a rape that occurred in August 1992, before the petitioner and the victim accepted in the courts. Yet the judge suggested in his opinion that DNA testing was inappropriate simply because the request came in 1995–13 years after the trial. As he put it:

Plaintiff had a fair criminal trial. He was, and is, entitled to nothing more. He was not entitled to a perfect trial. No such trial can be plaintiff against defendant. The petitioner that he wants DNA testing now thirteen years later. He wants a new trial. A new trial, now, 13 years later, would be much less reliable than the one that occurred 19 years ago.

As Judge Pickering may well know, over the last decade, post-conviction DNA testing has exonerated well more than 100 people, including 11 who were awaiting execution.

I have introduced legislation that would, among other things, afford greater access to DNA testing by convicted offenders. Senator HATCH and Senator Feinstein have also introduced bills to promote the use of DNA testing in the post-conviction context. In recent weeks I joined with Chairman Hatch and others in introducing a bill drawn from these earlier efforts. Attorney General Ashcroft has stated that “DNA can operate as a kind of truth machine, ensuring justice by identifying the guilty and clearing the innocent.” Judge Pickering appears in this unusual opinion to have creation of a view that habeas corpus should be considered would be to establish actual innocence.

I have asked in a number of different cases and areas of the law whether Judge Pickering was unaware of the law in different areas or whether he was trying to impose his own views in spite of the law. Another area of great concern to me—Judge Pickering’s intervention on behalf of a convicted criminal—raises this same fundamental question.

In this 1994 case, United States v. Swan, Judge Pickering presided over a case brought against three people accused of burning a cross on the lawn of an African American couple. The defendants, one a juvenile and the other with significant mental disabilities, accepted plea bargains offered by the prosecution. The third, Daniel Swan, the only competent adult of the three, was also offered a plea up to the last minute, but chose to go to trial, and was convicted of all three counts brought by the Government. The story of what happened next is what troubles me about Judge Pickering.

But before I get to that, I think it is important for us to understand exactly what the facts were in the case. From the trial transcript we know that on a night in early January of 1994, three young men hanging out and drinking in front of a convenience store got the idea to go and burn a cross on the lawn of a local family where the husband, Earnest Polkey, was a white man, and his wife, Brenda, was African American. Testimony at trial shows that two of the defendants, Jason Branch, who were at the time a juvenile, and Donald Swain, who had never been involved in the moving forces behind this idea. The third man, Mickey Thomas, had a very low IQ and mental difficulties. It really
was Branch and Swan who referred to the Polkey family using awful racial slurs, and together they cooked up this idea.

After deciding what they would do, they moved into action, and using Daniel Swan’s pickup truck, his wood, his nails, his gasoline and his lighter, the three men constructed a cross, took it to the Polkey’s front lawn, leaned it up against a tree, and lit it on fire.

Not long afterward, the three were caught by the FBI and all three were charged with the identical counts: 18 U.S.C. 241, conspiracy to deprive victims of their civil rights; 18 U.S.C. 3631(a), intimidation on account of race; and 18 U.S.C. 844(h)(1), the use of fire in the commission of a felony. All three were also offered a plea bargain which would result in little or no jail time, and two of them took the offer. Two of them, Jason Branch, the minor, and Mickey Thomas, he convinent with the Attorney General, to reduce the sentence of a person who caused so much harm to my family and my life.

Moreover, I know of no other criminal cases in which Judge Pickering intervened based on a concern about disproportionate sentencing or another case in which he took action to avoid imposing a sentence based on a statutory mandated minimum. His defenders will point to a few cases where he properly showed leniency within the law, but they are different from this one. In those cases it is clear he had the legal discretion to reduce sentences, but those advocating this nomination can point to no specific legal justification here.

The law has very real consequences, as this letter from Mrs. Brenda Polkey makes clear. It was sent to me last year when I was Chairman of the Committee on Judiciary.

My now-deceased husband, Ernest Polkey, and I were the victims of a cross-burning at our home in Improve, Mississippi in 1994. We had purchased the home in Southern Mississippi while I was still active military and my husband had retired from the military.

The cross-burning case was prosecuted by the Justice Department in Judge Charles Pickering’s court.

I write to express my profound disappointment in learning of Judge Pickering’s actions toward the defendant, Daniel Swan. As you can imagine, my family suffered horribly as a result of the conduct committed by Mr. Swan and the two other defendants. My daughter actually saw the cross in our yard in the morning of the day Judge Pickering took things abominably and I have a photograph of the cross that I took that morning to make sure that the crime was demonstrated properly.

The trial of Daniel Swan was extremely emotional for me and my family. As a native Southerner, I had grown up in the 1960’s with violent acts based on race, and I lost a member of my family due to a racial killing. I never imagined that I would have to write this letter. I am sure I am not the only one who has experienced the pain of this crime. The cross-burning case was prosecuted in Improve, Mississippi.”

My faith in the justice system was destroyed, however, when I learned about Judge Pickering’s efforts to reduce the sentence of Mr. Swan. I can only explain what his actions have done to my long-standing opinion that we were correct in helping to prosecute the case, in trying to bring about justice and in trying to prevent hate crimes from being committed against other persons. I am astonished that the judge would have gone to such lengths to alter the judgment of the jury to reduce the sentence of a person who caused so much harm to me and my family.

Very much opposed to any effort to promote Judge Pickering to a higher court. Respectfully yours, Mrs. Brenda Polkey.

When I raise questions about this case and Judge Pickering’s involvement in the case and suggest it violates basic canons of ethics, it is not just my opinion. It is the opinion of some of the Nation’s foremost legal scholars on judicial ethics. Let me read to you what some of them have said.

Professor Stephen Gillers of the New York University School of Law, one of the foremost legal and ethics experts in the country, told Senator Edwards after Judge Pickering’s hearings: “Judge Pickering exceeded
his powers as the trial judge in the Swan case in a way that undermined decisions of the political branches of government. He then sealed the Order that would have fully revealed his actions.

The professor concludes that this is a violation of Canon 2A and 3A(1) of the Code of Conduct for U.S. Judges because of his failure to respect and comply with the law or to be faithful to the law. He refused to make his judgment public not only for the judgment of the prosecutors, but also for the judgment of the legislators, this Senate and the House, instead of sticking to his role as a judge. And by sealing the order that revealed his position, he made certain that no judicial review of his actions could occur.

Professor John Leubsdorf, legal ethics professor and Judge Lacey Distinguished Professor of Law at the Northwestern University Law School, agreed with Professor Gillers. Professor Leubsdorf, who has been studying and teaching Legal Ethics for 25 years, has taught at Columbia, Cornell, and the University of California-Berkeley. He has also published articles in the Harvard, Yale, Stanford, Texas, NYU, Pennsylvania, Minnesota, and Cornell law reviews, could not have been clearer. After reviewing the judge’s actions, he concluded, “Whatever Judge Pickering’s motives may have been, this was no way for a judge to behave,” and that he “cannot escape the conclusion that Judge Pickering departed from his proper judicial role of impartiality the Swan case to become an advocate for the sentence he considered proper.”

Steven Lubet, a Professor of Law at Northwestern University Law School, directed the law school’s Program on Advocacy and Professionalism, and is the author of numerous articles on legal ethics, reached much the same conclusion. He tells us that, “Judge Pickering’s actions raise serious questions about his adherence to the Code of Conduct for United States Judges. In particular, it appears that Judge Pickering initiated a prohibited ex parte communication in violation of Canon 3A(4),” and that his “extended efforts to reduce Swan’s sentence for cross burning appear to have compromised his impartiality, taking him nearly into the realm of advocacy, thus implicating Canons 2A and 3A as well.”

The ethics concerns raised by the judge’s behavior in the cross burning case are not the only ethical problems Judge Pickering’s nomination presents. There is also the very serious matter of his having solicited letters of support and having asked to review them before forwarding them to the Justice Department and to the Senate. As Professor Gillers for NYU explains, this is a matter of grave concern. The letter, which has been made a part of the record, recounts the various Canons of the Code of Conduct that Pennsylvania Judges implicated by this behavior, and is just another reason why I cannot approve of Judge Pickering’s elevation.

I should note that Judge Pickering’s behavior in this matter is similar to that of a nominee from more than 20 years ago, Charles Winberry. Nominated to the U.S. District Court in North Carolina by Democratic President Jimmy Carter, Mr. Winberry’s nomination was defeated by the Judiciary Committee in 1980. Among the grounds on which I opposed this nomination, sent to the Senate by a President of my party, were my objections to Mr. Winberry’s having solicited letters from law and lay appearances before him if he were confirmed, and asking for blind copies of those letters.

The increasing frequency of nominees campaigning for confirmation to the federal bench is a troubling development and one that threatens the very independence of our judiciary. I was concerned about it in 1980 and I remain concerned about it in 2002.

During the course of these proceedings, some falsely contended that Democratic Senators have called Judge Pickering a racist. That did not happen and that criticism is a smoke-screen to obscure the real problems with this nomination. I attended the nomination hearing, listened to the nomination and witnessed Democratic Senators asking questions and the nominee being given opportunity after opportunity to make his best case for elevation to the Fifth Circuit. Some have even insinuated that I, as the senior Senator from Mississippi, am a racist, and have suggested that my opposition to this nomination is anti-Southern or anti-Christian, a smear that is as wrong as it is ugly. The talking points distributed by the other side are partisan, political and intentionally misleading. They have been accepted and repeated by some who have failed to review the record. That is unfortunate.

I think the nominee’s past views and actions during a difficult time in Mississippi’s history were not irrelevant, but I based my opposition on the facts. Judge Pickering did not question his own record.

So let me sum up for my colleagues what Judge Pickering’s own record makes clear. Judge Pickering’s record is replete with examples of bad judging and is littered with cases that demonstrate a misunderstanding of the law in many crucial and sensitive areas. Judge Pickering’s record shows a judge inserting his personal views into his judicial opinions and putting his personal preferences above the law. It is a record that does not merit this promotion to one of the highest courts in the land. Based on Judge Pickering’s record, I will vote against invoking cloture, and should cloture be invoked, I will vote against this nomination.

If Judge Pickering’s nomination is not ultimately successful, he will nonetheless remain a Federal judge of the Southern District of Mississippi with life tenure. He will be responsible for presiding over cases and determining matters central to the lives and well-being of many people in Mississippi and from elsewhere. He has served as a prosecutor, a State legislator, a local leader, and now as a Federal judge.

The oath taken by Federal judges is a solemn pledge to administer justice fairly to those who come before the court seeking justice. It extends to those who are rich, poor, white or black, Republican or Democrat, without regard to gender or sexual orientation, national origin or disability.

Judge Pickering remains a very important and powerful person in Mississippi. I understand that he may be the only Federal judge who sits in Hattiesburg. The judge’s ability faithfully to discharge the duties of the office are important every day, on every case, with respect to every claim and regarding every litigant. I bear him no malice and wish him and his family well.

Parliamentary inquiry: How much time remains for the distinguished Senator from Utah and myself?

The PRESIDING OFFICER. Each side has 7½ minutes.

Mr. LEAHY. Mr. President, I will yield 3 minutes to the distinguished senior Senator from Massachusetts in just a moment.

I would hope, after this debate, we might start debating judicial nominees based on the facts and some of the innuendos we have heard.

Mr. President, before I yield, I understand that again we are reserving the last 5 minutes for the distinguished senior Senator from Mississippi; is that correct?

The PRESIDING OFFICER. That is correct. You asked for 5 minutes, but you will not have 5 minutes after allotting the 3.

Mr. LEAHY. I understand. I thank the distinguished Presiding Officer, who is, after all, a model of propriety and fairness. I yield 4 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts?

Mr. KENNEDY. Mr. President, I oppose the nomination of Judge Charles Pickering on his record. I want to be absolutely clear about that. Charles Pickering has a disturbing record as a U.S. district court judge that simply does not qualify him for appointment to the Fifth Circuit. He has often been hostile to plaintiffs bringing civil rights claims, has questioned the value of important constitutional protections, such as the one man, one vote, and has tried to restrict habeas corpus. His cases are filled with dicta and with expressions of his own personal opinion. This all calls into question his ability to enforce statutory and constitutional protections and to maintain judicial temperament.

The States of the Fifth Circuit are among the poorest in the Nation. They have a population that is 42 percent minority—the highest of any circuit. For many years, the Fifth Circuit had a critical role in the Nation’s history in applying and interpreting the civil rights laws. Not long ago, the circuit was hailed for its courage in protecting
the civil rights of African Americans. When Congress passed the 1964 Civil Rights Act and the 1965 Voting Rights Act, many State and local governments in the South resisted these measures. Federal judges such as Ebert, John Johnson, and John Minor Wisdom helped to make the promise of equality a reality by enforcing these landmark laws of our time. It is particularly important that a judge appointed to this court have a commitment to our civil rights, to the constitutional safeguards that protect all Americans, and to the rule of law.

I am disturbed by the rhetoric I have heard today that those of us who oppose this would be "pro-mob." This rhetoric is a profoundly cynical misuse of race and disregards the lessons that we should all have learned from history. Those who cannot tell the difference between a mob bent on murder and an innocent individual solely because of the color of his skin, on the one hand, and those of us in the Senate who seek to focus on genuine issues in Judge Pickering's record, on the other hand, needs a serious history lesson. Frankly, such a comparison is not only unfair, but it does an injustice to those African Americans who suffered and died at the hands of real lynch mobs in the South, including in the State of Mississippi. This is not a lynching, this is reasoned debate, and it is part of our constitutional role of advice and consent to engage in such debate.

Judge Pickering's troubling record on civil rights, and his injection of his personal opinion can be seen in his extraordinary intervention on behalf of a cross-burning defendant. Pickering repeatedly pressured the Federal Government to drop a charge against a convicted cross-burner to avoid having the defendant serve a congressionally mandated 5-year minimum sentence. Pickering admitted that he has de- fended against the KKK and has spoken in press conferences, with an IQ of 80, and the other was a juvenile. Thus, Mr. Swan argued that the defendant serve a congressionally mandated 5-year minimum sentence. Pick- ering went so far as to threaten to build the cross, the gasoline used to douse it, the truck used to transport it, and the lighter used to ignite it all belonged to Mr. Swan.

The PRESIDING OFFICER. The Sen- ator has used his time.

Mr. LEAHY. I yield the 2 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Judge Pickering has a duty to follow the law and the canons of judicial ethics whether or not he agrees with them. His failure to do so in this recent case, cast doubt on whether he would do so if confirmed to the Fifth Circuit.

In a letter to Senator HATCH, Judge Pickering admitted that he has de- parted downward from other manda- tory minimum sentences only when the Sentencing Guidelines allowed an ex- ception. I have heard some say that the fact that some black Mississippians may support Judge Pickering should be enough to have him confirmed. Many of us have supported those from organizations representing thou- sands of African Americans in Mis- sissippi have come out against Judge Pickering. The State's major African American Bar Association—the Magnolia Bar Association—has written a letter to the Committee opposing Judge Pickering. He is also opposed by Eugene Bryant, President of the Mis- sissippi State Conference of the NAACP, which represents one hundred chapters of the NAACP.

Democrats have not smeared Judge Pickering's reputation by examining his record. Judge Pickering has a complex legacy. On the one hand, he testi- fied against the KKK and has spoken in favor of racial reconciliation. On the other, he has opposed civil rights laws, and the concept of "one-person, one-vote" under the Voting Rights Act. Democrats on the Judiciary Committee have never said that he is a racist. But they have determined what sort of judge he will be, not what kind of neighbor he is or the nature of his historical legacy. His 12 years as a dis- trict court judge provide us with a clear record that he is unwilling to apply or respect the law when he dis- agrees with it, and I will vote against his nomination.

Mr. HATCH. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Utah has 7 minutes 29 sec- onds, with 3 minutes being reserved for the Senator from Mississippi.

Mr. HATCH. Is that all the time left on either side?
He will abide by the other abortion cases. That is what this is all about. Frankly, I have it on impeccable information that that is what this is all about.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I am sorry the Senator from Utah was unwilling to yield for a question. He mentioned a threatened filibuster on Mr. Holmes. I assure him, we have cleared Holmes on our side. The Republicans could bring him up any time they want. There is no filibuster being threatened over here. I don’t know why they don’t bring him up. Gary Sharpe of New York, I don’t know why they don’t bring him up. These are judges they could bring up any time they wanted. They have been cleared for a vote on this side. We may vote for or against them. But Mr. Holmes is not being filibustered. That is a mistake on the part of the Senator from Utah.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, Charles Pickering has been subjected to the most intense and thorough scrutiny any judicial nominee enduring since I have been in the U.S. Senate. After all of his opinions as a United States district judge have been read and reread and dissected, this is what the record shows.

In his 13 years on the Federal bench, he has demonstrated a sense of fairness and good judgment that has reflected credit on the Federal judiciary. He has become known throughout our State as someone who is above reproach, who is totally honest and honorable, and who applies the law without regard to race, creed, or ethnicity in an intelligent, thoughtful, and sensible manner.

He is widely respected as a United States district judge. I have no doubt that if confirmed by the Senate, he will serve with distinction and dedication on the United States Court of Appeals for the Fifth Circuit.

Before he became a Federal judge, Charles Pickering served ably in the Mississippi State Senate and was the chairman of the Mississippi Republican Party. He was elected county prosecuting attorney after he had been engaged in the practice of law for only 2 years. When Charles Pickering was nominated to the U.S. District Court for the Southern District of Mississippi in 1990, he was approved unanimously by the Senate Judiciary Committee. And he was confirmed unanimously by the U.S. Senate.

As U.S. district court judge, he has become one of the highest rated judges in the Nation. Judge Pickering has received the highest rating from the American Bar Association. He has a lower reversal rate than both the national and Fifth Circuit average. Mr. President, a majority of his cases have been affirmed or not appealed. Of those cases that have been appealed, Judge Pickering has only a 7.9-percent reversal rate, which is 20-percent lower than the national average of the Department of Justice, and two times lower than the average district court judge in the Fifth Circuit.

He has been endorsed by the current President and the 120 residents of the Mississippi State Bar. He is endorsed by all of the major newspapers in Mississippi. He has also been endorsed by all of our State government officials who were elected statewide, including the Democrats who serve as Governor, attorney general, and secretary of state.

The people who know Charles Pickering the best are the residents of my State, and they overwhelmingly support his confirmation as a court of appeals judge.

It is time to end this effort to discredit and demean this good man. It is time for the Senate to do what is right and confirm this well-qualified and honorable nomination.

The PRESIDING OFFICER. Has all time been yielded back?

The majority leader.

Mr. FRIST. Mr. President, on leader time, I wish to make a few closing statements with regard to this vote and this process.

In a few minutes, we will have the opportunity to vote on whether Judge Pickering, whom the Senate has once before confirmed to the Federal district court without blemish, can continue the simple honesty of an up-or-down vote or whether he will be denied that fairness.

The vote matters to many people because none of the President’s judicial nominees has suffered more indignities and distortions than this superbly qualified man, Judge Pickering.

Others in the past and over the course of the morning have spoken much more ably about the qualifications with regard to this superbly qualified individual, Judge Charles Pickering.

I know the passion of the two Mississippi Senators from whom we just heard. We heard Senator LOTT speak about this man, and we heard the strong support from Mississippi Senator THAD COCHRAN for this nominee, and we know of the hard work of the chairman of the Judiciary Committee, Chairman HATCH—all of whom have worked so hard to bring this nomination to the Senate over the last 4 years, since he was first nominated by President Bush—again, 2½ years ago.

It had always been my hope over the last 10 months since I became majority leader that we would be able to put much of the unfortunate history of the 106th Congress behind us when it came to judicial nominations. By that, I refer to the inaction on nominees in committee to their outright defeat in committee which denied the opportunity for all Senators to exercise the constitutional responsibility of advising and consent, and the ability and opportunity to vote up or down on judicial nominations. I think we have made huge progress over the course of this year in that regard, thanks to Chairman HATCH.

While in many ways we closed that chapter of Senate history, a new chapter has opened and, once again, I believe we will see it today, and that is this unprecedented use of the partisan filibuster in the Senate to deny Senators the opportunity and the ability to have an up-or-down vote to speak clearly and the power to do that is through our votes, either for a judicial nomination or against a judicial nomination.

What bothers me as majority leader is what that says about our institution and about the future of this institution. Many of us have spoken to this and have warned over the past several months about the dangers of departing from this 200-year history of the Senate tradition from which all of a sudden we are seeing this departure over the course of this year.

Today, in just a few minutes, once again we have a choice, an opportunity to move ahead and make progress and to discharge that responsibility of an up-or-down vote. This is not only a vote to decide whether the Senate will say yes or no to a man who, as we all know, is perfectly qualified, a good man, a man of high integrity and character, an able jurist who we all know will bring credit to the Federal appeals court.

To vote yes on cloture, in my view, is the latest referendum on whether or not we want to reestablish or reaffirm in this body, the Senate, whether or not we want to shut this new chapter of unprecedented delay and destruction, whether or not we want to return the Senate to the well-worn path that it has tried over the last 200 years but from which over the course of this year we seem to be deviating, a path of men and women coming to this body and by their vote being able to take direct responsibility of either confirming or rejecting a nomination.

I represent the State of Tennessee. Right now I represent my party as Republican leader. In addition, I, as majority leader, believe I have a responsibility to this entire body. Together we look to the past and we build for the future. I appeal once again to my colleagues to remember the history we have as stewards, as servants to this institution; that we remember the responsibilities charged to us by the Constitution, responsibilities of advise and consent, and vote aye on cloture, and then vote up or down but vote one way or another on the nomination of Charles Pickering. To do any less than that does fail the history we have had the privilege to recognize and be part of. Indeed, it adds one more obstacle to the progress we could make as we go forward.

Finally, it does ensure that with this new course foisted on the Senate, we will have to meet that radical departure from 200 years of history with responses that will reestablish a more normal order of action in the future.
Mr. President, I close by simply saying I urge our colleagues to support an opportunity for an up-or-down vote—that is all we ask—on Judge Charles Pickering.

The PRESIDING OFFICER. All time has expired.

Mr. REID. Will the majority leader yield for a question not related to the Pickering nomination?

Mr. FRIST. Through the Chair, I will be happy to yield.

Mr. REID. Mr. President, we were originally going to have a vote on the global warming issue. It would have been about 12:45 p.m. This will necessitate that vote occurring around 1:15 p.m., but under the regular process here, on Thursdays we do not vote during the hour of 1 p.m. to 2:15 p.m. I wonder if the leader will be able to at this time indicate that the managers of the Healthy Forests issue should be here about 1:15 p.m., or thereabouts, so they can start on that issue prior to voting on the global warming issue, which I hope can occur at 2 o’clock because there are a number of people on our side who need to vote on that. I hope the leader understands what I am saying.

Mr. FRIST. Mr. President, I do. Let me talk to the managers before actually agreeing to anything. I have not talked with them about the scheduling. Before committing to a schedule, let me make an announcement right after this vote.

Mr. LOTT. Mr. President, has all time expired?

The PRESIDING OFFICER. All time has expired.

Mr. LOTT. Mr. President, I ask unanimous consent that the cloture vote be vitiated and that the Senate immediately proceed to a vote to confirm the nomination of Judge Charles Pickering to the Fifth Circuit Court of Appeals.

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

The PRESIDING OFFICER. By unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk reads as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 400, the nomination of Charles W. Pickering, Sr., of Mississippi, to be United States Circuit Judge for the Fifth Circuit.

Bill Frist, Orrin Hatch, Trent Lott, Conrad Burns, Lamar Alexander, Arlen Specter, Mitch McConnell, DeWeine, Chuck Hagel, Rick Santorum, Craig Thomas, Thad Cochran, John Ensign, Lindsey Graham, Elizabeth Dole, Michael B. Enzi, Gordon Smith.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Charles Pickering, Sr., of Mississippi, to be United States Circuit Judge for the Fifth Circuit shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. Edwards) and the Senator from Massachusetts (Mr. Kerry) are necessarily absent.

I also announce that the Senator from Nebraska (Mr. Nelson) is absent attending a family funeral.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. Kerry) would vote "nay."

I further announce that, if present and voting, the Senator from Nebraska (Mr. Nelson) would vote "yea."

The PRESIDING OFFICER (Mr. Ensign). Are the Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 54, nays 43, as follows:

[Rollcall Vote No. 419 Ex.]

YEAS—54

Alexander
Allard
Allen
Bennett
Breaux
Brownback
Burns
Campbell
Chafee
Chambliss
Cochran
Colesman
Collins
Corryn
Cruz
Crapo

NAYS—43

Akaka
Baucus
Bayh
Biden
Boxer
Byrd
Carmack
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd

Edwards

NOT VOTING—3

The PRESIDING OFFICER. On this question, the yeas are 54, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

CLIMATE STEWARDSHIP ACT OF 2003

A bill (S. 139) to provide for a program of scientific research on abrupt climate change, to accelerate the reduction of greenhouse gas emissions in the United States by establishing a market-driven system of greenhouse gas tradeable allowances that could be used interchangeably with passenger vehicle fuel economy standard credits and limit greenhouse gas emissions in the United States and reduce dependence upon foreign oil, and ensure benefits to consumers from the trading in such allowances.

Pending:

Lieberman/McCain amendment No. 2028, in the nature of a substitute.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, we are now on global warming. Because of scheduling problems, the managers of the bill, Senator Inhofe, Senator McCain, and Senator LIEBERMAN, have agreed to each give up 15 minutes on their side. Therefore, the vote will occur at 12:45. I ask unanimous consent that be the case—that the vote occur at 12:45.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Under the previous order, there are 90 minutes equally divided for debate between the chairman and the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I rise to support the Climate Stewardship Act offered by Senators LIEBERMAN and McCaIN and to cosponsor this aggressive plan to fight global warming.

When President Bush walked away from the Kyoto Protocol negotiations in March 2001, he promised the American people he would come up with an alternative. More than 2 years later, the President has yet to deliver on his promise and we simply cannot wait any longer to start making progress.

Here in the Senate we have a worthy plan that will cut greenhouse gas emissions. I want to applaud Senators LIEBERMAN and MCCaIN and to cosponsor this aggressive plan to fight global warming.

When President Bush walked away from the Kyoto Protocol negotiations in March 2001, he promised the American people he would come up with an alternative. More than 2 years later, the President has yet to deliver on his promise and we simply cannot wait any longer to start making progress.

The McCain-Lieberman bill will require mandatory greenhouse gas emissions reductions in the United States from broad sectors of our economy. Rather than just aiming to limit industrial emissions—as other plans have done—this legislation will require emissions reductions from four major sectors of the economy: electric utilities; industrial plans; transportation; and large commercial facilities. These four sectors contribute 85 percent of the greenhouse gases produced in America.

The McCain-Lieberman legislation relies on a national “cap and trade” system to reduce the air pollutants that contribute to climate change. Many of my colleagues are familiar with this approach. It was first used on a national scale to combat acid rain under Title IV of the Clean Air Act.
Amendments of 1990. A cap and trade system establishes an overall total limit on emissions and then allows pollution sources to trade emissions allowances. It gives participants the flexibility of the marketplace, and it works.

In fact, the acid rain program has reduced sulfur dioxide emissions from power plants—and it has done it at less than a quarter of the predicted cost to industry.

The McCain-Lieberman program will mandate that by 2010, the four sectors involved must reduce their emissions to 2000 levels. This is a meaningful and substantial reduction in emissions—a 5 percent reduction over the next 7 years.

Some critics suggest that you can’t “grow the economy” without emitting more greenhouse gases. We know that is not true. As the acid rain program proved, the cap and trade system works well.

There were nay-sayers in 1990, and they were proven wrong. There are nay-sayers now, and we must prove them wrong again.

This is also an opportunity for American companies to get ahead of trends that we know are coming. We know that the future of energy production lies in renewable energy and in alternatives to fossil fuels. I want American workers to lead the way, and I want American companies to share in the benefits.

It is projected that over the next 20 years, $10–$20 trillion will be spent globally on new energy technologies. This is an enormous market, and much of the investment will take place outside of the U.S., in places such as China. I want American companies to sell the technologies that will be needed and used throughout the world. By passing this legislation, we will give American companies incentives to pursue new, clean energy technologies. And new technologies mean new jobs—especially compared to older energy sources.

Today, for every 1 percent of market share, renewable energy technologies generate 12,500 jobs. By the same measure, the coal industry only generates 3,000 jobs.

So this new technology holds a lot of promise in helping American companies and the American economy.

Let me mention briefly the President’s Clear Skies Initiative. This administration’s approach to global climate change has been to focus on reducing greenhouse gas intensity. That is the ratio of carbon emission to gross domestic product. What most people do not know is greenhouse gas intensity is already declining. As the economy modernizes, it naturally becomes more efficient in terms of energy use, so when the President says he wants to reduce greenhouse gas intensity by 18 percent over the next 10 years with his Clear Skies Initiative, we should ask how much would the intensity decrease over the next 10 years without the Clear Skies Initiative.

The answer is stunning and underscores how little this administration really wants to do to reverse global warming. According to CRS, greenhouse gas intensity is projected to fall by over 14 percent over the next 10 years under current environmental regulations. The key here is that environmental regulations are nearly as weak as existing law. President Bush thinks the Federal Government’s primary climate change goal should be to encourage voluntary measures to reduce greenhouse gas intensity by only 4 percent over the next decade.

That is an utterly irresponsible approach to global warming. Our country should be taking an aggressive lead on reducing pollution. I am confident by using market-oriented strategies and new technologies, American ingenuity can find ways to reduce emissions without harming the economy. As I mentioned earlier, it will help our economy.

The threat of global warming is real. The Pacific Northwest stands to lose much from climate change from increasing severe storms to rising sea levels to negative impacts on our forests, our coasts, our salmon, and our agriculture. Those resources define the quality of life where I live.

In Washington State, increasing temperatures over the next decades could cause salmon in Puget Sound to migrate north. It could cause some crops to shift their natural habitats into Canada.

The western governors understand this. In September, the governors of California, Oregon, and my home State of Washington got together to curb greenhouse gas emissions by promoting tougher emissions standards for new power plants.

Governors and legislatures in the Northeast have taken similar measures. Soon the Nation will face a patchwork of regional regulations, making it costly and cumbersome for industries to comply.

We in Congress need to take action since this White House has failed to act. It’s time for a real policy to reduce our impacts on the global climate.

We know that a clean environment contributes to the health and quality of life for every Washingtonian and for every American. The McCain-Lieberman bill is an important first step.

I urge my colleagues on both sides of the aisle to vote for this legislation.

I ask unanimous consent to have printed a New York Times article that reported on the regional regulations.

There being no objection, the matter is ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 29, 2003]

THE WARMING IS GLOBAL BUT THE LEGISLATING, IN THE U.S., IS ALL LOCAL.

(By Jennifer 8. Lee)

WASHINGTON, Oct. 28—Motivated by environmental concerns, States have become the driving force in efforts to combat global warming even as mandatory programs on the Federal level have largely stalled.

At least half of the States are addressing global warming, whether through legislation, lawsuits against the Federal government, or initiatives by governors.

In the last three years, State legislatures have passed at least 29 bills, usually with bipartisan support. The most ambitious is California’s 2002 law to set strict limits for new cars on emissions of carbon dioxide, the gas that scientists say has the greatest role in global warming.

While few of the State laws will have as much impact as California’s, they are not symbolic. In bills on emissions of gases like carbon dioxide that can cause the atmosphere to heat up like a greenhouse, they include registries to track emissions, efforts to diversify fuel sources and the use of crops to capture carbon dioxide by taking it out of the atmosphere and into the ground.

Aside from their practical effects, supporters say, these efforts will put pressure on Congress and the administration to enact Federal legislation, if only to bring order to a patchwork of State laws.

States are moving ahead in large part to fill the vacuum that has been left by the Federal Government, said David Danner, the energy adviser for Gov. Gary Locke of Washington.

“We hope to see the problem addressed at the Federal level,” Mr. Danner said, “but we are not waiting around.”

There are some initiatives in Congress, but for the moment even their backers acknowledge that they are doomed, given strong opposition from industry and the Bush administration—which favors voluntary controls—and most Congressional Republicans.

This week, the Senate is scheduled to vote on a proposal to create a national regulatory structure for carbon dioxide. This would be the first vote for either house on a measure to restrict the gas.

The proposal’s primary sponsors, Senator John McCain, Republican of Arizona, and Senator Joseph I. Lieberman, Democrat of Connecticut, see it mainly as a way to force senators to take a position on the issue, given the measure’s slim prospects.

States are acting partly because of predictions that global warming will damage local economies by harming agriculture, eroding shorelines and hurting tourism.

“We’re already seeing things which may be linked to global warming here in the state,’’ Mr. Danner said. “We have low snowpack, increased forest fire danger.”

Environmental groups and officials in state governments say that energy initiatives are easier to move forward on the local level because they span constituencies—industrial and service sectors, Democrat and Republican, urban and rural.

While the coal, oil and automobile industries have big lobbies in Washington, the industry presence is diluted on the state level.

Environmental groups say this was crucial to winning a legislative battle over automobile emissions in California, where the automobile industry did not have a long history of large campaign donations and instead had to rely on a six-month advertising campaign to make its case.

Local businesses are also interested in policy decisions because of concerns about long-term energy costs, said Christopher James, director of air planning and standards for the Connecticut Department of Environmental Protection. As a result, environmental groups are shifting their efforts to focus outside Washington.

Five years ago the assumption was that the climate treaty known as the Kyoto Protocol was the only effort, in town, said Rhys
Both, the executive director of Climate Solutions, which works on global warming issues in the Pacific Northwest states. But since President Bush rejected the Kyoto pact in 2001, local groups have been emerging on the regional, state and municipal levels.

The Climate Action Network, a worldwide conglomerate of nongovernment organizations working on global warming, claims to have a membership of state and local groups in the last two years.

The burst of activity is not limited to the states with a traditional environmental bent.

At least 15 states, including Texas and Nevada, have state electric utilities diversifying beyond coal and oil to energy sources like wind and solar power.

Even rural states are linking their agricultural and forestal practices to global warming. Nebraska, Oklahoma and Wyoming have all passed initiatives in anticipation of future greenhouse gas emission trading, hoping they can capitalize on their forests and crops to capture carbon dioxide during photosynthesis.

Cities are also adopting new energy policies. San Franciscans approved a $100 million bond issue in 2001 to pay for solar panels for municipal buildings, including the San Francisco convention center.

The rising level of state activity is causing concern among those who oppose carbon dioxide regulation.

"I believe the states are being used to force a federal mandate," said Sanjay Lad Bourne, who does research on global warming for the American Legislative Exchange Council, a group contending that carbon dioxide should not be regulated because it is not a pollutant. "Rarely do you see so many bills in one subject area introduced across the country."

The council started tracking state legislation, which they call son-of-Kyoto bills, weekly after they noticed a significant rise in greenhouse-gas-related legislation two years ago. This year, the council says, 24 states have introduced 90 bills that would build frameworks for regulating carbon dioxide. Sixty-six such bills were introduced in all of 2001 and 2002.

Some of the activity has graduated to a regional level. Last summer, Gov. George E. Pataki of New York invited 20 Northeastern states to join a regional trading network where power plants could buy and sell carbon dioxide credits in an effort to lower overall emissions. In 2001, six New England states entered a trading agreement with Canadian provinces to cap overall emissions by 2010.

Last month, California, Washington and Oregon announced that they would start looking at shared strategies to address global warming.

To be sure, some states have decided not to embrace policies to combat global warming. Six—Alaska, Illinois, Kentucky, Oklahoma, West Virginia and Wyoming—have explicitly passed laws against any mandatory reduction in greenhouse gas emissions.

"My concern," said Mr. Bourne, "is that members of industry and environment groups will go to the federal government to say, 'We've got a patchwork quilt of greenhouse gas regulations across the country. We cannot deal with the 50 monkeys. We must have one 800-pound gorilla. Please give us a federal mandate.' Indeed, some environmentalists say this is precisely their strategy.

States developed their own air toxics pollution rules in the 1980s, which resulted in different regulations and standards across the country. Industry groups, including the American Chemistry Council, eventually lobbied Congress for federal standards, which were incorporated into the 1990 Clean Air Act amendments.

A number of states are trying to compel the federal government to move sooner rather than later. On Thursday, 12 states, including New York, with its Republican governor, and Texas, and the Environmental Protection Agency for its recent decision not to regulate greenhouse-gas pollutants under the Clean Air Act, a reversal of the agency's previous stance under the Clinton administration.

"Global warming cannot be solely addressed at the state level," said Tom Reilly, the Massachusetts attorney general. "It's a problem that requires a federal approach."

Mrs. FEINSTEIN. Mr. President, I rise in support of the McCain-Lieberman amendment. I would like to begin by thanking the distinguished Senators from Arizona and Connecticut for their work on this bill. Their efforts are moving the Senate and the country forward on this very important issue.

I strongly believe that it is time for the United States to take real action against climate change. The science is solid. It is time to stop debating whether to do something and start discussing how to do it.

This modest bill is an affordable and crucial step forward. It is time to act.

The McCain-Lieberman amendment would require states to monitor and track carbon dioxide emissions and require the U.S. to return to year 2000 emissions levels by 2010.

The amendment would give us 7 years to reach year 2000 level emissions. Because of the recession, our national emissions actually went down in 2001. So we are actually at about year 2000 levels right now.

So we have 7 years just to get back to our current level of emissions. This is a modest step but it is a step forward.

As the world's largest greenhouse gas emitter, the U.S. has a duty to act.

With only 4 percent of the world's population, Europe 20 percent of the world's greenhouse gas emissions. Much of the world is already reducing their greenhouse gas emissions. The world is counting on us to do the same.

If we continue to ignore the problem, it will only get worse. If we wait, we will need to make bigger cuts in our emissions and we will have less time. Action will become more expensive rather than less.

I understand that many people are concerned about the costs of any effort to reduce greenhouse gas emissions. The science is important. I don't want to make sure that whatever program we wind up with is a good deal for the American people.

I strongly believe that the cap and trade program in this bill is a good deal for America.

Concerns about the cost of action are important.

But I want to ask my colleagues to consider very carefully the cost of doing nothing. The evidence is getting stronger and stronger that climate change will be very expensive.

According to the best available research, not acting will cost our State dearly. Our large population, our geography, and especially our reliance on snow runoff for water make California extremely vulnerable to global warming.

Frankly, the models predicting the impacts of global warming on California are frightening.

Climate change threatens the agricultural and natural resource industries that are central to California's economy and quality of life.

As the Senate knows, I am especially concerned about the California water supply. More than 36 million people live in California right now, and we expect to have 50 million people by 2030.

Even without climate change, it would be a struggle to supply enough water for all of these people. But report after report indicates that climate change will further threaten a water supply that is already tight.

Models from NASA, Lawrence Livermore National Laboratories, and the Union of Concerned Scientists all indicate that climate change is likely to increase winter rain and decrease snowfall in California.

More winter rain means winter flooding. Less snow means less water for the rest of the year.

But California's natural environment as we know it depends on gradual runoff from snow.

Furthermore, we have spent billions of dollars on water infrastructure in California that depends on this runoff. And yet we already struggle to provide enough water for our farms, our cities, and our fish and wildlife.

As my colleagues know, I have worked hard to plan for the future of California's water supply. Climate change threatens even to make those plans insufficient.

We are already seeing alarming changes. According to scientists at Lawrence Livermore National Laboratories, the past 100 years has seen a decline in spring and summer runoff in some California streams.

In 1910, half of the Sacramento River's annual runoff took place between April and July. Today, that number is closer to 35 percent and is continuing to decline. We can no longer count on this runoff.

We are also already seeing a rise in sea level. Average sea level has risen considerably in San Francisco since 1935, with the most marked increase occurring since 1925. My colleagues from coastal states understand the potential cost of rising sea levels to coastal communities.

We are seeing other effects of climate change throughout the world.

The Union of Concerned Scientists has found that the global sea level has risen about three times faster over the past 100 years than the previous 3,000 years.

In July, the World Meteorological Organization released an unprecedented warning about extreme weather events. According to the organization's press release, "recent scientific assessments
indicate that, as the global temperatures continue to warm due to climate change, the number and intensity of extreme events might increase.”

According to the World Meteorological Organization, the United States experienced 562 tornadoes in May of this year. The tornadoes killed 41 people. This was 163 more tornadoes than the United States had ever experienced in one month.

We are seeing similar record extremes around the world. These extreme weather events are a predicted result of climate change.

Climate change is also affecting some of our most revered places. Last November, the Los Angeles Times published an article about the vanishing glaciers of Glacier National Park in Montana. Over a century ago, 150 of these magnificent glaciers could be seen on the high cliffs and jagged peaks of the surrounding mountains of the park. Today, there are only 35. And the 35 glaciers that remain today are disintegrating so quickly that scientists estimate the park will have no glaciers in 30 years.

Closer to home for me, on October 12 of this year, the Los Angeles Times reported that glaciers in the Sierra Nevada are disappearing. Many of these glaciers have been there for the last thousand years.

We are seeing similar melting around the world, from the snows of Mt. Kilimanjaro in Tanzania to the ice fields beneath Mt. Everest in the Himalayas.

Dwindling glaciers offer a clear and visible sign of climate change in America and the rest of the world.

We are already seeing some of these changes. The science tells us to expect even more. The evidence that climate change is real is overwhelming: including reports from the National Academies of Science, the Intergovernmental Panel on Climate Change, and even the Congressional Budget Office.

To quote a CBO report released in May, “scientists generally agree that continued population growth and economic development over the next century will require substantial more greenhouse gas emissions and further warming unless actions are taken to control those emissions.”

The Intergovernmental Panel on Climate Change estimates that the Earth’s average temperature could rise by as much as 10 degrees in the next 100 years—the most rapid change in 10,000 years.

The latest evidence also indicates that climate change is likely to lead to more forest fires. Models indicate that warming will lead to dryer conditions in many places. Furthermore, warming is allowing bark beetles to spread farther north and to higher altitudes than ever before.

In parts of Alaska, bark beetles now have two generations per year instead of one, leading to drastic increases in population and destruction of our forests.

As we know too well, dry conditions and insect kill makes our forests into tinder boxes. I strongly believe that we have the evidence that we need in order to act. Not addressing climate change will cost us dearly.

Yet, so far, the United States has not really taken action against climate change. Not only are we not part of the Kyoto Protocol, but the administration refuses to take part in shaping another solution. This is a big mistake.

We emit more greenhouse gases than any nation on Earth. The world is counting on us, and we have a responsibility to help.

We should be a leader—not an obstacle—when it comes to combating global warming. In his speech to the joint session of Congress—which many of us cited as among the best we have ever heard—British Prime Minister Tony Blair challenged the U.S. to take action now. Mr Blair said:

“Climate change, deforestation, the voracious drain on natural resources cannot be ignored. These threats will hinder the economic development of the most vulnerable nations first and ultimately all nations.

Mr. Blair went on to say:

“We must show the world that we are willing to step up to these challenges around the world and in our own backyards. If this seems a long way from the threat of terror and weapons of mass destruction, it is only to say again that the world security cannot be protected without the world’s heart being won. So America must listen as well as lead.”

Prime Minister Blair is right. If we fail to act now, we will face devastating consequences in the future. We will impose those same consequences on future Americans and the rest of the world.

Continued failure to act will also further strain our relationships with our allies. These relationships are already tense enough.

The administration has said that we need more research before acting. I agree that we should continue to study climate change. But we also need to start reducing our emissions of greenhouse gases now.

Prime Minister Blair has committed to a 60 percent cut in Britain’s emissions by 2050. We need to make sure the U.S. is not left behind.

The McCain-Lieberman amendment is the right place to start. This is a modest amendment. We would need to be back to our current level of emissions by 2010. In reality, much of the reduction in “net emissions” can come through increased carbon sequestration in forest and agricultural land. Emissions could actually increase as long as there is enough sequestration to offset the increases.

The amendment is comprehensive. The amendment covers six greenhouse gases and the vast majority of our greenhouse gas emissions.

The amendment is low cost. Repeated analyses have shown that cap-and-trade programs are the most cost-effective way to reduce emissions. According to the Massachusetts Institute of Technology, this amendment would cost less than $20 per household over the life of the program—we can afford this cost.

The amendment would not lead to rapid fuel switching to natural gas. According to the Massachusetts Institute of Technology, coal use would actually increase under this amendment. Natural gas use would decrease from business as usual because the bill would spur conservation measures.

During the latest energy crisis, California showed that it can make a huge difference. This bill will help us create better incentives for conservation.

Even the Energy Information Administration, EIA, says that this amendment would not result in fuel switching. EIA was concerned about the costs of the original Climate Stewardship Act. I believe that the agency’s models are flawed and biased toward higher costs. But even those models indicate that this amendment will cost little and will not lead to price spikes.

There is a lot of misinformation floating around about this amendment. Some of the models were analyzing the Kyoto Protocol, which would have required a 20 percent emissions reduction by 2010. This amendment requires us to get back to our current emissions by 2010, an entirely different proposition.

Other models are based on an “energy shock.” Coming from California, I am quite familiar with energy crises. Shocks happen when businesses do not have time to prepare. This amendment is not a shock. We are giving industry 7 years’ warning. According to the Massachusetts Institute of Technology, 7 years is enough time for the economy to adjust without job losses.

Businesses throughout the country have shown that efforts to reduce emissions can increase efficiency and actually save companies money. Voluntary programs simply are not doing the job. We need to give incentives for all companies to increase efficiency and cut emissions.

I am proud to say that California has been a leader. California has created a registry of greenhouse gas emissions that will be a model for the nation. Several other states are already looking to adopt the California Climate Action Registry’s standards. Similarly, California has a groundbreaking regulation affecting greenhouse gas emissions from automobiles.

Many states are moving forward, and they are now pressing harder for federal action. Local officials are also pressing for a national plan. My colleagues know that I am partial to mayors. Recently, 155 mayors, including 38 from my State alone, signed a statement calling for national action.

State and local programs are important and I applaud these efforts. But we need national leadership on this issue.
The McCain-Lieberman approach has widespread public support. According to a recent national poll, three-fourths of Americans support this approach to global warming—including solid majorities from both parties. We need to listen.

We know that agreement on climate change is possible in the Senate. The Senate has passed a modest provision in the Energy Bill 2 years in a row. The Foreign Relations Committee has recognized the urgency of the issue for our diplomatic relations.

It is time for the entire Senate to go on record on this important topic. We need to show Americans and the rest of the world that we are listening and that we are doing something about climate change.

I believe we can unite behind this bill and move the debate forward.

As Mr. Blair said, we have a responsibility to listen and to lead. I urge my colleagues to support this amendment.

Mr. INHOFE. Mr. President, I will yield in a minute to the Senator from Nebraska.

Last night we went into a lot of detail in this debate and I used three groups of scientists, numbering over 20,000, which define the science on which global warming is based. Only two criticisms did I get from the other side. One was comments I made about supposedly misquoting Professor Schneider. After looking at this, I find I did not misquote him at all. He is one who adheres to the MIT study that says there is far less than 1 percent chance temperatures would rise to 5.18 degrees or higher, while there is a 17 percent chance that temperatures would rise lower than 1.4 degrees. These are the guys who are for this.

More significant—and this is setting the framework for this debate today—is not about a pared-down bill McCain-Lieberman are coming up with now. They have both said this is just a start.

I will quote Professor Wigley, one I was criticized for misquoting. We have recently seen the effects of climate change. How our Nation addresses global climate change may prove to be one of the most important economic and environmental decisions of our time. As we debate the McCain-Lieberman Climate Stewardship Act of 2003, it is important to keep in mind this is not a debate about who is for or against the environment. There is no McCain-Lieberman who wants dirty air, dirty water, a dirty environment, or declining standards of living for their children and grandchildren. We all agree on the need for a clean environment. We all want to leave our children a better, cleaner, more prosperous world.

The debate on climate change, however, has moved beyond the Kyoto protocol. In 1997, by a 95–0 vote, this body, the Senate, adopted the Byrd-Hagel resolution which stated the United States would not sign any international treaty that excluded action on the part of developing nations or that would cause serious economic harm to the United States.

However, the concerns about our climate have not abated. We should recognize the efforts of Senators MCCAIN and LIEBERMAN and others on this particular issue. Although I disagree with the approach they have proposed, I understand and share their concerns. It is important to us moving forward in order to develop and implement practical policies to deal with climate change.

The McCain-Lieberman bill would create mandatory emissions reductions for greenhouse gases here in this country. The consequences of such mandates are severe. This bill would raise energy prices for consumers, agricultural producers, business, and industry, and have a very negative impact on our economy. The mandates would also be very difficult to reach.

The Department of Energy’s own independent Energy Information Administration projects the greenhouse gas emission levels in 2010 would have to be reduced by 14 percent in order to achieve the 2000 emission level quota set by this bill, not the 1.5 percent reduction that supporters of this bill are claiming.

This means utilities and manufacturers will have to find alternatives to coal, the predominant fuel used in this country. In most cases, this means switching to natural gas. That would mean higher costs for homeowners, businesses, industry, and farmers, as well as possible natural gas shortages.

A part of this magnitude demanded by this bill for the utility industry would require natural gas production and pipeline capacity this country simply does not have nor will have in 2010.

We have recently seen the effects of high natural gas prices in this country. A recent GAO report concluded the natural gas price fight in the years 2000 to 2002 led to a 25 percent reduction in domestic production of nitrogen fertilizer and a 43 percent increase in nitrogen imports. This was a significant blow to this country, especially to our agricultural producers.

Record demands and higher prices for natural gas caused America’s farmers and ranchers to spend an additional $1.5 billion just to plant and fertilize their crops this past spring.

The question we are faced with is not whether we should take action but what kind of action would best address the climate change challenge we face now and into the future. Our actions should be focused on incentivizing and achieving voluntary emissions reductions; tax credits for emissions reductions; and research into climate change science and carbon sequestration. Closing the gaps in our knowledge, our science, our industry, and our technology builds a solid foundation for a wise climate policy for the future.

Although there are inconsistencies in the science, there has been a human impact on the Earth’s atmosphere—we all accept that—and we should consider how to mitigate. The sooner we begin, the smaller and less painful the changes will have to be in the future. Global warming does not recognize national borders. The changes under consideration today are proposed solely for the United States, but our global warming policy must be broader. The United States alone cannot improve the Earth’s climate. The only way forward is through international cooperation and collaboration—engaging, helping, partnering with all nations, especially developing nations. Developing nations are quickly becoming the major emitters of greenhouse gases, but they are exempted from international agreements to reduce these emissions. There are good reasons for this. These nations cannot achieve greenhouse gas reductions until they achieve higher standards of living. They lack clean energy technology, and they cannot absorb the economic impact of the changes necessary for emissions reductions. Our partnerships with developing nations can help increase the efficiency of their energy use and reduce their greenhouse gas emissions. Industrialized nations must help less developed nations by sharing technology so developing countries can leapfrog over the highly polluting stages of development that the United States and other countries have already been through. The Bush administration has taken the initiative in developing these public-private partnerships and projects with all developing nations.

The United States Chamber of Commerce has called for a Marshall plan for developing emissions-free technologies. Part of that plan includes the development of emission credits to developing nations. This will take time. We should be thinking and planning 20 to 50 years out.
By partnering with developing nations, we will export American technology and expertise, and improve all economies along the way.

These are the types of plans the U.S. should be reviewing. Investments can be spread over time and gradual and effective, not just to individuals, industries and nations—and it is the lastest. It also allows all nations to participate in workable climate change policies. It is the only way to ensure both global climate change and economic growth.

Mr. President, I yield the floor.

Mr. NELSON of Florida addressed the Chair. The PRESIDING OFFICER. Who yields the floor?

Mr. LIEBERMAN. Mr. President, I yield my friend and colleague from Florida 6 minutes.

The PRESIDING OFFICER. The Senator from Florida is recognized for 6 minutes.

Mr. NELSON of Florida. Mr. President, thank you. And in 6 short minutes I want to give you my observations of why this is an extremely critical piece of legislation to the future of Planet Earth.

I bring back to my mind’s eye a picture that is embedded in my memory, looking out the window of our spacecraft 17 years ago back at Planet Earth. It is such a beautiful creation, suspended in the middle of nothing. It is a blue ball—blue from the oceans and white from the clouds—suspended in the middle of this black backdrop of space that goes on and on for billions of light years—an airless vacuum. And there, suspended in the midst of it all, it is our home.

When you look at the rim of the Earth from space, you see a thin little film, and that is the atmosphere that sustains all of life. From space, the Earth looks so beautiful and yet it looks so fragile. From that experience of 17 years ago, it made me want to be all the more a better steward of this planet, particularly when, with the naked eye, from that altitude I could actually see, for example, coming across South America—with the color contrast—the destruction of the rain forest in the upper Amazon region and, from the same window of the spacecraft, see the results of that destruction. Looking to the east, to the mouth of the Amazon River. I could see the silt that discolored the waters of the Atlantic for hundreds of miles.

I give you that backdrop purely as an intro to tell you that when we face a major change in climate, it is going to have devastating effects on the very environment we have on this Earth.

Clearly, one of the places that would be most devastated would be my own State of Florida, which has more coastline than any other State. The rising of the temperatures would cause the rising of the oceans. The scientific community, that has been fairly unanious on this—despite what you hear in this debate, that there is this disagreement in the scientific community—it is overwhelming in the scientific community that what is going to happen is that the oceans are going to rise.

Can you imagine what that is going to do to a place such as my State of Florida, where the development in the State is along the coastline? With the rise of the temperatures, that means the storms are going to be more ferocious and frequent.

Florida is this land we know as a paradise, this peninsula that sticks down in the middle of something we know as “Hurricane Highway.” The storms are going to become more ferocious and frequent, and the plagues are going to be more intense.

If that is not enough for passing this legislation and blunting the critics of this legislation—you would think that argument would stand on its own, but there is even more. And I must say, I was delighted, in the hearing we had in our committee, in this debate, that there is this disagreement, that it will have devastating effects upon our business climate here in this country.

For example, the insurance company Swiss Re—this is their quote from our Commerce Committee hearing:

Swiss Re believes the best way to lessen potential loss is through sound public policy, utilizing market mechanisms which strike the right balance between environmental precaution and societal policy objectives.

Because the person testifying for Swiss Re said, “Climate change driven natural disasters are forecasted to cost the world’s financial centers as much as $1 trillion per year over the next 10 years,” that should be sufficient reason for us to stop putting our heads in the sand and saying global warming is not a problem. We know it is a problem environmentally. Now we have to recognize that it is going to be a major problem with regard to American business and all of the investments we have, particularly since so much of our urbanized area is along the coast of the United States.

So, Mr. President, I wanted, as one voice, who strongly supports the McCain-Lieberman legislation, to speak in favor of it.

The PRESIDING OFFICER. The Senator’s time has expired.

Who yields time?

Mr. CRAIG addressed the Chair. The PRESIDING OFFICER. Who yields time?

Mr. INHOFE. Mr. President, I yield up to 10 minutes to Senator CRAIG.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. CRAIG. Mr. President, as many of my colleagues in the Senate know, I have been fascinated and awed by the complexity of the climate change issue for quite some time.

Certainly, being born and raised in the high desert region of the State of Idaho located in the rugged and majestic Pacific Northwest, I grew up with reverence for the natural beauty of our Nation and a deep respect for the awesome power of nature.

I have stated several times on the floor of the Senate that climate change is one of the most significant issues of our time. I have not wavered.

I come to the floor of the Senate today to both compliment my colleagues, Senators MCCAIN and LIEBERMAN, for their determination to legislatively address the issue of climate change and to object to the manner in which they have chosen to do so.

Their proposal, S. 139, The Climate Stewardship Act, is portrayed by its proponents to be a modest legislative attempt to reduce emissions of carbon dioxide and other greenhouse gases. While it is hard for me to use the word “modest” as an accurate descriptive term for the legislation when I measure the bill by what it does—it regulates carbon dioxide—a gas that is not a criteria pollutant under the Clean Air Act. I know that is not a new argument. But now subsidiaries of those companies, doing business in America, are acknowledging that the same thing, that it will have devastating effects upon our business climate here in this country.

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to our discussion here. In discussing the regulatory threat, he states:

That power is absolute, thoughtful of detail, orderly, provident, and gentle . . . It provides for their security, foresees and supplies their necessities, facilitates their pleasures, manages their principal concerns, directs their industry, makes rules for their testimonies, and divides their inheritances . . . . The exercise of free will is much less useful and rare, restricts the activity of free will within a narrower compass, and little by little robs each citizen of the proper use of his own faculties.

The National Academy made extraordinary efforts to get Members of the Senate to attend its intensive Climate Science Forum, including sending a letter one month in advance of the forum to each Member of the Senate, followed by a personal phone call to each Senator.

What more could the Academy have done to encourage attendance? I don’t think much else could have been done. For some, it appears contentment on the science issue comes from simply learning about reports contained in newspapers and popular magazines. Is that a fair knowledge base for regulation?

Indeed, a little over a year before the NAS conference I organized and attended, with Senator LINCOLN CHAFEE and former Senator Bob Smith, a meeting of over 30 scientists working at the Woods Hole Oceanographic Institute in Woods Hole, MA, to discuss the state of science on climate change.

Mr. President, 2 years before the NAS prepared its 2001 “Analysis of Some Key Questions” it issued one of this country’s most comprehensive reports on climate change science entitled: “Research Pathways for the Next Decade.”

The Pathways report is short on creative literature and long on technical issue framing—not particularly suitable for catchy media headlines, which may explain why many newspapers showed little interest in its existence and content. But its critical and thorough scientific analysis of the current state of our climate change knowledge is what makes the Pathways report so important to policy makers.

Let me stop for a moment and reflect on my trip to Woods Hole, MA, that I mentioned earlier. I spent a day at the Oceanographic Institute exploring these questions with over 30 scientists. It was a real eye-opening experience. Dr. Berrien Moore, who coordinated the publication of the Pathways Report, helped lead a discussion on where science and public policy intersect.

Two themes came through clearly in those discussions:

No. 1, there are significant gaps in scientific understanding of the way oceans and the atmosphere interact to affect climate and uncertainties.

No. 2, scientists need more data, especially from the oceans to better understand and predict possible changes.

It was humbling to get a glimpse of how much we don’t know. You need to know what is in the “Pathways Report” in order to fully understand the Research Council’s “Analysis of Some Key Questions”—if
The higher prices for energy and energy-intensive products that would result from a cap-and-trade program would reduce the real income that people received from working and investing, thus tending to discourage them from productive activity. That would compound the fact that existing taxes on carbon fuel already discourage economic activity.

The only way to reduce CO₂ emissions from powerplants is to reduce the amount of coal, oil or natural gas consumed at the power plant. Placing a tax on emissions from powerplants means those plants simply will not be able to generate any significant amounts of new electricity. There are no control technologies like selective catalytic reduction or scrubbers for CO₂.

Capping CO₂ emissions from power plants will make the current crisis in electricity markets permanent. It will force shutting of most of U.S. coal fired plants prematurely and will essentially mandate reliance on new natural gas fired power plants without any assurance that adequate gas supplies will be available.

Further, a report by the U.S. Energy Information Administration found that reductions of SO₂, NOₓ, and CO₂ at levels consistent with the current proposal drives up electricity costs substantially. The report shows that electric prices would rise by 21 percent by 2003 and 56 percent by 2010. The report goes on to attribute most of the rise in prices to controlling CO₂ emissions.

The report, Mr. President, also was prepared when natural gas prices were a third of what they are today which means that future electricity prices likely would be much higher because the report assumes that most new generating capacity would be gas fired. In short, the President must be addressed is the assertion that the United States is somehow out of step with the rest of the world on this issue. Climate change is as much an economic issue as environmental. We must ensure that our global competitiveness is not compromised. Let's not allow our nation to be duped into assisting our competitors in the global market to achieve competitive advantage under the rubric of environmental policy. When viewed in comparative perspective, the process by which environmental policy is developed and implemented has been far more "conflictual and adversarial in the United States than in Europe or Japan. In the United States, while fines for violations have grown larger, numerous violations of environmental laws have been reclassified as "felonies" and many now carry prison sentences.

Contrast the United States and Japan. Japan implements its policies without resorting to legal coercion or overt enforcement. Japanese MUST negotiate and compromise to ensure compliance. Europe emphasizes mutual problem-solving rather than arm's length enforcement and punishment.

Our legal system allows Third Party lawsuits. Europe and Asian countries do not. In a 2003 study on the direct costs of the U.S. tort system, it was estimated that costs equal 2.2 percent of our nations GDP. Europe and Asian countries give no standing to Third Parties in environmental compliance and enforcement.

Perhaps, if we were a less litigious nation, we could accomplish more in environmental compliance, and be less fearful of international environmental treaties becoming law. However, for better or worse, when our nation commits to a particular environmental policy, we enforce that commitment with the heavy hammer of civil penalties and criminal prosecution. Europe, Japan, and other nations do not. Our global competitiveness and economic security is "in the balance."

Mr. President, I ask unanimous consent that a letter from a large senior citizen organization expressing their fear about high costs of energy based on S. 139 be printed in the RECORD.

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

THE 60 PLUS ASSOCIATION,

WASHINGTON, D.C.

Mr. CRAIG. Mr. President, I have before me a letter sent to me as Chairman of the Aging Committee from "The 60 Plus Association" with membership of 4.5 million senior citizens including 10,000 in Idaho, asking me to oppose S. 139.

A quote from a June, 2001 CBO study entitled "An Evaluation of Cap-and-Trade Bills on Carbon Emissions" is revealing on this subject:

This analysis does not address the issue of taxing carbon emissions. However, the economic impacts of cap-and-trade programs would be similar to those of a carbon tax: both would raise the cost of using carbon-based fuels, lead to higher energy prices, and impose costs on users and some suppliers of energy.

Another instructive quote from that study states:

October 30, 2003

CONGRESSIONAL RECORD — SENATE

S13579

Mr. CRAIG. Mr. President, I have come to the floor on more than one occasion over the last 5 years to discuss and debate the issue of climate change.
Many of us engaged in this issue believe it to be a serious and important issue. That I cannot deny. The Senator from Florida talked about it being of critical character. I do not dispute that. The question is, Can we do anything about it and can we do something about it? And I am speaking "we" as mankind. That is the essence of the debate today.

Also, S. 139, the Climate Stewardship Act, would portray, in part, that we are the cause and, therefore, let us make some treatment changes in our regulatory structure in this country to begin to mitigate greenhouse gases.

Let me suggest that the word "modest" has been used, but I would guess if you read the legislation, and then you downstreamed it through the regulatory process, it might be anything less than modest.

Here is what is most important about regulating carbon dioxide. It is a gas. It is not under the Clean Air Act. It is not a poisonous gas or a toxic substance. It does not represent a direct threat to public health. That is what scientists tell us. Yet somehow we are going to be able to regulate and shape it in a way that controls what we believe to be the cause of producing greenhouse gas.

I suggest that probably the most invasive process we are going through right here with this legislation is the regulatory process that will ultimately come.

The Senator from Arizona and I, more often than not, are critics of big government and the regulatory process. What De Tocqueville said a good number of years ago—in fact, well over a century ago—was about the great democracy of America and the despotism of fear that is produced in the regulatory process that limits freedom.

He talks about the regulatory process again. I note that in 1936, there were about 2,600 pages of the Federal Register. In the year 2000, there were 74,258 pages of the Federal Register. We have become a phenomenally regulated and controlled economy and country. In so doing, de Tocqueville would note very clearly, as we all understand and as the Senator from Arizona understands as well as anyone, we begin to shape our freedoms, control our freedoms in a very interesting way. That is what this bill is all about, a massive new regulatory process to reshape certain utilizations of energy in a way that will have a significant impact on our economy. And we would be led to believe that somehow it is going to improve the environment in which we live.

That is the issue at hand. That is the one that we now need to discuss. That is, does scientific evidence support what S. 139 is all about? I have spent a good deal of time on the science. You have to. That is probably the greatest frustration that all of us have, is trying to comprehend this massive body of science that is assembling out there and what it means and is it valid and, from it, should we begin to reshape our economy; if it is invalid or inaccurate, what would be the impact of the reshaping that S. 139 might accomplish.

Many meetings have been held all over. I organized one with the assistance of the National Academy of Sciences in June 2001. It was a high-level conference meeting here in our Nation's Capital. Every Senator was invited to come. Three showed up to listen. Senator Bingaman and Senator Sessions attended, along with Secretary O'Neill, to listen to the President and the President's Council of Economic Advisers, to listen to some of our noted scientists from all over the world. No one else came. O'Neill at that time was serving as Secretary of the Treasury and was a somewhat outspoken advocate of changing our economy for the sake of climate change. He went away from that meeting not confused but recognizing that there was a broad field of science out there that he had not yet explored and that scientists had not, in fact, come together in a way to understand.

We worked with a variety of scientists from the National Academy of Scientists. In 2000, I went up to Woods Hole Oceanographic Institute, Senator Chafee and Senator Bob Smith went along at that time. We listened to the best scientists, who have studied this for decades. They cannot in any absolute way suggest that greenhouse gases are the creator of a heating trend or a warming trend that does exist and most agree does exist.

The Senator from Arizona, the authors of S. 139, would suggest that this is the definitive document, the "Analysis of Some Key Questions," of climate change science by the National Research Council. This is a total of 27, 28 pages. I am not saying this document is wrong, but I am saying, to understand this document, you better read this document: "Pathways Study," 550 pages. Now, it is not a hot topic, and it will put you to sleep. It is all science. From this document, they concluded this document.

And what does this document conclude? That the science today is not yet assembled that can in any definitive way argue that there are gases and man's presence in the production of those greenhouse gases is creating the heating trend in our global environment at this time.

There are not many sound bites here. The press did ignore this. Those who want the politics of this issue largely ignored this document. But they must go hand in glove. I am not a critic of this document at all. I have not read all of them, not all 550 pages. But I have thumbed through a lot of it. I have no idea if anyone who wants to be the advocate of climate change darn well better read the bible on it first before they conclude that all of the world's scientists have come together with a single statement to suggest that the global warming we are experiencing can be in any way clearly the product of the production of greenhouse gas around this globe and all of it.

Because we have not totally understood it yet, there is no question that we ought to try to understand it before we begin to craft a massive body of regulation to reshape the economy, all in the name of climate change. That is what the President understood. That is why the President denounced Kyoto. The administration's strategic scientific plan for climate change response is a valuable effort to build the body of science that can truly allow those of us as policymakers a foundation from which to make the right choices. If we fail to make the right choices, if we head this massive regulatory effort in the wrong direction we will say—what question—are we spoken to it over the last few hours—we could badly damage, if not curtail, much of the growth in our economy.

I think the effort that is underway ought to be the pursuit of regulation. Voluntary action based on clear evidence is a much preferred way to go.

Let me talk for a moment about economic impact because that ultimately is the issue. S. 139 wants to change our country, wants to change the utilization of carbon and the emission of gases. You do it through a regulatory process. Between 1990 and the year 2000, industrial GDP increased 33 percent.

The PRESSING OFFICER. The Senator's time has expired.

Mr. CRAIG. The reality is, our industrial growth is climbing. Its emissions have rapidly dropped. The emission today of greenhouse-like gases, as we would argue, do not come from our industrial base. Yet this is where we send our regulatory effort.

I oppose the legislation. I hope the Senate will vote against it.

The PRESSING OFFICER. Who yields time?

Mr. LIEBERMAN. Mr. President, I yield 6 minutes to the distinguished Senator from New Jersey.

The PRESSING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I thank Senators Lieberman and McCain for developing this amendment. It makes sense. Mr. President, I rise to speak in support of the Lieberman-McCain bill. This bill offers a reasonable, proven, market-based approach to addressing the problem of global warming. It establishes a greenhouse gas "cap and trade" system which is modeled on the most successful pollution reduction program ever—enacted the Acid Rain Program.

Since 1980, that program has reduced sulfur dioxide emissions by 40 percent—despite significant economic growth during that period. I say, it's about time.

A few years ago I traveled to Antarctica and I saw the effects of global
warning firsthand. The Antarctic Peninsula ice shelves are melting. Over 1,250 square miles of ice have broken off and melted in just the last few years. Scientists believe these massive ice shelves have stood undisturbed for 12,000 years. Why are they gone? Many of us were dismayed but not surprised by the report last month of the break-up of the Arctic’s largest ice shelf.

It is stunning that some of the world’s glaciers have lost as much as 70 percent of their ice. Why is this melting? Because, as literally thousands of climate scientists have reported—the earth is heating up! Yes, global warming is real and America should be leading the international community in addressing it—not lagging behind. The scientific discoveries on climate change are nothing short of astonishing. Ice core samples from Greenland and the Antarctica show that atmospheric concentrations of carbon dioxide are at their highest level in millions of years. In the Arctic, the permafrost is melting. The average thickness of the arctic ice shelf has decreased by a staggering 40 percent, just since 1960.

All that melting ice is steadily raising sea levels. Opply, the sea has risen between 4 and 8 inches. This impact is particularly damaging to flat coastlines like in Texas where the relative sea level has already risen from 8 to 10 inches. From primitive thermometers, to the analysis of tree rings and coral reefs, the evidence is clear: this last century has been the hottest in the last 1,000 years.

The evidence of profound climatic change continues to mount. A study published last January in Nature—probably the most respected scientific journal in the world—reported some remarkable discoveries. It reported that of 1,700 habitats studied, 370 are moving northward. The habitat of the Red Fox has moved 600 miles to the north in the last 30 years. Frightening disease vectors, such as the mosquito which carries the deadly West Nile Virus, are pushing into North America.

Perhaps most ominous of all, night time temperatures are rising. Medical authorities tell us that this lack of relief from elevated temperatures at nighttime is a chief reason that 500 to 700 people died in Chicago during the 1995 heat wave.

While the Federal Government sits fiddling, States are not waiting for Rome to burn. At least 27 States—more than half—have started their own programs to reduce greenhouse gas emissions. According to David Danner, the energy adviser for the State of Washington, States are moving ahead to fill the vacuum left by the Federal Government. Danner said, “We hope to see the problem addressed at the federal level, but we’re not waiting around.” A number of those States have initiated reasonable programs that will soon begin to reduce greenhouse gas emissions. The Federal Government should be leading this effort, but isn’t.

At the very least, we should start catching up. Surely, none of us here doubt the United States possesses the capacity and the skill to confront global warming? I for one, do not.

Now is the time to harness America’s ingenuity and skills and tackle global climate change with a market-based policy. What is the matter with the facts about the global warming that makes the administration duck for cover?

We cannot “spin” our way out of the impacts of global warming. But that is the strategy the opponents of this bill are pursuing. Look at this chart: Republican pollster Frank Luntz is urging his side to call it “climate change” not global warming, because “climate change” is “less frightening.” The implication here is that people won’t demand immediate action on something that is “less frightening” and “more controllable.” How irresponsible. No matter how much word-smithing that’s done, no matter how much faux science is put in the mix, the fact will not change the true consensus, peer-reviewed science that has accumulated for 30 years. The ominous impacts of Global Warming affect our health, affect our safety, and effect our economy. These impacts will not simply go away because we turn a blind eye to the facts and pretend the climate is not changing. In 2002, the National Research Council reported on the science of global warming. It said:

Greenhouse gases are accumulating in earth’s atmosphere as a result of human activities. National policy decisions made now and in the longer-term will influence the extent of climate damage suffered by vulnerable human populations and ecosystems later in this century.

Clearly, the decisions we make here and now will determine how much “damage” is inflicted on our children and our grandchildren. The National Research Council represents the brain trust of the most educated country in the world. If we cannot believe the Council, who can we believe?

Global warming poses a clear and present danger to us all. The global warming bandwagon is getting full—and the President would be smart to get on it. A partial list of those who urge market-based action now includes: 2,500 eminent economists from MIT, Yale, Harvard, Stanford and other top universities, including eight Nobel Laureates who said, “a market-based policy could achieve its climatic objectives at minimum cost.”

Major corporations, including the petroleum giant BP—which has already reduced its greenhouse gas emissions 10 percent below its 1990 levels—and saved $900 million in energy costs doing it.

Last night we heard from Senators who were repeating the scare propaganda that is circulating about higher fuel prices. But what is more reliable, guesswork and the press releases of the past? If BP, DuPont and other major corporations can save money by reducing their greenhouse gases—surely they rest of the country can also. Other supporters of a market-based approach include Silicon Valley investors, multi-religion interfaith groups, the world’s largest re-insurance company, a bipartisan group of 155 mayors—the list goes on and on. Why let’s be the leaders we were elected to be. Let’s act now and vote for the Lieberman/McCain bill.

The PRESIDING OFFICER. Who yields time?

Mr. INHOFE. Mr. President, I yield 7 minutes to probably the best informed Senator who was the chairman of the Governor’s clean air committee.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I wish to comment on some of the statements made by my distinguished colleague, Senator LIEBERMAN, during the debate last night.

Senator LIEBERMAN was correct when he said concerns about climate change and atmospheric concentrations of carbon are widespread and bipartisan. He was also right when he said that support for increasing our scientific understanding of this issue and reducing atmospheric concentrations of carbon is widespread and bipartisan.

However, I note that opposition to the language offered by Senator LIEBERMAN and Senator MCCAIN is both widespread and bipartisan, including labor and management.

The bill is opposed by a large number of stakeholders, including the Chemistry Council, the American Farm Bureau, the American Health Care Association, the American Highway Uses Alliance, the American Iron and Steel Institute, the National Association of Corn Growers, and the National Association of Wheat Growers, and the list goes on of the organizations opposed to this legislation.

The legislation is also opposed by a large number of labor unions, including the Brotherhood of Locomotive Engineers; the International Brotherhood of Boilermakers; the Iron Ship Builders, Blacksmiths, Forgers, and Helpers; the International Brotherhood of Electrical Workers; the International Brotherhood of Teamsters; the Marine Engineers Beneficial Association; the United Food and Commercial Workers International Union; the United Mine Workers and the United Steelworkers; the Brotherhood of Locomotive Engineers; and several locals of the United Steelworkers of America.

I also note that Senator LIEBERMAN stated that over 75 percent of people in a recent public support poll for this language. I would argue if these people have not been told of the negative effects of this legislation on heating and electrical costs and the loss of jobs, the results of that poll would have been much different.

As I discussed last night, Thomas Moore of Catholic Charities testified last year against the Lieberman-Jeffords bill saying it would have a devastating impact in significantly higher
heating prices on the poor and elderly. I also point out that the Department of Energy has stated that high energy costs consume a disproportionately large share of the income of the poor and elderly on fixed incomes. They are left out of this debate.

I would also like to address statements by Senator McCain and Senator Lieberman that because they offered a substitute to their original version of S. 139, all the comments and analyses cited by opponents of this bill, including my comments, that the Senate decision could not be further from the truth.

I refer to a letter I recently received from many of the stakeholders against S. 139:

The undersigned commercial, industrial, small business and agricultural organizations strongly urge you to oppose S. 139, the Climate Stewardship Act, or any substitute that may be offered by its sponsors, Senators Joe Lieberman and John McCain, when this measure comes before the Senate. As they proclaimed, the vote on S. 139 (or its substitute) will be a test vote on the appropriate response to concerns about our changing climate. Among all the policy options available to the Congress to improve our understanding of climate systems, the arbitrary imposition of energy rationing as embodied in S. 139 is one of the worst possible options the Senate could choose for farmers, industry, the poorest of Americans, and the economy as a whole.

I ask unanimous consent that this letter be printed in the RECORD. Therefore, by unanimous consent, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE, Washington, DC.

DEAR SENATOR: The undersigned commercial, industrial, small business and agricultural organizations strongly urge you to oppose S. 139, the Climate Stewardship Act, or any substitute that may be offered by its sponsors, Senators Joe Lieberman and John McCain, when this measure comes before the Senate. As they proclaimed, the vote on S. 139 (or its substitute) will be a test vote on the appropriate response to concerns about our changing climate.

Among all the policy options available to the Congress to improve our understanding of climate systems, the arbitrary imposition of energy rationing as embodied in S. 139 is one of the worst possible options the Senate could choose for farmers, industry, the poorest of Americans, and the economy as a whole.

I ask unanimous consent that this letter be printed in the RECORD.

The sponsors of S. 139 have stated that the first phase of greenhouse gas reductions in their bill would “only require a 1½ percent reduction from today’s greenhouse gas levels.” However, the Environmental Protection Agency’s emissions levels would have to be reduced by 14 percent in order to achieve the 2000 emissions levels sent to the Senate on July 1, 2005. Moreover, S. 139’s first phase of reductions would require the economy to have to make additional cuts in fossil energy use every year for the next 15 years, simply to stay under the 2000 emissions cap in the face of increasing demand for more energy from a growing population and economy. Thus, meeting the targets of S. 139 would cause major economic disruptions for farmers, businesses, industry, the poorest Americans who can least afford higher electricity and natural gas price increases in the future. The modified bill will also result in the export of countless additional manufacturing jobs; a unbearable prospect in light of the more than 2.8 million jobs the manufacturing sector has already lost since the summer of 2000.

Addressing the climate change issue does not have to be made at the expense of the American economy. Voluntary emissions reduction measures and innovative ideas for market-based incentive programs are needed in the near-term, while progress continues to be made in perfecting new technologies to improve efficiency and sequester greenhouse gases. The Senate Energy conference report on H.R. 6 is expected to contain many provisions to increase energy efficiency; provide incentives for renewable fuel use, nuclear energy and clean coal technologies; expand energy research and development programs. The Senate does not need to resort to S. 139’s command-and-control rationing program in this legislation.

Finally, S. 139 or its substitute would force electric generators to switch from coal to natural gas in order to meet the limits of the bill. The repercussions of a Senate vote to support S. 139 or its substitute cannot be understated. Any indication that the Senate favors coal-switching to natural gas will immediately influence many investment decisions that will affect, not just the future of natural gas prices for all consumers, but the very availability of natural gas for industry in the future. Any carbon cap—any carbon caps—would cause a switch to burning coal with clean coal technology. That will cause fuel switching to natural gas. It will mean the end of manufacturing jobs in my State. It will send thousands of American jobs overseas and will significantly drive up natural gas and electricity prices and put millions of Americans out of work.

Too many Americans have lost their jobs because we have not harmonized our energy and environmental policy in this country. We need a truly comprehensive energy policy that protects our environment while also protecting our energy security and our economy.

As I stated last night, I strongly oppose any legislation that will exacerbate the loss of jobs in my State and drive up the cost of energy for the least of our brethren, the poor and the elderly. I urge my colleagues to vote no on this legislation.

The PRESIDING OFFICER. Who owns it, Mr. Inhofe?

Mr. INHOFE. Mr. President, I thank Senator VOINOVICH for making his statement. I will be specific. The amount of jobs in his State alone, if this passes, would be 178,000.

For any other Member who wants to know how their States will be affected, we have that breakdown. It is a study by Penn State University. I thank the Senator for his comments.

Mr. LIEBERMAN. Mr. President, I yield 5 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 5 minutes.
October 30, 2003

Mr. BINGAMAN. I thank the Chair. Mr. President, I thank my colleague, Senator LIEBERMAN, for yielding me time.

Mr. President, I have heard three arguments against this legislation since I have had the opportunity to hear this debate. The first argument is there is no such thing as climate change. Climate change is a reality if we are to believe the scientists we hire or who are willing to advise us.

A clear consensus of the scientific community is there is a change going on. The global climate is warming, and that is a fact.

The second argument I have heard is, OK, even if there is such a thing as climate change, there is no real proof human activity is the cause of that climate change. Again, I point out the scientific community believes it. The scientific community says human activity over the last 150 years has been a major contributor to the problem. Most of these human activities that contribute to this problem relate to energy production and use. Carbon dioxide emissions account for 84 percent of the annual emissions of greenhouse gases in the United States and 98 percent of those arise from activities associated with energy production or use.

The third argument which I have heard this morning is we do not totally understand this issue, and therefore, the Greenhouse House has not been legislating. If we use that standard, we will not legislate on virtually any subject in this body. Clearly, we have to take the best information we have, make the best judgments we can, and then if we find we are in error, we can adjust our policies as we move forward.

As the ranking member of the Energy Committee, I have argued repeatedly for the last several years that part of our national energy policy and the energy legislation we were trying to craft should be a recognition of the importance of climate change, and we should include in a bill some provision for dealing with climate change issues. Unfortunately, I am informed the energy conference that is still in existence, although it does not meet, will not include any language related to climate change, even though the bill the Senate produced does contain some provisions in that regard.

The climate issue is of global concern. It is sad that the United States is not leading this debate. We should have a leadership role, both because we have the capability to understand the science and to do the science, and the technology. We also have the capability to come up with an appropriate response. It is sad we are not doing that.

This administration has totally failed to lead with regard to this issue. The President’s plan to deal with the greenhouse gases has been little more than a business-as-usual approach. The President’s voluntary target of a 18 percent reduction in greenhouse gas intensity over the next decade sounds impressive until one looks at the data. The approach will allow climate-altering pollution to continue to climb as long as it increases more slowly than our economy grows.

The voluntary commitments would meet a goal that are no more aggressive than a business as usual. Greenhouse gas pollution intensity in the United States has been declining because the part of our economy that is growing the fastest is the service sector, which produces fewer greenhouse gases than manufacturing for certain. President Bush’s voluntary approach will change the trend in greenhouse gas emissions over what is likely to happen, and it certainly does not put us on a path to reductions in the future.

We have been trying a voluntary approach to reducing greenhouse pollution. We have tried a voluntary approach, and greenhouse gas emissions have actually increased 14 percent. Many of the commitments industry is making today are the same or similar to what these companies promised nearly a decade ago.

While negotiating an international framework to address global warming continue for the next several years, our domestic industry will have to make significant investment decisions on new energy infrastructure. We have no framework to provide the greenhouse gas emissions that would guide or even inform these investment decisions. Addressing these issues up front would reduce business costs and risks. Maintaining our present course will increase the probability of future economic losses and waste in the energy sector.

This Climate Stewardship Act is a modest first step in trying to deal with this important issue. Senator LIEBERMAN and Senator MCCAIN deserve great credit for forcing this issue to be considered in the Senate today and to be voted on. They have put together an innovative framework that deserves our attention. Unfortunately, that is, that this bill was not able to receive the hearings in committee it deserves. The debate should be no longer about whether climate change is a reality, which is what we have been talking about on the Senate floor, but instead on how we can deal with it. Ideally, the debate we would be having on the Senate floor would be to consider amendments, to consider alternatives to this proposal, so we could come to grips with this very difficult issue. I would prefer to be offering amendments on ways in which the framework could be improved, but given the politicizing that has surrounded this scientific and environmental issue, I am left with only one option, and that is to vote for the bill and send a signal that the Senate must show leadership on climate change.

The PRESIDING OFFICER. The Senator’s time has expired. Who yields time?

Mr. INHOFE. Mr. President, I yield 2½ minutes to the Senator from New Hampshire, Mr. SUNUNU. I hope we will look very carefully at the chart he has. It is probably the most significant chart, other than the jobs chart we have.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, we have heard a number of speakers who I think have raised a number of important points. We have heard questions and discussions about the science of climate change. The science is important, and over time we hope to better understand the Earth’s climate. I hope this is an area where we do research, where we can develop better models. It is one of the most complex areas of investigation.

We have heard about the costs, both direct costs of this legislation that will increase energy costs for everyone in America, but also indirect costs, because other countries that have been mentioned by Senator Voinovich, for example, such as China, India, Russia, or Australia, do not adopt such stringent controls on emissions, and they will benefit by American jobs moving overseas.

In particular, it stands to reason in those areas of our economy that are most dependent on energy as an import, energy incentive industries like manufacturing, steel, smelting, and the like, those are the jobs that will be the first to go overseas.

I want to speak about the environmental issue because if we look closely at the environmental impact of this legislation, it actually undermines the legislation. It shows its weakness and illustrates why it should not be adopted. If we were to agree on the increase in temperature of the last 50 or 100 years, agree there was some relationship between manmade emissions of CO2 and that increase, and assume the full impact of the Climate Change Conference, the Kyoto protocols, let us look at what the environmental impact might be. This is a forecast of increasing temperatures over the next 50 years, a forecast projected increase of up to 1.2 degrees Celsius, maybe 2 degrees Fahrenheit. The benefits of Kyoto are enormously small, perhaps one or two-tenths of a degree Celsius. Over 100 years, if the projected change is 4 or 5 degrees Fahrenheit, the impact of Kyoto might be four or five-tenths of one degree.

The question is: Why would that provide at the significant economic costs that are not likely but certain? Supporters have pointed out their legislation, but our legislation is not as dramatic as Kyoto. It is not as harsh as Kyoto, and that means the environmental benefit will be even less.

Questionable environmental benefit, enormous cost. I certainly urge my colleagues to vote no.
The PRESIDING OFFICER. Twenty minutes 59 seconds on the minority side; 17 minutes 11 seconds on the majority side.

Mr. MCCAIN. Who is the minority side?

The PRESIDING OFFICER. Well, I do not know. That is a good question.

Mr. MCCAIN. How much time is controlled by Senator INHOFE and how much time is controlled by Senator LIEBERMAN?

The PRESIDING OFFICER. Senator LIEBERMAN has 20 minutes 59 seconds.

Mr. LIEBERMAN. Mr. President, I yield however much of the 10 minutes Senator MCCAIN will eventually have as he wishes to consume now.

The PRESIDING OFFICER. The Senator from Arizona?

Mr. MCCAIN. Mr. President, I would like to use 8 minutes of my 10 minutes.

My favorite author is Ernest Hemingway, as he is of many millions of people throughout the world. One of his most famous short stories is entitled “The Snows Of Kilimanjaro.” At the beginning of the short story he says:

Kilimanjaro is a snow covered mountain 19,710 feet high, and is said to be the highest mountain in Africa. Its western summit is called by the Masai “Ngaje Ngaje,” the House of God. Close to the western summit there is the dried and frozen carcass of a leopard. No one has explained what the leopard was seeking at that altitude.

As the photograph shows here, the snows of Kilimanjaro may soon exist only in literature.

There has been a lot of debate here about the scientific evidence—17,000 scientists say this, 10,000 scientists say that, my scientist says this—although clearly the National Academy of Sciences and other organizations including the World Meteorological Organization, I think, and others, should recognize the Senator from West Virginia, Mr. Byrd, for a time not to exceed 12 minutes.

Mr. BYRD, for a time not to exceed 12 minutes.

Mr. MCCAIN. The PRESIDING OFFICER. Twenty minutes.

Mr. MCCAIN. Mr. President, I reserve the remainder of my time.

Mr. MCCAIN. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Oklahoma, Senator INHOFE.

Mr. INHOFE. Mr. President, while I appreciate the comments made by my good friend from Arizona, I would only say some of the things here—I know he doesn’t intend to say things that aren’t true. I would like to quote an article that was in this morning’s USA Today, James Morison, who is a scientist with the University of Washington—and this is a front page article in USA Today—said the temperature increases and the shifts in winds and ocean currents occurred early in the 20th century and have since relaxed. This is a recent discovery.

These big changes are not related to (global) climate change.

This was just in this morning’s paper, speaking of the Arctic Circle. When I have a chance to wind up, I want to repeat some of the things I said about the flawed science on which all these things are based. Until then, I recognize the Senator from West Virginia, Mr. Moran, for a time not to exceed 12 minutes.

The PRESIDING OFFICER. The Senator from West Virginia.
Mr. BYRD. Mr. President, I come to the floor today to discuss the very critical issue of global warming and to summarize events of recent years that have led us to this point. We are discussing the paramount energy and environmental challenge of our time, namely, the considerable increase in greenhouse gases in our atmosphere that will lead to changes in the global climate.

The primary contributor to global warming remains the industrial phenomenon that create carbon dioxide, and it remains in the atmosphere for over a century. These human-produced emissions are adding to a growing concentration in the global atmosphere that is expected to more than double by the end of this century. Therefore, we are bequeathing this problem and its consequences to our children, our grandchildren, and our great grandchildren.

While I am very concerned about the challenge posed by global warming, let me state at the outset that I have long been a strong critic of climate change policies that are not in the national interest of the United States. I will yield to no one on that point. I have insisted on a cost-effective approach to dealing with climate change.

As the coauthor, along with Senator HAGEL, of S. Res. 98, that passed 95 to zero in 1997, during the 105th Congress, I sought at that time to express the sense of the Senate on what should be the approach to dealing with climate change. S. Res. 98 was intended to provide the guide that effort rather than kill that effort. The Kyoto Protocol, in its current form, does not comply with the requirements of S. Res. 98. That resolution was supported by many industrial trade associations and opposed by many environmental organizations.

While those on both sides of the issue have attributed many interpretations and mischaracterizations of S. Res. 98 to those who one has misinterpreted and misconstructed S. Res. 98 more so than this present administration.

S. Res. 98 was intended to provide the sense of the Senate on what should be included in any future binding international treaty. The resolution laid out the conditions under which the Senate could agree to a new binding treaty that would subsequently be considered at the Kyoto conference. S. Res. 98 stated what any such treaty must include new scheduled commitments for the developing world in addition to any such requirements for industrialized nations but requirements that would be binding and mandatory and lead to real reductions in the emissions of greenhouse gases over time. This is clearly different than the minimal, vague, and voluntary commitments that we are currently pursuing.

As I explained in 1997, a voluntary approach of four years tried and had already failed. The United Nations Framework Convention on Climate Change, also known as the Rio Convention, failed to reduce emissions largely because it was voluntary. That is why Kyoto concerned binding commitments, and S. Res. 98 was intended to guide that effort rather than kill that effort.

The administration’s climate team has taken the approach of Rio, despite a complete lack of evidence that this so-called plan will ever succeed. Industrial nations have never initiated significant reductions in pollution of any type on their own. The strict new framework that the administration must finally come to terms with taking action toward globally binding commitments.

As well, developing nations, especially the largest emitters, need to be a part of any binding global climate change treaty. Another point that has been misunderstood is what S. Res. 98 required. Kyoto Protocol; he also turned his back on any negotiations because they concern a binding treaty that includes mandatory emissions reductions. Moreover, developing nations should be a prime market for clean energy technology projects. But, with little pressure on those nations to reduce or contain the growth of emissions, a huge and fruitful market for those types of technologies—technologies that are being developed in the U.S.—is likely to dry up. In other words, while this nation has been making great strides in developing technologies to use our own energy resources more efficiently and more cleanly, significant efforts to help deploy these technologies overseas have been undercut by this administration’s unilateral approach to climate change.

Thus, S. Res. 98 was an effort to strengthen the administration as it undertook international negotiations. It enabled our negotiators to walk into talks and point to the ever-present Congress, looking over their shoulders, to ensure that the interests of the U.S. would be protected in any agreement that eventually came to fruition.

The Bush administration has never understood the value of S. Res. 98. Rather than employing that tool to positively influence international negotiations, it used the resolution as cover to simply walk away from the table. Having abandoned a constructive role in the global negotiations on climate change, this administration has left the U.S. in a much weaker position globally.

The Bush administration must be challenged on its environmental, economic, and energy responsibilities, nationally and internationally. The U.S. is in the best position of any nation to positively influence an international response to global climate change. Yet, we will all suffer from the consequences of global warming in the long run because we are all in the same global boat.

This administration has attempted to hide behind S. Res. 98 to defend its current do-nothing and know-nothing policy on climate change and I strongly object to that. The difference between my view and that of this administration is simple. I believe the problem is real and demands action. The administration does not. The reality is quite different. Our nation has been represented at the international negotiations in name only. We would be better represented at the international negotiations by a row of empty chairs. That would at least accurately represent the nature and spirit of our current policies. For President Bush not only disavowed the Kyoto Protocol; he also turned his back on any negotiations because they concern a binding treaty that includes mandatory emissions reductions. The rest of the world was outraged by this unilateral rejection of a decade of negotiations and of the new American isolationist approach to deal with climate change.

And what will happen in one year or five years when a new administration enters office? What will happen if Russia or the future world toward a new binding treaty with mandatory requirements to reduce emissions that would correct the deficiencies of Kyoto. The Bush administration is simple. I believe the problem is real and demands action. The administration does not. The reality is quite different. Our nation has been represented at the international negotiations in name only. We would be better represented at the international negotiations by a row of empty chairs. That would at least accurately represent the nature and spirit of our current policies. For President Bush not only disavowed the Kyoto Protocol; he also turned his back on any negotiations because they concern a binding treaty that includes mandatory emissions reductions. The rest of the world was outraged by this unilateral rejection of a decade of negotiations and of the new American isolationist approach to deal with climate change.

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98. They cannot make such a claim in the debate today or in any international forum. Nothing could be further from the truth. This administration can no longer hide behind the mantle of that resolution.

It is this administration that undermined the tenets of that resolution. They now support only vague, voluntary measures. That is true both domestically and internationally. The evidence suggests that the President’s negotiators have even formed an alliance with the key emitters in the developing world, and together they oppose any additional discussion during the international negotiations of binding commitments for the developing world as called for under S. Res. 98. That is of course a logical result of the administration’s policies, since it is impossible to apply binding commitments to China if we refuse to apply such standards to ourselves. We now have little hope of seeing an effort made to produce a treaty that will comply with S. Res. 98—at least not during the tenure of this President.

If there is no prospect for a binding international treaty, then how can we deal with the enormous challenge posed by global warming? The critics of the amendment before us argue that we should stay the course and support the President’s policies. If I may ask—what are those policies? What concrete programs have been put in place? In point of fact, the administration has asked the industry trade associations to develop their own voluntary reduction programs. The proposals are vague and actually allow emissions to continue to increase. Taken together, none of these programs is expected to result in any serious decrease in emissions.

These events over the last three years have led me to conclude that we must look elsewhere for effective action on global warming. The Senate should support the Senate policy. If I may ask—what is it in which it now stands. It should not be faced, as we are now, with the prospect of considering an energy bill devoid of provisions to address climate change. The Senate should be considering our nation’s energy security from a broad view that includes a global response to climate change and the international politics of energy.

Proponents of the amendment now before us argue that it sends the clear message to President Bush: If the President rejects the advice of this body, then he is refusing to negotiate in good faith toward a binding international treaty and is only offering hollow domestic programs. The Senate has little choice but to consider further steps, including modest mandatory approaches, that would apply to our domestic economy.

The amended version of S. 139 freezes emissions at their current levels rather than seeking a sharp reduction as has been requested. The McCain-Lieberman bill also allows companies to offset their emissions, for example by planting trees that absorb and sequester carbon dioxide (CO2) by constructing more efficient power plants in the developing world than what those nations would otherwise build—and claim the difference as an earned offset or credit.

I would be faced with a measure like this today. I note that this bill has not had committee consideration. That said, it is very much the case that several key chairmen with jurisdiction over energy or environmental policy have done very little in serious dealings with climate change. We have certainly witnessed this in the energy bill. I want to further commend Senators McCAIN and LIEBERMAN for their diligence and hard work to find a middle ground. They have come a long way on this proposal.

If the principles of their proposal were combined with those of other Members like mine, then the Senate could have a strong package to offer the American people. While I will not be able to vote for the Senate bill, I do want to make it very clear that I will work with the sponsors of this bill and other Republican and Democratic Senators who want to go beyond this administration’s empty-headed approach.

In closing, I express my own growing frustration for our seeming inability to deal with the problem at hand. I have been troubled by this for a long time. I do not believe I need any more scientific evidence to show that that is the case. I have seen the changes in weather patterns, and those changes that I have personally seen during my nearly 60 years lead me to believe that there is something happening. We need to do something about it. What we do may be painful in some respects, but we owe it to our children and grandchildren to have the foresight to see that something is happening and to understand that we ought to do something about it soon. If not, we may be going beyond retrieval.

So, I will work with the two Senators are to be very much complimented. I will vote with Mr. IHOFER, for the reasons I have stated. I yield back the balance of my time.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank Senator BYRD for his statement. Obviously, I regret that he is not going to support the McCain-Lieberman proposal. He has been very much this fact: He recognizes that there is a problem here. I don’t know how some of our distinguished colleagues can say there is not a problem. The science is there. The facts are there. We see it with our own eyes. We can disagree on what to do about the problem.

But Senator BYRD, with his characteristic directness and honesty and sense of history, has recognized that there is a problem. I look forward to continuing with him and his colleagues to make the point ahead to see that we can fashion together a common ground response that will deal with the problem that he quite honestly has recognized. I thank the Senator.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I thank our colleagues for the work they have done. I, again, thank Senator INHOFE.

Mr. LIEBERMAN. Mr. President, I yield 5 minutes to the Senator from Delaware who has been an active, helpful, and constructive supporter of this proposal, for which I thank him.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I thank Senator LIEBERMAN and Senator MCCAIN and others who brought this legislation to the floor. I stand today as a cosponsor of the amended version of the McCain-Lieberman Climate Stewardship Act and I will vote for it today. I do so because I believe it is a sensible first step toward addressing the real problem of increasing levels of greenhouse gases. It is not going away. It is global warming about which Senator BYRD and others have spoken.

Senator BYRD, Senator McCAIN, and others have spoken about the convergence of science and policy. But not only greenhouse gas emissions are increasing but also that those emissions are linked to human activity and are having a negative impact on the climate in which we live.

Ten years ago I would not have stood here. Ten years ago I would not have been arguing that we should take mandatory steps toward addressing greenhouse gas emissions. But over the past decade or so as I learned more about this issue and had the opportunity to speak with people on both sides of this debate, and as Senator McCAIN said, to see with my own eyes the changes that are occurring in this world, I have become convinced there is a real problem. It is not going away. We can do something about it. We can do something about it now. We should.

Senator LIEBERMAN and Senator McCAIN should be commended for their wisdom and leadership in recognizing that the time for inaction is over. I commit myself and have the support of those of my colleagues to do whatever is necessary to make a significant modification to their original proposal. I don’t know that I would have been so supportive of the original bill because of reductions that were required in that bill. Having said that, the modified version before the Senate today which seeks to turn over the balance of this decade greenhouse emissions to levels of the year 2000 has my strong support. The fact is, if the Federal Government does not act in this way, and do so soon, the problem will get worse and the solution, when it comes, will be more difficult and more disruptive of our economy and our way of living.

Addressing greenhouse gases is a proper role for the Federal Government. In yesterday’s New York Times, a reporter, Jennifer Lee, wrote about the increasing number of States fed up with a lack of certainty from the Federal Government with regard to climate change policy. Half the States, and others have spoken about the convergence of science and policy. But not only greenhouse gas emissions are increasing but also that those emissions are linked to human activity and are having a negative impact on the climate in which we live.
On the one hand, I view the States' efforts as a positive development. However, regulating greenhouse gasses via 50 different laws is not, my friends, the best way to proceed on this issue. It is best for both the industries that will have to comply with these laws and the climate, we expect from the passage that we adopt a uniform Federal standard. The Climate Stewardship Act does just that.

My own State of Delaware is proud to be the home of the DuPont Company, a global company that products touching each of us every day. DuPont is a major producer of greenhouse gasses. One might think they would be opposed to this legislation, but as it turns out they are not. They view this bill as a significant and serious contribution to the congressional debate on how to address climate change.

They think it is particularly noteworthy for three reasons, and I will mention those: No. 1, the measure includes a system that will achieve reductions efficiency; No. 2, it covers more than one sector of the economy; No. 3, it provides credit incentives for early action and includes flexibility mechanisms to allow companies to find a way to meet the requirements of the bill, while also benefiting and climate events continue to occur around the world. Recent scientific assessments indicate that, as the global temperatures continue to warm due to climate change, the number and intensity of extreme weather events will increase. They go on to say that: “New record extreme events occur every year somewhere in the globe, but in recent years the number of such extremes has been increasing.” And, “(w)hile the trend towards warmer globally averaged surface temperatures has been uneven over the course of the last century, the trend for the period since 1976 is roughly three times that for the past 100 years as a whole.”

In the United States, the WMO cited record-breaking statistics in a particularly dangerous category of extreme weather events: nationwide, 562 tornadoes occurred in May, 2003, resulting in 41 deaths—a record for the number of tornadoes in any month, far surpassing the June, 1992 U.S. record of 299 tornadoes.

In Iowa, as in much of the midwest, we have been experiencing a drought—a drought that is hurting my state’s farmers. A portion of the proceeds from the auctioning or sale of allowances in the bill will go to technology deployment programs. Specifically, integrated coal gasification systems will receive significant financial incentives. Such clean coal technologies are not only beneficial to the environment, but will ensure continued usage of this valuable fuel source well into the future, in an environmentally beneficial manner. Farmers have expressed concerns that taking action will harm the U.S. economy, and will impact energy supplies. While their concerns are legitimate, they are misplaced, because scientists, economists and analysts in this administration and in the private sector agree that this bill that we are debating will not be onerous for the overall economy or for the various industries it impacts. The Energy Information Agency in the Department of Energy and the Massachusetts Institute of Technology, in separate assessments of the bill, indicate it will have minimal impacts on fuel prices and will even lower fuel prices in the case of natural gas, for instance, by generating efficiencies and providing market signals to companies to seek lower cost solutions that achieve the desired results.

Now I know some Members of this body and of some organizations in the production of green house gases, coal is the major producer of greenhouse gasses in the near- and medium-term. While the proper incentives, agriculture can provide a low-cost bridge to a low carbon future and greenhouse gas emissions, in improving the sustainability and perhaps the profitability of this vital economic sector. The Climate Stewardship Act,
provides some of these incentives. A provision in the bill that I particularly support is financial incentives, through the auctioning of permits to capped sectors, to agricultural practices to reduce greenhouse gas emissions, including soil carbon as a sustainable energy source, such as wind power.

Agriculture can play an important role in mitigating global warming, and can provide valuable benefits to society. Soil carbon, a commodity already being traded and sold in this country and others, and farmers can not only “farm” for carbon, they can reap the rewards under this bill, and help keep costs of action down.

To make sure farmers can take advantage of this opportunity, I have negotiated with Senators McCAIN and LIEBERMAN to guarantee that a specific portion of the credits that can be sold into this cap-and-trade system in the bill will be set aside for soil carbon sequestration. Soil carbon sequestration reduces U.S. net emissions of greenhouse gases but also improves air and water quality by reducing run-off, and improves soil moisture retention. Soil carbon sequestration occurs through improved management practices such as no-till or reduced-till farming, the use of shelterbelts, grass waterways, wetland restoration, and improved irrigation systems, to name but a few. But most importantly for the farm sector, soil carbon enhances agricultural sustainability and profitability. We know this because agricultural and soil scientists have studied this issue for years—not because of global warming, but because of the associated environmental improvements and the improved crop productivity associated with greater soil carbon. These are complementary objectives with nice overlap. As a key benefit soil carbon sequestration reduces 10 percent of U.S. annual carbon emissions.

To help ensure that farmers and others in the agricultural sector thoroughly consider the issue of climate change, and that they can benefit from an emerging carbon market, we have negotiated additional language to institute an education and outreach initiative within USDA. The program would provide detailed information as well as technical assistance to these individuals and groups, as well as allow for the creation or utilization of existing centers on climate change.

This is a win-win policy for agriculture and, of course, for our environment. That is why I support this bill.

Mr. LEAHY. I rise today in support of S. 139, the Climate Stewardship Act. I am proud that the Senate Committee is finally going to have an open and honest discussion about climate change, greenhouse emissions, global warming and their effects on the Nation and the world. It is clear that it is time for the Senate to act and pass this important legislation.

Climate change and global warming could cause grave problems to our Nation’s economy, especially the economy of the Northeast. The economy of my home State of Vermont relies heavily on the revenue brought in from the maple, forest and ski industries. Maple syrup production is a major source of income that should be protected, and Vermont suffered a dramatic loss of maple production in Vermont and the rest of the Northeast if fuel emissions continue to go unchecked.

There are about 2,000 maple farms in my home State, and most of them are family-owned businesses. Many if not all of these farms could suffer from a decrease in maple sugar income, and eventually they could lose their farms altogether. I have heard from many maple producers from my State who say they are tapping trees earlier every year. It used to be that Vermonters were tapping their trees around Town Meeting Day, the first Tuesday in March. Now, some are forced to tap a month earlier, during the first week in February. A recent report done by U.S. Office of Science and Technology Policy, sugar maple could eventually recede from all U.S. regions but the northern tip of Maine by 2100. This is unacceptable, but it is also preventable, and that is why the Senate should pass the Climate Stewardship Act of 2003.

One maple syrup producer from Vermont has become so concerned about the negative effects of global warming that he has joined a lawsuit against the Export Import Bank and the Overseas Private Investment Corporation. The plaintiffs in this case claim that these companies have illegally provided more than $32 billion for overseas oil fields, pipelines, and coal-fired power plants over the past 10 years without assessing their impact on global warming as required by law. The plaintiffs are not seeking financial compensation, only compliance with the National Environmental Policy Act, which requires all Federal agencies to assess their programs’ contributions to global warming.

Vermont also relies on revenue from the ski industry. Vermonters and others from all over the country enjoy the ski resorts in Vermont. There is a strong relationship between winter skiing conditions, the number of customers, and whether a ski resort has a successful or unsuccessful ski season. Vermonters recognize they already had to make improvements to snowmaking technology to ensure there is enough snow for the entire ski season. This can cost resorts hundreds of thousands of dollars. Warmer weather also means the resorts open later. In 2001, Killington Ski Resort, the largest ski resort in Vermont recorded its latest opening date in more than 15 years.

Many ski resorts across the country are doing their part to slow global warming. Four ski resorts in Vermont—Hastings, Killington, Stowe, and Pico Resorts, Mad River Glen, and Mount Snow Resort have all adopted a policy on climate change to address the problem of global warming. Mount Snow Resort has cut energy consumption in half at the Main Base Lodge and Snow Lake Lodge by replacing hundreds of conventional light bulbs with compact fluorescents. They have installed dozens of energy-efficient snowmaking tower guns, which reduce the energy needed to pump water and compressed air. I commend the efforts of these ski lodges and I believe that we should act today and do our part to reverse global warming.

I have two grandchildren—a 5-year-old grandson and a granddaughter who is not quite a year old. I want them to be able to enjoy Vermont as I have: snow-covered Green Mountains in the winter, beautiful foliage in the fall, and Vermont maple syrup on pancakes as often as they please. It is time the U.S. took action to curb our greenhouse gas emissions. We can no longer look the other way as the rest of the world moves ahead while our administration ignores global warming.

Mr. JEFFORDS. Mr. President, I stand to applaud the efforts of Senators LIEBERMAN and McCAIN for pushing forward with a sensible and modest plan to address the threat of global warming.

I would prefer that we were debating a bill reported by the Environment and Public Works Committee, but the current administration is not on or maybe the whitehouse effect. Global warming has been documented by hundreds and hundreds of credible scientific studies, including many world class institutions such as the National Academy of Science, the American Geophysical Union, and the International Panel on Climate Change. To ignore and dismiss the threat of climate change to the economy and the environment is like insisting the earth is flat. It flies in the face of reality.

The Climate Stewardship Act uses the same type of efficient cap-and-trade system that Congress established in the 1990 Clean Air Act amendments to reduce sulfur dioxide emissions and acid rain.

My bill, S.366, the Clean Power Act, uses that system to reduce carbon dioxide pollution from power plants to 1990 levels. That carbon cap and the auctioning of permits would stimulate the development of domestic technologies, like gasification and renewables. That would allow our Nation to continue burning coal, but more efficiently, cleanly and safely and with fewer carbon emissions.

Without some kind of carbon cap to drive technology, utilities and investors will continue turning away from...
coal and toward natural gas. Without clear action by Congress on this matter, utilities and investors fear the uncertain timing of the inevitable carbon controls that are coming. I will not go into great detail about the need to act now. Our recent hearing record is replete with peer-reviewed scientific evidence that demonstrates that need and refutes the Senator from Oklahoma’s statements.

But, I would like to note that the average global temperature in September 2003 was the hottest on record, and 1998 and 2002 were the first and second hottest years on record. That should concern us all.

It is urgent that we take action soon. The Senate’s decision today will affect the atmosphere and climate for the next 100 years if not longer. Experts have advised us that we and the world must radically change the use of fossil fuels in the next 10 to 15 years or the consequences could be quite severe.

The Senate must not take this vote lightly. This is the first time that the Senate will vote to control emissions that cause global warming. Senators can lead now and contribute to sustainable development and job creation or they can confide their heads in the sand and be blamed further for the climate change that is already occurring and for the chaos that warming is likely to bring.

I urge Senators to support the Lieberman-McCain bill.

Mr. FEINGOLD. Mr. President, I will be supporting the McCain-Lieberman climate change legislation, and I want to detail the reasons for my support. At the 1992 Earth Summit in Rio de Janeiro, the United States agreed to a goal of greenhouse gas emissions to 1990 levels by the year 2000, and we became a party to the Framework Convention on Climate Change. As a Member of the Senate, I have supported this agreement. In order to meet this commitment, our Government has engaged in a wide range of voluntary programs. But, despite these efforts, U.S. greenhouse gas emissions have increased by 14 percent since 1990. We should take additional nationwide steps to meet this goal, and I believe this legislation is an appropriate first step.

In this legislation, my colleague from Connecticut, Senator LIEBERMAN, and my colleague from Arizona, Senator McCAIN, would implement Phase I only of their broader bill on greenhouse gases, S. 139, the Climate Stewardship Act of 2003. This legislation will return the Nation’s emissions to 2000 levels by 2010. It will do so by reducing emissions in the short term while providing market-based flexibility to minimize the cost to industry.

I continue to believe that we must take action on a national level now to slow the progression of climatic change. The costs of inaction are prohibitive across the country and in my home State of Wisconsin. Wisconsin’s top officials acknowledged that climatic change was a concern years ago. In 1997, Governor kick-started the State government’s Energy Division in the administration of Governor Thompson, stated back in September of 1997, “There was a time when the possible human influence on the atmosphere was hotly debated by scientists and lay persons alike. That time is past.” In response, my home State has become one of the first with a statewide plan to address global warming.

Numerous signs suggest that the climate in Wisconsin may already be changing, and that the actions that the State of Wisconsin has taken are justified. UW-Madison scientist John Magnuson led a dozen other scientists in examining actual climate data recorded by scientists and lay persons alike. That time is past.” In response, my home State has become one of the first with a statewide plan to address global warming.

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The administration’s approach to global warming is one such area. Though the United States produces about a quarter of the world’s greenhouse gases and will be affected badly by climate change, the Bush Administration has demonstrated an unhealthy disregard for the opinions of fellow nations—a disregard that has squandered the support of the world, especially those of the Bush administration’s misguided policies. Even our staunchest friends are troubled by the administration’s inclination for unilateral action, its inconsistent words and deeds, and its dismissive response to their legitimate concerns.

Being part of the international community means engaging constructively with like-minded nations to build strong, sustaining institutions and alliances—and bringing emerging powers into this community so future conflict becomes less likely. The Bush Administration has demonstrated an unhealthy disregard for the opinions of fellow nations—a disregard that has squandered the support of the world, especially those of the Bush administration’s misguided policies. Even our staunchest friends are troubled by the administration’s inclination for unilateral action, its inconsistent words and deeds, and its dismissive response to their legitimate concerns.

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of these agreements was imperfect, each became more so when the United States moved to the sidelines. Helping to shape credible international institutions is not a sign of weakness; it is a sign of confidence in U.S. strength and ideals. By disengaging, this administration has undermined U.S. policies, interests, and values.

For these reasons, I support the McCain-Lieberman legislation. The U.S. should proceed to implement the Framework Convention on Climate Change, and we need legislation to do just that.

Mr. KOHL. Mr. President, today the Senate took an important step toward expanding the debate on global warming. Greenhouse gases and global warming are a real threat to our environment and our way of life. The National Academy of Sciences has verified the scientific evidence backing global warming. And the private sector is facing the real world impact of global warming. A new report to Congress states that the insurance costs of rising sea levels and more destructive storms. A decade ago, debate ranged within and without the ivory towers of academia over the hazy science backing claims of global warming. Our job now is to see the impact that burning fossil fuels has had on the climate.

The changes to our environment are real. Our job now is to decide what to do about it. The approach set out by this McCain-Lieberman bill is a reasonable first step. It is not perfect, and if we would have been able to take up and debate amendments there are several significant changes I would have supported.

My biggest concern is that this bill would have us move toward reducing emissions without requiring the rest of the world to join us. While we have a responsibility to reduce our own emissions, we need to work with the international community. China, for example, is approaching the United States as a producer of greenhouse gases and must be a part of any practical effort to reverse global warming. If our unilateral efforts convince China they have no need to act, than our approach could do more harm than good. I vote for this bill today as a message to the administration that it is time to redouble efforts to spark a world effort to address global warming. I do not vote to commit the United States as the sole parties at the table in this effort.

I strongly support including environmental standards as part of our trade agreements. Clean air and water issues should be discussed with our international trade partners during trade negotiations. Unless the McCain-Lieberman bill is carefully scrutinized, we need legislation that can help avoid, I think it is critical that we consider the tremendous benefits this bill would initiate.

Today, we know that the tired mantra that “protecting the environment costs jobs” is no longer true. In fact, the market-based mechanisms in this bill would help spur unprecedented productivity and efficiency gains in our energy sector, as well as catalyze countless new environmental technology industries. That translates into many new high paying engineering and manufacturing jobs and tremendous new export opportunities.

A recent report by the U.S. Department of Energy, which included contributions from Washington State’s Pacific Northwest National Laboratory, forecast significant job growth for jobs in a range of emerging “green” industries, such as wind power, biomass energy production, and other energy efficiency specialties.

I am proud that my State hosts one of the largest wind farms in the United States. I visited our Stateline project and saw firsthand one of the many solutions that the market will find to meet the goals of this legislation.

These conclusions were confirmed by a 2001 study carried out in collaboration with public and private partners in the Pacific Northwest that found that the global market for clean energy technologies is expected to reach $180 billion a year—about twice the size
of the passenger and cargo aircraft industries—within the next two decades. Already, in Washington, Oregon, and British Columbia this sector is a $1.4 billion per year industry.

Despite the potential of these new markets, some of my colleagues have argued that the costs of addressing this problem are too high, because they believe this bill might raise energy costs. While that is highly disputable, I am curious of this measure will also support lifting controls on other pollutants? I’m sure we could make coal-generated electricity even cheaper if we did not require pollution scrubbers. We could allow millions of tons of sulfur dioxide, mercury, and other toxins to flood our nation’s air in the name of cheap energy. But of course we wouldn’t do that because we know that true costs of such a policy—whether it be the health of our children, the effects on our rain, or even the visibility at our national parks—would far outweigh any short-term financial gains we may achieve by removing emission controls.

The same principle is true of climate change. We may save some money now by ignoring this problem, but entire industries like timber and fishing—key sectors of my State’s economy—would be dramatically impacted by climate change. There is no way to deny that greenhouse gases, including carbon dioxide, are pollutants and need to be monitored and controlled as such.

As I have listened to this historic debate, I have been frustrated by the duel of charts and reports which have been used to support one position or another. While I, along with many of our Nation’s Governors and world leaders, believe that the scientific evidence is indisputable, there may be another important view to the issue: as an insurance policy.

I am confident that even the most vocal opponents of this bill will be reluctant to say that there is absolutely no chance that the vast majority of scientists are right about this issue and that greenhouse gas emissions are causing global warming. Perhaps the climate skeptics would change their position if they realized that this legislation is really an insurance policy for our children, one that guarantees they will be able to enjoy the same natural world that ben-

We are a problem-solving nation. When we are faced with a grave threat, we roll up our sleeves, put our heads together, and fix our problems; we don’t push them off on our children and future generations. Like the threat of terrorism, climate change is too alarming and disturbing a problem to ignore. The risks of ignoring this problem heavily outweigh the benefits of preserving the status quo. Allowing rapid changes in the temperature of the earth’s surface and shifts in worldwide weather patterns that result from global warming would be devastating to the economies of my state, my nation, and the world. Let’s make sure this problem gets the serious action it deserves. I urge my colleagues to support this critical bill.

Mr. Bunning. Mr. President, I rise in opposition to this legislation, S. 139. We have disputed over the scientific evidence on global climate change. And we can debate that science all day and never agree.

I believe the science we have seen does not support the need to engage in questionable policies to control so-called “global warming”.

We need more evidence that the climate is actually affected by emissions, especially carbon emissions, before we act too quickly.

Let’s make sure we really look before we leap.

Instead of arguing over scientific data, we should examine the impact S. 139 could have on American jobs and the economy. This bill limits emissions of greenhouse gases to 2000 levels by 2010. This includes regulation of carbon dioxide emissions.

I am proud to be from a coal state. Generations of Kentuckians from Pike County to Crittenden County have worked in the coal fields and mines.

Coal plays an important role in our economy. More than half of our nation’s electricity is generated from low-cost domestic coal.

We have over 275 billion tons of recoverable coal reserves. This is about 30 percent of the world’s coal supply.

That’s enough to supply us with energy for more than 250 years.

But this bill places caps on carbon.

This has a negative effect on energy production because it affects the amount of coal we can use.

This will mean loss of jobs, particularly for workers in Kentucky and other coal states.

It also increases energy prices. Just as our economy is starting to turn around. We just don’t need this.

I hope the energy bill encourages renewable fuels as well as clean coal so that we are not relying so much on foreign oil.

S. 139 goes in the other direction of the energy bill. It drives the use of natural gas instead of coal.

Placing caps on carbon means coal production will be 100 million tons lower in 2010 than what we expect to produce in 2005.

That is 25 percent below our expected 2003 level of coal production.

I have heard from coal operators in Kentucky who are on the verge of closing their doors because of natural gas prices.

But S. 139 causes an even worse situation. According to one analysis, it increases natural gas prices by 79 percent.

By forcing reliance on natural gas and a reduction in coal production, this bill results in a loss of 460,000 jobs through 2025 and electricity bills will increase 16 percent.

We already have a natural gas shortage. And for a decade coal was on the downturn because of government policies.

These policies have caused our demand for natural gas to exceed the supply.

High gas prices cause Americans to experience difficulties. With the winter coming, prices are expected to go up and put a noose on the American pocketbook.

We must focus on increasing production and using a variety of energy sources. Failing to do this puts our energy independence and national security at stake.

We are turning the corner on the economy and job growth. The last quarter grew by 7.2 percent. We do not need to be losing jobs or causing more companies to shut down business because of increased energy prices caused by the government.

The climate issue is being addressed in other ways that are more conducive to job creation and economic growth.

We are becoming more energy efficient. Energy efficiency has improved 20 percent since 1990. This means that emissions have declined.

In fact, we are expected to reduce emissions by 14 percent by 2012 without any new emission regulations.

Our automobiles are more efficient and running at a higher fuel efficiency than they did just a few years ago.

However, S. 139 ignores the strides we have made and could bring us back to 1970s gas rationing.

As a consequence of this rationing, the cost of gasoline is expected to increase 27 percent.

This increases fuel costs, and further slows our recovery, and takes money out of the pockets of Americans.

I don’t see why we should vote to increase energy costs and unemployment. Voting for this bill does that.

It may make us feel better to support this bill because of its environmental symbolism.

But I will choose substance over symbolism any day.

American jobs are at stake. Getting a green star by your name on an environmental group’s web site is symbolic.

And while that may make one feel good, watching Americans lose jobs from this kind of legislation won’t. I urge my colleagues to defeat this bill.

Mr. Conrad. Mr. President, I would like to discuss the Climate Stewardship Act, which the Senate will vote on later today. Although I recognize the challenge of global climate change, I must oppose this legislation because of the drastic negative effect it would have on our national economy.
Our economy depends on affordable, reliable, and abundant sources of energy. Whether that means natural gas, petroleum, or coal, we have a responsibility to ensure that our businesses, manufacturers, and households have access to energy at reasonable costs. We depend on energy in almost everything we do in our lives, from turning on the light in the morning, to driving our cars to work, to cooking our dinner at the end of the day. We need access to these sources of energy, and we need access in a way that doesn’t force us to choose between paying our power bill, buying gas at the pump, or buying essentials like groceries and medicine. During my time in the Senate, I have remained committed to keeping energy costs affordable for all North Dakotans and all Americans.

The bill before us would threaten the affordability of these sources of energy. It will require companies that produce and use natural gas, petroleum, and coal to acquire credits for each ton of greenhouse gas emissions for which they are responsible. These credits will have a value of anywhere from $8 to $13 for each ton of emissions. Our emissions levels are in the many millions of tons yearly, meaning dramatic cost increases ranging in the many millions of dollars for the energy industry, costs that will inevitably be passed on to the consumer.

According to a recent MIT study—the same study by the way, that the sponsors of this bill cite in making their arguments—national demand for coal would increase much more slowly under the legislation. Petroleum and natural gas demand will also increase at slower rates. This is because the costs of these fuels will dramatically increase under the bill. It will mean higher gas prices, higher electricity bills, and higher home heating costs.

I am particularly concerned about the energy cost increases in our international competitiveness. The Kyoto Treaty has not yet taken effect, and it now appears that Russia may be backing away from ratification. In the absence of the Kyoto treaty, other nations across the globe will not be subject to strict greenhouse gas emissions controls. Moreover, even if the Kyoto Treaty does enter into force, there has been bipartisan agreement that the Kyoto treaty contains unbalanced provisions that require disproportionate carbon dioxide reductions in this country while other countries would have to make much less significant changes.

If we were to adopt the bill before us at this time, we would risk putting U.S. manufacturing—which relies on affordable energy—at a significant competitive disadvantage with the rest of the world. Already, we are losing jobs to manufacturers in Mexico and China. If our energy costs were to increase under this bill, our plants and this business would accelerate. With record Federal deficits and debt, our economy is already in trouble; now is not the time to be making our economic problems worse.

Let me be clear that I am fully aware of and fully acknowledge the reality of global climate change. We need only to look to the droughts in my part of the country and to Europe to see the very real effects of global climate change. Human activity since the industrial revolution is warming the planet, melting the polar ice caps, and causing floods, diseases, and severe storms across the globe. These developments have very serious implications for this country, and for the world.

I do not dispute this ecological situation and I do not dispute the need to do something about it. Let me also state that I very much appreciate the efforts of Senator LIEBERMAN and Senator MCCAIN to try to address this issue. They have done so in a way that genuinely attempts to address a variety of the impacts that any bill will do. I will not think the legislation we are considering today is the right approach at the right time.

We need to continue working for a solution that carefully balances this need for action with the concerns about the impact on our economy and our competitiveness, and I hope to be a part of finding innovative and creative solutions to global climate change. We need to carefully consider impacts on States with energy dependent economies, such as North Dakota. We need to carefully consider impacts on States with energy dependent economies, such as North Dakota. We need to carefully consider impacts on States with energy dependent economies, such as North Dakota. We need to carefully consider impacts on States with energy dependent economies, such as North Dakota. We need to carefully consider impacts on States with energy dependent economies, such as North Dakota.

Mr. LEVIN. Mr. President, I cannot vote for this legislation. When a global agreement is negotiated, it cannot be an agreement that allows some countries to avoid emission caps while others embrace them. For example, if we through an international agreement embrace emission caps for our country but allow the Chinese or the Indian governments to avoid them, we will simply be developing a strategy for companies to move out of the United States and move there plants and jobs to countries where they will not face such restrictions.

That approach would represent the worst of all worlds. There would be no environmental benefit but we in the U.S. would suffer a heavy economic penalty from plant flight and job loss.

I do not think the McCain-Lieberman proposal is the right way to address these issues, but my vote in opposition should not be seen as evidence that these are serious issues that do need to be addressed.

This amendment and today’s debate and vote will be a constructive start of a healthy debate about what we do to provide leadership on these issues. While I think this proposal today falls short, I intend to be a constructive part of future proposals that can and will offer leadership in the right direction.

Mr. LEVIN. Mr. President, I cannot support the Climate Stewardship Act of 2003 since its effect, if enacted, will be the loss of more manufacturing jobs to countries which have few, if any, environmental standards. That won’t help the environment, and it will hurt our economy. Climate change is not something we can tackle by shifting industries and their emissions to other countries, or by shifting manufacturing jobs to China or other countries which have limits on emissions of greenhouse gases. The bill before us reflects a unilateral approach to a problem which can only be solved globally.

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CONGRESSIONAL RECORD — SENATE
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Let me give one example of how this bill would promote job loss in the U.S. with no benefit to the global environment. In the past decade, a large number of companies have moved their manufacturing plants overseas. Take, for example, a manufacturing company that had seven plants in the U.S. in the 1990s. Today it has only five left, because two moved to countries with cheaper labor. Assume that those five remaining domestic plants each emit 200 metric tons of carbon dioxide for a total of 100,000 metric tons. Under this legislation, reasonable estimates are that the company’s cap could be placed at around 90,000 metric tons of carbon dioxide credits. The company, already under heavy competition because of cheap labor costs overseas, faces a choice: pay to reduce emissions at its five plants by 10 percent, or move another one of its plants overseas, say to China. If the company moves one of its five plants abroad, it has 10,000 credits remaining to play with which it can use to actually increase emissions at its four remaining plants, or it can sell them. So this bill adds to existing incentives, such as lower labor costs and no safety standards, for manufacturing overseas, and the result is that we lose jobs and the environment gains nothing. In other words, when this bill’s mandates are imposed on sectors of the economy that can pick up and move overseas, it adds another incentive to do just that.

The United States must take a leadership role in addressing climate change, but that leadership must move us in the right direction. It is not sound leadership to give additional incentives to U.S. businesses to move their facilities, and the jobs that go with them, to other countries that don’t have the costly environmental standards which this bill would impose on U.S. industry. It is not sound leadership to simply shift industrial emissions from American soil to countries which have no emissions standards. And it is certainly not sound leadership to act unilaterally in a way that puts U.S. manufacturers at a competitive disadvantage when there is no built-in incentive for other countries to follow. In fact, the opposite is true: the unilateral approach in this bill provides an economic incentive for countries manufacturing jobs not to follow our lead.

Effective and sound leadership would be to tell competing countries that we are going to adopt high environmental standards if they will join us, or, in the alternative, leadership is getting countries to agree (1) to the adoption of tough environmental standards, and (2) to refuse to purchase products from countries which won’t adopt those environmental standards. Sound leadership, in other words, is working to create a new global environment where all countries take steps to reduce global warming, so that there is no incentive to move jobs and emissions from a country with high environmental standards to one with low environmental standards.

Climate change cannot be addressed unilaterally. It must be addressed multilaterally. It doesn’t help the global environment to push greenhouse gas emissions in one country only to have them pop up in others. We need a Kyoto-type treaty which binds all countries. Otherwise, there is a perverse incentive to move more and more jobs to countries with lower environmental standards. That does nothing to reduce greenhouse gas emissions and does damage to U.S. jobs.

To achieve a global agreement will require our putting maximum pressure on all countries to join it, so that the emissions of greenhouse gases can be reduced, not just shifted. Shifting manufacturing jobs and the production of greenhouses gases from here to other countries is not a solution to climate change. It would just be another economic blow to America at a time when our economy is already losing jobs at an historic and alarming rate.

We have already lost enough American jobs to countries with cheap labor, no safety standards and no environmental standards to companies to move overseas to countries with no limits on greenhouse gas emissions, as this bill would promote, is not sound policy. Global climate change is just that: global and it needs to be dealt with globally, not unilaterally.

Mr. ENZI. Mr. President, anyone who has picked up a copy of this legislation and read it has to be forgiven if he or she was soon reminded of the words of Yogi Berra: “It’s deja vu all over again.”

After all, it is not as if this topic is unfamiliar to us. When the debate first began on the Kyoto talks, the U.S. Senate made a clear and direct statement of principle on this subject. We drew a line that was not to be crossed by the president and his negotiators in their effort to reach an international climate change agreement. By a vote of 95 to 0 the Senate passed Senate Resolution 98, also known as the Byrd-Hagel resolution, that sent a clear message to the world that the Senate would not support any climate change agreement that did not include all nations equally. We also said we would not support an agreement that would cause serious harm to our economy.

We crafted our message to the administration to counter the concerns that had been raised that a global climate change policy could be imposed on the United States that would “result in serious harm to the United States economy, including significant job loss, trade disadvantages, and increased energy and consumer costs.” The Senate was also concerned that efforts to reduce global emissions would be imposed on the United States that would “result in serious harm to the United States economy, including significant job loss, trade disadvantages, and increased energy and consumer costs.” The Senate was also concerned that efforts to reduce global emissions would be imposed on the United States that would “result in serious harm to the United States economy, including significant job loss, trade disadvantages, and increased energy and consumer costs.”

The proposal before us, which is clearly an energy tax, would force the United States to unilaterally disarray its economy and force American jobs overseas without providing any environmental benefit. An energy tax, like the one proposed by Senators LIEBERMAN and MCCAIN would, in fact, be an environmental nightmare. Any loss of jobs in the United States would shift production to other parts of the world without any attempt to control emissions. The best way to help the environment around the world is to ensure we have a strong economy here at home. If we, as a Senate, really want to shift for improving global conditions then we should stand behind the principles of Byrd-Hagel and insist our global climate change policy does not harm America’s workers. If we want to improve global conditions we must insist that all nations responsible for emitting greenhouse gasses participate and reduce their own emissions.

Just in case anyone is not clear about what is going on and what this legislation really does, I want to take a moment to explain how it would slow down our economy and force jobs out of the country.

To begin with, the bill establishes a requirement for registering all industrial emissions, and it requires the officials in charge to make assumptions about the level of total emissions that are due to transportation.

We can only assume that these assumptions are made for one of two reasons.

One: We want to know the transportation emissions level so we can blame the rest on industry, or, we want to know the transportation emissions level so we can start to apply limits and regulate family cars. I have had the opportunity to visit California and noticed a remarkable thing about this State that has done so much on its own to regulate and control private vehicles. While the rest of the highway was packed with cars, the HOV lanes were wide open and very poorly utilized. And yet this does not count for private vehicles which is a major source of greenhouse gas emissions. I wonder, if this bill was so serious about

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What has changed since then? Nothing. We still need the benefits of a strong economy. We still need to protect American jobs. And we still need to avoid trade deficits and ensure consumers are not forced to choose between paying their energy bills and buying food.

We still need to protect American jobs and global climate change is still a global issue.

Unfortunately, this reality contradicts the language of the proposal we are debating today just as surely as it contradicts the message we sent the administration with the Byrd-Hagel language.

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improving the environment, why would it leave out such a major source of emissions?

Don’t be fooled. If this program is passed then that will be the next step. Why would we put in place such an ineffective law if we didn’t intend to take it to the next step and regulate private transportation? We don’t want to, they do.

This proposal would hold industry responsible for all other, nonindustrial or transportation, emissions including human beings, who breathe out CO$_2$ on a regular basis, animals, plants, volcanoes, forest fires, and private homes that burn natural gas, fuel, coal or wood. Keep in mind that one natural cataclysmic event, such as a volcanic eruption or a catastrophic wildfire eclipses anything, by way of emissions, that all of mankind can produce to, they do.

We also have a situation where our trees that once could have served as responsible for some of our greenhouse gases are now older and absorb less CO$_2$. In fact, because of the age of many of our forests they are now CO$_2$ emitters.

The bill also completely neglects the most common and prevalent greenhouse gases of all. Of all the gases found in our atmosphere, this particular gas is the most insidious. It contributes to more fluctuations in temperature than any other gas. It has the greatest impact on local and global climate, and it too is emitted by industry and by numerous natural sources and yet it is not included anywhere in this bill.

What is this gas? It is water vapor, of course. Why, if we are really serious about using this legislation to control temperatures and climate, don’t we include water? Because this effort is not about environmental protection. It is about imposing an energy tax and controlling the economy.

The next thing the bill does is impose a cap or limit on otherwise unregulated emissions by industry. Once again, this cap does not take into account the emissions generated by other sources. The result is that we would force industry to assume all responsibility and pay for all emissions, regardless of where they come from. Whether the emissions came from individuals or nature, we would still hold industry responsible. There is a new discovery that was recently made in Wyoming that illustrates the lunacy of holding man responsible for something that nature releases on its own in an abundance that man never has.

I will read from an AP article that ran in a Wyoming newspaper on October 27 of this year. “Scientists measuring mercury levels made a startling discovery at the base of Roaring Mountain [in Yellowstone National Park]: possibly the highest levels of mercury ever recorded at an undisturbed natural area. According to their measurements, the scientists found that Yellowstone is a potentially big source of our nation’s mercury. “It is conceivable... that Yellowstone could emit as much mercury as all the coal-fired power plants in Wyoming... That’s not a real estimate but something based on just a few measurements,” [one of the scientists said] ‘It could be even bigger than that, we just don’t know.’” It would be intellectually dishonest, for us to assume that, given all of the uncertainty in these issues, that industry will sit back and quietly assume the cost and burden of emissions reductions without either passing them on to consumers or to excuse itself from the limits altogether.

The cost of the tax will either be paid by consumers who can barely afford their own energy costs today, or we will force jobs offshore and into areas where there are no limits on energy consumption and pollution.

There should be no doubt in anyone’s mind that this bill is all about economics, particularly because that’s what the entire global warming debate is all about. In 1997, the Kyoto Conference disguised as an environmental conference.

EU Commissioner for the Environment Margot Wallstrom once said, “This is not a simple environmental decision. Where you can say it is an issue of right or wrong, where the scientists are not unanimous. This is about international relations, this is about economy, about trying to create a level playing field for big businesses throughout the world. You have to understand what is at stake and that is why it is serious.”

I had the opportunity to attend the meetings at Kyoto, and while I was there I met with the Chinese and discussed the role that they thought they should play in meeting the demands of global climate change. They, and all other developing nations have no obligation to participate in any climate change agreement. They don’t even agree to voluntary participation at a future specified date. You can’t be more open ended than that. Incidentally, they intend to be a developing nation forever, even after 2010 when they will be the world’s biggest polluter.

Should we just sell out to the Chinese?

If we were to adjust global emissions and measure them on a per gross domestic product basis, or in other words, measure the efficiencies and end product gained from the energy unit consumed, the United States would come out, once again, as the most efficient and most productive nation on earth.

Europe, on the other hand, comes out on the other end of the spectrum.

Why?

There are a number of factors that contribute to this imbalance but the biggest reason has to do with the efficiency of the American worker. We produce more goods using less energy than any other nation in the history of the world. We are already milking our industrial output to a point where any additional efficiencies will result in dramatic increases in costs. We have already made the easy adjustments and reduced those emissions that are easiest and cheapest to reduce. The rest of the world is still catching up to us on those respects and it would be easy and cheap for Europe then to reach some of its targets and reduce emissions. All they have to do is use some of the technology we have already invented.

For the United States, however, to make the incremental gains it needs to make to comply with the limits that this bill would impose would require us to essentially do what we already can’t do, i.e., spend exponentially greater than those assumed by another nation, or to push those gains off onto another sector, more specifically the transportation sector, and require us to impose costs on consumers and taxpayers that they clearly cannot afford.

It is a matter of economies of scale and Europe knows it.

The United States is much physically larger than any other nation that we compete against in Europe. As a whole, is much smaller, much more densely populated and uses much more efficient transportation. In the United States, we use our trains primarily to carry manufactured goods, whereas Europe uses their trains to carry people. As a result, we use our trains to carry people. In addition, over the years, Wyoming coal, while Europe’s trains, on the other hand, are used almost exclusively to carry people. It is much more practical for us to fly from Washington, DC to Los Angeles, CA and arrive in a matter of hours instead of wasting days on a train. But airplanes burn fuel in great amounts and with much less efficiency than other forms of transportation. The logical and most cost efficient controls then are not to limit emissions on industry but to convert those controls into limitations on transportation.

I was at the first Kyoto conference, and incidentally, the US was the only country that thought that conference was an environmental conference. Everyone else saw it as an economic conference.

You can understand why I am greatly disturbed when I see a cap proposal like the one put forward in this bill, especially when it includes calculations on transportation emissions. There is no reason to pass a bill like this, to create the kinds of agencies and offices that the bill creates and not expect it to lead to the next step where its controls into limitations on transportation, taxes required by this bill will put the United States at a tremendous economic disadvantage with regard to its competitors.

Fortunately, we are not the only ones to recognize this imbalance. Russia recently joined the United States in rejecting a proposal that would limit its emissions and put a similar damper
on its economy. In making a basic cost/ benefit analysis, President Putin's chief economic advisor, Andrei Illarionov declared, "If we are to double GDP within the next ten years, this will require an average economic growth rate of 7.2 percent. Not only in the world can double its GDP with a lower increase in carbon dioxide emissions or with no increase at all.

The great baseball philosopher, Yogi Berra, was right. It is deja vu all over again. The same cases we have considered before and left unconsidered have a clear statement of policy in place in the Byrd-Hagel resolution that says, in responding to global climate change concerns, we cannot agree to any proposal that would result in serious harm to the United States economy. It already says we must work to avoid significant job loss, trade disadvantages, and increased energy and consumer costs. It also makes it clear that this is a global issue, one we can't tackle alone. If we, as a nation, want to improve global conditions then we should stand behind the principles of Byrd-Hagel and insist our global climate change policy does not harm America's workers and that all nations responsible for emitting greenhouse gases participate in emissions reductions.

This proposal would clearly cause severe harm to our Nation's economy, cost us American jobs, and result in a tax on American workers and transportation systems. These taxes would put our nation at a serious disadvantage with our competitors and do nothing to improve our environment.

Mr. ALLEN. Mr. President, fellow colleagues, please do not overreact by responding to global climate change issues or with no increase at all."

Mr. ALLEN. It is not right for any scientist or any other person to exaggerate for political purposes the rate at which the Earth has warmed or the number of free people. No, it happened because people were free—free to buy the most proficient technology, and, above all, free to invest in corporations who understand what people want. And one of those desires is abundant energy, used efficiently. As has been said, over and over, the future belongs to the efficient.

And what of the warming of the planet? In the blazing summer of 1988, in Florida, the great baseball philosopher, Yogi Berra, first sounded the alarm, now agrees with those who were once his critics. Writing in the Proceedings of the National Academy of Sciences, he recently stated that we know how much the planet will warm in the next 50 years to a very small margin of error. That amount is precisely the small warming that the calmer heads had forecast some 15 years earlier.

This same scientist has recently stated that some may have exaggerated the threat of global warming for political science purposes. Just last month, he wrote in the online journal "Natural Science": "Emphasis on extreme scenarios may have been appropriate at one time, when the public and policymakers were relatively unaware of the global warming issue." Moreover, according to a report issued by the Global Climate Coalition, mandatory emissions goals could result in a loss of gross domestic product equal to $300 billion in 2010 alone, assuming that 2010 emissions are held at 1990 levels.

How many American jobs would be lost as a result? How many companies will have to close their doors? I would like to read to you, part of a letter from the Secretary of Commerce, Don Evans, Second Alt. Labor, Elaine Chao, and Acting Administrator of the Environmental Protection Agency, Marilyn Horinko:

"According to an analysis conducted by the independent Energy Information Administration, S. 139 would cause an estimated average loss of 460,000 American jobs through 2025."

It goes on to say, Instead of improving our economic security through economic growth and job creation, the job losses resulting from S. 139 would place an unacceptable burden on American workers and American people.

Mr. President, I ask unanimous consent that the entire text of this letter be printed in the Record immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

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chooses to hinder new investment in better materials, fuels and systems. Fortunately, now sound science, rather than political science, shows warming is a much slower process than was once feared.

My bottom line is that I cannot countenance the loss of tens of thousands of American jobs based upon the scientific factual evidence surrounding this measure.

According to an analysis conducted by the independent Energy Information Administration (EIA), S. 139 would cause an estimated average of 460,000 American jobs through 2025, with estimated job losses reaching 600,000 by 2012. Instead of improving our economic security through economic growth, the legislation resulting from S. 139 would place an unacceptable burden on American workers and the American people. EIA’s analysis further reveals that the higher energy costs the legislation would impose on American energy consumers: once fully implemented, S. 139 would require a 40 cent per gallon increase in gasoline prices and cause nearly a 50% increase in natural gas and electric bills.

As a result of these higher energy costs, EIA projects a net loss of $607 billion (1996 dollars) in Gross Domestic Product over the next two decades. These higher energy costs and reduced economic growth would likely lead American businesses to move overseas, taking jobs with them. As a result, S. 139 may actually lead to an increase in global greenhouse gas emissions as companies formerly in the U.S. move their operations (and emissions) overseas to countries that do not require similar emissions reductions. To compensate for the economic dislocation that S. 139 would cause, the legislation establishes a “Climate Change Credit Corporation” for “transition assistance to disconnected workers and communities.” However, we believe that the Senate should instead reject this legislation and avoid inflicting the harm that would create the need for such “transition assistance” in the first place.

President Bush has committed the U.S. to an ambitious and comprehensive strategy to address the issue of global climate change. It is based on the recognition that only a growing American economy can make possible the sustained investments in energy and carbon sequestration technologies needed to rescue the projected long-term growth in global greenhouse gases. Because of its negative impacts on jobs and economic growth, we call upon the Senate to reject S. 139 as a misguided means of achieving our international environmental goals.

Donald L. Evans
Secretary of Commerce.

Elaine L. Chao
Secretary of Labor.

MARIANNE HORINKO
Acting Administrator of the Environmental Protection Agency.

Mr. INHOFE. Mr. President, to draw to conclusion this debate, let me repeat a couple of things we did last night. I will briefly address the science issue. I know there are people out there thinking the science is settled. The science is not. And last night I went into detail and I will repeat a couple of significant points.

First, Frederick Seitz, the past president of the National Academy of Sciences, compiled the Oregon petition which had 17,800 independently verified signatories—holding degrees of Ph.D. They came to this conclusion: There is no convincing scientific evidence that the human re-release of carbon dioxide, methane or other greenhouse gases is causing or will in the foreseeable future cause catastrophic heating of the Earth’s atmosphere and disruption of the Earth’s climate.

Again, the Heidelberg Appeal; over 4,000 scientists, 70 of whom are Nobel Prize winners. The Heidelberg Appeal that says there is no compelling evidence that is existing today to justify controls of anthropogenic—made greenhouse gas emissions.

Dr. Richard Lindzen, MIT scientist and member of the National Academy of Sciences, said—and I don’t think anyone would question his credentials—said there is a definite disconnect between Kyoto and science. Should a catastrophic scenario prove correct, Kyoto would not prevent it.

Lastly, the Harvard-Smithsonian study, the most exhaustive study out there, 240 peer-reviewed papers published by thousands of researchers over the last four decades, says the science is flawed. It is important people realize that is the situation.

Probably the most significant item we should have been talking about all the time instead of this science—since it is a fact now, I think people understand—and I don’t think anyone would question his credentials—said there is a definite disconnect between Kyoto and science. Should a catastrophic scenario prove correct, Kyoto would not prevent it.

Last night we had a chance to talk about the National Black Chamber of Commerce and the Hispanic Chamber of Commerce, how it would disproportionately hurt them in losing jobs. A study that no one has challenged concluded that Kyoto would cost 511,000 jobs of Hispanic workers and 864,000 jobs held by Black workers. Is this something we all understand?

My point is we must not perpetrator Members need statistics for their own state. The State of Illinois is losing 159,000 jobs; the State of Indiana loses 194,000. This is a study done by Penn State University.

The other significant point is that we are voting on an amendment. This amendment is somewhat pared down. Everyone realizes that this amendment, as has been stated many times by the distinguished Senator from Connecticut as well as the Senator from Arizona, is just a first step. So everyone has to look at this. This is the Kyoto Treaty. It needs to be looked at in that respect.

I reserve the remainder of my time.

Mr. LIEBERMAN. Mr. President, I yield to Senator McCain the remaining 2 minutes.

Mr. MCCAIN. I thank my friend, Senator from Oklahoma for engaging in a spirited and, I hope, informative debate. I thank, of course, my friend from Connecticut, Senator Lieberman.

Briefly, to this petition that keeps being referred to—the petition was led by Frederick Seitz, former president of the National Academy of Sciences—an article in the New York Times on April 22, 1998, entitled “Science Academy Disputes Attack On Global Warming,”

The National Academy of Sciences has disassociated itself from a statement and petition circulated by one of its former presidents which disagreed with the scientific conclusions underlying international efforts to control greenhouse gas emissions.

By the way, Virginia Spice of the Spice Girls, BJ Hummicutt of “Mash,” and Perry Mason were among the signatories to that. They are all respected in their individual fields.

I do not believe that 10 States in the Northeast would agree to a proposal that this is exactly modeled on, if there was going to be some devastating effect on the economies of 10 Northern States.

Let’s get real. This is a very minimal proposal, one that is a first step. I agree with the Senator from Oklahoma because it does not begin to comprehensively address the problem, but we have to start somewhere. We have to start somewhere. We have to begin to address this issue.

This debate is important. I assure my colleagues, we will be back because there are pictures that I know I am going to get worse and worse until we begin to address this issue.

I thank my colleagues and yield the remainder of my time.

Mr. PRESIDING OFFICER. Who yields time?

Mr. INHOFE. Mr. President, I inquire as to how much time is remaining on both sides.

The PRESIDING OFFICER. Two minutes thirty seconds for the Senator from Oklahoma. The Senator from Connecticut has 3 minutes 45 seconds.

Mr. INHOFE. All right. I say to the Senator from Connecticut if it is your wish, I will be very glad to defer to you to conclude debate on this matter.

Mr. LIEBERMAN. No thank you.

Mr. PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, let me get back to something the Senator from Arizona said. He is not on the floor now. He mentioned some of the signatures were not verified. They keep using this same argument, which has been refuted over and over again.

Again, we are talking about some 17,000 scientists there. There are 4,000 scientists on the Heidelberg Petition.
Of course, Richard Lindzen, I don’t think anyone is going to question his credibility. These studies—particularly the Harvard-Smithsonian study—is a very significant one. I think the debate has been good. I do not question it when the Senator from Arizona says we will be back. I am hoping we will defeat this amendment. But it is very significant.

Lastly, let me mention that I do not know how so many of these groups could be wrong. We have almost every union in the country—the International Brotherhood of Electrical Workers, the International Brotherhood of Teamsters, the United Mine Workers, the United Steel Workers. We have all these jobs shown up here, some 3.6 million jobs, that would be lost. This analysis was done by a credible organization, Penn State University.

I cannot imagine that any Member of this Senate would come up here and look at this chart and not realize that here we are—we have been going through a recession that began in March of 2000, and we are now pulling out of this recession. The jobs are looking good right now. For something such as this to pass would push us right back in a devastating position.

So when you look at what we are talking about today, we are talking about something that would pass in America; Mexico would not have anything to do with Mexico, anything to do with China, anything to do with India. I can assure you, right now people from those countries are sitting back with their fingers crossed, hoping this passes, because this would be the biggest jobs bill for Mexico and India and the other developing nations that we could pass.

I say to Senator Lieberman, thank you very much for the spirited debate, as I also thank the Senator from Arizona.

Mr. President, I reserve the remainder of my time, if there is any.

The PRESIDING OFFICER. You have 3 minutes.

Mr. INHOFE. I reserve that.

Mr. LIEBERMAN. Mr. President, I thank the Senator from Oklahoma as well. It has been a spirited debate. It has been an important and historic debate, but it is the first, I would guess, of many to come.

I must say, it has been a disappointing debate in one regard for me; that is, we are still disagreeing about whether global warming is a problem. The fact is, the overwhelming evidence, upheld by scientists around the world and in America—the National Academy of Sciences, et cetera—says that the planet is warming, and it is happening because of human activity. You cannot look at this picture, a satellite picture—seeing the reduction of the white part from where it was; and the red lines show what it was in 1979, 24 years ago—and not say it is real.

Senator Akaka from Hawaii told us last night that the sea level is rising around Hawaii. Senator Snowe of Maine told us that the sugar maples are dying because it is getting warmer. I myself reported on a story from Inupiat Indians in Alaska saying they had robins for the first time in their village because it is getting warmer.

This is real. I wish we could agree on the reality and then argue about what we should do about it. As I hear the scientists on both sides, I want to predict, respectfully, that we are going to look back at those scientific testimonies and put them in the same category as the scientific studies that were introduced by the tobacco industry years ago, saying that tobacco did not harm health or cause cancer, or the studies that were introduced by the chemical industry that said chlorofluorocarbons did not put a hole in the ozone layer, all of which we know now were wrong. I am afraid that is the way we are going to look back at this evidence offered in this debate.

Secondly, a lot of the argument about the impact of our proposal on jobs and cost of living is not related to our proposal. It is about the Kyoto protocol. It is about earlier legislation. It is not about the McCain-Lieberman amendment before the Senate for a vote.

The MIT independent study, says, in fact, costs will go down in the energy field, that the average cost per household will be $20 a year—well worth what we are going to get in return for a safer, better life for our children and grandchildren. They say there is no job loss that can be expected. In fact, a lot of major entrepreneurs and investors—and I put a letter in the Record to Senator Snowe from 60 leading entrepreneurs from Silicon Valley, who say our amendment will create hundreds of thousands of jobs. But I am afraid that is the way we are going to look back at this evidence offered in this debate.

The reality and then argue about what pose have serious environmental goals and spur innovation to protect the environment. A healthy economy and a healthy environment go hand in hand. American business has the ingenuity to solve the problem of global warming while continuing to prosper. Indeed, businesses that find ways to lead in solving this problem will prosper even more. While there is still debate about the levels of greenhouse gas reductions necessary to stabilize the climate and protect the United States economy, several things are clear: Reducing must begin immediately; voluntary efforts alone won’t do the job; and any mandatory restrictions must employ market incentives.

We congratulate you for recognizing these needs and for your efforts to see that the Senate addresses them.

Sincerely,

BUSINESS LEADERS TAKING ACTION ON CLIMATE CHANGE.

Mr. LIEBERMAN. Mr. President, this is a call to responsibility. It is a call to leadership.

I remember last year, as we were coming close to the vote on the Iraq resolution, I met with a group of officials from the administration and Congress—members of both parties—with the honor of being chairman of the Senate Foreign Relations Committee. Something from the administration said: How can we get the Europeans to support us more on the potential of a war against Saddam? The European Minister said: Get the administration to do something about global warming.

This inaction, lack of leadership, debunking by the administration of the problem, failure to accept responsibility is part of the reason we are so divided from some of our closest allies.

Senator McCain and I and our co-sponsors on both sides of the aisle have
put ourselves on a course. History calls us to action. We will not leave this course until the day—may it come sooner than later—when we adopt this amendment or something very much like it.

I thank the Chair. I thank my colleagues and yield the floor.

The PRESIDING OFFICER. All time has expired.

Mr. INHOFE. I believe, Mr. President, I have 1 second remaining.

The PRESIDING OFFICER. Yes, Mr. INHOFE. Mr. President, in my last second, I ask unanimous consent that the list of labor unions, agricultural organizations, and other organizations opposing S. 139 be printed in the RECORD.

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

WHAT DO ALL THESE GROUPS AGREE ON?

LIEBERMAN-MCCAIN IS BAD FOR AMERICA


Mr. INHOFE. Mr. President, thank you very much.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. INHOFE. Mr. President, I have not spoken to the two managers, but I feel confident it would be OK with them. This is not in the form of a unanimous consent request.

Following the vote, Senator Boxer wished to speak for 10 minutes. Following that, Senator Bingaman is ready to offer his amendment. He will take a limited period of time. Following that, Senator Leahy has an amendment. He has asked for 30 minutes.

So that is just general information we are going to try to move on as quickly as possible on the Healthy Forests matter.

The PRESIDING OFFICER. The question is on agreeing to the Lieberman-McCain amendment.

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

The PRESIDING OFFICER. There is a sufficient second. There appears to be a sufficient second. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. Edwards) is necessarily absent.

I also announce that the Senator from Nebraska (Mr. Nelson) is attending a family funeral.

I further announce that, if present and voting, the Senator from Nebraska (Mr. Nelson) would vote "nay."

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

The roll was announced—yeas 43, nays 55, as follows:

[Roll call Vote No. 420 Leg.]

YEAS—43

Akaka...

YEAS—55

NAYs—55

Alexanders...

NAYs—55

Edwards

The amendment (No. 208) was rejected.

Mr. INHOFE. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I have a unanimous consent request. We have just voted on the amendment. I ask unanimous consent that the underlying bill be referred back to the Committee on Environment and Public Works.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SPECTER. Mr. President, after extensive consideration of the views of many constituents who have contacted me on this very important bill, I decided to vote against it because of the open questions on the impact on climate and the consequences for the national and State economies, which are very fragile at the moment.

It is always a difficult matter to balance environmental protection and the need for economic development and jobs. I believe that global warming is a matter of great international importance and the 43 votes in favor of this bill puts the administration and others on notice that there is considerable sentiment for stronger action to address this problem.

I have voted for environmental protection for renewable energy and conservation measures, and I have initiated legislation to limit the amount of oil which will be consumed at various intervals in the future.

As a Pennsylvania Senator, I have a particular interest in the continued use of coal, our Nation’s most abundant energy supply, especially in the context of the billions of tons of bituminous coal in the western part of Pennsylvania and anthracite coal in the eastern part of Pennsylvania. This bill would have a serious impact on our steel industry, our chemical industry, and manufacturing.

In this context, it is very difficult to adopt a limit by the year 2010 since we cannot predict at this time what the situation will be with our national and State economies.

In addition, it is very difficult to limit industry in the United States when we do not have a plan for the rest of the world in curbing greenhouse gas emissions. That would have a harmful effect on the competitiveness of the United States. An international plan is necessary. Unilateral action by the United States would not solve the problem. I have, with other Senators, urged the President to work through international means to address global climate change. I support his efforts and those of the individual companies to curb voluntarily domestic emissions, but it is likely that stronger action will have to be taken in the future on a multilateral basis.

These questions remain: What would be the reductions under this legislation do to climate change? What are the anticipated costs? Who would pay the costs? What are particularly vulnerable industries that could not, for instance, pass on any increased energy costs? What is the expected impact on fuel supply and demand, particularly with regard to fuel switching and natural gas prices? What will be the economic growth and overall competitiveness in a global economy if only U.S. emissions are reduced?
While I was unable to support this particular bill, I believe it will give impetus to action to deal with global warming. I look forward to working with my colleagues in the Senate on this important issue in the hopes of finding common ground and a sensible balanced approach that includes environmental protection and economic development. I encourage supporters and opponents of this bill to consider the concerns of each other and work in earnest to bridge the many differences in support for this legislation.

Mrs. LINCOLN. Mr. President, although I am extremely concerned about global warming, I voted in opposition to Senator MCCAIN and Senator LIEBERMAN’s Climate Stewardship Act. My chief concern was that this bill would raise gas and electric prices at a time when Arkansas’ economy is struggling to recover and many residents from my state are finding it difficult to make ends meet.

I feel compelled to voice my opposition to the Bush administration’s view on this subject. The indifferent and callous approach taken to global climate change sent a message to the world that this issue is not a priority. President Bush has stated that we must move forward aggressively to address human-caused climate change. My State enjoys tremendous ecological diversity ranging from our cool and wet redwood forests of the North Coast, to the hot Mojave and Colorado deserts in the southeast, to the vast fertile agricultural stretches in the Central Valley. Climate change is a real and present threat to those natural ecosystems.

Scientific predictions indicate that human-induced global warming may produce a 3- to 10-degree rise in temperature over the next 97 years. That may not initially sound dramatic. But if it were to raise our average temperature every month of the year 2050, California will face higher temperatures and amount of precipitation in my state. This could, for instance, lead to the reduction of the snowpack in the Sierra Nevada Mountains, for instance, which is a vital source of water in the State. This could, for instance, lead to the allocation of water for urban, agricultural and environmental needs.

Scientists also predict that by the year 2050, California will face higher average temperatures every month of the year in every part of the State. The average temperature in June in the Sierra Nevada Mountains, for instance, could increase by 11 degrees Fahrenheit. The snowpack in the Sierra, which is a vital source of water in the State, is expected to drop by 33 feet and to have melted entirely nearly 2 months earlier than it does now. This means that the precious water on which we now rely for agriculture, drinking water, and other purposes.

In light of the threat global warming poses to my State, the Nation, and the world, I believe we must take steps to reduce our greenhouse gas emissions. The Climate Stewardship Act would have required companies in the energy, transportation and manufacturing sectors to reduce their greenhouse gas emissions to 2000 levels by 2010. The bill would have provided tax incentives for the development of energy-efficient technology. The Climate Stewardship Act would have also encouraged the expansion of environmentally-friendly manufacturing technology.

This bill would have provided a reasonable approach to help us achieve the goal of reducing greenhouse gases and addressing global warming. I am extremely disappointed that the Senate did not pass this legislation.
Mr. REID. Mr. President, what is the regular order?

HEALTHY FORESTS RESTORATION ACT OF 2003

The PRESIDING OFFICER. The regular order is under the previous order of the Senate will resume consideration of H.R. 1904, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1904) to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and construct hazardous fuel reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. We need the manager of the bill on the floor for the majority. Senator BINGAMAN is ready to offer an amendment. He was here all day yesterday.

What we would like to do is have Senator BINGAMAN offer his amendment—I have not spoken to the two leaders—have that set aside temporarily and then move to the Leahy amendment. They will both be relatively short in time, and then we can arrange an appropriate time for voting on these.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the question be rescinded.

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

Mr. FRIST. Mr. President, I ask unanimous consent that I may speak for 5 minutes as in morning business.

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

GOOD ECONOMIC NEWS

Mr. FRIST. Mr. President, as we prepare over the next several minutes to shift gears back to a very important piece of legislation, I just want to take this opportunity to comment on another issue and that is the issue of the economy. There is very good news, news that was released today, and that is that the economy grew by 7.2 percent in this last quarter—in July, August, and September. This to me is really a piece of news, especially as we know the people are following this economy very closely, especially to see what the response is to the President’s tax relief package seven months ago.

Mr. President 7.2 percent is spectacular in many ways. In fact, it has been nearly 19 years—I guess the last date was in 1984—that the economy saw such growth. This news is not totally unexpected. For the last several days I have come to the Senate Chamber to suggest that this is the sort of figure we could expect, in large part because of the policies we enacted earlier this year, specifically the tax reductions which we knew would result in such growth. Now we are seeing that hard data of growth—7.2 percent in the last quarter.

This positive news was also reflected and added to by this morning’s numbers which showed that personal consumption spending increased 6.6 percent as well. It is interesting that consumption makes up about 70 percent of our economic growth. That is, 70 percent of all of this economic growth is accounted for by consumption. If we looked at just that impact of consumption alone, we would have seen growth in our economy of 4.6 percent.

Equally if not more important for the longer term, another measure, business investment, grew by 11.1 percent. To me this suggests we will continue to see growth well into the future as they rebuild, as they reinvest, as they retool their factories and prepare for the future.

Government spending, another component of growth which accounted for much of the growth earlier this year, was not the most important factor accounting for today’s news. Indeed, Government spending only increased about 1.4 percent. I say that because a lot of people talk about this morning’s numbers as being so much these days in terms of Government; that is why the economy is growing. But as the figures show, most of that growth is in this dramatic increase in consumption, an increase of 6.6 percent according to today’s news.

Maybe lost in the big news this morning is what really matters in this growth—the jobs issue. The Department of Labor reported this morning that the initial claims for unemployment decreased by 5,000 last week, after the 46,000 increase the week before. This is the only President since Herbert Hoover who has had a net loss in jobs. I think this is very unfortunate. I hope the GDP continues to grow and in the process create jobs.

Mr. President, the distinguished chairman of the committee that has jurisdiction of the bill now before the Senate and I spoke with the majority leader and minority leader a few minutes ago. It is the wish of the distinguished chairman of this committee, the manager of this bill, that when an amendment is offered—unless there is some exception—we are going to debate that and vote on it, dispose of it one way or the other.

As we spoke to the majority leader, the distinguished Senator from Mississippi and I—everyone should be—we were both in tune with the majority leader. Today’s votes are going to take 20 minutes. After 20 minutes, the majority leader said he is going to ask the clerk to dispose of the vote. There are going to be people who miss votes, but that is their problem. All staffs who are listening to me, everyone should understand, if the majority leader follows through on what he said—and I am confident he will—a few people will miss votes. But I think fewer will miss them the second time and fewer the third time.

If we are going to finish this most important bill, we cannot have votes going 40 minutes, and we will not have votes going a second time. It is unfair to the managers of the bill, unfair to the country.

I hope that following the vote of Senator BINGAMAN, we will stick to 20-minute votes, no matter who isn’t here for the vote.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, let me compliment the distinguished acting manager of this bill on the correct and clear content of the conversation that we had which included the majority leader. The custom, in recent history anyway, has been to accumulate amendments and then have the votes stacked to occur at a certain time. That is well and good, if you know how many amendments you have. We don’t have a fixed list of amendments. That is one thing we need. If Senators would let us know which amendments they intend to offer, we can probably manage this bill more efficiently and save time for everybody.

We want to finish the bill tonight. That is my intention. I think that is...
the intention of the acting Democratic leader as well.

The regular order is, if you have an amendment, come and offer it. We will debate it and dispose of it. We will give you a vote on it and move to table it or we will just vote on it.

Senator BINGAMAN is here with an amendment. It is an important amendment. I understand that he is going to seek the floor and offer that amendment. We will debate it and dispose of it.

I very much thank the two leaders for their effort to help move this bill along and ensure that the votes we have are held to a minimum amount of time. We are going to try to enforce that.

I thank everybody concerned.

Mr. REID. Mr. President, if I could say one additional thing, we have run a hotline on our side. We are very close to having a finite list of amendments. That will be offered on this side. We know the intense interest in this bill from all sides. No one exemplifies the interest in this bill more than the Senator from Oregon. Senator WYDEN has been very responsive to the bill that is before us. He has been here virtually every minute that has been on the floor. Like so many people who are concerned about this, he wants this bill to be completed as quickly as possible. I think with the cooperation of the Senate we can do that.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I will be very brief. I want to recognize my friend from New Mexico who has spent a lot of time on this bill and has an important amendment.

As we go to the amendments this afternoon—particularly those from my side—I think it is critically important that the bipartisan compromise which was consummated yesterday in a 97-to-1 vote on the floor of the Senate not become unraveled today. This is, in my view, the only bill that can make it to the President's desk. It is a balanced approach on management. It ensures that the public has every single opportunity to participate in the debate about forestry but, at the same time, it does not establish a constitutional right to a 5-year delay on every conceivable matter that may relate to the forestry sector.

In particular, it provides for potentially lifesaving hazardous fuel reduction projects in our national forests. We have to respond to what we have seen in California. It is a heartfelt need in that State.

If this legislation as set out in the compromise doesn't become law, what we have seen in California in the last few days, and as we saw in Oregon last year, is going to be what the country faces year after year.

I am very interested in working with our colleagues in an expeditious manner. I thank Senator COCHINAN again for all of his cooperation. Senator BINGAMAN has been waiting for a long time.

I intend to work with all of our colleagues on this amendments today. What I especially look forward to is completing the work on this legislation. It was a very exciting development to have yesterday's vote by such a large plurality. It shows what we can do if we stay at it and try to find common ground in an area that is about as contentious as you can find. As Senator COCHINAN noted, we hope colleagues will bring amendments to the floor and move expeditiously.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 2031

Mr. BINGAMAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 2031.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide the Secretary of Agriculture with the authority to borrow funds from the Treasury to pay for firefighting costs that exceed funds available and to provide funding to conduct hazardous fuels reduction and burned area restoration projects on non-Federal lands in and around communities)

At the appropriate place, insert the following two sections:

SEC. 2. BORROWING AUTHORITY FOR FIRE SUPPRESSION.

(a) In General.—The Secretary of Agriculture shall, upon the request of the Secretary of Agriculture, make available to the Secretary of Agriculture, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary in each fiscal year to carry out fire suppression activities. The Secretary of Agriculture may make such request only if fire suppression costs exceed the amount of funding available to the Forest Service for fire suppression in a fiscal year.

(b) Audit.—Not later than 180 days after the Secretary of Agriculture makes such a request, the Comptroller General of the United States shall conduct an audit of the request of the Secretary of Agriculture—

(1) prevent structural damage as a result of wildfire, or
(2) to restore or rehabilitate burned areas on non-Federal lands.

SEC. 3. COMMUNITY PROTECTION AND BURNT AREA RESTORATION.

(a) In General.—In fiscal years 2004 through 2008, the Secretary shall carry out a joint program to reduce the risk of wildfire to structures and restore burned areas on non-Federal lands, tribal lands, nonindustrial private lands, and State lands, using the authorities available pursuant to this section, the National Fire Plan and the Emergency Watershed Protection program.

(b) Cost Share Grants.—In implementing this section, the Secretary may make cost-share grants to Indian tribes, local fire districts, municipalities, homeowner associations, and other entities to remove, transport, and dispose of hazardous fuels around homes and property to—

(1) prevent structural damage as a result of wildfire, or
(2) to restore or rehabilitate burned areas on non-Federal lands.

SEC. 4. NON-FEDERAL CONTRIBUTION.—The non-Federal contribution may be in the form of cash or in-kind contributions.

(c) APPROPRIATION AND AVAILABILITY OF FUNDS.—The Secretary shall make available to the Secretary out of any money in the Treasury not otherwise appropriated $500,000,000 for each of fiscal years 2004 through 2008 to carry out this section, which shall remain available until expended.

SEC. 5. IMPLEMENTATION.

The Secretary of Agriculture shall provide funding to conduct hazardous fuels reduction and burned area restoration projects on non-Federal lands in and around communities.
Not later than 180 days after the Secretary of Agriculture exercises the authority provided for in this section, the Inspector General of the Department of Agriculture shall submit to the Committee an audit of expenditures of funds provided under this section. Upon a determination by the Inspector General that specific amounts of such funds are inappropriate other than fire suppression, or upon a determination that specific expenditures of such funds were both unreasonable and excessive, the Secretary, not later than 30 days after receiving the audit of the Inspector General, shall reimburse the Treasury, out of unobligated balances for the Forest Service for the fiscal year in which the fund were provided.

Essentially, we are doing an audit. If there is any misuse of funds, if they are used for anything other than fire suppression, then the Forest Service in the Department of Agriculture shall essentially take those funds out of their hide and deal with the situation that way.

That is the first part of the amendment.

The second part of the amendment that I am offering is entitled, “Community Protection And Burned Area Restoration.” It says, in general:

During fiscal years 2004 through 2008, the Secretaries [the Secretary of Agriculture who has jurisdiction over the Forest Service and the Secretary of the Interior] shall carry out a joint program to reduce the risk of wildfire to structures and restore burned areas on non-Federal lands, including county-owned lands, tribal lands, nonindustrial private lands, and State lands, using the authorities available pursuant to this section, the National Fire Plan and the Emergency Water Defense Program.

We are talking about funds to do restoration work on land that the Federal Government doesn’t own.

The second part of this talks about cost share grants. It says:

In implementing this section, the Secretaries may make cost-share grants to Indian tribes, local fire districts, municipalities, homeowner associations, and counties, to remove, transport, and dispose of hazardous fuels and to perform the following:

1. Prevent structural damage as a result of wildfire, or
2. To restore or rehabilitate burned areas on non-Federal lands.

This is still on non-Federal lands. It says the non-Federal contribution may be in the form of cash or in-kind contribution, and then it authorizes the appropriation of $100 million in each of those years, 2004 through 2008, to do their work, to make these grants to help these non-Federal agencies and entities deal with the problems.

Much of the fire we have seen on television in recent days is, in fact, not on Federal land. They are desperately in need of assistance from the Federal Government. This is assistance that would be of that type and should be in place every year.

I will go through a more complete description of the amendment. The amendment does add two new sections to the Forest Service. It creates a new authority and actual resources to protect communities at risk from unnaturally intense catastrophic wildfire. If we are not going to add real resources as part of this bill, we are, in fact, making a false promise to the American people. We can give all the speeches about how we are going to pass the bill, the President is going to sign it, everything is going to be rosy, the clouds are high, and we are going to be in the sunny uplands—the broad sunny uplands, is the way Churchill said it.

The reality is, if we do not provide resources to help, it is a false promise. This amendment will try to help provide those resources.

The first part of the amendment allows the Forest Service to borrow funds from the Treasury to pay for fire-fighting during the years in which available funds do not cover costs. Someone might say that is a pretty rare occasion, a year when the funds available do not cover the cost. Let me cite the last 3 years: 2001, 2002, and 2003. Forest Service firefighting funding.

We have three columns on my chart: The President’s request, what was actually appropriated, and what was actually spent, what we wound up spending out of Federal Government funds to deal with this problem.

In 2001, the President’s budget requested the Congress appropriate the budget he sent us of $291 million. Fortunately, through the good offices of Senator COCHRAN and other Members, we did better than that. I very much appreciate that. Senator BYRD deserves credit, as do other Members on the Democratic side. We appropriated $469 million—not quite twice what the President asked for, but it is getting close.

The amount that was actually needed was $683 million. So we missed it by a little—we were more than $300 million short of what the Forest Service actually had to spend for firefighting in that year.

In 2002, the President asked for more. He said $325 million was not enough; how about $325 million. This is for the whole country. He said, $325 million ought to be plenty for the whole country. In fact, we appropriated a little less than he asked for, $321 million. What was actually needed was $1.28 billion. So we missed it by not quite $1 billion. That is $1 billion that was spent by the Forest Service of funds not appropriated to them for this fire-fighting activity.

In 2003, which we just finished the President said we need $421 million. The Appropriations Committee said no; let’s make it $418 million. We spent over $1 billion—$1.02 billion.

There is a shortfall each year. It is a question of whether the shortfall is $1 billion, a couple hundred million, but every year we have done this. At least since this President has been in town, we have seen a significant shortfall. What I am trying to do is begin to address that problem.

The Community Protection and Burned Area Restoration Act, that needs to be addressed with respect to the Forest Service situation is the practice of borrowing. Every time we do this, every time we give them much less money that turns out to be needed for fire-fighting, they have no choice but to take money from other accounts in order to deal with that problem. They do that.

Let me point out for the year 2002, the year we had the total amount transferred out of other accounts to fight fires was $1.02 billion. What did that come from? It came from different accounts, but a big chunk of it came out of accounts that are the accounts we are saying in the Senate are our highest priority. We want money for forest restoration, we want money for thinning of forests, for getting the underbrush out of the way so we do not have the fires. In fact, that funding is not available to the Forest Service because they are too busy using it to fight fires rather than to get ahead of the problem and deal with that.

There are many examples I will cite of the problem we are dealing with. In my home State of New Mexico, we have a publication, a 1-page sheet the Forest Service issued called “Effects of Transferring Money to Fire Suppression.” That is what this chart is reflecting.

I will go through a more complete description of the problem and what did that problem. We have three columns on my chart: The President’s request, what was actually appropriated, and what was actually spent, what we wound up spending out of Federal Government funds to deal with this problem.

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The amendment that needs to be addressed with respect to the Forest Service situation is the practice of borrowing. Every time we do this, every time we give them much less money that turns out to be needed for fire-fighting, they have no choice but to take money from other accounts in order to deal with that problem. They do that.

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The amount that was actually needed was $683 million. So we missed it by a little—we were more than $300 million short of what the Forest Service actually had to spend for firefighting in that year.

In 2002, the President asked for more. He said $325 million was not enough; how about $325 million. This is for the whole country. He said, $325 million ought to be plenty for the whole country. In fact, we appropriated a little less than he asked for, $321 million. What was actually needed was $1.28 billion. So we missed it by not quite $1 billion. That is $1 billion that was spent by the Forest Service of funds not appropriated to them for this fire-fighting activity.

In 2003, which we just finished the President said we need $421 million. The Appropriations Committee said no; let’s make it $418 million. We spent over $1 billion—$1.02 billion.

There is a shortfall each year. It is a question of whether the shortfall is $1 billion, a couple hundred million, but every year we have done this. At least since this President has been in town, we have seen a significant shortfall. What I am trying to do is begin to address that problem.

The amendment that needs to be addressed with respect to the Forest Service situation is the practice of borrowing. Every time we do this, every time we give them much less money that turns out to be needed for fire-fighting, they have no choice but to take money from other accounts in order to deal with that problem. They do that.
that resulted, including canceled prescribed burns, thinning projects, timber sales, evasive weed control programs, and emergency burned area rehabilitation projects.

The consequences are felt beyond dangerous fire conditions, and they range from the postponement of dam safety inspection to the inability to finalize a tribal energy development agreement.

I have already given examples from my State of New Mexico. In Idaho, spring burning projects in the Nez Perce National Forest were postponed. A brush-cutting project in Clearwater National Forest could not be completed.

In Montana, a hazardous fuels reduction project in the wildland/urban interface of the Bitter Root National Forest was postponed and slated for possible cancellation.

In Oregon, watershed assessments and related activities to combat the Biscuit Fire were delayed. Numerous timber sales and wildland/urban interface thinning work was postponed.

In Washington, white pine blister rust thinning and pruning projects were delayed.

In California, nearly $6 million was transferred out of forest health vegetation management and ecological restoration accounts in 2003, resulting in having to withdraw stewardship contracts that were associated to fight fires.

Now, what happens each year, when we, in fact, give the Forest Service less money for firefighting than they need, we have to come back the next year in supplemental appropriations and ask for funds with which to pay back those accounts so they can hopefully get back to those projects they had to postpone.

My understanding is that this amount, this $600 million, was included in the Interior Appropriations Subcommittee effort to secure $400 million to repay the accounts from which the agency is currently borrowing to fight fires.

Moreover, as evidenced last year by a $200 million shortfall, supplemental appropriations often are not sufficient to provide full repayment to the programs that have been raided.

So what you have, as we spend what we have on fighting fires—and there is no choice about that—the Forest Service gives up funds that were intended for other purposes. In many cases, this restoration work, that we all are now saying is so important—and I certainly agree is so important—then we never get around to giving them the full money. We never get around to replacing all the funds that we have taken.

Mr. President, let me talk a little about the second part of my amendment. The second part of the amendment provides $100 million annually to reduce fire risk and restore burned areas on non-Federal lands.

The Forest Service’s own researchers state that 77 percent of all high-risk areas are on non-Federal lands. In additional, the National Academy of Public Administration, in their 2002 report, found that 47 percent of acres burned each year are on non-Federal lands. They concluded that decreasing the fuel on all owners’ lands is needed to address the large scope of the fire hazard problem. So the second part of the amendment I am offering provides real assistance to States and to local partners to conduct projects that will complement the work we are trying to do in national forests and on public lands.

If we send a bill to the President which just deals with the issue on Federal lands, and then declare victory, the truth is, we will not have dealt with the biggest part of the problem. Mr. President, 77 percent of all high-risk areas are not on Federal lands; they are on land owned by someone else. This second part of my amendment makes it clear that the level of Federal support to those other entities to do the clearing they need to do.

Many communities that are adjacent to national forests are doing their part to better protect themselves from the risk of实木 catastrophic fire. For example, last year—this, again, is an example from my home State—the village council in Ruidoso, NM, adopted new laws that set fire-resistant construction standards and established forest health and fire danger reduction requirements. However, even with these new requirements, just a few months ago homeowners in Ruidoso received notices from insurance companies warning that homeowners in lots or risk losing their coverage altogether.

Clearly, we need to assist these communities and these homeowners to accomplish their work. We need to attack the problem in a comprehensive way. If we reduce funds on public lands, Federal lands, without also treating the adjacent non-Federal lands, we will not adequately protect our communities.

I think anyone who has watched television for the last several days has to believe that is the case. Obviously, many of these subdivisions are not on Federal land. They are, in some cases, adjacent to Federal land, but much of the thinning that has to occur, in order to protect communities, is not thinning on Federal lands.

A lack of adequate funding for forest health projects continues to constrain our efforts to actively manage the forests to reduce the threat of fire and insects and disease.

Three years ago, Congress found that funding was the most significant impediment to improving forest health and reducing the threat of unnaturally intense catastrophic fire. Specifically, we created the National Fire Plan. The National Fire Plan talked about $1.6 billion in new funding for programs to improve forest health conditions. At that time, we all agreed on the need to sustain a commitment to the National Fire Plan over a long enough period to make a difference. We were talking about timelines of 15 years. That meant, at a minimum, sustaining the fiscal year 2001 funding levels for all components of the fire plan. Unfortunately, we have not followed through. The administration has systematically and proposed major cuts from that level. In some cases, they have proposed zeroing out critical programs within the National Fire Plan, including this burned area, restoration, and rehabilitation, the economic action programs, the community and private fire assistance.

The administration proposed these extreme cuts and the elimination of
funding, notwithstanding the clearly identified demand for these programs. We hear that demand from communities in all of our States where forest fires have burned in excess in recent years.

This provision, this amendment that I am offering, will also provide actual dollars to restore the burned areas on non-Federal lands. After a fire is extinguished, communities often face equally hazardous threats from landslides and flooding. There has been very little attention to that as yet because the fires continue to burn in California. But once those fires are out, we will start hearing about flooding and landslides. There needs to be assistance to deal with that as well.

In creating the national parklands 3 years ago, Congress provided $142 million for burned area restoration and rehabilitation. Nonetheless, in its fiscal year 2002 budget request, the administration requested $3 million—not $142 million—for burned area restoration and rehabilitation. In fiscal year 2004, they requested no funds for this account.

The amendment I am offering will provide funds for urgent community needs for activities such as soil stabilization after fires occur. The question we are faced with today is: Are we going to legislate solutions that will really make a difference on the ground?

I very much appreciate the provision in the Cochran amendment that authorizes $760 million, but as we all know, authorizing a certain level of funding in the Congress is not an adequate solution. In fact, agency officials tell me under current law there is no ceiling on the amount of money that could be appropriated to address this problem. Providing actual dollars, as my amendment does, clearly is part of the solution.

I urge my colleagues to support both sections of this amendment. This is an important issue. I believe that if we pass this amendment without dealing with both of these issues—the borrowing problem and the problem of not providing funds for work on non-Federal lands—we will be falling far short of where we should be.

I urge my colleagues to support the amendment.

I ask unanimous consent that Senator Reid of Nevada be added as a cosponsor of the amendment.

Mr. CRAIG. Mr. President, let me speak very briefly to the amendment of the Senator from New Mexico. I will be very brief. It is a debatable motion.

Mr. WYDEN. I ask unanimous consent to be recognized very briefly after Senator Craig before we go to a vote.

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

Mr. CRAIG. Mr. President, I will be brief. The Senator from New Mexico makes eminently good sense. There is no question that we have a funding problem. I have spoken with the Assistant Secretary and the Chief. I chair the Forestry Subcommittee and the committee on which the Senator is the ranking member. What I am suggesting we do—because the motion that has just been made in this budget point of order is an appropriate one—is to reexamine the whole funding mechanism of the Forest Service. Your figures are accurate. The kinds of programs that go unfunded now, that would help to begin to correct our forest health problem that is in part driving these fires, is a very real question.

As you know, the Forest Service used to have a cash cow. We called it logging. Those revenues flowed in, and money moved around from different accounts. You could borrow, as we did during fire seasons, and they got replenished. What I am suggesting, the Bingaman amendment responds to that. I hope my colleagues will support it.

Mr. REID. Mr. President, I ask that the applicable sections of the Budget Act be waived.

The PRESIDING OFFICER. Is the Senator making a motion?

Mr. REID. I am.

Mr. COCHRAN. I ask for the yeas and nays on that.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, let me see if we are speaking very briefly to the amendment of the Senator from New Mexico. I will be very brief. It is a debatable motion.

Mr. WYDEN. I ask unanimous consent to be recognized very briefly after Senator Craig before we go to a vote.

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

Mr. CRAIG. Mr. President, I will be brief. The Senator from New Mexico makes eminently good sense. There is no question that we have a funding problem. I have spoken with the Assistant Secretary and the Chief. I chair the Forestry Subcommittee and the committee on which the Senator is the ranking member. What I am suggesting we do—because the motion that has just been made in this budget point of order is an appropriate one—is to reexamine the whole funding mechanism of the Forest Service. Your figures are accurate. The kinds of programs that go unfunded now, that would help to begin to correct our forest health problem that is in part driving these fires, is a very real question.

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The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me briefly respond. I know the point of order has been made. A motion has been made to waive the Budget Act. First, I ask unanimous consent to add Senator Cantwell as a cosponsor of the amendment.

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

Mr. BINGAMAN. I appreciate the good intent of my friend from Idaho in saying that this is something on which we ought to start working or on which we ought to work. The reality is, this is our best chance. This legislation is likely to go to the President, likely to be signed into law in some form. If we don't take the opportunity this legislation presents to fix this problem, it
The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I also announce that the Senator from Nebraska (Mr. NELSON) is absent attending a family funeral.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote “yea.”

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

The yeas and nays resulted—yeas 36, nays 60, as follows:

YEAS—36

Alexandria
Baucus
Bayh
Baucus
Bingaman
Boxer
Brendan
Baucus
Byrd
Breaux
Bennett
Allen
Alexander
Allen
Bennett
Bond
Brease
Brownback
Bunning
Burns
Byrd
Campbell
Carper
Chafee
Chafee
Conrad
Collins
Coleman
Cochran
Chafee
Chafee
Edwards
Kerry

NAYS—60

Leaky
Levin
Mikulecki
Murphy
Nelson (FL)
Reed
Reid
Rockefeller
Sandhills
Schumer
Stabenow
Wyden

Yes
Lugar
McConnell
Miller
Medora
Nickles
Pryor
Robert
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Steven
Summers
Talent
Thomas
Voinovich
Warner

The PRESIDING OFFICER. On this vote, the yeas are 36, the nays 60. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, I would like to ask how long that vote took.

The PRESIDING OFFICER. Twenty-nine minutes.

Mr. REID. Mr. President, I don’t know what more we can do here. I want everyone to know we are doing our best over here to move these amendments. We have a lot of them over here. We are trying to move them. We can’t do it if we waste a lot of time on these votes. I want everyone within the Chamber to keep their way to vote. I cannot finish the bill if these votes take 30 or 40 minutes. Everyone should understand that.

There are going to be people coming and asking: When can we leave? I have a plane. Are we going to have votes tomorrow?

We will have votes for days, the way this is going. We cannot finish this bill tonight with these votes taking as long as they are taking. I am disappointed, frankly, that the majority leader wasn’t here to terminate the first vote. If we limit votes to 20 minutes, people would stop straggling in. It is not fair to the Senate.

Mr. COCHRAN. Mr. President, the Senator from Nevada is exactly correct in the fact that we are going to have more cooperation to move this bill along. We agreed before this vote that we could cut off votes after 20 minutes. We had the endorsement of that by the majority leader. But because of the Senate way to vote and people told us they were on their way to vote, the vote dragged out longer than that.

I hope Senators will cooperate with the managers of the bill and leadership and let’s get here and vote when the buzzer sounds and not wait until the last minute. These votes are going to be cut short. I hope everyone will cooperate with us.

Mr. REID. Mr. President, with the understanding of the manager of this bill, I ask unanimous consent that the Senator from Montana, Mr. BAUCUS, be recognized for 15 minutes to speak on the bill and whatever else he wishes to speak on; further, the Senator from New Mexico, Mr. BAUM, who still has a number of other amendments that he wishes to be offered be recognized to offer the next amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Montana.

Mr. BAUCUS. Mr. President, first, I thank my friend, the Senator from Nevada, and the managers of the bill for their accommodation.

It is vital that we pass this legislation this year.

Montana recently suffered from devastating wildfires, as have other western States. As the Senator from California, Senator FEINSTEIN pointed out repeatedly, the current news from Southern California is a painful reminder of a very large problem.

Across this country forests are threatened by insects, disease and the build up of hazardous fuels. The impact of these conditions are real. And they play out the after year, fueling large fires that destroy lives and homes, diminish water and air quality, and destroy wildlife habitat.
The cost of containing these large fires is staggering, straining State and Federal budgets and devastating local economies.

There are many reasons for the situation we are in today, ranging from weather and natural cycles to urban sprawl and the fire suppression policies of the past.

We can’t do anything to change the weather and we certainly can’t change the past, but we can use today’s knowledge and the wisdom of our experience to do better.

Neglecting the problem is not the answer; nor is more talk. We have to try a new approach. The compromise healthy forests bill is not perfect, but I believe it offers options to more efficiently address our forest health problems and the consequences they have on real people. I also believe this bill will help put people in rural communities back to work in the woods, especially in my State of Montana.

I have fought over and over again that a healthy forests bill must first allow federal agencies and communities to address dangerous fuel loadings on a local level, quickly and efficiently. Second, it must support small, independent mills and put local people to work in the forests and the mills. Third, it must promote and protect citizen involvement and be fair to the principles underlying the federal judicial system. And finally, it must protect and preserve sensitive places like wilderness areas.

I think we have achieved that with this legislation.

People impacted by forest health problems don’t belong to just one political party.

This is a problem that requires all sides to work together. I would like to commend the tremendous efforts of my Democratic and Republican colleagues, including Senators Feinstein, Wyden, Cochran, Craig, McCain and Lincoln, who along with several other Senators and myself worked very hard to put together the compromise on healthy forests that I am proud to support and co-sponsor.

This was no small feat; this bill touches on some very divisive issues that I wasn’t sure we would ever find a way to solve. But, we did and that is why we are here today having a serious conversation about actually passing a bill.

I believe the compromise healthy forest bill is responsive to our need to more efficiently reduce the threat of wildfire while ensuring adequate environmental protections, citizen participation, and an independent judiciary.

There is nothing in this legislation that undermines existing environmental laws, or a person’s ability to be involved in decisions that impact their public lands. In fact, this legislation requires citizen collaboration beyond existing law—current law does not require the secretary to encourage citizen collaboration or to hold a public meeting on proposed projects.

What I believe this legislation does do is help keep the process open and honest. I ask unanimous consent that an article for today’s Missoulian newspaper, from Missoula, MT, be printed in the RECORD.

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

Groups File Lawsuit Over Kootenai Forest Timber Sale (By Sherry Devlin)

HAZARDS TO PUBLIC WATER,
ENVIRONMENTALISTS ARGUE

Environmentalists filed another lawsuit against the Kootenai National Forest on Tuesday, hoping to stop a 12.5 million-board-foot timber sale awarded a contract for the Garver timber sale to Riley Creek Lumber Co.—which bid $1.3 million over the advertised price of $250,000.

Filed by Alliance for the Wild Rockies and The Lolo National Forest, the complaint seeks to stop the Garver sale on grounds it violates the Clean Water Act, a federal law requiring permits for species that depend on old-growth trees.

The groups used a similar lawsuit to stop the Lolo National Forest from logging in areas burned by wildfires during the summer of 2000.

In that case, environmentalists successfully argued the sale would degrade water quality in streams identified as “water-quality impaired” by the state of Montana.

Until the state of Montana sets “total maximum daily load” figures for the streams, the Forest Service cannot adequately judge how much additional sediment the streams can handle, the lawsuit said.

Federal District Judge Don Molloy agreed, shutting down all post-burn logging until TMDL figures are available.

In the Garver sale, the at-risk stream is the West Fork of the Yaak River, which is also listed as water-quality impaired.

Logging caused the West Fork’s problems, and more logging will make them worse, said Michael Garrity, executive director of Alliance for the Wild Rockies.

“It is exactly the same issue as in the Lolo,” Garrity said. “Instead of wasting the court’s time and money, the Kootenai should just follow the judge’s ruling.”

(The Forest Service has appealed Molloy’s decision to the 9th Circuit Court of Appeals.)

At Kootenai forest headquarters, Supervisor Bob Castaneda did not know a lawsuit had been filed until contacted by the Missoulian. He quickly and vigorously defended his staff, which had just awarded the timber sale to Riley Creek Lumber.

“Ever since the Lolo decision, our approach has been to have a good analysis of the watershed and to use best management practices,” Castaneda said. “We think through some restoration efforts and by following BMPs, we can improve the current watershed condition.”

Would the logging degrade the West Fork of the Yaak? “No,” Castaneda said. “I just don’t agree with their statement. We worked very closely with the Yaak Valley Forest Council and used their recommendations in making the decision. They worked closely with us.”

The Kootenai forest did a number of water-quality surveys in the Yaak this past summer, he said, and the preliminary results are encouraging.

“They’re telling us the water quality is much better than what the state suggested,” Castaneda said.

He also rebutted the lawsuit’s contention that the timber sale would cut into the Kootenai forest’s declining base of old-growth trees.

The forest is, in fact, staying out of designated old-growth areas, Castaneda said.

In the lawsuit, the Alliance and the Lands Council cite the Forest Service’s environmental impact statement, which said the Garver sale would likely have adverse affects on every sensitive old-growth species in the Kootenai: fishers, wolverines, flammulated owls, black-backed woodpeckers, northern goshawks and others.

“It is time for the Forest Service and the Bush administration to sort clean up our streams and protecting our wildlife instead of subsidizing timber corporations and breaking the law,” Garrity said.

News of the lawsuit was not a surprise to Jim Hurst, co-owner of Owens and Hurst Lumber Co. in Eureka. He, too, had bid on the Garver sale but lost out to the north Idaho mill.

Now, he said, the lawsuit has the potential to make things even worse for lumbermen.

“It’s just more of the same,” Hurst said. “Nothing coming from the environmental community would surprise me anymore.”

Another lawsuit filed earlier this year by The Ecology Center stopped several timber sales on the Kootenai forest, some of which were bound for Hurst’s Eureka mill.

The Kootenai’s timber sale program has deceased by 70 percent in recent years.

Mr. BAUCUS. Mr. President, this article demonstrates why the provisions of this bill would be beneficial to moving fuel reduction projects forward.

This article describes a lawsuit filed to stop a timber sale after the timber sale was awarded. In understanding the situation, the lawsuit was based on an issue that had not been raised at any time during the environmental review process or the administrative appeal process. It was sprung at the last minute just to delay and stop the sale.

It was sprung even after the Forest Service was thanked by other groups for doing a better job to address old growth issues that had been raised earlier.

Now, I know that this article is about a timber sale and not a hazardous fuels project, but the same concerns apply. If someone has particular concerns about the impact of a proposed project, the compromise healthy forests bill very appropriately requires that they raise those concerns, and appeal projects that do not feel address their concerns. But, they should not be allowed to use the process simply to stop and delay. That’s only fair. Particularly when we are talking about projects like the one contained in the compromise healthy forests bill, which are projects intended to reduce the risks of dangerous fires. The compromise Healthy Forests bill simply requires citizens to be thoughtful and thorough when they oppose projects.

This in turn helps the agencies be more efficient, because they can do a better job of addressing controversial
issues—like old growth—earlier in the process, without wondering what might be coming at them from left field. This is a good example of why the compromise bill will have real, positive impacts on the ground.

Keeping Montana’s small timber mills and forest workers in business is a top priority for me because of their importance to rural economies. But, the fact, is we also need this industry to accomplish the hazardous fuel reduction and forest management work on the ground. I worked in committee to ensure this legislation provides support for building a thriving forest industry in rural communities. In particular, I worked with Senator Enzi and Leahy to develop the Rural Community Forestry Enterprise Program, included in Title VII of the bill. The Rural Community Forestry Enterprise Program, is intended to give a much needed economic boost to small businesses and small mills in rural communities, particularly those in Montana that have been hit hard in recent years.

The Program would establish forest enterprise centers around the country, including one in Montana, that would do the following: Ensure that the Small Business Administration timber set-aside program works better for Montana and other small mills; enhance technical and business management skills training; organize cooperatives, marketing programs, and worker skill pools; facilitate technology transfer for processing small diameter trees and brush into useful products; and enhance the rural forest business infrastructure needed for a fuel reduction program on both private and public lands.

Keeping small mills in Montana in operation is a top priority for me. These businesses are vitally important to rural economies, providing good-paying jobs and revenue to local communities. I support this legislation because I believe we do have a serious problem with hazardous fuel build-up in our National Forests that we must solve sooner rather than later. I also believe the bi-partisan Healthy Forests bill has the elements necessary to allow local citizens and leaders to make wise decisions that address this problem effectively and, I believe we need to pass this bill. This is not a problem that we will solve overnight, or even in the next few years. But, we have to start somewhere, and this is a great place to start.

I am proud to support this compromise. I ask all of my colleagues to take a bold step and support it as well.

Mr. COCHRAN. Mr. President, I ask unanimous consent that, notwithstanding a previous entry, the distinguished Senator from Maine be recognized up to 10 minutes.

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

The Senator from Maine, Ms. Collins.

Ms. COLLINS. Mr. President, I thank the Senator from Mississippi for his courtesy and also for the extraordinary job he has done in bringing together people of diverse views on this critical issue of forest management. I also thank the Senator from New Mexico for agreeing to let me deliver my comments before he offers his amendment.

The resilience of our Nation’s forests is vital to preventing the highly destructive forest fires that we are seeing plaguing the West and also to protecting our ecosystems. I am very pleased the Senate is moving forward with this important issue which I know matters greatly to the Presiding Officer as well.

No discussion of a responsible forest management system would be complete, however, without addressing another threat to our Nation’s working forests and open spaces; that is, suburban sprawl. Sprawl threatens our environment and our quality of life. It destroys ecosystems and increases the risks of flooding and other environmental hazards. It undermines the infrastructure of the affected communities, increases traffic on neighborhood streets, and wastes taxpayer money. It leads to the fragmentation of wood lots, reducing the economic viability of the remaining forests. Sprawl occurs because the immediate economic value of forests or farmland cannot compete with the immediate economic value of developed land in the areas that are experiencing rapid growth.

No State is immune from the dangers of sprawl. For example, the Virginia State Forester says that since 1992 the Commonwealth of Virginia has lost 51,000 acres of forest land per year to other uses. The Northeastern Michigan Council of Governments recently reported that southeastern Michigan saw a 17-percent increase in developed land between 1990 and 2000.

In my home State of Maine, suburban sprawl has consumed tens of thousands of acres of forest land. The problem is particularly acute in southern Maine where a 108-percent increase in urbanized land over the past two decades has resulted in the labeling of the greater Portland area as the “sprawl capital of the Northeast.”

I am particularly alarmed by the amount of working forest and open space in southern and coastal Maine that has given way to strip malls and cul-de-sacs. Small forests, farms, and meadows are lost to development, they are lost forever. Maine is trying to respond to this challenge. The people of my State have approved a $50 million bond to preserve land through the Land For Maine’s Future Program, and they contribute their time and their money to preserve important parcels and to support our State’s 88 land trusts. It is time for the Federal Government to help support these local community-based efforts.

For these reasons, I will be offering an amendment, along with Senator Harkin, that establishes a $50 million grant program, the Suburban and Community Forestry and Open Space Program, within the U.S. Forest Service, to support locally driven, market-based land conservation projects that will preserve our working forests and farms. Locally driven and market based are the essential aspects of this program. This program is locally driven because it encourages communities and non-profit organizations to work together with landowners to help promote sustainable forestry and open space.

The program will allow local government and nonprofits to compete for funds and hold title to land or easements purchased with programmed funds. Projects funded over this initiative must be targeted at lands located in parts of the country that are threatened by sprawl. In addition, the legislation requires that Federal grant bonds be matched dollar for dollar by State, local, or private resources.

The program is market driven because it relies upon market forces rather than government regulations to achieve its objectives. Rather than preserving our working forests and open spaces for creating new zoning or land management regulations at the expense of the landowner, this program will provide the resources to allow a landowner who wishes to keep his or her land as a working farm or wood lot to do so.

The legislation also protects the rights of property owners with the inclusion of a “willing seller” provision that will require the consent of a landowner if a parcel of land is to participate in the program.

The $50 million that would be authorized would help achieve a number of stewardship objectives. First, the amendment would help prevent forest fragmentation and preserve working forests, helping to maintain the supply of timber that fuels Maine’s most significant industry. Second, the resources would be a valuable tool for communities that are struggling to manage growth and to prevent sprawl. Currently, if a town in, for example, Kennebunk, ME, or another community is trying to cope with the effects of sprawl and turns to the Federal Government for assistance, they would find there is no program. My proposal would change that by making the Federal Government an active partner in preserving forest land and managing sprawl, while leaving decision-making at the State and local level where it belongs.

There is great work being done in Maine and in other States to protect our working forests for future generations. I am grateful for the many organizations that are lending support to this effort and which have also endorsed my proposal, including the National Association of State Foresters, the New England Forestry Foundation, the Nature Conservancy, the Trust for Public Lands, the Land Trust Alliance, and many others.

By adopting this proposal and incorporating it into this bill, Congress can
provide a real boost to conservation initiatives, help prevent sprawl, preserve special open places, forest lands, and farms, and help sustain natural resource-based industries.

I thank Senator COCHRAN in particular for his assistance on this legislation. It is always a great pleasure to work with him. I hope this proposal will be incorporated into the final bill.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from Maine for her contribution to the legislation we have before us today. She has been a leader in this effort, and we always appreciate the opportunity of working with her. I thank her for her kind comments as well.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 2035

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk reads as follows:

The Senator from New Mexico (Mr. BINGAMAN) proposes an amendment numbered 2035.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment as follows:

SEC. 30. LONG-TERM FUEL MANAGEMENT.

In implementing hazardous fuels reduction projects, the Secretaries shall ensure that—
(1) a slash treatment plan is completed;
(2) all phases of a multi-year project such as thinning, slash reduction, and prescribed burning are completed; and
(3) a system to track the budgeting and implementation of follow-up treatments shall be used to account for the long-term maintenance of areas managed to reduce hazardous fuels.

Mr. BINGAMAN. Mr. President, this amendment deals with the issue of the treatment of long-term fuel management and treating what is called slash. Many fuel reduction projects require two or more sequential treatments over several years on the same parcel of land—for example, an initial timber harvest, followed by the piling and burning of slash, which is, obviously, the brush and trees that have been cut down.

Completing these followup slash treatments in a timely manner is a very important part of forest restoration work. It is important because the slash provides fuel for wildfires, and it provides habitat for beetles and other insects.

I think we have some studies that demonstrate the insect disease problem expands where this slash is not properly treated. Everyone agrees it is important to conduct these followup treatments in locations where fuel reduction projects have been completed. In order to prevent the area from returning to the condition that puts these locations at high risk of unnaturally intense catastrophic wildfire.

There is a recent GAO analysis in my State that found the Forest Service and the BLM completed about 19 of 39 followup slash treatments in a timely manner.

In addition, the GAO found the agencies’ reported figures for the acres treated were inflated because they had double-counted acres where the same acreage was treated in multyear phases. Where you have this kind of a slash treatment necessary, we are getting inaccurate accounting for the Forest Service and by the BLM.

This is troubling because it means the Forest Service and the BLM are not providing data with respect to the number of acres on which this fire threat is actually being addressed. My amendment tries to ensure there is accurate accounting. In my view, it is a simple and straightforward amendment. It would be a recipe for gridlock in that it makes a minor matter in the eyes of some, but the Forest Service’s failure to properly manage this slash treatment has worsened the fire risk in some areas. Obviously, the focus of this legislation is to reduce that fire risk.

I think it is an appropriate amendment. I hope this is something the managers of the bill could accept. If not, obviously we can have a vote on it.

Let me just briefly describe the amendment in a little more detail and essentially read it. It says:

In implementing hazardous fuels reduction projects, the Secretaries—

That is the Secretary of Agriculture and the Secretary of the Interior—shall ensure that

a slash treatment plan is completed;

acres are not identified as treated in annual program accomplishment reports, until all phases of a multi-year project such as thinning, slash reduction, and prescribed burning are completed; and

a system to track the budgeting and implementation of follow-up treatments shall be used to account for the long-term maintenance of areas managed to reduce hazardous fuels.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. COCHRAN. Mr. President, I am advised this amendment would really be a recipe for gridlock in that it mandates new requirements for the Forest Service as well as the Bureau of Land Management—processes they have to carry out and go through before they can engage in any fuel treatment processes.

It would require the Forest Service, for example, to prepare a plan for treatment of slash that contains all of the information and data specified in the amendment of the Senator from New Mexico. It opens up the Forest Service to legal challenges if someone has the opinion that the plan is inadequate for some reason. It forces the Forest Service to set up a new system for tracking the implementation of fuels treatment projects, and any followup treatments.

The amendment would add new reporting processes to hazardous fuel work. The amendment calls for the development of a plan which is already required but requires the agencies to do so every year and pay for the reports. It would improve the overall health of our national forest resources.

The Forest Service is going to end up spending more time, the Bureau of Land Management as well, in their offices working on plans and doing the work that they were actually hired to do under existing legislation. This amendment is, as I have said before, a recipe for gridlock. I urge that the amendment be opposed.

I don’t know of any other Senators who wish to speak on the amendment. I will be prepared to move to table the amendment when those who want to speak have been heard.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I meet just say that I think this amendment is anything but a prescription for gridlock. There is the suggestion that all sorts of new program accomplishment reports are going to be required. Those reports are currently produced. The real issue is, do we get proper accounting in those reports or do we not? The GAO has told us we do not.

Each year they give us an accomplishment report, and they list acreage on which they have not completed the forest restoration work. They have done one of the phases of that forest restoration work, and then the next year they take credit for that acreage again by doing another phase. The next year they take credit for that same acreage again by doing another phase.

All we are saying is that acres should not be identified as treated as having been treated in these annual reports, which are already provided, until they have done all of the different phases—the thinning, slash reduction, and the prescribed burning.

We are not requiring additional reports. We are requiring accurate reports. That is not an unreasonable request.

I am somewhat disappointed. This is an amendment we delivered to the managers of the bill yesterday, to their
motion to Lay the Table. The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, I move to lay on the table the amendment and ask for a yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion to table amendment No. 2035. The clerk will call the roll.

Mr. McCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I also announce that the Senator from Nebraska (Mr. NELSON) is absent attending the party caucuses.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay."

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

The result was announced—yeas 58, nays 36, as follows:

[Roll Call Vote No. 422 Leg.]

Yeas—58

Domenici (New Mexico)
Edwards (Mississippi)
Hollings (South Carolina)
Kerry (Massachusetts)
Lieberman (Connecticut)

Not Voting—6

Nelson (Nebraska)

The motion was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 2036

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. BINGAMAN) proposes an amendment numbered 2036.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with. The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows: (Purpose: To require collaborative monitoring of forest health projects)

At the appropriate place, insert the following new section:

"SEC. 4a. COLLABORATIVE MONITORING.

(a) IN GENERAL.—The Secretaries shall establish a collaborative monitoring, evaluation and accountability process in order to assess the positive or negative ecological and social effects of a representative sampling of projects implemented pursuant to title I and section 404 of this Act. The Secretaries shall include stakeholders, including interested citizens and Indian tribes, in the monitoring and evaluation process.

(b) MEANS.—The Secretaries may collect monitoring data using cooperative agreements, grants or contracts with small or micro-businesses, cooperatives, non-profit organizations, Youth Conservation Corps, or other community-based partnerships with State, local, and other non-Federal conservation corps.

(c) FUNDS.—Funds to implement this section shall be derived from hazardous fuels operations funds."

Mr. BINGAMAN. Mr. President, this amendment requires the Forest Service and the Bureau of Land Management to establish a collaborative monitoring process to assess the environmental and social effects of a representative sampling of projects implemented under this act. There are many forest-dependent communities that support collaborative monitoring of forest projects on public land.

This simply means it is collaborative monitoring. That phrase simply means that interested communities and individuals may participate with Federal agencies in monitoring the ecological and social effects of forest health projects.

Proponents of the legislation that we are considering today continually state that they want more collaboration at the beginning of the process. However, unless there is collaborative monitoring, the effectiveness of these projects will never be able to rebuild trust between rural communities and these agencies.

Congress enacted a similar requirement when authorizing the Stewardship Contracting Program. In addition, Senator CRAIG and I sponsored the community-based Forest and Public Land Restoration Act. That bill, which was passed by the Senate unanimously, also required collaborative monitoring. This is a simple amendment. I believe it is noncontroversial. I hope this is acceptable to the managers of the bill and can be adopted.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from New Mexico for this suggested change to the bill. It actually could be argued it is duplicative of a provision that is already in the bill at the request of Senator WYDEN and Senator FEINSTEIN, but it is not wholly inconsistent. We think it can be worked into the bill and will not cause confusion, so I am prepared to recommend that the Senate accept the amendment. I hope the Senate will vote for the amendment.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, just very briefly, Chairman COCHRAN has it right. What we are trying to accomplish in the natural resources area, is it to try to move this bill away from confrontation to collaboration. That is what we tried to do in the bipartisan compromise. I think we can reconcile that with the Bingaman amendment. I urge its support.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, without objection, the amendment is agreed to.

The amendment (No. 2036) was agreed to.

AMENDMENT NO. 2039

Mr. LEAHY. Mr. President, I am soon going to send to the desk an amendment.

The people of my State of Vermont, and Americans across the Nation, mourn with our colleagues, Senator FEINSTEIN and Senator BOXER, and with the people of California, over the tragic loss of life and property from the wildfires in San Diego County.

Today, we lost a firefighter from Novato, CA. These brave men and women on the front lines need to be recognized first in this debate. Our hearts go out to the firefighters’ families and the community of Novato.

We have all been riveted by the vivid images we have watched, day after day, and by the heart-wrenching stories of loss and of bravery that go with these pictures.

Our hearts go out to all of these families that have lost so much. And our thanks go out to the courageous and diligent firefighters and emergency response team members who are fighting those fires and are doing all they can to protect these communities.

Here in Congress, we need to do more to protect forests and communities from wildfires. That is why I introduced the Forest and Community...
Protection Act this summer. This is a bill and an approach that would make a real difference for communities facing this kind of potential devastation. The bill before us now, unfortunately, would not offer the same level of help.

The bill before us is a well-camouflaged attempt to limit the right of the American people to know and to question what their government is doing on the public’s lands. When you look at the tidal wave of regulatory changes the administration has produced in the last year to cut public out of the process, it could not be clearer that the administration does not want the public or the independent judiciary looking over its shoulder.

Communities that face wildfire threats need real help, not false promises. As this chart shows, the administration has been busy creating a broader number of steps that will be excluded from environmental analysis under the National Environmental Policy Act, limiting how, who and when citizens can appeal agency decisions, and even cutting off other agencies, such as the Fish and Wildlife Service, from the Forest Service report on the impact of the actions on endangered species habitats.

Unfortunately, the bill before us today could be the last in this series of steps that completely erode the public’s trust of the Forest Service. Many of us saw the aftermath of the salvage rider on our forests and the public trust. We should not go down that road again.

That is why I am offering an amendment today, along with Senators BINGAMAN, DURBIN, HARKIN and BOXER, to strike sections 105 and 106 of the bill. These sections go too far in undermining the decades of progress we have made in public participation and judicial review.

The administration has worked overtime to try to sell the false idea that environmental laws, administrative appeals and the judicial process are the cause of wildfires. But they have not been able to back up their scapegoating with facts. And the facts themselves contradict their claims.

In May, the GAO issued a study examining delays in all Forest Service fuels reduction projects, from appeals or litigation, during the last 2 fiscal years.

Contrary to what some advocates of this bill will tell you, the results show that neither appeals nor litigation have delayed fuels reduction projects.

As you can see, out of 818 projects, only a quarter were appealed. Of those, even fewer took more than the standard 90-day review period. In fact, only 5 percent of all the projects took more than 90 days.

And we can’t honestly blame litigation, either, for the delays. Again, of the 818 projects, only 25 were litigated. Of those, 10 were either settled or ruled in favor of the Forest Service—meaning that only 9 out of 818 projects were delayed by court order.

That is only one percent. Where is the “analysis paralysis”? My colleagues like to talk about so much?

On the ground, these appeals had even fewer impacts. Of the 818 projects covered by fuel reduction projects, only 111,000 acres were impacted by litigation. The numbers simply do not back up the administration’s assertion that appeals and litigation are delaying projects.

The bill before us today rolls back environmental protections and citizen rights with no justification at all. Enough about numbers. The bill before us is really a solution looking for a problem. So let’s take a closer look at the solution on the table.

First, the bill would make it much more difficult for the public to have any oversight or say in what happens on public lands, undermining decades of progress in public inclusion.

In this new era of pre-decisional protest process, this bill expects the public to have intimate knowledge of aspects of the project early on, including that the Forest Service might not have disclosed in its initial proposal.

Section 105 gives the Forest Service a real incentive to hide the ball or to withhold certain information about a project that might make it objectionable such as endangered species habitat data, watershed analysis or road-building information.

If concerns are not raised about this possibly undisclosed information in the vaguely outlined predecisional process, the Forest Service can argue to the courts that no claims can be brought on these issues in the future when the agency either through intent or negligence withheld important information from the public.

I want to take a couple of minutes to respond to the statements that my colleagues have made over the last 2 days with regard to appeals and judicial review.

First, my colleagues keep talking about “analysis paralysis.” This has become a mantra for those who want to cut the public out of decision-making and blame appeals and litigation.

When the administration went looking for a problem to fit their solution, they threw together a Forest Service report that argued that 48 percent of decisions were appealed.

But when people starting asking questions about the report though, they found that the Forest Service spent just a few hours gathering information for the report. The so-called data it was based on was just phone conversations made in an afternoon.

In fact, the Forest Service does not actually track appeals. Until the GAO did its independent report, they really had no idea what impact appeals were having on fuel reduction projects.

But they, and many of my colleagues, already had their talking points. As we have seen with many other so-called environmental policies over the past administration, facts are never allowed to get in the way of rhetoric.

When the facts did start coming out this spring, with an independent study by Northern Arizona University and the GAO, they showed that only 3 percent of projects are appealed and only 3 percent are litigated.

The report also found that opposition was not a leading factor in slowing fuel reduction projects.

While the issue of formal public resistance, such as appeals and litigation, has recently been contentious, only a few local land unit officials we visited indicated that this type of resistance had delayed particular fuels reduction treatments.

What the facts do tell is that the main reasons fuel reduction projects could not proceed were due to the administration’s refusal to use fuel reduction funds to fight wildfires.

Just this summer, while the President was out in Oregon pushing this bill, the Forest Service was back here cutting fuel reduction projects because the Republicans refused to pass emergency funding for fire suppression.

Let’s cut through the smokescreen and focus on the facts before leaping on board to a solution that will let the administration pick and choose 20 million acres of forestland around the country to cut with little real public accountability.

This is not a problem of analysis paralysis but a problem of situation exaggeration.

Essentially, this provision penalizes citizens and rewards agency staff when the agency does not do its job in terms of basic investigation and information-sharing regarding a project.

The other significant change to judicial review is section 106. Even under the “compromise” version of H.R. 1904, the provisions will interfere with and overload judges’ schedules.

This section will force judges to reconsider preliminary injunctions every 60 days, whether or not circumstances warrant it.

In many ways, this provision could backfire on my colleagues’ goal of expediting judicial review. It will force judges to engage in otherwise unnecessary proceedings slowing their consideration of the very cases that H.R. 1904’s proponents want to fast track.

Moreover, taking the courts’ time to engage in this process will also divert scarce judicial resources away from other pending cases.

It is also likely to encourage more lawsuits. Requiring that injunctions be renewed every 60 days, whether needed or not, gives lawyers another bite at the apple. Something they often find hard to resist.

Instead of telling the courts when and how to conduct their business, we should instead be working to find a workable and effective approach to reducing wildfire risks.
This bill does not achieve that, but through sections 105 and 106, it instead poses a real risk to the checks and balances that the American people and their independent judiciary now have on government decisions affecting the public lands owned by the American people.

Sadly, this bill is just a Halloween trick on communities threatened by wildfires. It is not fair to rollback environmental laws, public oversight or judicial review under the guise of reacting to devastating wildfires.

It will do nothing to help or to prevent the kind of devastation that Southern California is facing. It is a special interest grab-bag shouted behind a smokescreen.

Let us offer real help and real answers, and let us not allow fear to be used as a pretext for taking the public’s voice out of decisions affecting the public’s lands and for ceding more power to special interests.

I hope my colleagues will join me in striking these provisions.

**AMENDMENT NO. 2039**

(Purpose: To remove certain provisions relating to administrative and judicial review)

Mr. LEAHY. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mrs. BOXER, Mr. HARKIN, Mr. RINGO, and Mr. DUXBURY, proposes an amendment numbered 2039:

Strike sections 105 and 106.

Mr. COCHRAN. Mr. President, there has been considerable attention paid to the provisions of the House-passed bill which was referred to in our Committee on Agriculture. The version the House passed has the same provisions which would change substantially the judicial review and appeals provisions of current law. When we were looking at the bill in our committee, it was decided that while we didn’t disagree with the objectives of the House, we thought that there could be more appropriate language which would help ensure that litigation and appeals weren’t abused to the extent that they created impasses and gridlock in the process.

I have to give credit to the distinguished Senator from Oregon, Mr. WYDEN, and the distinguished Senator from California, Mrs. FEINSTEIN, for coming up with suggestions for changes that were included in this bill that is now before the Senate. It was included in the language of the compromise that we made to substantially change title I as it relates to the judicial review section of the bill.

Let me point out that it balances risk, which is what this is about. Looking at ramifications of approving or not approving a fuel reduction project can be explained by looking at certain examples from which we have learned.

On the Kenai Peninsula in south-central Alaska, for instance, over 300,000 acres of forest have been lost to a spruce bark beetle infestation which we are told could have been avoided but was not because of litigation and appeals that were generated over the project’s proposal. The Dixie National Forest has 112,000 acres that have been devastated by the spruce bark beetle as well which could have been prevented with treatment but was slowed by the appeals and litigation in that situation.

Over the last 3 years, bark beetles have ravaged forests around Lake Arrowhead in the San Bernardino National Forest in southern California causing an 80-percent mortality rate and substantially increasing the fuel loads of that forest.

What I am afraid we are going to see if the Leahy amendment is approved is a reversal of efforts that we have made to come to a new approach which we think will improve forest help. We still have rigorous environmental safeguards in place, but the suggestions that courts do not bog down the process with endless appeals and litigation is one of the goals of this legislation.

I don’t know if other Senators want to be heard on this amendment. But I would be prepared, after Senators have had an opportunity to express themselves, if they want to debate this issue, to move to table the Leahy amendment.

I move to table the Leahy amendment, and I ask for the yeas and nays. The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I also announce that the Senator from Nebraska (Mr. NELSON) is absent attending a family funeral.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ‘nay.’

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

The result was announced—yeas 62, nays 33, as follows:

(Rollcall Vote No. 423 Leg.)

**YEAS—62**

Alexander
Allen
Baucus
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Collins
Corzine
Craig
Daschle
Dayton

**NAYS—33**

Akaka
Bayh
Biden
Bingaman
Boxer
Byrd
Carl Levin
Carper
Clinton
Conrad
Corzine

**NOT VOTING—5**

Edwards
Hollings

The motion was agreed to.

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**NOTICE**

Incomplete record of Senate proceedings. Except for concluding business which follows, today’s Senate proceedings will be continued in the next issue of the Record.

**PROGRAM**

Mr. FRIST. For the information of all Senators, tomorrow the Senate will be in a period of morning business. There will be no rollcall votes during tomorrow’s session.

The hour is late, but it is well worth it. We completed action on both the Healthy Forests legislation today, and the Foreign Operations appropriations bill.

On Monday, we will debate the Iraq supplemental. However, that conference report will be agreed to without a vote. We will also consider the Interior appropriations conference report on Monday, and Members can expect a vote on that sometime between 5 p.m. and 6 p.m. We will have more to say tomorrow about the schedule.

I congratulate the managers of both bills that were completed today. It has been a very long and very productive day.

**ADJOURNMENT UNTIL 10 A.M. TOMORROW**

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent the Senate
stand in adjournment under the previous order.
There being no objection, the Senate, at 11:44 p.m., adjourned until Friday, October 31, 2003, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate October 30, 2003:

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under Title 10, U.S.C., Section 601:

To be lieutenant general

MAJ. GEN. JOHN M. CURRAN, 0000

To be major

TODD K. ALSTON, 0000

RICHARD J. ANDREWS, 0000

RALPH D. ARBRETT, 0000

JACQUELINE BARNES, 0000

EARL C. BEDFORD, 0000

JOHN D. BEURY, 0000

CHESTY M. BLOGGS, 0000

ROBERT R. BUZZAN JR., 0000

KEITH BYRD, 0000

JESS H. CAPEL, 0000

ROGER D. CAPESTENS, 0000

DONALD R. CECCONI, 0000

JOHN M. CREN, 0000

GREGORY L. DEDULA, 0000

SONJA B. DEVAMBERT, 0000

ERIC P. EHRMANN, 0000

JOHN M. ESPOSITO III, 0000

ALAN L. GUNNERSON, 0000

JOSEPH J. HAYDON JR., 0000

DAVID E. HECKERT, 0000

CARL G. HERRMANN, 0000

TINA L. HOLT, 0000

JACQUELINE C. HOWELL, 0000

WILLIAM S. HUSING, 0000

ROBERT L. HUTCHISON, 0000

RONALD D. JACK, 0000

NATHAN C. JOSEPH, 0000

PAUL G. SCHLIMM, 0000

VERNER M. KIERNAN, 0000

CHARLES D. KIRBY, 0000

MARK R. KOVACEVICH, 0000

CHARLES P. LITTLE, 0000

DARRYL L. LONG, 0000

SHEILA H. LYDON, 0000

MARK A. MCCOMB, 0000

ROBERT G. MCNEIL, 0000

GERARD J. MESSMER III, 0000

MARTIN L. MORPH skin, 0000

ROBERT S. MURRAY, 0000

STEVEN C. PEDERSON, 0000

JOHN W. PENREE, 0000

SANTONIMOLOV RILEY, 0000

JOHN N. RIOS, 0000

JOSEPH E. WICKER, 0000

JOHN F. WINTHERS, 0000

MACHIEL L. WOOD, 0000

PAUL L. ZANGLIN, 0000

IN THE NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under Title 10, U.S.C., Section 601:

To be lieutenant commander

PATTY J. MADRIGAL, 0000

BRUCE L. ANDREWS, 0000

PAUL R. ARMS, 0000

PHILIP P. BARKER, 0000

NATHAN E. BARE, 0000

JACQUELINE B. BARDEN, 0000

NATHAN W. BEDFORD, 0000

JONATHAN R. BERRY, 0000

JOHN D. BEURY, 0000

CHRIS L. ANDREWS, 0000

RALPH D. ARBRETT, 0000

JACQUELINE BARNES, 0000

NICHOLAS J. BIRWOOD, 0000

ERIC P. EHRMANN, 0000

JOHN M. ESPOSITO III, 0000

ALAN L. GUNNERSON, 0000

JOSEPH J. HAYDON JR., 0000

DARRYL L. LONG, 0000

SHEILA H. LYDON, 0000

MARK A. MCCOMB, 0000

ROBERT G. MCNEIL, 0000

GERARD J. MESSMER III, 0000

MARTIN L. MORPH skin, 0000

ROBERT S. MURRAY, 0000

STEVEN C. PEDERSON, 0000

JOHN W. PENREE, 0000

SANTONIMOLOV RILEY, 0000

JOHN N. RIOS, 0000

JOSEPH E. WICKER, 0000

JOHN F. WINTHERS, 0000

MACHIEL L. WOOD, 0000

PAUL L. ZANGLIN, 0000

IN THE MARINE CORPS

The following named officer for appointment to the grade indicated in the United States Marine Corps Reserve under Title 10, U.S.C., Section 12203:

To be colonel

DAVID B. MOREY, 0000

IN THE NAVY

The following named officer for appointment to the grade indicated in the United States Navy under Title 10, U.S.C., Section 624:

To be lieutenant commander

PATRICK J. MORAN, 0000

The following named officer for appointment to the grade indicated in the United States Navy under Title 10, U.S.C., Section 624:

To be lieutenant commander

LAWRENCE J. CHICK, 0000
October 30, 2003

CONGRESSIONAL RECORD — Extensions of Remarks

E2157

EXTENSIONS OF REMARKS

REMEMBERING ROBERT SIMS

HON. JOHN S. TANNER
OF TENNESSEE
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. TANNER. Mr. Speaker, I rise today in honor of an American veteran, a tireless public servant, an outstanding citizen and a dear friend, Mr. Robert Bell Sims. Bob will be laid to rest next month at Arlington National Cemetery.

During Bob's long and distinguished career in the United States Navy, he served as a communications officer under two Secretaries of the Navy, then as the Deputy Chief of Information for the Department of the Navy. He also served on the National Security Council and the National Defense University.

Bob retired from the Navy in 1984 at the rank of Captain but did not end his service to our nation's defense. He served in the White House as Deputy Press Secretary for Foreign Affairs and was later nominated and confirmed to the post of Assistant Secretary of Defense for Public Affairs.

In 1987, Bob turned to his background in magazine and newspaper publishing, when he began fourteen years of service at the National Geographic Society. For thirty years, he was the owner and publisher of The Crockett Times. The work of his family and staff at the newspaper has long been important to Bob's hometown of Alamo, Tennessee, and indeed to all of us in Crockett County.

Bob is survived by his wife, Patricia, four children and seven grandchildren. My wife, Betty Ann, and I have long cherished our friendship with Bob and Pat Sims and are greatly saddened by Bob's passing. He will be missed. We know, however, that the legacy he leaves behind will never be forgotten.

Mr. Speaker, please join with me in honoring the long service, dedication and friendship of Bob Sims.

HONORING AUSTIN TOXEN

HON. GINNY BROWN-WAITE
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor a young hero in my Fifth Congressional District of Florida.

Throughout our current situation in Iraq and our continued War on Terror we have had occasion to honor many heroes. Today I want to take the time to honor a very special young man who, just like our troops overseas, acted bravely and selflessly to protect the safety of another person.

This summer while playing outside with friends, Austin Toxen, a fifth-grader at Forest Ridge Elementary School in Citrus County, noticed smoke coming from his neighbor's home. Acting quickly and keenly, Austin ran into his own home, grabbed a fire extinguisher, asked his mother to call 911, and ran into his neighbor's home to help put out the blaze.

The fire, which started in the home's kitchen, would have almost certainly quickly spread throughout the entire structure had it not been for Austin's swift intervention. Austin was able to help contain the fire to the kitchen saving the home from burning entirely. The owner, Janeen Hall, has called Austin a hero and credits him with saving her home.

According to friends and family, Austin has remained very humble about his bravery. Though many have marveled at the fact that he had the composure to act so heroically, he says he just did the right thing.

We all know that Austin's actions truly are worthy of praise and so Mr. Speaker I ask you and my colleagues to join with me in honoring Austin Toxen today. He truly is a brave young man and a fine example of courage and selflessness.

OCTOBER AS NATIONAL BREAST CANCER AWARENESS MONTH

HON. DOUG OSE
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. OSE. Mr. Speaker, I rise today to honor October as National Breast Cancer Awareness Month. Cancer is a growing and tragic epidemic that has undoubtedly touched loved ones, affecting mothers, sisters, daughters, as well as friends. The campaign emphasizes the importance of early detection of the disease through mammograms, clinical breast examination, as well as breast self-examination.

During 2003, over 211,000 new cases of breast cancer are expected to occur among women in the United States and breast cancer remains as the leading cause of cancer death in women in the United States. Alarmingly, every 2 hours, on average, a California woman dies of breast cancer.

I am honored to promote breast cancer awareness and call upon my colleagues to reauthorize the Breast Cancer Research program for 2 more years. Millions of people have purchased the Breast Cancer Research stamp, a program that was first introduced in July 1998, generating over $34.5 million for research and development.

The Breast Cancer Research stamp is especially important to me because my constituent, Dr. Ernie Bodai of Carmichael, CA, was the leading force behind the program. After 14 visits to Washington within 2 years, as well as spending $100,000 of his personal savings, he succeeded, creating a leading for Breast Cancer fundraising. Dr. Bodai is the pioneer of the Breast Cancer stamp, Chief of General Surgery for Kaiser Permanente, and CEO of CureBreastCancer, Inc.

Driving through Sacramento, he can be easily detected by his car, which is adorned by its license plate—PL 105-41—the title of the public law that made the breast cancer fundraising stamp official.

Mr. Speaker, as Members of Congress, let's do our part to protect our constituents, promote breast cancer research and education, and reauthorize the Breast Cancer Stamp program.

HONORING FRANK BIERWILER OF SPRING HILL, FL

HON. GINNY BROWN-WAITE
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor a great public servant, a charitable giver, and a selfless hero in my Fifth Congressional District, Mr. Frank Bierwiler.

Frank Bierwiler first served his community in New York for many years as a State Police Officer. Then, after a multiple sclerosis diagnosis in 1974 forced him to retire from the force, Frank Bierwiler pledged to do something good with his life.

It was a few years later, Mr. Speaker, that he moved to Florida and started Daystar Hope Center, an organization giving food, clothing, and assistance with bills to central Floridians in need.

For nearly 20 years, the center has served as an example of the power and impact of benevolence and kindness. Its doors have welcomed thousands of Floridians in need and Mr. Bierwiler's perseverance and generosity have for so long ensured that those doors stay open.

Unfortunately, after 20 years of helping so many, the Daystar Hope Center is closing.

While it is unfortunate that the center is closing, many other charitable organizations, came into existence because of the success of the Daystar Hope Center. Frank's leadership fostered these other organizations and he always worked well with them.

I want to take this opportunity today to first commend Frank Bierwiler for his work in my district and to, second, draw attention to the extraordinary things that can happen when one determined, individual pledges himself to greatness.

Mr. Speaker, I ask you and all of my colleagues in this body to join me in honoring Frank Bierwiler and offering our sincere admiration for his work, life, and accomplishments.

HONORING THE BRAVE FIRE-FIGHTERS OF CALIFORNIA AND THE 3RD CONGRESSIONAL DISTRICT

HON. DOUG OSE
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. OSE. Mr. Speaker, I rise today to express my deep sympathy to the victims of the
fires that have been plaguing southern California this past week and even now continue to rage. I would also like to recognize the emergency assistance that has been mobilized to help the counties of Ventura, Los Angeles, San Diego, and San Bernardino. The scope of the devastation this disaster has delivered is vast. It has unfortunately claimed at least 14 lives, destroyed over 1,500 homes, and burned over 500,000 acres of land. In addition, over 50,000 people have been evacuated from their homes.

I would like to take this opportunity to recognize and thank the men and women from my district who, where capable, have dedicated their time to helping combat the fires in southern California. Calaveras County has donated 5 fire engines along with 15 fire fighters. Amador County has donated an entire team consisting of 2 engines and nine people, including one fire chief. In addition, Solano and Sacramento Counties have each dedicated significant resources to assist in the firefighting effort, including over three fire strike teams and two trucks. These mobilizations are fighting to alleviate the impact of this disaster even as I speak. It is my sincere hope that these brave men and women will be able to safely and swiftly contain these fires. My thoughts and prayers are with them.

TAIWAN NATIONAL DAY

HON. HILDA L. SOLIS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Ms. SOLIS. Mr. Speaker, I rise before you today to honor and congratulate the people of the Taiwan on their Double Ten: National Day. Earlier this month, on October 10, 2003, Taiwan celebrated its National Day. This special day for Taiwan is celebrated to commemorate the 1911 Wuchang uprising, which marked the beginning of a struggle towards political democracy.

On October 10, fireworks lighted the skies of Taiwan, and the streets were filled with large parades. This celebration is much like our 4th of July celebrations. Taiwan is a shining example of economic success and democratization. Taiwan’s accomplishments are numerous, and its success is attributed to its people.

In August of this year I had the pleasure of meeting Taiwan’s Vice President, Madame Annette Lu in Los Angeles. Vice President Lu is the first female vice president to serve Taiwan. She has devoted her time and efforts to promoting human rights, democracy, and technology. She has made countless contributions to the advancement of women in Taiwan. With her efforts and many other women like her, the women of Taiwan have progressed in education, business, politics, and society in general. Vice President Lu is a true dynamic democratic leader. She represents her people and her country well.

Once again, my best wishes and congratulations to the people of Taiwan on their Double Ten National Day.

RECOGNIZING THE 20TH ANNIVERSARY OF PHELPS HOSPICE

HON. NITA M. LOWEY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mrs. LOWEY. Mr. Speaker, I rise today to recognize the achievements of Phelps Hospice and to congratulate it on its 20th anniversary. Since 1983, Phelps Hospice has provided end of life care and comfort throughout Westchester County helping to relieve the physical, emotional, and spiritual pain of more than 2,000 patients and their loved ones. An essential element of this care is the personalized service that Phelps Hospice provides to meet the unique needs of each patient and his or her loved ones. Working with the patient’s primary care physician, Phelps Hospice develops a plan of care that matches the family’s needs with the abilities of its medical director, nurses, social workers, home health aids, spiritual counselors, psychologists, nutritionists, volunteers, therapists, and bereavement counselors.

Through support groups and memorial services, Phelps Hospice has provided bereavement counseling for the families of hospice patients, as well as for members of the community.

In addition, since 2002, Phelps Hospice has provided complementary care consisting of massage, music, pet and art therapy, making it one of the first hospices in Westchester County to incorporate complementary care into its list of services.

To aid in the care of patients, Phelps Hospice has trained hundreds of selfless volunteers in the past 20 years.

And, of course, the numerous services offered by Phelps Hospice are provided to all patients regardless of race, religion, color, national origin, sex, disability, age, sexual preference, or ability to pay.

I am honored to have this opportunity to congratulate Phelps Hospice on its 20th anniversary. Westchester County is undoubtedly a better place thanks to the tireless work of its staff and volunteers. I wish them the best of luck in the next 20 years—and more—of service to our community.

HONORING MARGARET ‘‘WEENIE’’ ROGERS GHIOTTO, BROOKSVILLE, FLORIDA’S ‘‘GREAT BROOKSVILLIAN’’

HON. GINNY BROWN-WAITE
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Ms. BROWN-WAITE. Mr. Speaker, I rise today to honor a woman who has for many years been an outstanding businesswoman, citizen, and veteran in my hometown of Brooksville, Florida. Margaret Rogers Ghiotto, known as “Weenie” to her close friends and family, was recently honored as a “Great Brooksvillian” for her work on behalf of the community.

Aside from owning and managing Rogers’ Christmas House Village and the Jennings House, which is on the National Register of Historic Places, Mrs. Ghiotto has a background in education, having taught children about the environment and the value of trees for many years.

At a ceremony in city hall this week as part of Brooksville’s Founders’ Week Celebration, Mrs. Ghiotto was honored with a plaque, reception, and many kind words. This weekend she will be the Grand Marshal of the Brooksville Founder’s Day Parade.

While this most recent honor is certainly a laudable one, it is not the first such accolade Mrs. Ghiotto has received. Over the years, she has been named the Hernando County Chamber of Commerce’s “Citizen of the Year.” AWBA’s “Business Associate of the Year,” and the Lions Club’s “Outstanding Citizen.” She even has awards named after her—the University of Florida Lambda Chi Alpha chapter gives an annual leadership award to a distinguished member, called “The Margaret Rogers Ghiotto Award” and the city of Brooksville honors businesses and individuals with the “Margaret Rogers Ghiotto Beautification Award.”

Mr. Speaker, I ask that you and my colleagues in this body join me in honoring this great woman and great citizen. We should all be so lucky as to have a Margaret Rogers Ghiotto in each of our districts.

HONORING THE SERVICE AND SACRIFICE OF HANK MASON

HON. STEVAN PEARCE
OF NEW MEXICO
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. PEARCE. Mr. Speaker, I rise today to recognize Mr. Hank Mason of Los Lunas, New Mexico for his distinguished service to our country during the Vietnam War. Mr. Mason is a great American, and recognition for his service to our country is long overdue. I thank him for his commitment to freedom and the sacrifices he endured while serving in Vietnam.

Mason earned, but never received, several war and service medals from the United States Army for his 3 years of service, including a tour in Vietnam. Mason says he has made many attempts for more than 3 decades to receive the medals that were due to him, with no avail. On Saturday, October 25, 2003, I was proud to present Mr. Mason with the military service medals he has been waiting for more than 34 years.

We must always recognize the men and women of our Armed Forces who have valiantly defended our American values throughout our Nation’s history. These remarkable individuals have helped to make America secure and have advanced the cause of freedom worldwide. By answering the call of duty, our veterans have risked their lives to protect their fellow countrymen. Individuals like Hank Mason have inspired our Nation with their courage, patriotism and dedication.

INTRODUCTION OF H.R. 3387

HON. LANE EVANS
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. EVANS. Mr. Speaker, I rise today to introduce H.R. 3387, the Veterans Health Programs Improvement Act of 2003. Mr. Speaker,
many of the provisions in the bill I am introducing with my colleague, the ranking member of the Health Subcommittee of the Committee on Veterans’ Affairs, Mr. RODRIGUEZ, are supported by the administration and have been offered to us previously in its request for draft legislation. Specifically, sections 2 through 6 of this bill are the draft bill of the Veterans Health Care and Benefits Act of 2003 requested by Secretary Principi on August 15, 2003.

Other provisions of this bill extend authorities or reports which already exist in law, but which are expiring. I believe it is critical that some of these activities continue to be mandated and carefully overseen by Congress.

VA has asked for the authority to provide up to 14 days of care to the newborn infants of women veterans. This allows VA to provide a more complete spectrum of care to women—particularly the younger women who are now serving in the military in record numbers. VA may, under current law, offer all maternity care, including labor, delivery and recovery, but once the infant is born, VA is forced to find other hospitals if the mother has no other health care benefits—to finance the care of the child. The cost of providing this benefit to the newborn infants of women veterans is negligible.

VA has also asked for authority to provide certain rehabilitative services under its medical care authority. A vital part of therapy for many of VA’s homeless, psychiatric, and substance use disorder recovery programs is the vocational activity. Successfully engaging in productive activity is viewed as a critical part of therapeutic activity. While the VA’s rehabilitation system has no other health care benefits—to finance the care of the child.

Last year the clock ran out on special health care eligibility for herbicide-exposed veterans of the Vietnam-era and also for our Persian Gulf veterans. I spent much of my early tenure here fighting for compensation for veterans who believed their illnesses were associated with exposure to Agent Orange and other herbicides. Learning from that experience, Congress gave veterans who served in the first Gulf war more of the benefit of the doubt by allowing them to be compensated for the vague, ill-defined conditions and illnesses that are not generally related to military service, but for which they seemingly to be at high risk. There seems to be a pretty serious schism between what we are doing to compensate veterans and the provision of care for conditions which they believe are related to their service. Without this special priority, some veterans who have not previously sought VA health care, may never be able to receive it. VA wants to continue to offer priority specialized treatment to veterans in these special priorities, and I fully support them in this effort. VA would also like to require veterans to provide information from their health insurers. Too often these private-sector payers are kinking in the cost-sharing from veterans or their spouses without paying toward their VA treatment. Veterans should be willing to share this information if they are receiving care at VA facilities and their health plans should be willing to reimburse VA as the providers’-of-choice. It is of great interest to veterans to offer this information as VA continues to mull tough choices of limiting services and those they will serve.

Finally, VA also requested permission to extend its authority to provide acquired properties to homeless service providers. These partners can purchase VA-acquired properties at discounts ranging from 20 to 50 percent. Through fiscal year 2002, 188 properties have been sold to homeless providers under the program, including two that were sold to a VA medical center for the compensated work therapy program. The shelters established in these properties have provided approximately 372,000 nights of shelter to homeless veterans. The VA has also entered into 52 leases with homeless providers. Most of these were subsequently converted into sales to homeless providers. Under current law, VA may not offer all maternity care to women veterans could be forced to work through several agencies and multiple points-of-contact adding complexity and confusion when veterans seem to be at high risk. There are already at a vulnerable turning point adding complexity and confusion when veterans seem to be at high risk. There are already at a vulnerable turning point allowing them to be compensated for vaguely defined conditions and illnesses that are not generally related to military service, but for which they seem to be at high risk. There seems to be a pretty serious schism between what we are doing to compensate veterans and the provision of care for conditions which they believe are related to their service.

In addition to the VA-requested provisions, I am proposing several extensions of reports and additional authorities that I strongly believe must continue to be provided to veterans. I am particularly confident that if the President comes to be asking for something in the annual report due last Spring that demonstrates VA continues to reform its health care delivery. It has become clear that since 1996, and likely before, VA has continued to pare back the resources it commits to its mental health programs. Congress is still awaiting the report due last Spring that demonstrates VA’s maintenance of these programs’ capacity in fiscal year 2002. These Committees serve as much needed internal spokespersons and advocates for the programs and are particularly vital in more fiscally constrained times. I am hopeful that my colleagues will agree that we continue to require the oversight of these internal watchdogs.

In addition to extending these reporting requirements. I would like to see Congress continue to ask that VA provide continuous care throughout vocational training. VA has also asked for the authority to provide certain rehabilitative services under its medical care authority. A vital part of therapy for many of VA’s homeless, psychiatric, and substance use disorder recovery programs is the vocational activity. Successfully engaging in productive activity is viewed as a critical part of therapeutic activity. While the VA’s rehabilitation system has no other health care benefits—to finance the care of the child.

HON. FRANK PALLONE, JR. OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 28, 2003

Mr. PALLONE. Madam Speaker, I rise today in support of H. Res. 409 that condemns recent anti-Semitic remarks by the Prime Minister of Malaysia.

Unfortunately, rather than openly condemn the Prime Minister for his remarks, many in the global community have remained largely silent on this issue. By not taking a stand against hateful speech, the international community is showing that it is okay for world leaders to promote bigotry and violence. By not taking a stand, members of the European Union and other world leaders are showing that other acts of hate speech will be allowed to continue without consequence.

That is why it is critical that Congress takes a stand and denounces these remarks and I urge my colleagues to support this resolution. It is important that we go on record to show that this type of hatred and bigotry is unacceptable—especially by world leaders who are expected to set an example for their people. By allowing these hateful remarks to go unacknowledged, that makes it that much more difficult to bring opposing sides together in the Middle East and puts us that much further from an eventual peace agreement.

Madam Speaker, I urge my colleagues to support H. Res. 409.

HONORING DR. JOHN ATANASOFF ON THE ONE HUNDREDTH ANNIVERSARY OF HIS BIRTH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 2003

Mr. LATHAM. Mr. Speaker, on October 30, 31 and November 1, 2003, Iowa State University in Ames, Iowa, will hold a landmark event that will be the Nation’s tribute to the late John Vincent Atanasoff’s 100th birthday (October 4, 2003). Dr. Atanasoff, along with electrical engineering graduate student, Clifford Berry, developed the world’s first electronic digital computer from 1939 to 1942 while serving as a
Dr. Cano Rodríguez, a prisoner of conscience in Cuba, is free to return home.

Dr. Marcelo Cano Rodríguez was arrested in Las Tunas. The illegal activities, according to Castro's puppet prosecutor, were that he visited prisoners as part of his work with the Cuban Commission for Human Rights and National Reconciliation and that he maintained ties to Doctors Without Borders. Dr. Cano Rodríguez was sentenced to 18 years in Castro's dungeon.

Mr. Speaker, I want to repeat that, Dr. Cano Rodríguez was sentenced to 18 years in Castro's gulag for visiting prisoners and maintaining ties to Doctors Without Borders. My colleagues, every one of us should be totally appalled that a physician who attempts to aid the oppressed and heal the sick is languishing in a dungeon for his merciful actions. My colleagues, we must demand immediate freedom for Dr. Marcelo Cano Rodríguez.

HON. MAX BURNS
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. BURNS. Mr. Speaker, I rise today to provide an explanation for my absence during votes yesterday evening.

During yesterday's votes, I was traveling back to Washington from a Congressional Delegation trip to Iraq. I appreciate the opportunity to visit our troops serving overseas and to witness firsthand the situation in Iraq. Our delegation arrived into the Washington area after votes had concluded.

PERSONAL EXPLANATION
HON. MAX BURNS
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

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FREEDOM FOR DR. MARCELO CANO RODRIGUEZ
HON. LINCOLN DIAZ-BALART
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise to speak about Dr. Marcelo Cano Rodríguez, a prisoner of conscience in totalitarian Cuba.

Dr. Cano Rodríguez is a Medical Doctor. As a physician, he has chosen to devote his life and his abilities to healing the sick, mending the lame, and easing the suffering of his patients. However, as Dr. Cano Rodríguez quickly learned, easing the suffering of the Cuban people is not a goal of Castro's dictatorship.

The longer Dr. Cano Rodríguez worked within the totalitarian healthcare system, the more he noticed medical resources being directed towards tourists who could pay with hard foreign currency. Dr. Cano Rodríguez, no longer able to work within a system that abandons citizens in favor of tourists, became the National Coordinator for the Cuban Independent Medical Association.

The Cuban Independent Medical Association is comprised of physicians who joined forces to set up independent clinics where equipment and drugs prescribed by doctors are distributed without charge. As Dr. Cano Rodríguez searched for ways to make his group more effective, he approached the Cuban Commission for Human Rights and National Reconciliation for guidance. After learning of the Commission's profession of basic human rights, he became an important member of that group.

Unfortunately, Dr. Cano Rodríguez, his being associated with two groups who profess to work to provide the Cuban people with their basic rights and their basic medicine proved to be too much for Castro and his machinery of repression. On March 25, 2003, Dr. Cano Rodríguez was arrested in Las Tunas. The illegal activities cited by Castro's puppet prosecutor, in the shamb trial were that he visited prisoners as part of his work with the Cuban Commission for Human Rights and National Reconciliation and that he maintained ties to Doctors Without Borders. Dr. Cano Rodríguez was sentenced to 18 years in Castro's dungeon.

Mr. Speaker, I want to repeat that, Dr. Cano Rodríguez was sentenced to 18 years in Castro's gulag for visiting prisoners and maintaining ties to Doctors Without Borders. My colleagues, every one of us should be totally appalled that a physician who attempts to aid the oppressed and heal the sick is languishing in a dungeon for his merciful actions. My colleagues, we must demand immediate freedom for Dr. Marcelo Cano Rodríguez.

HONORING ALEX SPANOS
HON. JOHN T. DOOLITTLE
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. DOOLITTLE. Mr. Speaker, today I wish to recognize Alex Spanos, as he will soon receive the STARBRIGHT Foundation's Heart of Gold Award for his selfless efforts on behalf of children with serious illnesses and their families, and for his extensive contributions to all children and youth.

Alexander Gus Spanos was born to loving parents in 1923 in Stockton, California. In 1942, he rendered service to his country by joining the Air Force. Six years later, he wed his life-long sweetheart, Faye Papafiklis.

In 1951, Alex quit his job at the family bakery, secured an $800 loan and bought a panel truck to start his own company, the A.G. Spanos Agricultural Catering. Soon, this new venture became the largest catering business of farm laborers in the United States. Alex began investing in real estate and, by 1956, he had become a millionaire. This allowed him to semi-retire and take on golf, in which he became a pro amateur within six years.

When changing farm labor regulations signaled the end of his catering business, Alex launched A.G. Spanos Construction. After building his first apartment complex in Stockton, California, in 1960, Alex expanded the company into neighboring states and across the southwestern and southern states. By 1977, his firm was the number one builder of apartments in the nation.


Mr. Speaker, not only is Alex G. Spanos a successful businessman, but he is also a successful human being. His family has always taken center stage in his life. As Mr. and Mrs. Spanos continue to be family owned and operated, as he has shared management responsibilities with his sons, Dean and Michael.

A noted philanthropist, he has reached out to those in need and given of his resources to help whenever and wherever he could. Over the years, he has contributed to his own community and to causes around the world by donating millions of dollars to charities, churches, hospitals, educational institutions, and civic and athletic organizations.

It is fair to say that Alex G. Spanos' outlook on life is best reflected in the title of his new book, The Strong of Heart. The communities and individuals he has touched throughout his life would attest to that.

Mr. Speaker, it gives me great pleasure to commend this distinguished citizen for his countless acts of service to his community, California, and the country.

EXPRESSING GRATITUDE TO MEMBERS OF U.S. ARMED FORCES DEPLOYED IN OPERATION RESTORE HOPE IN SOMALIA IN 1993

SPEECH OF
HON. SHEILA JACKSON-LEE
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, October 28, 2003

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H. Con. Res. 291 to offer my gratitude, for myself and on behalf of the constituents of the 18th Congressional District, to the soldiers who fell and who served our country in "Operation Restore Hope."

"Operation Restore Hope" was a 1993 United Nations peacekeeping venture to restore order in the East African country of Somalia, characterized by its nomadic society. The Operation was launched with guarded optimism but went tragically awry on Oct. 3, 1993 when 18 U.S. soldiers were killed in a firefight with Somali gunmen. A decade later, the Bush Administration now contemplates taking military action against alleged terrorist groups in Somalia who might have been responsible for the tragedy.

Man-made famine prompted the massive foreign intervention in Somalia. This famine was caused by a drought made murderous by a civil war that sent gunmen across the country's most fertile agricultural areas. At the famine's peak, more than 300 people starved to death each day in hard-hit towns like Baidoa and Baardheere because militia fighters first disrupted the lives of herdsmen and farmers, then stole the food aid sent to relieve their suffering. Throughout the worst of the crisis, gun-toting young militiamen looted most of the relief food as spoils of war or blocked its entry into the country through port cities by demanding extortionate amounts from aid ships waiting to dock.

In order to break the famine in Somalia, we had to break the stranglehold of the gunmen and allow aid to flow unimpeded.
The 100 elite U.S. infantrymen, who tried to capture and defeat a Somali warlord in his home, suffered 70 percent casualties—a figure sadly compared to a 1965 massacre in Vietnam’s La Drang Valley. So badly pinned down were the Americans in Mogadishu that they could not evacuate their wounded, including Ranger commander Lt. Col. Danny McKnight, for nine hours. The biggest problem in that situation was the thousands of young men floating around the country laying in wait for our American troops.

Since then President George Bush ordered more than 25,000 U.S. troops to intervene in Somalia in December 1992 to help stop deaths from starvation, exacerbated by clan warfare, 30 Americans died in combat and 175 were wounded. There also were six non-combat deaths, and seven soldiers were killed and one missing off the Kenyan coast in a crash this month of an AC-130 Specter gunship. In addition, about 68 U.N. soldiers were killed and 262 wounded, according to U.N. figures, making this the bloodiest peacekeeping operation since the Congo crisis three decades ago.

This situation is similar to that experienced by our troops today in Iraq. I visited the As Sayliyah Central Command Base in Doha, Qatar on October 13, 2003 and heard the concerns of the troops from their own mouths. Leaders of the units keep a warm smile and upbeat attitude to keep their troops feeling positive despite the compound feeling of vulnerability due to the failure of our government to timely relieve them and the feeling of vulnerability due to the lack of a sufficient number of trained MP’s. I heard testimony about how a ground soldier watched his partner and the operator of a military vehicle get tossed out as the vehicle was thrown airborne by a land mine. “Why did you hit this mine,” I asked. “It was just one of those mines that was missed in the sweep . . .”, said the soldier. Because there isn’t enough personnel or specialists to assign to technical tasks, unskilled or untrained technicians frequently get asked to do jobs that they have not mastered enough to keep the lives of those who must traverse the sands of Baghdad. He misses his wife and newborn baby dearly. Because there hasn’t been a change in the personnel on the front lines in several months, many reservists and active duty servicemen and women have spent a longer time in Iraq than was promised by the Administration. May 1, 2003 was supposed to have been a day of hope and homecoming; instead, it was a sham. Some of these troops feel like “sitting ducks” out in the foreign terrain. They don’t speak Arabic. They don’t know Tikrit like they know their hometowns. When I asked them if they have seen any troops of other coalition nations, they responded, “what coalition troops?” They need support and they need continued relief.

Many of the vulnerabilities that led to the deaths of the 18 soldiers in “Operation Restore Hope” affect our troops in “Operation Iraqi Freedom.” I value the service that our troops of “Operation Restore Hope” provided, and I am honored to support this important legislation to commemorate them.

Repudiating Anti-Semitic Sentiments Expressed by Dr. Mahathir Mohamad, Outgoing Prime Minister of Malaysia

Speech Of

Hon. Rahm Emanuel
Of Illinois

In the House of Representatives
Tuesday, October 28, 2003

Mr. EMANUEL. Madam Speaker, I rise as a cosponsor and in strong support of H. Res. 409, a resolution to repudiate the Malaysian Prime Minister for racist comments harmful not only to the global Jewish community but to the advancement of peace in the Middle East and global tolerance of racial and ethnic diversity.

The speech by Prime Minister Mahathir Mohamad to a gathering of Muslim leaders earlier this month has been described by other world leaders of democratic and free nations—including President Bush during his recent trip to Asia—as offensive and anti-Semitic. Rhetoric of this nature, which embodies age-old stereotypes, can be neither excused nor rationalized. It only serves to incite further sectarian violence and should be condemned universally.

Even more disturbing is that none of 57 national representatives attending the Organization of the Islamic Conference, including some U.S. allies, have raised their voices in protest. In fact, many demonstrated complicity in spreading this message of hate and incitement against Jews by applauding the Prime Minister’s remarks. The standing ovation he received and the subsequent defense of his remarks by almost all the participants at this meeting of Muslim leaders reminds us that anti-Semitic beliefs remain prevalent throughout the world, even in moderate states like Malaysia.

I was proud to be one of 80 Members of the House who signed a letter to the Prime Minister of Malaysia condemning his remarks and calling upon him to clarify or retract his statements. I also commend the Senate for passing a resolution condemning the Prime Minister’s remarks. The standing ovation he received and the subsequent defense of his remarks by almost all the participants at this meeting of Muslim leaders reminds us that anti-Semitic beliefs remain prevalent throughout the world, even in moderate states like Malaysia.

I am honored to support this important legislation and urge my colleagues to support it today.

20th Anniversary of the Brother Benno Foundation

Speech Of

Hon. Darrell E. Issa
Of California

In the House of Representatives
Wednesday, October 29, 2003

Mr. ISSA. Mr. Speaker, on Wednesday, October 29, the Oceanside community will celebrate the 20th anniversary of the Brother Benno foundation.

The foundation was established by Harold and Kay Kuther in 1983 based on the work of a Benedictine monk, Brother Benno Garrity, from the Prince of Peace Abbey in Oceanside, CA. Brother Benno died in 1992 after dedicating his life to feeding the poor and homeless.

The foundation began with a small soup kitchen at 307 Minnesota Street in Oceanside. It has since grown into a ministry addressing many types of social problems in San Diego County including hunger, homelessness, and alcohol and drug addiction.

Anyone needing help can come to Brother Benno’s programs and register for services provided by the foundation. In their 20 years of service the foundation has provided 132,000 nights of lodging, more than 453,000 meals of clothing, 18,900 blankets and medical and dental care.

On behalf of all the people whose lives have been touched by the Brother Benno Foundation I want to recognize the volunteers and support staff at the Brother Benno Foundation. Thank you for 20 years of service.

Congratulations the New Chapter of the College Republicans at Southern University

Speech Of

Hon. David Vitter
Of Louisiana

In the House of Representatives
Wednesday, October 29, 2003

Mr. VITTER. Mr. Speaker, I rise today to honor a new organization on the Southern University campus. A new chapter of the College Republicans has been created at this Historically Black University in Baton Rouge, Louisiana. This is a welcome event for all Louisiana Republicans.

My heartfelt congratulations are extended to all of the members of the Southern University College Republicans, and especially club president Gene Tinner, for their hard work in founding this new organization. I am confident that this chapter will earn respect on the Southern Campus and throughout Louisiana, and become a valuable addition to the state Republican Party. I am honored to share this affiliation with such a bright group of young Louisianans from one of our great educational institutions.

My best wishes go forth to this new group for their vision and leadership, and to the Southern University campus for their support.

100th Anniversary of Travelers Property Casualty

Speech Of

Hon. Melissa A. Hart
Of Pennsylvania

In the House of Representatives
Wednesday, October 29, 2003

Ms. HART. Mr. Speaker, I am privileged to have the opportunity to pay tribute to a leading Insurance Provider that serves Western Pennsylvania. October 24, 2003 marks the 100th anniversary of Travelers Property Casualty, a leading provider of a broad range of insurance products.

Travelers Property Casualty, located in Pittsburgh since 1903, currently employs more than 225 individuals. Travelers provides a wide range of insurance products including workers compensation, integrated disability, property, liability specialty lines and broiler and

Extensions of Remarks
machine

The company is the third largest commercial lines insurer and has been rated the second largest writer of homeowners and auto insurance through independent agents.

I applaud Travelers Property Casualty for their long-standing dedication to serving the people of Western Pennsylvania and all of their insurance needs.

I ask all of my colleagues in the House of Representatives to join me in honoring this successful business for their 100 years of service.

**Tribute to the Fred C. Fischer Library**

**Hon. Thaddeus G. McCotter**

of Michigan

In the House of Representatives

Wednesday, October 29, 2003

Mr. McCotter. Mr. Speaker, I rise today to pay tribute to the Fred C. Fischer Library of Belleville, Michigan, as it celebrates its 50th anniversary this year.

Serving the residents of Belleville, Sumpter Township, and Van Buren Township, the Fischer Library was built in 1953, when the public library outgrew its space at the J.C. Pullen Fund and 3 other libraries.

From 1953 until 1992 the Fred C. Fischer Library remained the quaint and homey 3,500 square foot library it was built to be. Meanwhile, the population of the area grew from 12,400 to over 35,000. The library became increasingly crowded and more bookshelves were needed to accommodate the growing collection.

Thanks to contributions from the Belleville Rotary Club’s Charles B. Cozadd Foundation, the Simester estate, many smaller individual contributions, federal grants, and the commitment of the City of Belleville, Sumpter and Van Buren Townships, the Fischer Library was able to triple the size of the library, expand its catalog to include just about everything from books to DVDs, as well as offer public internet access, and events for patrons of all ages.

The Fred C. Fischer Library continues to live up to its mandate of “making the library an attractive place for all users, young people particularly.”

Mr. Speaker, I hope my colleagues will join me in thanking the Fred C. Fischer Library for its outstanding service to the people of Michigan, and wish them well in the next 50 years.

**A Bill to Clarify the Tax Treatment of Contributions in Aid of Construction**

**Hon. Wally Herger**

of California

In the House of Representatives

Wednesday, October 29, 2003

Mr. Herger. Mr. Speaker, I am introducing legislation today to ensure that burdensome regulation does not add unnecessarily to the cost of housing.

The need for this legislation is brought about because the Department of Treasury has issued regulations to provide guidance on the definition of contributions in aid of construction, so called CIAC, as enacted under the Small Business Job Protection Act of 1996. Despite the fact that Congress specifically removed language concerning “customer services fees” in its amendment in 1996, the Department added the language back into the proposed regulation specifying that such fees are not CIAC. They then defined the term very broadly to include service laterals, which traditionally and under the common state law treatment would be considered CIAC.

Because state regulators require all of the costs of new connections to be paid up front, these regulations will force water and sewerage utilities to collect the federal tax from homeowners and small municipalities. Because they collect it up front, the utility is forced to “gross up” the tax by collecting a tax on the tax, resulting in an over 55 percent effective tax rate.

This bill will clarify prospectively that water and sewerage service laterals are included in the definition of contributions in aid of construction (CIAC). It clarifies current law by specifically stating that “customer service fees” are CIAC, but maintains current treatment of service charges for stopping and starting service (not CIAC).

Mr. Matsui and Mrs. Johnson along with many of our colleagues here in the chamber, worked hard over the course of a number of years to restore the pre-1986 Act tax treatment for water and sewage CIAC. In 1996, we succeeded in passing legislation. It was identical to pre-1986 law with three exceptions. Two of the changes were made in response to a Treasury Department request. The third removed the language dealing with “service connection fees” primarily because of potential confusion resulting from the ambiguity of the term. The sponsors of the legislation were concerned that the IRS would use this ambiguity to exclude a portion of what the state regulators consider CIAC.

As part of our efforts, we developed a revenue raiser in cooperation with the industry to make up any revenue loss due to our legislation, including the three changes. This revenue raiser extended the life, and changed the method, for deprecating water utility property from 20-year accelerated to 25-year straight-line depreciation. As a consequence of this sacrifice by the industry, our CIAC change made a net $274 million contribution toward deficit reduction.

What is most important to keep in mind is that this unnecessary tax of over 55 percent is passed directly on to homeowners and local governments. I urge my colleagues to join with us in sponsoring this important legislation in order to ensure that American homeowners do not face further burdens.

**Federal Employee Student Loan Assistance Act**

**Hon. Fred Upton**

of Michigan

In the House of Representatives

Tuesday, October 28, 2003

Mr. Upton. Mr. Speaker, I commend my colleagues for this needed legislation, which ensures the federal government’s deep commitment to its most capable workforce. But we should go even further. In order to best maximize federal government resources, we should encourage competition in all aspects of the student loan program, including consolidation loans.

In order to instill such competition, we will need to make sure that during the reauthorization of the Higher Education Act, which is currently moving through the Education and the Workforce Committee, we repeal the single holder fee. I want to thank Chairman Boehner and Congressman McKeon, for their efforts to keep college costs under control during consideration of this important legislation. It will be part of my commitment to them as well as Federal agencies, students and families throughout the country, that the benefit of competition from the more than one thousand qualified lenders in the program when they consolidate their loans and, thus, allow them to take advantage of historically low fixed interest rates.

**A Tribute to Rev. Robert M. Waterman**

**Hon. Edolphus Towns**

of New York

In the House of Representatives

Wednesday, October 29, 2003

Mr. Towns. Mr. Speaker, I rise in honor of Rev. Robert M. Waterman for his commitment to his congregation and dedication to his community.

Rev. Robert M. Waterman, the son of a Pentecostal preacher, was born in Brooklyn, New York. As a young man, he was reared in Highlandway, South Carolina, steeped in both the Pentecostal and Baptist traditions.

In 1985, he was licensed to preach by Abundant Life Tabernacle. Rev. Waterman also served as the Associate Pastor and Youth Pastor at Union Baptist Church in White Plains, New York under the pastoral guidance of Reverends Robert L. Mason and Verlin D. Williams. He began his work at Antioch on November 4, 2001, and was officially installed as the church’s reverend in May of 2003. During this time, Reverend Waterman graduated from the New York Theological Seminary with a Master of Divinity.

Rev. Waterman has brought many talents to Antioch including a youthful exuberance, a commitment to getting the job done, and a quiet yet ebullient spirituality. With his leadership, new seats and carpet have been installed in the balcony, an after school homework program was created, the Wednesday night bible study was revived, and a large influx of new worshippers have come to the church.

Since his installation, Reverend Waterman has worked closely with the youth ministry, forming Teens United for Fellowship (TUFF). He has also established leadership classes and retreats, reinstated the Christian education department, spearheaded the purchase of a state-of-the-art sound system in the sanctuary, and revived the Antioch Community Service program for youth and seniors. He has also been instrumental in the building fund for the elevator project.

Spiritually, Reverend Waterman is known as “The Preacher of Thunder” as he encourages his congregation to know God so that hearts, and thereby lives, can be changed. His commitment to Antioch, including his re-location to the Bedford-Stuyvesant community.

As Antioch Baptist Church celebrates its 85th anniversary, the church is stronger than...
ever with the guidance and leadership of Reverend Waterman.

Mr. Speaker, in a short time, Rev. Robert M. Waterman has already made a positive difference in the lives of the Antioch Baptist Church congregation and the Bedford-Stuyvesant community. As such, he is more than worthy of receiving our recognition. I hope that all of my colleagues will join me in honoring this truly remarkable individual.

RECOGNIZING MATTHEW FISH FOR ACHIEVING THE AWARD OF GOLD MEDAL OF ACHIEVEMENT

HON. SAM GRAVES
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Matthew Fish, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Royal Rangers of Northern Missouri and in earning the most prestigious award, the Gold Medal of Achievement.

Matthew has been very active with his troop, participating in many scout activities. Over the 10 years Matthew has been involved with the Rangers, he has held numerous leadership positions, serving as Patrol Guide and Senior Patrol Guide. He also was involved in Frontiersmen Camping Fellowship, Fine Arts Youth Department, and elected as National Scout.

Mr. Speaker, I proudly ask you to join me in commending Matthew Fish for his accomplishments with the Rangers and for his efforts put forth in achieving the highest distinction of Gold Medal of Achievement.

HONORING THOMAS J. SERRA ON THE OCCASION OF HIS RETIREMENT

HON. ROSA L. DeLAURO
OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Ms. DeLAURO. Mr. Speaker, it is with great pleasure that I rise today to join in paying tribute to one of Connecticut’s finest school administrators and community activists. People like Thomas Serra are what make our communities strong. From his important work educating the young people of Middletown for the past 30 years to his involvement in many other settings, he has dedicated his life to public service.

I often speak of our Nation’s need for talented, creative, enthusiastic teachers who are ready to help our children learn and grow. Tom Serra is just that kind of educator. Throughout his career, he has touched the lives of thousands of children—ensuring that they had the skills and tools necessary to be successful in their adult lives. Tom began as an English instructor at Vinal Technical High School where he would later take on the role of athletic coordinator. Fourteen years ago, Tom moved into administration becoming the school’s assistant director and for the last six years, he has been leading Vinal as the Director.

Public education is the cornerstone of the American dream, leveling the playing field and providing every child with the opportunity to make the most of his or her talents. It is talented professionals like Tom who truly shape the leaders of tomorrow. He is dedicated to the positive development of not only our children’s academic development as well. In speaking to Tom, his remarkable commitment and dedication to his students and Vinal is undeniable and I am sure his presence will be missed.

As a lifelong resident of Middletown, Tom is deeply involved in the life of his community. In serving one term as Mayor, actively participating on the Democratic Town Committee, the City Council, the Police Commission, as well as a myriad of other municipal committees and local service organizations, he has become one of Middletown’s most respected and highly-regarded leaders. I am confident that even in his retirement he will remain a strong and vocal advocate for Middletown and its residents.

Today, as Tom celebrates his retirement, I would like to express my deepest thanks and appreciation for his tireless efforts on behalf of the City of Middletown. He is a leader who is second to none, and his talent and commitment have enriched our lives. It is with great pleasure that I join his wife, Maryann; his children, Jason and Christopher; as well as the friends, family, friends, and community members who have gathered this evening to wish Tom many more years of health and happiness.

HONORING ST. BARNABUS EPISCOPAL SCHOOL

HON. E. CLAY SHAW, JR.
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. SHAW. Mr. Speaker, I rise today in recognition of St. Barnabas Episcopal School in Deland, Florida for the accomplishment of being chosen as a “National No Child Left Behind Blue Ribbon School of Excellence.” St. Barnabas has been an exceptional example of how the “No Child Left Behind” program ensures that every child learns, and that no child will ever be forgotten.

Since its conception in 1982, by the United States Secretary of Education under President Reagan, the Blue Ribbon School of Excellence has identified public and private schools throughout the country that exhibit extraordinary teaching and learning techniques. The Blue Ribbon award is given to a school in recognition of exemplary performance in the fields of both education and community service. This year, the United States Department of Education recognized 176 public and 47 private schools as Blue Ribbon Schools. St. Barnabas was the only Episcopal School to be recognized for this award this year. In order to be recognized as a National Blue Ribbon School, an intense, research-based list of criteria must be met. A Blue Ribbon School must excel in all areas of academic leadership, teaching, faculty and parent involvement, student achievement levels, as well as safety and discipline. The school’s test scores are constantly in the top 10 percent of the nation, St. Barnabas qualified by submitting their application for the National Blue Ribbon.

HONORING ST. BARNABUS EPISCOPAL SCHOOL

HON. E. CLAY SHAW, JR.
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Founded in 1971, St. Barnabas is also accredited by the Florida Council of Independent Schools. The school has an enrollment of 344 students ranging from Pre-Kindergarten to 8th Grade. What makes St. Barnabas excellent is the school’s drive for excellence both in and out of the classroom by stressing the growth of the student’s character as well as intellect. The school focuses on academic excellence, as well as sound moral values and high self-esteem. As an Episcopal School, St. Barnabas also stresses a strong relationship with God and the community in order to build well-rounded students and citizens.

On a more personal note, my grandmother, Nora Walker, was a principal, so education runs in my family. I understand the difficulties of teaching and raising young children, especially in today’s society. That is why I firmly believe in the President’s “No Child Left Behind” plan for education and believe it is the best course of action for our nation’s schools.

I am very pleased to see St. Barnabas Episcopal School following the President’s plan in becoming a “No Child Left Behind Blue Ribbon School of Excellence.”

Mr. Speaker, St. Barnabas should be an inspiration to all and I am honored to recognize them today in front of the entire Congress as pillars of the community as well as leaders in the field of education.

PERSONAL EXPLANATION

HON. JANICE D. SCHAKOWSKY
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Ms. SCHAKOWSKY. Mr. Speaker, on rollcall no. 570, Basic Pilot Extension Act of 2003, had I been present, I would have voted "nay.”

A TRIBUTE TO DR WALDABA H. STEWART, JR., PH.D

HON. EDOLPHUS TOWNS
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of Dr. Waldaba H. Stewart, Jr. for his commitment to public service and active involvement in New York’s civic affairs for more than 40 years.

While Dr. Waldaba H. Stewart, Jr. is a native of Panama, he has been a vital asset to the Brooklyn community for more than four decades. Starting with the Unity Democratic Club in 1960, he worked as an Election District Captain and Campaign Manager for the late Thomas R. Fortune, Executive Member. Dr. Stewart was a diligent member of the Unity Democratic Club and was helping and supporting in all political elections.

In 1968, he began his own political career as a successful candidate for State Senate, where he served for four years. From 1968–1969, he served as Statewide Chairman of the NAACP Political Action and Voter Registration Committee. He was also one of the founding members of the Board of Directors of the Commerce, Labor, and County of Kings Corporation that converted the Brooklyn Navy
Recognizing Andrew Stafford for Achieving the Award of Gold Medal of Achievement

Hon. Sam Graves
Of Missouri

In the House of Representatives
Wednesday, October 29, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Andrew Stafford, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Royal Rangers of Northern Missouri and in earning the most prestigious award, the Gold Medal of Achievement.

Andrew has been very active with his troop, participating in many scout activities. Over the 11 years Andrew has been involved with the Rangers, he has held numerous leadership positions, serving as Patrol Guide and Senior Patrol Guide. He also was involved in Frontiersmen Camping Fellowship and Fine Arts Youth Department.

Mr. Speaker, I proudly ask you to join me in commending Andrew Stafford for his accomplishments with the Royal Rangers and for his efforts put forth in achieving the highest distinction of Gold Medal of Achievement.

Honor the Honorable Guido Calabresi As He Is Honored With The Charles A. Rapallo Award

Hon. Rosa L. DeLauro
Of Connecticut

In the House of Representatives
Wednesday, October 29, 2003

Ms. DELAUCO. Mr. Speaker, It is with great pride that I rise today to join the Columbian Lawyers Association in paying tribute to one of the New Haven community’s most outstanding citizens, and my dear friend, the Honorable Guido Calabresi. In recognition of his contributions, Judge Calabresi will be honored with the thirty-eighth annual Charles A. Rapallo Award.

The first Italian-American appointed to the New York State Court of Appeals, Charles A. Rapallo has served as an example to many young law professionals. Each year, the Columbian Lawyers Association, a professional organization of Italian-American attorneys, honors an individual who has demonstrated a unique commitment to the field of law. Though he has been recognized with a myriad of honorary degrees, awards, and commendations—both in the United States and abroad—the Charles A. Rapallo Award is a true reflection of the many invaluable contributions Guido has made to the judiciary and the bench.

Born in Milan, Italy, Judge Calabresi has become one of New Haven’s most respected scholars in the field of Law. Graduating from Yale University, Oxford University, and Yale Law School, where he was first in his class, his impressive career has spanned nearly half a century. From clerking for United States Supreme Court Justice Hugo Black, to serving as Dean and Sterling Professor at Yale Law School, to his judicial appointment to the United States Court of Appeals—he has been a career that will leave a legacy which is sure to inspire generations to come. He has lived the American Dream.

Throughout his life, Judge Calabresi has also demonstrated a unique commitment to his community. As a professor, he continues to touch the lives of hundreds. Though appointed to the United States Appeals Court nearly a decade ago, Judge Calabresi continues to serve as a member of the faculty of Yale Law School as Sterling Professor Emeritus and Professional Lecturer. Those he has trained will go on to teach others, for his is not just a legacy of books and articles but of ideas and inspiration.

I have known Judge Calabresi for many years and consider myself fortunate to call him my friend. It is with great pleasure that I stand today to join his wife, Anne, family, friends, and colleagues in extending my congratulations to Judge Guido Calabresi on this very special occasion. Friend, teacher, public servant—he has left an indelible mark on this community and we have been fortunate to benefit from his brilliance and unparalleled generosity.

Honor Leslie and Rita Gorenflo, 2002 Angels in Adoption

Hon. E. Clay Shaw, Jr.
Of Florida

In the House of Representatives
Wednesday, October 29, 2003

Mr. SHAW. Mr. Speaker, I rise today to recognize Leslie and Rita Gorenflo, my 2002 Angels in Adoption.

Every year the Congressional Coalition on Adoption asks Members of Congress for an honoree(s) from their congressional district that has made a remarkable difference in the area of adoption. Last year the Children’s Home Society of Florida informed me of a very special family in Palm Beach County, the Gorenflos.

Mr. Speaker, Leslie and Rita Gorenflo have blessed the lives of six children who they have adopted. All of the children in their home have special needs, most of them medical. Rita is a registered nurse, but no longer works outside the home because she practices her nursing skills with her children. Along with giving out medication, administering tube feedings and breathing treatments, Rita hands out much love and encouragement. Les works long and hard so that Rita can stay at home to care for the children and be their advocate. Not only is Rita a wonderful advocate for her children, she is always the first to volunteer to speak publicly to share her story and encourage others to adopt. It is not unusual to see this family’s picture in the newspaper, or on television, telling the world what an honor and privilege it is to be an adoptive parent. The smiles on the faces of the children tell us how blessed they are to be members of this loving family.

Mr. Speaker, November is National Adoption Month, and as our nation honors both adoptive parents and children, we salute those who have made a loving family environment for so many children. I am honored to have this wonderful family as constituents in my congressional district and I am proud to recognize them as Angels in Adoption.

Personal Explanation

Hon. Janice D. Schakowsky
Of Illinois

In the House of Representatives
Wednesday, October 29, 2003

Ms. SCHAKOWSKY. Mr. Speaker, on rollcall No. 579, rule to report, the Conference Report on H.R. 2215, rollcall No. 571, Markey motion to instruct Conferences on H.R. 6, rollcall No. 572, Woolsey Motion to instruct Conferences on H.R. 1308, rollcall No. 5731, Brown (OH) Motion to instruct Conferences on H.R. 1, had I been present, I would have voted “yea.”

A Tribute to Raul King

Hon. Edolphus Towns
Of New York

In the House of Representatives
Wednesday, October 29, 2003

Mr. TOWNS. Mr. Speaker, I rise to honor Raul King for his success in the realty business, which has earned him the Thomas R. Fortune Business Award.
Raul King was born on March 17, 1946 in the Dominican Republic. The son of Rosa and Pedro King, and the second of five children, Raul came from modest and humble beginnings. At an early age, Raul learned the value of hard work.

He worked as a boiler mechanic on a locomotive train that would cross the town of Sanchez where he lived. In the summer of 1963, at the age of 17, Raul enlisted into the navy, earning the rank of Officer Petty Class.

In 1970, Raul made his first trip to the United States, where he arrived in New York. Once in New York he worked as a mechanic and obtained his G.E.D. at Bushwick High School.

In 1981, Raul got involved in real estate investments and through perseverance and trial and error, he became a promising real estate salesperson. By 1990, Raul obtained his license in real estate and became a licensed Realty Broker.

For the past decade, Raul has shown a passion for the realty business and he has no plans to retire.

Raul and his wife Beebis King have been married for 23 years. They now have four children and five grandchildren.

Mr. Speaker, from humble beginnings, Raul King has come to this country and has become a successful realtor through hard work and dedication. As such, he is more than worthy of receiving our recognition. I hope that all of my colleagues will join me in honoring this truly remarkable individual.

RECOGNIZING JASON BREWER FOR ACHIEVING THE AWARD OF GOLD MEDAL OF ACHIEVEMENT

HON. SAM GRAVES
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Jason Brewer, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Royal Rangers of Northern Missouri and in earning the most prestigious award, the Gold Medal of Achievement.

Jason has been very active with his troop, participating in many scout activities. Over the eleven years Jason has been involved with the Rangers, he has held numerous leadership positions, serving as Patrol Guide and Senior Patrol Guide. He also was involved in Frontiersmen Camping Fellowship.

Mr. Speaker, I proudly ask you to join me in commending Jason Brewer for his accomplishments with the Royal Rangers and for his efforts put forth in achieving the highest distinction of Gold Medal of Achievement.

HONORING THE CLIFFORD W. BEERS GUIDANCE CLINIC ON THEIR 90TH ANNIVERSARY

HON. ROSA L. DELAURO
OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Ms. DeLAURO. Mr. Speaker, it is with great pleasure that I rise today to join with staff, clients, and the Greater New Haven community in celebrating the 90th Anniversary of the Clifford W. Beers Guidance Clinic of New Haven, Connecticut. This is a milestone for a special organization.

“A pen rather than a lance has been my weapon of offense from Clifford’s; for with its point I have felt sure that I should one day prick the civic conscience into a compassionate activity, and thus bring into a neglected field earnest men and women who should act as champions for those afflicted thousands least able to fight for themselves.” With this passage from Clifford W. Beers’ A Mind That Found Itself, has and continues to be the guiding principle of the clinic and its staff. Since its inception in 1913, the clinic has strived to address the critical needs of the mentally ill and has expanded its mission to assist children and families who face such crises as violence, teenage suicide, drug use, homelessness, physical and sexual abuse, and the impact of AIDS on children.

Clifford Whittingham Beers, one of the first mental health advocates in America, founded the clinic as a compassionate alternative to early psychiatric institutions where the mentally ill were treated. His own battle with mental illness inspired Beers to the belief that those suffering from “diseases of the mind” would have the best chance to become healthy and productive if they received treatment and understanding in their own communities. His work and unparalleled advocacy changed the face of American psychiatry.

Today, the clinic, working with local agencies and organizations, is able to provide a multitude of programs to those most in need. The partnerships they have established allow them to provide comprehensive services to their clients—making a real difference in the lives of thousands of children and families.

Just recently, I had the opportunity to visit the Clifford Beers Clinic and was touched by the story of a man whose children received care at the clinic. The pure gratitude that this man expressed to the clinic and its staff for being there for him and his family is indescribable. In building upon the vision of Clifford Beers, the clinic has been able to provide one of life’s most precious gifts—hope.

Through its gift of hope, the Clifford Beers Clinic has left an indelible mark on our community and the thousands of lives they have touched. For its many invaluable contributions to our community and for all of their work on behalf of our children and families, I am proud to stand today and extend my sincere congratulations to the Clifford W. Beers Guidance Clinic on their 90th Anniversary.

IN HONOR OF BILL AND TRICIA MANNING—THE 2003 ANGELS OF ADOPTION

HON. E. CLAY SHAW, JR.
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. SHAW. Mr. Speaker, I rise today to recognize Bill and Tricia Manning, my 2003 Angels of Adoption—Bill and Tricia Manning.

Bill and Tricia Manning have been members of Place of Hope for many years. Place of Hope is a family-style community that fosters children in group homes. The Mannings caught the vision and began helping even prior to the arrival of foster children into Place of Hope’s unique campus and family cottages.

Tricia is employed at Place of Hope as a Relief Cottage Parent, providing consistent weekly relief care at the Brett Harris Weinstein Family Cottage for six foster girls. She also owns her own business, and is a certified MAPP trainer for foster and adoptive families. Although her husband Bill works full-time, he also recently completed a Masters Degree and volunteers countless hours, along with their two children, at Place of Hope supporting Tricia and the efforts of Place of Hope.

When the Mannings started working with Place of Hope, they had already adopted a boy from Romania. In addition, the Mannings were foster/adoptive parents in the state of Florida. They later adopted another boy through the public child welfare system.

Bill and Tricia are always there for children in need. They continue to provide foster care, currently for two more beautiful children in need. They have hearts for children and it shows through their dedication and commitment to them. Bill and Tricia make a great team and provide a wonderful balance for each other.

Bill and Tricia Manning are very appreciated for all that they do each day for hurting children within our South Florida community.

Mr. Speaker, as we recognize the month of November as National Adoption Month, I am honored to have this wonderful family as constituents in my congressional district. It gives me great privilege to nominate them as Angels of Adoption.

A TRIBUTE TO HARRY T. PINCHBACK

HON. EDOLPHUS TOWNS
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of Harry T. Pinchback for his long-time public service and commitment to the Brooklyn community.

A descendant of P.B.S. Pinchback, the first African American to become a state governor, Harry T. Pinchback was born and raised in the Bedford-Stuyvesant neighborhood of Brooklyn. In his late teens, he moved to the Brownsville section of Brooklyn. He and his wife Peggy have been married for 45 years, and they have a daughter Angela and a grandson named Paris.

“Pinch,” as he is universally known throughout Brooklyn, graduated from Alexander Hamilton High School in Brooklyn and would later attend John Jay College of Criminal Justice for two years.

Bedeviling public service, Pinch first pursued a career as a professional singer and then as a professional baseball player, where he played left field for the St. Louis Cardinal minor league organization.
Back in Brooklyn, Pinch joined the New York City Police Department (NYPD) in 1967. He was the first supervisor of the summer youth program for the 75th Precinct in Brook-lyn, which took children on recreational and educational field trips. He was also the first supervisor of the cadet program for the 75th Precinct, which was a training program for those who wanted to enter the police force. Pinch was also the first coordinator of the school crossing guard program for the 75th Precinct.

Additionally, he risked his life on the force in several dangerous situations, working on the narcotics unit in Brooklyn and on undercover assignments throughout New York City.

Pinch was also the first African-American selected to the NYPD softball team and one of the first African-Americans selected to the NYPD football team.

After retiring from the NYPD in 1988, he returned to public service, working as a Special Assistant for Congressman Ed Towns, where he still continues to serve.

Mr. Speaker, Harry T. Pinchback has had a long and distinguished career serving the people of Brooklyn, first as a police officer and then in the Office of Congressman Ed Towns. As such, he is more than worthy of receiving our recognition. I hope that all of my colleagues will join me in honoring this truly remarkable individual.

RECOGNIZING KARL CULLEN FOR ACHIEVING THE AWARD OF GOLD MEDAL OF ACHIEVEMENT

HON. SAM GRAVES
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Karl Cullen, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Royal Rangers of Northern Missouri and in earning the most prestigious award, the Gold Medal of Achievement.

Karl has been very active with his troop, participating in many scout activities. Over the 10 years Karl has been involved with the Rangers, he has held numerous leadership positions, serving as Patrol Guide and Senior Patrol Guide. He also was involved in Frontiersmen Camping Fellowship and Fine Arts Department Youth at the National Level.

Mr. Speaker, I proudly ask you to join me in commending Karl Cullen for his accomplishments with the Royal Rangers and for his efforts put forth in achieving the highest distinction of Gold Medal of Achievement.

A TRIBUTE TO REV. RICHARD A. HATCHER

HON. EDOLPHUS TOWNS
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of Rev. Richard A. Hatcher for his exemplary and distinguished service to his congregation, which has earned him the Thomas R. Fortune Pastor of the Year Award.

Rev. Hatcher was born in Slab Fork, West Virginia to the late Letcher and Eva Hatcher. In 1959, he moved to New York City where he met Susie Clarke, who after an extensive courtship would later become his wife. Their union resulted in three children, Kecia, Nicole and Richard Hatcher, Jr.

While dedicated to serving in Christian fellowship at the Mount Pleasant Baptist Church, Rev. Hatcher received the calling to God’s ministry. After intensive studies at the Manhattan Bible Institute, he became a licensed minister. Shortly thereafter, Rev. Hatcher was ordained. He furthered his education, earning a Bachelor of Arts degree from the College of New Rochelle.

Rev. Hatcher pastored at Bethenia Baptist Church for 15 years. Through his leadership and with God’s blessings, the church was able to acquire adjoining property which led to the expansion and renovation of the church, including the installation of new pews, purchasing a new piano, construction of new office space, and creating a learning room for the youth and a room solely designed for prayer. The renovation also included a complete face-lift of the main sanctuary. Weekly bible study and the “Hour of Power” prayer service were instituted to further serve as a spiritual base for Bethenia’s members.

Although the loss of his beloved wife, Susie, was devastating, it did not weaken his faith or commitment to his calling. On July 9, 2000, Rev. Hatcher preached his initial sermon as Pastor-Elect of Bethesda Memorial Baptist Church. Although it has been only three years, Rev. Hatcher has proved to be a spiritual leader, teacher and motivator. His accomplishments are already numerous. They include getting the day care functioning again, installing a bathroom in the daycare, enlarging the pastor’s office, opening a trustee room, and establishing a music room. Marble floors have been installed in the lobby and several of the church’s windows have been replaced and upgraded. The Rev. Hatcher also started a Food for Survival and Food Bank Program as well as a soup kitchen, which feeds up to 150 people.

Mr. Speaker, Rev. Richard A. Hatcher has been an exemplary pastor to his congregation, serving as a spiritual leader and teacher for the community. As such, he is more than worthy of receiving our recognition. I hope that all of my colleagues will join me in honoring this truly remarkable individual.

RECOGNIZING MICHAEL KINCHELO FOR ACHIEVING THE AWARD OF GOLD MEDAL OF ACHIEVEMENT

HON. SAM GRAVES
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Michael Kinchelo for his accomplishments with the Royal Rangers and for his efforts put forth in achieving the highest distinction of Gold Medal of Achievement.

Michael has been very active with his troop, participating in many scout activities. Over the eleven years Michael has been involved with the Rangers, he has held numerous leadership positions, serving as Patrol Guide and Senior Patrol Guide. He also was involved in Frontiersmen Camping Fellowship.

Mr. Speaker, I proudly ask you to join me in commending Michael Kinchelo for his accomplishments with the Royal Rangers and for his efforts put forth in achieving the highest distinction of Gold Medal of Achievement.

A TRIBUTE TO LENA SCARBOROUGH-GATES

HON. EDOLPHUS TOWNS
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of Lena Scarborough-Gates for her commitment to the education of our children.

Lena Scarborough-Gates was born in Brooklyn, New York. She attended Brooklyn College where she received her Bachelor’s of Arts Degree and Master’s of Arts Degree, both in Early Childhood Education. She was accepted into the Assistant Principal’s Internship program, sponsored by the Department of Education where she was awarded four supervisory licenses, Principal, Assistant Principal, Education Administrator and Early Childhood Supervisor. She began work on her doctorate degree at New York University.

Lena started her teaching career at the Emanuel Day Care Kindergarten at Emanuel Baptist Church. She then moved on to become Group Teacher at the Faith Hope and Charity #1. After a few years at Faith Hope and Charity #1, she began her career at the New York City Department of Education, Community School 21 as a kindergarten teacher. At Community School 21, she also served as a first grade teacher, Community School Coordinator and staff developer.

She furthered her professional career by moving to Public School 5 as an Assistant Principal. Later, she would become Principal of Public School 5.

Lena is a member of the Antioch Baptist Church where she serves as the chairperson of the Board of Trustees and as a member of the Antioch Music Ministry. She is a member of the Antioch Community Service Corporation and founder of Caring Educators in Action. She is also a member of the Stuy Park Lion’s Club International.

Lena is a member of the Ebony Ecumenical Ensemble, which has afforded her to travel throughout the country. The Ebony Ecumenical sings as one of its featured songs, a song written by Dr. James A. Forbes, senior minister of the Riverside Church called “Love My Children.” Lena, who has a passion for children, says that this song is a tribute to children everywhere.

Lena is married to James Gates and that union has been blessed with twin sons, Jaime Derrell and Jarrarie Darryl.

Mr. Speaker, Lena Scarborough-Gates has dedicated her professional career to educating our children. As such, she is more than worthy of receiving our recognition. I hope that all of my colleagues will join me in honoring this truly remarkable individual.
SPEECH OF
HON. ERIC CANTOR
OF VIRGINIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, October 28, 2003
Mr. CANTOR. Madam Speaker, today I rise in support of H. Res. 409—Repudiating the recent anti-Semitic sentiments expressed by Dr. Mahathir Mohamad, the outgoing prime minister of Malaysia, which makes peace in the Middle East and around the world more elusive, sponsored by my good friend Representative Roy Blunt.

Prime Minister Mahathir Mohamad has repeatedly crossed the line voicing offensive and inappropriate criticism of Jews. Instead of speaking about fighting terrorism or furthering peaceful cooperation, he chooses to preach hate. Mahathir’s verbal attacks on Jews lent credence and legitimacy to the hateful message of terrorists.

Today the Congress will do the right thing by condemning Mahathir’s remarks and by making military aid to Malaysia conditional on religious freedom, including greater tolerance of Jews.

Malaysian Foreign Minister Syed Hamid Albar this afternoon complained that the religious freedom vote was an example of the United States trying to “discipline the world in their own mold.”

To the Malaysian Foreign Minister, I respond, you are absolutely correct. In America a person is not judged because of who they worship and they are not persecuted by the government for believing in the wrong God. For over 200 years America has been a beacon of hope and freedom for the rest of the world. We have stood the test of time; defending the rights of the individual to pursue happiness as they choose. America has an obligation to aid nations that further peace through tolerance and freedom, Malaysia needs to understand that.

Europe and the Organization of the Islamic Conference needs to issue a strong and real renunciation of Prime Minister Mahathir’s remarks. The renunciation of these hateful comments would do more to create a safe and secure world than all the hate-filled rhetoric ever will.

Tribute to Dick and Doris Alaimo
HON. JIM SAXTON
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003
Mr. SAXTON. Mr. Speaker, I rise today to pay tribute to Dick and Doris Alaimo, who have been chosen as this year’s recipients of the Lloyd Ritter Community Service Award given by the Volunteer Center of Burlington County, NJ.

Dick and Doris are well-known throughout southern New Jersey for their outstanding history of community service and involvement in local organizations, and have been personal friends for many, many years, during which time we have worked together on many projects for the benefit of our community.

The Alaimos work in tandem with Memorial Hospital of Burlington County’s Foundation, the Burlington County Chapter of the Boy Scouts of America and the Rancocas Valley Education Foundation. They served on the board of directors for the committee for Mount Holly Pro Day, an event which brings illustrious sports figures such as Mount Holly native Franco Harris into the limelight in effort to raise funds for local children in need, a cornerstone of much of their work through the years.

Successful in careers, business, and in life, Dick and Doris Alaimo have generously shared their success, time, money, energy and most importantly, care and concern with the community, always striving to make our hometown a better place to live and work. It is for these reasons they have been selected to receive this prestigious award, and for these reasons I pay tribute to them today.

May their legacy of volunteerism continue through their children, grandchildren, and the community they so love.

A Fair Fight in the Philippines
HON. TOM FEENEY
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003
Mr. FEENEY. Mr. Speaker, this Member commends to his colleagues the October 18, 2003, New York Times op-ed by Brett Decker titled “A Fair Fight in the Philippines.” I particularly note that American aid to the Philippine military has wound up on the black market or in the hands of Islamic radicals. America can’t pursue its War on Terrorism by practicing the old ways of doing business.


A Fair Fight in the Philippines
(By Brett M. Decker)

President Bush is in Manila today to visit his ally in the war against terror, President Gloria Macapagal Arroyo of the Philippines. Mr. Bush has already announced some $340 million in aid to the Philippines this year, and President Arroyo has said she plans to request additional military assistance to fight terrorism. There’s only one problem with this alliance.

American aid hasn’t improved the Philippine military so far, and in many ways it has benefited the Islamic militants it seeks to combat.

In August, Gen. Narciso Abaya, chief of the Philippine armed forces, made an alarming statement about the condition of his military: “I admit there is graft and corruption at all levels.” A significant share of the military budget is lost to graft. Selling military hardware on the black market is another common practice. Recent raids of bases of the separatist Moro Islamic Liberation Front have turned up caches of arms with Philippine military markings.

Even American assistance is siphoned away. Testimony before the Philippine Congress in the past several months revealed that American M-16s provided to the Philippine armed forces have recovered in camps belonging to Abu Sayyaf, a band of guerrillas and kidnappers. Assault rifles, grenade launchers and other American arms have been used against Philippine troops—the very troops United States funds are supposed to assist.

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American aid to help fight Islamic radicals is often offset by bribes soldiers take from terrorists to let them get away. Operatives affiliated with Al Qaeda have escaped from maximum-security military prisons, once using a helicopter.

If Washington and Manila are serious about eliminating the threat, the United States Special Forces should be given the assignment. The terrorist group consists of about 100 poorly trained amateurs. They would be no match for American soldiers already in the Philippines, but they are still eluding Filipino troops.

The Philippine Constitution does not allow foreign troops to wage wars on Filipino soil. It does, however, allow the United States to come to the defense of the Philippines if the islands are attacked. Such an action can be justified in the present case because the terrorist groups get foreign money.

The mission could win support on Capitol Hill because the situation in the Philippines is precisely what the one in Iraq is not: there is a known enemy of limited ability and numbers on a few small, isolated islands with scant local support. There is minimal risk of escalation because the country is only about 5 percent Muslim. Perhaps more important, fellow Filipinos do not support Abu Sayyaf. Separatist Moros view them as a for-profit gang of thugs rather than a religious movement to defend Islam.

The provincial government in the Autonomous Region of Muslim Mindanao ordered his security force to cooperate in the hunt for Abu Sayyaf.

Unless the integrity of arms transfers to the Philippine military can be guaranteed, which is not likely, the United States should consider cutting off military aid to the Philippines and replacing it with economic support to help develop the poor Muslim islands in the south.

There has been some success in winning local “hearts and minds” already.

After building a few roads, bridges, sewers and wells last year, American soldiers were cheered by appreciative Muslims as the troops pulled out of Mindanao. More aid for infrastructure could go a long way to soothing centuries of resentment derived from being shut out of the nation’s oil wealth.

A rerouting of American aid would have the added benefit of helping bolster Philippine democracy. The military has instigated coups in every administration except one since 1965. Withholding support from the Philippine brass sends the message that Washington—the important ally—expects the military to keep its hands off the civilian institutions of government.

The White House should carefully assess what course will best help stabilize one of its most reliable allies in Asia. Despite the inevitable complications, the Philippines is worthy of American assistance.

In Honor of the Silicon Valley Manufacturing Group’s 25th Anniversary
HON. ZOE LOFGREN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003
Ms. LOFGREN. Mr. Speaker, my colleagues, Representatives ESHOO and REPUBLICAN HONDA of the Silicon Valley Manufacturing Group on its 25th anniversary, an organization that has effectively advocated on behalf of the residents and businesses of California’s Silicon Valley.

October 30, 2003 CONGRESSIONAL RECORD — Extensions of Remarks E2167
The Silicon Valley Manufacturing Group was founded by David Packard, who during the summer of 1977, asked a number of his fellow Silicon Valley CEOs to join him in building an organization that would create a proactive voice for Silicon Valley businesses. The formation in 1978 of the Manufacturing Group was the result of those discussions. The 33 charter members believed that business should work with the community and government to find innovative solutions to the challenges that faced their employees, including energy, transportation, education, and housing.

Today, the Manufacturing Group represents a variety of Silicon Valley businesses from software and manufacturing companies, to health care and education organizations. The 190 member-companies of the Manufacturing Group represent over 200,000 employees in the Silicon Valley.

During the quarter century since it was first founded, the Manufacturing Group has had a tremendous impact on the quality of life in Silicon Valley. They’ve brought leaders together to discuss the critical issues of our time and create solutions to these challenges. They’ve been at the forefront of the creation of affordable housing, improving and increasing transportation, and being key players in addressing California’s energy concerns. Today, member-companies do their part by conserving through increased efficiency, and working with regulators and energy companies to find solutions to the State’s energy problems.

The Manufacturing Group was a key force in the creation of the Housing Trust of Santa Clara County and played a major role in the Trust being able to raise over $20 million in its first 2 years. This funding, raised during a time when corporate donations began to wane, is an extraordinary achievement, producing housing for first-time home buyers and stands as a model in our country. With the Manufacturing Group’s leadership, the Housing Trust will return the investment ten-fold and assist families to realize their dream of homeownership.

The Manufacturing Group’s track record on public transportation projects in the Valley has been extraordinary. Their first major initiative was in the late 1970s when they launched the effort to win the approval of improvements of Highways 85, 237 and 101. The project funded by the Measure A half-cent sales tax proposal was completed ahead of schedule and under budget, and most importantly it was accountable to the people who passed it. The Manufacturing Group went on to spearhead other critical transportation measures in 1992, 1996, 2000 and 2002, all of which were successful, even after the law required a two-thirds voter approval.

With the outstanding leadership of Carl Guardino, the Manufacturing Group’s President and CEO, annual forums are held to predict economic and infrastructure trends and the examination of what inhibits producing and keeping jobs in the Silicon Valley.

Mr. Speaker, we are exceedingly proud of the work and the achievements of the Silicon Valley Manufacturing Group. The organization has been a catalyst for important change and because of its leadership, the quality of life and the vitality of businesses have been enhanced.

We ask our colleagues to join us in saluting the Silicon Valley Manufacturing Group on its 25th anniversary and the great achievements they have brought about, making Silicon Valley known and admired around the world and a source of pride to our entire nation.

HONORING JOHN CALVELLI
HON. ELIOT L. ENGLE
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. ENGLE. Mr. Speaker, it is a pleasure for me to announce that my former Administrative Assistant, John Calvelli, is turning 40. It is hard to believe that the lanky kid I met when I was now older than Jack Benny always claimed to be. I guess it makes me realize that I am that much older too, although I constantly remind John that he has more grey hair than me.

I won my first primary election for Congress on September 15, 1988, the day John turned 25. I told him then that “we’re going to Washington together” and indeed we did. During those first months in Washington, we would sometimes walk outside, gaze at the Capitol dome and say to each other, “Do you believe we’re really here?” I think that at 25, John was the kid brother I never had, but he showed the bill’s sponsor, my House Administration colleague, Chairman Bob Ney, and the support of former Ranking Member Steny Hoyer, we now have the foundation for a much more efficient voting system.

During the past year, this foundation has indeed started to take shape. As a result of HAVA, a program has been established to pay states to replace their punch card and lever voting machines. Last month, my home state of Connecticut unveiled a pilot project with four different types of electronic voting machines that will be used in eight towns next week on Election Day. This is a remarkable advancement for Connecticut voters, who have been using lever voting machines almost exclusively for over 50 years.

What makes HAVA so notable is that it is not solely about financial savings to account the entire voting experience before, during, and after citizens enter polling places. HAVA educates voters on voting procedures as well as on their rights; makes polling places more accessible to people with disabilities; creates statewide voter registration databases that can be more effectively managed and updated; improves ballot review procedures, allowing voters to ensure that the ballots they cast are accurate; and creates provisional ballots systems to guarantee that no eligible voter is ever turned away at the polls.

On Monday, the Select Committee held a hearing to confirm the four Election Assistance Commissioners nominated by President Bush, who are responsible for implementing HAVA. One of the four nominees, Garcia Hillman was recommended by Democratic Leader Nancy Pelosi, and I wholeheartedly support the Leader’s selection. Garcia Hillman, has effectively handled both domestic and international issues. Her areas of expertise include nonprofit management, public policy and program development, political services, the interests and rights of women and minorities, and the development of public policy and community affairs; and elections related issues, including voting rights.
I believe we would be hard-pressed to find someone more dedicated than Ms. Hillman to strengthening the voices of all citizens, including those who are disabled. I hope that Ms. Hillman and the rest of the nominees are confirmed by the full Senate before they adjourn for the year.

I urge full funding of the Help American Vote Act to ensure that the 2004 elections do not repeat the trouble-plagued elections of 2000. The act of voting for our government representatives is a sacred right of all Americans. It is our duty, through HAVA, to inspire not repeat the trouble-plagued elections of 2000. The act of voting for our government representatives is a sacred right of all Americans. It is our duty, through HAVA, to inspire
can. It is our duty, through HAVA, to inspire

Those who are legally authorized to work in the United States. H.R. 2359 goes much further than a simple extension of the program. In fact, this bill would enable states and local governments to use the databases to obtain citizenship and immigration status information on anyone—citizen or immigrant—for any purpose within their purview. This would expand the pilot program far beyond the context of employment and close to a national ID program with no privacy protections or safeguards against abuse by individuals within state and local governments.

This bill would also expand the availability of the program from just 6 states to all 50, without first addressing the many privacy and inaccuracy concerns in the current program. For example, the immigration databases used to verify work authorization are inaccurate and outdated. In some cases, workers with authorization have been fired because of incorrect data in the system. Moreover, some employers have inappropriately used the databases to pre-screen employees, without providing an opportunity for the prospective employee to challenge the accuracy of the data.

Additionally, the House Judiciary Committee did not hold any hearings or mark-ups on the changes contained in H.R. 2359 despite the fact that this bill makes significant changes to existing law. For these reasons, I would have voted “no” on H.R. 2359, the Basic Pilot Extension Act of 2003.

I ask for unanimous consent that this be inserted into the RECORD.

25TH ANNIVERSARY OF NATIONS ASSOCIATION CHARITIES OF FORT MEYERS, FLORIDA

HON. PORTER J. GOSS OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 2003

Mr. GOSS, Mr. Speaker, I rise today to recognize the 25th Anniversary of the Nations Association Charities of Fort Myers, Florida. This grassroots organization has been successful in meeting the needs of the poor and destitute in Southwest Florida, and for that we are grateful.

I have personally supported and followed the development of the Nations Association since its founding in 1978 by the Reverend Doctor Israel Suarez, his wife Ruth, and a small group of dedicated citizens. Israel and Ruth have selflessly committed their lives to this labor of love, reaching out to the less fortunate in our area. They have touched hundreds of people with their kindness and caring, and they have inspired countless others to become involved in ministering to the poor.

The Nations Association provides emergency food, hundreds of hot holiday meals at Thanksgiving and Christmas for the homeless, free furniture for families in crisis, job placement services, Survival English classes, free immigration law services, and recreational activities for disadvantaged youth and many more services too numerous to name.

The Nations Association has touched the lives of over 11 thousand individuals with only a small paid staff and 144 volunteers who provide over 7000 hours of service virtually to every family in the community. In 1990 the Association was deservedly named the 276th Point of Light by President George H. W. Bush.

After 25 years, the Nations Association is going strong—its energies dedicated to making a real difference in the lives of hundreds of families and individuals. I urge tribute today to the tremendous work of Israel and Ruth Suarez and the staff and volunteers of the Nations Association. Theirs is a shining example of the true American spirit of helping others.

TRIBUTE TO THE LATE CAPTAIN RICHARD C. YEEND, J.R.

HON. JO BONNER OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 2003

Mr. BONNER, Mr. Speaker, I rise today to pay tribute to the service to our country of Captain Richard C. Yeend, Jr. Capt. Yeend was serving as the co-pilot of an HH-3E, “Jolly Green Giant” helicopter sent to rescue a Marine pilot when the helicopter was shot down over Laos on June 9, 1968. Captain Yeend was listed as killed in action/body not recovered until his remains, along with the rest of the crew, were identified and returned home in September. He was buried September 28, 2003, thirty-five years after his helicopter was shot down.

Captain Yeend was raised in Mobile, Alabama, as the second of five children. He was a member of the Air Force ROTC at Auburn University and went on to flight school. After flying B-52s for several years, he volunteered for helicopter flight school as the Vietnam conflict escalated. Captain Yeend was deployed to Vietnam in February of 1968. His service to our country is evidenced by the awards he was awarded posthumously, including the Silver Star, the Distinguished Flying Cross with two oak leaf clusters, the Air Medal with four oak leaf clusters, and the Purple Heart.

On October 11, 2003, on what would have been his 65th birthday, hundreds gathered at the Lower Alabama Vietnam Veterans Memorial at Battleship Memorial Park in Mobile to pay tribute to Captain Yeend, a man whose heroic efforts have not been forgotten. Retired Navy Rear Admiral Jeremiah Denton, who was a prisoner of war for over seven years during Vietnam, was the featured speaker. Admiral Denton praised Captain Yeend for his service and the Yeend family for its continued devotion to their country throughout their years of hardship, waiting while their loved one’s remains were unaccounted for. He praised Captain Yeend along with all the Vietnam veterans in the audience for their service and assured everyone that their efforts were appreciated by all.

Captain Richard Yeend was a man whose honor and devotion to his family and his country were seen in his daily acts of courage and his willingness to take on heroic acts. A man of great character and respect, Captain Yeend
was a leader in all aspects of his life. His sib-
lings looked to him for guidance and support.
With his remains now returned home and at
rest, may they have some peace and closure
and know that he will be honored for his he-
roic actions. His sacrifice is a tribute to every-
one that fought and those who continue to
fight for freedom of others and for the spirit of freedom which so many people
throughout the world still yearn for.
I urge my colleagues to join me in paying
tribute to Captain Yeend and in offering our
condolences to his family for their loss and
their service through the years as they await-
ed his final trip home.

RECOGNIZING MR. BILL G.
HARTLEY

HON. RALPH M. HALL
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. HALL. Mr. Speaker, I rise to recognize
a truly great American, influential leader and
dear friend—Mr. Bill Hartley, Chairman of the Board and President and CEO of Southside Bank. On October 23, 2003, Texas College, in
Tyler, Texas, honored Hartley for his dedi-
cated service as a member of their Board of
Trustees, and as his friend and fellow member
of the Board, I honor him with this tribute
today.

Bill G. Hartley was born in Mount Pleasant,
Texas, and attended Mount Pleasant High School. He entered the Texas National Guard in
1948 and concluded his service in 1956 with
the rank of Master Sergeant.

Mr. Hartley has enjoyed a long and distin-
guished career in the banking industry, work-
ing first at the Guaranty Bond State Bank in
Mount Pleasant, then at the Texas Banking
Department in Austin, Texas. He presently
serves as Chairman of the Board and CEO of
the company he founded in 1960—Southside Bancshares, Inc., Southside Bank in Tyler,
Texas. As Southside’s CEO—Bill expressed
his support and education—and those who
sought knowledge—by approving and making
student loans in huge numbers—while other
institutions were reluctant to do so.

Mr. Hartley is married to Billie Boyd, for-
mother of Chandler, Texas, and they were
blessed with two children, Jane Hartley Coker
and Patrick Hartley. Their hearts were broken
when Patrick died. He will always be loved
and remembered. Bill is affiliated with Marvin
United Methodist Church and is an active par-
cipant on the Church’s Administrative Commit-
tee.

Among his many professional and civic re-
sponsibilities and memberships are his posi-
tions as State Membership Chairman for the
American Bankers Association, Chairman of
the Texas Bankers Insurance Services Com-
pany in Austin, Texas, and Claims and Under-
writing Committee Member for BancInsure in
Oklahoma City. At the local level, he serves
as Director and Past President of the Tyler,
Texas Chamber of Commerce, a Trustee for the
R.W Fair Foundation, Director and Execu-
tive Committee Member for the University of
Texas at Tyler, Development and Council
Member at the University of Texas Health
Center at Tyler, Trustee and Executive Com-
mittee Member for the Texas Chest Founda-
tion, and a Development Council Member for
Tyler Junior College Foundation.

Additionally, Mr. Hartley gives his time as
Director of the East Texas Medical Center Re-
gional Health Facilities and the East Texas
Medical Center Regional Healthcare System,
Director of the East Texas Medical Center’s 15th Texas Room, and the Festival in Tyler, Texas, Advisory Council
Member for the Patent Service Center, Inc.,
Director of the Smith County Industrial Devel-
opment Corporation, and as Director for the
Tyler-Smith County Library Foundation, Inc.

Mr. Hartley is involved with numerous phil-
thropic deeds, but among these, his exem-
plary service as a trustee and member of the
executive committee of the Texas College Board of Trustees is being recognized today.
He has been instrumental in bringing major
gifts to the College during a very critical fund-
raising period, and in 1986 alone, Mr. Hartley
secured more than $600,000 for Texas Col-
lege’s retirement debt. It is generous efforts
like these that warranted his receipt of the
T.B. Butler Award—Tyler’s Most Outstanding

Sometimes when an individual is so noted,
having such a high community, state, and na-
tional profile, is sought out for support from
everyone who makes a precinct race—on up
to our own fine President George W. Bush—
their human traits are lost in the hustle and
bustle of guiding a huge and successful finan-
cial empire, serving on Boards and Commit-
tees, traversing our nation for speeches, meet-
ings, and organizations—sometimes we miss
out on the human aspect of a great one
among us. Bill Hartley has always taken the
time, and still takes the time, to put family first.
He is a kind and loving Father to Jane, her
husband Michael, and his grandson Hartley.

As we near the end of this Congressional
year—let us adjourn in honor of and in appre-
ciation of one who fits the overused term
’s a “giver.” “God Bless Bill Hartley and those
he holds dear.”

HONORING DORTA SCOTT FOR HER
CONTRIBUTION TO THE ARKAN-
SAS STATE COIN

HON. MIKE ROSS
OF ARKANSAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. ROSS. Mr. Speaker, I rise today to con-
gratulate an exceptional artist from Arkansas’s
Fourth Congressional District, Ms. Dorthy
Scott of Mount Ida. Out of more than 3,000
entries, Ms. Patricia T. Larson of the Texas
Quarter, including a mallard duck soaring
above the water with trees in the background,
symbolizes Arkansas’s reputation as one of
the most popular states in the country for
hunting and fishing, and the state with a
high-abundance of forest land. The rice on
the left side of the Quarter signifies the important
rice and other agricultural crops play in
Arkansas’s economy, as agriculture has his-
torically been a way of life for so many work-

ing families. Arkansas leads the country in rice
production.
The centerpiece of the Quarter is a dia-
mond, representing the Crater of Diamonds
State Park near Murfreesboro. The Crater of
Diamonds State Park is not only home to the
largest diamond ever to be unearthed in the
United States, but is also the eighth largest di-
"American as they earn and spend the Arkan-
sas Quarter.

HONORING ELECTRIC BOAT'S
DISTINGUISHED SHIPBUILDERS

HON. ROB SIMMONS
OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. SIMMONS. Mr. Speaker, I rise today to
recognize 67 men and women who work at
Electric Boat, in Groton, Connecticut. These
individuals have worked at Electric Boat for 40
or more years and due to their length of serv-
"search for diamonds. The Crater of Diamonds
State Park near Murfreesboro. The Crater of
Diamonds State Park is not only home to the
largest diamond ever to be unearthed in the
United States, but is also the eighth largest di-

's Most Outstanding Shipbuilder.

Kenneth Guarneri, William Ferguson, Rich-
ard Morgan, Thomas Nunes, John Prokop, Al-
exander Fraser, Reed Davignon, Robert
Rosso, Mary Sousa, Pauline Passarelo, Patri-
cia Rossi, Walter Greenhalgh, Ernest Currier,
Paul Losacano, Fred Vocatura, Richard
Sobanski, Robert Ness, Ernest Messier, Jef-
frey Pritchard, Jackson Morgan, John Burbine,
Daniel Andrews, Stanley Menitz, Robert Col-
lins, Carl Kvist, Ronald Drounin, William
Vaiciulis, Vincent Nadolny, Paul Terry, Larry
Yering, Stephen Wells, Keith Bradshaw, John
Haberek, Ralph Lodyko, Ronald Leuechner,
Gerald Gent, Brent Weimer, Ronald
DeCarolis, Arnold Kortick, James Welch, Rich-
stead, Affonso Falcone, Norman Laroche,
Robert Boyle, Donald Oriel, Edward Goode,
William Bak, Joseph Woycik, Richard
Supernant, Janis Pike, Brian Lunnah, Alfred
McAlchoith, Ronald Meadows, Edward Hak,
Manuel Arruda, Donald Barlett, John Bashaw,
Anthony Pritchard, Jackson Morgan, John
Burbine, Daniel Andrews, Stanley Menitz, Robert
Colins, Carl Kvist, Ronald Drounin, William
Vaiciulis, Vincent Nadolny, Paul Terry, Larry
Yering, Stephen Wells, Keith Bradshaw, John
Haberek, Ralph Lodyko, Ronald Leuechner,
Gerald Gent, Brent Weimer, Ronald
DeCarolis, Arnold Kortick, James Welch, Rich-
stead, Affonso Falcone, Norman Laroche,
Robert Boyle, Donald Oriel, Edward Goode,
William Bak, Joseph Woycik, Richard
Supernant, Janis Pike, Brian Lunnah, Alfred
McAlchoith, Ronald Meadows, Edward Hak,
Manuel Arruda, Donald Barlett, John Bashaw,
General Monroe has also helped the Guard reconnect with the communities in California. During his tenure, the Guard has partnered with numerous agencies and organizations to provide successful anti-drug programs and youth education initiatives. The General truly understands the need to give back to the communities. And, along with his extraordinary men and women who serve under him, have made invaluable contributions to cities and towns throughout California.

Recognizing the hard work and dedication of his soldiers and airmen, General Monroe had made many sacrifices to keep tirelessly to provide high quality services for his troops. He has also established the California National Guard as an exemplary model for diversity and equal opportunity for guard members.

General Monroe began his military career as an enlisted soldier in the U.S. Army in 1957 and joined the California Army National Guard in 1961. He has served in Infantry, Signal, and Military Police Commands, and every level of command from platoon through brigade. He has been honored with over twelve awards for his service with our Armed Forces. Mr. Speaker, I ask my colleagues to join me in honoring a true American hero, Major General Paul D. Monroe, Jr. I extend my best wishes to the General, his wife Laura, their two children and their three grandchildren.

PERSoNAL EXPLANATION

HON. HAROLD E. FORD, JR.
OF TENNESSEE
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. FORD. Mr. Speaker, regrettably, I was not present for rollcall vote Nos. 569–573 because of a previously scheduled commitment to serve as co-chair and co-host of the National Civil Rights Museum’s annual Freedom Awards Banquet in my district in Memphis. The Freedom Awards Banquet was specifically scheduled to occur weeks after the target adjournment date.

Had I been present, I would have voted “yea” on rollcall vote Nos. 569, 571, 572, 573 and “nay” on rollcall vote 570.

FIFTY-FIRST ANNIVERSARY OF DETONATION OF THE WORLD’S FIRST THERMONUCLEAR DEVICE AT ENEWETAK ATOLL IN THE MARSHALL ISLANDS

HON. ED CASE
OF HAWAII
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. CASE. Mr. Speaker, this week we recognize the 51st anniversary of the detonation by our country of the world’s first thermonuclear device at Enewetak Atoll in today’s Republic of the Marshall Islands. And as we pause to remember that event, it is also an opportune time for us to recall both the contributions of the people of Enewetak and other nations and the legacy and the difficult legacy that and subsequent tests have left to their residents and so many others.

This story was told so well last year in an article in the Honolulu Weekly by Honolulu journalist Bev Keever entitled “Fallout: Enewetak Atoll, 50 Years Ago This Week.” Subsequently recognized by the Society of Professional Journalists (Hawaii Chapter) for this work, Ms. Keever used the human impact of “Mike,” as the device was known, and counsels us to remember this legacy as we address crucial foreign policy challenges today and the future.

The text of Ms. Keever’s article follows:

[From the Honolulu Weekly, Oct. 30, 2002]

National and media anniversaries of signal events like Sept. 11 help to form the collective memory that, over time and across generations, shapes what a society remembers—or what it forgets.

An anniversary that serves as a news peg for journalists re-ignites powerful emotional connections for those who lived through the event, communication scholar Jill Edy writes, and may be even more influential for those who did not live through the event because “it creates a way to experi-ence.” Even more important, Edy notes, anniversary journalism “impacts whether we remember our past at all.”

An unremembered part of the U.S. past occurred 50 years ago on Enewetak atoll in the Marshall Islands, some 3,000 miles west of Honolulu. On Nov. 1, 1952, at 7:15 a.m., the U.S. government detonated the world’s first thermonuclear device, code-named “Mike,” the most powerful man-made explosion in history up to that time. In layperson’s terms it was the prototype for the “hydro- bomb.”

Mike unleashed a yield of 30.4 megatons, an explosive force 683 times more powerful than the atomic bomb that had annihilated Hiroshima in 1945 and the fourth most powerful “shot” of the 1,054 acknowledged nuclear tests in U.S. history. Using the thermonuclear era, the Mike shot raised to a new level the capacity for mass destruction that had been inaugurated by humans with atomic weapons only slightly years earlier. Because of this new dimension in the power of nuclear weapons, President Eisenhower observed in 1956, “Humanity has now achieved, for the first time in its history, the power to end its history.”

The Mike shot was controversial. Debate raged within the scientific community over detonating the so-called super bomb. One camp warned that the atmospheric chain-re-action from the thermonuclear explosion would imolate the entire planet, Univer-sity of Hawaii’s environmental commentator John Harrison reports. Calling such fears unfounded, those in the second camp, led by influential physicist Edward Teller, predicted the public was only given advance about the shot for fear that it would influence the presidential election held just three days before. Sixteen days after the Mike shot, U.S. officials announced a thermo-nuclear experiment, but provided no details.

Mike was a proto-bomb; in fact, it was more like a building, Harrison explains as he studies a sepia-toned photograph of the cylindrical Mike device, about 20 feet in height and 8 to 10 feet in diameter. Weighing 82 tons and standing vertically like the shiny innards of a giant thermos bottle, the inside dwarfs a scrappy, shirtless man sitting in a chair, elbows cocked on his knees and staring at the ground on Enewetak Island, Enewetak Atoll. The cylindrical device was packed to large tubes to keep its contents of hydrogen fuel, liquid deuteride, refrigerated below its...
boiling point of minus 417.37 degrees Fahrenheit.

More than 11,000 civilians and servicemen worked on or near Enewetak to prepare for the blast. Their living area was a small island before the Mike device was remotely detonated from 30 miles away. The energy from the splitting of atoms with heavy nuclei like platinum, followed by fission, produced heat in the order of those at the core of the sun that were necessary to kick-start the fusion of the liquid deuteride with other lightweight hydrogen isotopes. The heat produced was far greater energy, so much that, as physicist Kosta Tsipis writes, "An exploding nuclear weapon is a miniature, instantaneous sun." Thus did the lightning of Elugelab. Researcher Leona Marshall Libby wrote at the time that Mike's detonation created a fireball that swooshed outward and upward for three miles in diameter and turned millions of gallons of lagoon water to steam. It left behind a 1.2-mile-wide crater and a deeply fractured reef platform. Harrison understood that in the aftermath of that moment, adjacent thermonuclear test—the Koal shot in 1958—the weakened seaward wall of the reef in theToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToToTo
all rights which are the normal constitutional rights of the citizens under the Constitution, but will be dealt with as wards of the United States for whom this country has special responsibilities," according to a memorandum from the Atomic Energy Commission attached to President Truman's Directive of Nov. 25, 1947, to the Secretary of Defense.

The 142 Enewetakese (and their descendents) on Ujelang suffered greatly because of logistical problems, inclement weather, reduced resources, and the island's desolation. Even the Department of Interior, in a letter dated Jan. 13, 1978, acknowledged that during their 33-year exile on Ujelang the Enewetakese had suffered grave physical conditions, including periods of near starvation.

An anthropologist who lived among them on Ujelang and spoke Marshallese, Laurence M. Carucci, wrote that the stories of this period told to him over and over by elders focused on famine and hunger, near starvation and death from illness, poor fishing conditions, epidemics of polio and measles and rat infestation.

One Enewetake woman in her 40s told Carucci in 1978 about these difficult days. She described how they had been "stuck out like they were bloated and you would never think they were hungry, but in fact they were. Then, she continued: "They would get hot fevers, then cold chills; hot fevers, then cold and sweaty. And then, in just a moment, they would be gone. Dead, they would never move again. Their life was gone. And, in those days, the wailing across the village was constant."

Their hardship was so severe that in 1969 they commandeered a supply ship and demanded they be returned home. Their ancestral atoll was too contaminated with radioactive debris.

Upon their return, they found a far different atoll, a far different Enewetak. The Mike shot was the eighth of 43 nuclear test shots at Enewetak that transformed the island crypt eerily symbolizes the legacy of the thermonuclear age that has caused the land crypt.

Ground Zero for 43 weapons tests and recipient of the Mike shot, the Runit is a man-made island located 800 miles from Honolulu that is still being studied by the Bush administration, and no congressional measure is pending to correct the Bush administration's "manifestly inadequate," Marshallese officials in September 2000 petitioned Congress for increased U.S. medical and other assistance to meet the mounting costs of damages to persons and property presumed to be caused by U.S. nuclear testing. That petition is still being studied by the Bush administration, and no congressional measure is pending.

Much of the plutonium-contaminated soil removed in the operation to clean up Enewetak was dumped into one of the atoll's smaller craters on Runit island. This crater was created May 5, 1958, during the 18-kiloton test shot code-named Cactus. The crater, 30 feet deep and 350 feet wide, was filled with about 111,000 cubic yards of radioactive soil and other materials and then entombed beneath a dome of 350 concrete panels, each 18 inches thick. Researchers in an "Atomic Audit" report that the unprecedented job, completed in 1980, took three years and about $299 million.

Soon afterward, a delegation from the National Academy of Sciences inspected the dome and, John Harrison recalls, issued a report noting that the dome's closure specifically that the predicted longevity of the containment structure was at best 300 years. Yet, the plutonium-laced debris encased in the dome will remain radioactive for 500,000 years and hazardous to humans for at least half that time.

The Runit island entombment is of special interest because a nuclear-waste crypt is now being finished 800 miles from Honolulu to bury plutonium-laced materials under a cap of coral soil at Johnston island, where four nuclear-tipped missile shots in 1962 showered the atoll and waters with radioactive debris.

From test site to dump site, the Runit island crypt eerily symbolizes the legacy of the thermonuclear age that has caused the Marshallese to suffer disproportionately in adverse health, environmental and cultural conditions.

The 50th anniversary of the Mike shot and its aftermath begs for reflection from a nation so riveted on a purported nuclear threat in the Middle East and North Korea that it ignores the era of mass destruction introduced by the United States on Enewetak with the world's first thermonuclear explosion.
of the programs similar to the success of the Global Fund and other international initiatives. By widening the knowledge base of non-governmental organizations and professionals in Haiti, the U.S. will take advantage of a unique opportunity and obligation towards Haiti’s future.

We worked together to get the humanitarian loans, which had been held up by the Inter-American Development Bank officially released on May 9, 2003. It is my hope that we can continue to push for the full release of these loans and the potential for future humanitarian grants through the IDB. I also believe we must move forward on establishing a health infrastructure for efficient delivery of these health and social sector funds.

Today I submit this legislation, and thank all of my original cosponsors: Reps. DONNA CHRISTENSEN, ELIJAH CUMMINGS, BENNIE THOMPSON, AL WYNN, DONALD PAYNE, SHEILA JACKSON-LEE, JUANITA MILLENDER-MCDONALD, ROBERT WEKLER, JOHN CONYERS, CORRINE BROWN, and MAJOR OWENS.

I look forward to the support of my colleagues and the Administration.

PRESCRIPTION DRUGS

HON. BERNARD SANDERS OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 2003

Mr. SANDERS. Mr. Speaker, I want to take this opportunity to share with you the attached letter, which I recently received from the Vermont Association of Hospitals and Health Systems in support of my and my colleagues’ legislative efforts to enable Americans to access prescription drugs from Canada. I would like this letter included in the CONGRESSIONAL RECORD.

VERMONT ASSOCIATION OF HOSPITALS AND HEALTH SYSTEMS, Montpelier, VT, September 29, 2003

The Honorable BERNARD SANDERS, House of Representatives, Rayburn Building, Washington, DC.

Dear Congressmen Sanders: On behalf of the hospitals in Vermont, I am writing to extend our support for your efforts to allow for the re-importation of prescription drugs from Canada. As you well know, access to safe, affordable medication is an issue for many Americans. In our rural state, patients of all ages travel to Canada to purchase FDA-approved, less expensive medications. That option should be available to all patients seeking more affordable prescription drug coverage.

Our hospitals are committed to ensuring that our patients have access to affordable, quality healthcare. We applaud your efforts and the efforts of your colleagues on this very important issue.

Sincerely,
THOMAS HUEBNER, Board Chair
M. BETRICE GRAUZE, President & CEO

PERSONAL EXPLANATION

HON. GEORGE R. NETHERCUTT, JR. OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 2003

Mr. NETHERCUTT. Mr. Speaker, on October 28, 2003, I was unavoidably detained for rollcall vote nos. 569–573.

Had I been present I would have voted as follows: On rollcall 569, “yea”; on rollcall 570, “yea”; on rollcall 571, “yea”; on rollcall 572, “nay”; and on rollcall 573, “nay.”

PERSONAL EXPLANATION

HON. LORETTA SANCHEZ OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 2003

Ms. SANCHEZ of California. Mr. Speaker, on October 21, 2003, I was unavoidably detained due to a prior obligation.

I request that the CONGRESSIONAL RECORD reflect that had I been present and voting, I would have voted as follows: rollcall no. 566: “no” (on H. Res. 407); rollcall no. 567: “yes” (on the Obey motion to instruct conference); and rollcall no. 568: “yes” (on H.J. Res. 73).

EXTENDING AUTHORITY FOR CONSTRUCTION OF MEMORIAL TO MARTIN LUTHER KING, JR.

HON. ELIJAH E. CUMMINGS OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 28, 2003

Mr. CUMMINGS. Madam Speaker, I rise today to thank my colleagues for their support of the “Martin Luther King, Jr., National Historic Site Land Exchange Act,” H.R. 1616 and the bill to extend the authority for the construction of a memorial to Martin Luther King, Jr., S. 470. These bills extend the authority for and make possible the construction of a national memorial commemorating the achievements of the late Dr. Martin Luther King Jr. and his commitment to the struggle of civil rights for all Americans.

Dr. King dedicated his life to the realization of full equal and civil rights for all Americans irrespective of race, ethnicity, gender, and sexual orientation. He stood on the front lines in the struggle against social injustice, discrimination, and inequality, often at great risk to himself. Despite numerous death threats, Dr. King never wavered in that commitment.

Madam Speaker, the Lewis and Sarbanes bills are a win-win situation for all parties involved. The National Park Service currently owns a vacant lot that does not have any significant historic value. The City of Atlanta would like to acquire this land for the sole purpose of encouraging commercial development within its city limits. In addition, the land on which the National Historic Site Visitor Center and Museum currently sits is land-locked and lacks adequate emergency access. Exchanging this land within the Martin Luther King, Jr., National Historic Site for property in which the National Park Service could establish easy access to the Visitor Center and Museum would be mutually beneficial to both parties. This would simultaneously resolve the National Park Service’s access issue and give the City of Atlanta much needed commercial space.

Madam Speaker, once again I am proud to support both bills the Martin Luther King, Jr., National Historic Site Land Exchange Act and the bill to extend the authority for construction of the MLK Memorial. I would like to give a special thanks to my colleagues Mr. Lewis and Senator SARBANES for their leadership in sponsoring these important pieces of legislation and in helping to keep the dream alive.

HONORING BILL AND SUE GROSS

HON. CHRISTOPHER COX OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 2003

Mr. COX. Mr. Speaker, I rise today on behalf of the Orange County Department of Education to thank two outstanding individuals, Bill and Sue Gross, whose unparalleled commitment to teachers in California is an inspiration in the field of education.

Each year more than fifty public, private, and community college teachers from Orange County, California, are recognized for their outstanding contributions and dedicated efforts in the field of education. The Orange County Department of Education, led by Superintendent William M. Habermehl, coordinates the annual selection and recognition of these teachers.

During the last dozen years, the Teachers of the Year program has had the additional support and generosity of two local residents, Bill and Sue Gross. In 1991, the Grosses established the Dr. James Hines Foundation in memory of a teacher who had positively influenced Sue Gross’ life. In the ensuing 12 years, through the Foundation, the Grosses have given over $1 million in cash awards to these exemplary teachers. This year, as an added surprise, Bill and Sue Gross invited all one hundred 2003 and 2004 Teachers of the Year nominees to be their guests on a 10-day cruise to Alaska.

Orange County residents Bill and Sue Gross are champions of teaching excellence, desiring of special commendation and recognition by the Congress of the United States of America. Today, I ask my colleagues to join me in honoring Bill and Sue Gross for their years of commitment to California’s educators.

52ND NATIONAL DAY CELEBRATION OF TAIWAN

HON. SHELLEY BERKLEY OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 2003

Ms. BERKLEY. Mr. Speaker, I rise today to celebrate the 92nd National Day celebration of Taiwan. The Republic of China on Taiwan is a flourishing democracy of 23 million citizens who, like us, cherish their constitutional guarantees of freedom and human rights.

Over the years, Taiwan has transformed itself from a one-party dictatorship to a vibrant
multiparty democracy. Free and fair elections are held at all levels of government—elections in which nearly 70 percent of Taiwan’s citizens participate. The Taiwanese enjoy many freedoms including the right of assembly, expression and association, freedom of religion and freedom of the press. Human rights are well-established and protected. Taiwan is committed to upholding the Universal Declaration of Human Rights, the International Covenant of Civil and Political Rights, and the Declaration and Action Program of the 1993 Vienna Conference on Human Rights.

Taiwan has the world’s 12th largest economy and is the United States 8th largest trading partner. Its GDP of $386 billion is the 23rd largest in the world. However, perhaps more impressive is the fact that only 1 percent of its population live below the poverty line. Its thriving, market-based economy has enabled it to contribute generously to international aid efforts. In the first half of 2001, Taiwan provided nearly $700,000 through its International Cooperation and Development Program. The Republic of China—Central American Economic Development Program also enabled Taiwan to facilitate self-sufficient, profitable and mutually agreeable cooperative relationships with Central American nations and reflects Taiwan’s growing interest in that area.

Last year, Secretary of State Colin Powell praised Taiwan, stating that it has become “a resilient economy, a vibrant democracy and a generous contributor to the international community.” He called it a “success story” for Asia and the world—words with which I heartily agree.

It is particularly important at this time to recognize and to support nations that have been our unwavering friends for many years. We must also acknowledge those democracies that have stood as our allies. I take great pleasure in congratulating Taiwan on its National Day celebration and look forward to a continuation of our mutually beneficial relationship.

HONORING THE LIFE AND TIMES OF SENATOR PAUL WELLSTONE

HON. ELIJAH E. CUMMINGS
OF MARYLAND
IN THE HOUSE OF REPRESENTATIVES
Thursday, October 30, 2003

Mr. CUMMINGS. Mr. Speaker, I rise to speak about a great man, a man who died before his time, the late Senator Paul Wellstone.

On October 25, 2002, the people of Minnesota, the Senate and our nation lost a beloved colleague and humanitarian. Paul Wellstone was a man of deep convictions who cared deeply for those around him. A champion of working families, the poor, the disenfranchised, the forgotten, the voiceless, and the disabled, Paul Wellstone was a liberal Democrat in the truest sense of the term during a time when liberalism was not politically fashionable.

Mr. Speaker, Senator Wellstone took stands on issues of principle. He voted against the Resolution authorizing the use of military force in Iraq and the 1996 Welfare Reform Act. He was the only Democrat to vote against the Democratic version of the estate tax repeal; opposed the Administration’s national missile defense program and was against permanent trade relationships with China. Paul Wellstone was not ashamed of voting his conscience, even if this meant that he would often stand alone. For this, Senator Wellstone won the accolades of his colleagues on both sides of the aisle.

Mr. Speaker, as the son of immigrant Russian-Jewish parents, Paul Wellstone believed in the promise of America. Prior to his entry into the United States Senate, this plain-spoken man was a devoted and beloved associate professor of political science at Carleton College in Northfield, Minnesota, where he taught for 21 years. And although diagnosed with a mild case of multiple sclerosis, Paul did not let it incapacitate him. He continued to fight for those issues dear to his heart: affordable universal health care, mental health parity, family leave, veterans affairs, and environmental protection.

Mr. Speaker, I am truly blessed to have known Paul Wellstone. On that fateful day 1 year ago on October 25, 2002, I lost a beloved friend and colleague and the world lost a fearless and selfless public servant and tireless advocate for justice. He has left a deep void in this institution and is truly missed. He is often remembered for a particular saying of his that “people yearn for a politics of the center,” not “the center” so widely discussed by politicians and pundits in Washington, but, rather, a politics that speaks to the center of people’s lives.” On this 1-year anniversary of the death of this courageous and principled man I urge my colleagues to commit themselves to his legacy and fight for the things to which Paul Wellstone dedicated his life. I know I will.

A TRIBUTE TO CHIEF OF POLICE ELVIN G. MIALI ON THE OCCASION OF HIS RETIREMENT

HON. CHRISTOPHER COX
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, October 30, 2003

Mr. COX. Mr. Speaker, I rise today to pay tribute to an outstanding official of the city of Fountain Valley, California. Chief of Police Elvin G. Miali has devoted almost four decades of his life in service to his community and to his country. Chief Miali has excelled in his many law enforcement assignments over the years, including in the city of San Gabriel and culminating in the city of Fountain Valley. The experience, commitment and professionalism which Chief Miali brings to the leadership of a major law enforcement organization is highly respected and commended by his peers throughout Orange County and the State of California. Setting high standards for himself and all his department personnel and staff, he is known for achieving exceptional results under the most demanding of situations. The trademark of his leadership is “first class, the first time, every time.”

Chief Miali began his law enforcement career on February 27, 1967, with the city of San Gabriel, California, where he rose through the ranks and achieved the position of Captain. During this time his assignments included the Detective Bureau for 12 years, six of which dealt with robbery and homicide. In August 1986, he was elected Chief of Police for the Fountain Valley Police Department. His community contributions during 17 years as Chief of Police include active efforts to combat drug abuse, child abuse, and drinking and driving, as well as promoting charitable efforts such as helping underprivileged children at Christmas. Before it had a name, Chief Miali introduced the Community-Oriented Policing philosophy.

A most distinguished police officer with an undergraduate degree in Police Science, a master’s degree in Public Administration, and a graduate of the POST Command College and the FBI Law Enforcement Executive Development Program, Chief Miali is known throughout Fountain Valley and Orange County as one of the city’s principal ambassadors. Chief Miali, together with his wife Charli and their two children, Elvin and Carla, are proud citizens of Fountain Valley, a city which can rightfully look to Chief Miali for making its motto “A Nice Place to Live” happen every day.

Mr. Speaker, as Chief Miali completes his 36 years of devoted public service in law enforcement, and sets his course for new and ever challenging community involvement, I am sure my colleagues will join me in saluting him and thanking him for the exemplary job “well done”—for Fountain Valley, for California, and for America.

SYRIA ACCOUNTABILITY ACT

HON. SHELLEY BERKLEY
OF NEVADA
IN THE HOUSE OF REPRESENTATIVES
Thursday, October 30, 2003

Ms. BERKLEY. Mr. Speaker, I rise today in strong support of the Syria Accountability and Lebanese Sovereignty Act. This important legislation takes a strong and decisive stand against international terrorism. It also demonstrates the firm resolve of the United States in opposing those who support terrorism or provide funding and safe harbor for its perpetrators.

Syria continues to be a major sponsor of international terrorist groups, and has been listed by the State Department as a sponsor of terrorism since the inception of the list in 1979. Numerous terrorist groups, including Hamas, Palestinian Islamic Jihad, the Popular Front for the Liberation of Palestine, and at least seven more, have headquarters in Damascus. In addition to offices, these groups maintain training camps and other facilities on Syrian territory. Hizballah, referred to referred to as the “A-team of terrorism” by Deputy Secretary of State Richard Armitage, operates in areas of Lebanon occupied by Syria and receives supplies from Iran through Syria. In doing so, Syria is in clear violation of UN Security Council Resolution 1373 which directs all states to “refrain from providing any form of support” for terrorism. Furthermore, their attacks on Israel, launched with the acquiescence of the Syrian government, harm innocent civilians and risk leading to a wider regional conflict.

In addition to its harboring of international terrorism, Syria’s 20,000 strong occupation force has continued to occupy Lebanese territory, denying Lebanon its independence and political sovereignty. This occupation has also prevented Lebanon from fulfilling its obligations under the U.N. Security Council Resolutions 425 and 520 to deploy its troops to southern Lebanon. As a result, southern Lebanon is under the control of the terrorist group Hizballah,
which has positioned thousands of katyusha rockets opposite Israel's northern border.

During our recently concluded campaign in Iraq, Syria aided the regime of Saddam Hussein, allowing arms and military equipment to be transported across the border into Iraq. When Baghdad fell, a number of high-ranking Iraqi generals on the run, under the defeated regime, sighted transiting through Syria and it is continuing to permit “volunteers” and others to enter Iraq for the purpose of attacking and killing Americans.

These actions are not those of an ally nor are they the work of a nation friendly to the United States. As we work toward a more stable and peaceful Middle East, we must be clear that nations that support terrorism will be held accountable. This legislation is clear in its intent and accomplishes just that.

I urge its full support and its immediate passage.

TRIBUTE TO LT. COL. STEPHEN TWITTY

HON. JAMES E. CLYBURN
OF SOUTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Thursday, October 30, 2003

Mr. CLYBURN. Mr. Speaker, I rise today to honor Lt. Col. Stephen Twitty, who led the only infantry battalion—1,000 soldiers strong—in the initial attack on Baghdad, Iraq, this past April. His 15th Infantry Regiment of the 3rd Brigade Combat Team, deployed to the face of the heaviest fighting of the campaign and successfully completed their mission.

Lt. Col. Twitty witnessed casualties among his troops, and continued to lead his soldiers through the perils of suicide bombers, snipers, rocket-propelled grenades and a variety of other dangerous assaults. Later he had to keep his troops focused on their mission after the death of NBC reporter David Bloom, who was embedded with his regiment. He faced many potentially fatal situations by being on the frontline of American servicemen. As a result of his gallantry, he received the U.S. Army’s third highest medal, the Silver Star, and is most likely on his way to becoming a colonel.

Lt. Col. Twitty is a native of Chesnee, SC, and graduated with a bachelor’s degree in criminal justice from South Carolina State University. He has been stationed in both Belgium and Germany but now resides in Fort Stewart, GA.

This tour of duty isn’t Lt. Col. Twitty’s first time in combat. He is a veteran of Operation Desert Storm, in which he was a member of the first infantry division to cross the Kuwait-Iraq border into enemy territory. He has also received decorations like the Legion of Merit and Bronze Star for his service to his nation in the most trying of situations. His interests in the military date back to his experiences in South Carolina State’s Reserve Officer Training Corps. He now has aspirations to attend the Army War College next year.

Mr. Speaker, I ask you and my colleagues to join me in commending Lt. Col. Stephen Twitty for his extraordinary dedication and his exemplary military service. He is an inspiration to the soldiers he commands and the next generation of soldiers to follow.

NATIONAL BREAST CANCER AWARENESS MONTH

HON. NITA M. LOWEY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Thursday, October 30, 2003

Mrs. LOWEY. Mr. Speaker, this year an estimated 40,000 mothers, sisters, daughters, friends and loved ones will die of breast cancer, and more than 210,000 new cases will be diagnosed. Throughout the month we have remembered those that have fallen victim to this disease, celebrated those who have survived it, raised awareness about the progress we’ve made, and called on scientists to aggressively continue the search for a cure.

Today, Democrats and Republicans, men and women across this House floor, say—while we have made progress, further gains require a sustained commitment to expanding the national investment in cancer research, prevention, treatment, and outreach programs.

It is hard to believe, but when I was first appointed to the Appropriations Committee in 1991, the Federal government was spending just $133 million on breast cancer each year. That investment has increased dramatically—to more than $1.3 billion—between spending at the National Institutes of Health and Department of Defense.

This is remarkable, but all of the research in the world won’t make a difference unless it is put into practice. That is why we must continue to invest in the Centers for Disease Control’s Breast and Cervical Cancer screening program and better mammogram training and oversight to improve radiologists’ ability to interpret mammograms.

We must also ramp-up efforts to find new and superior ways to detect breast cancer and study the relationship between breast cancer and the environment.

Mr. Speaker, I believe, while the government cannot cure cancer, it can put the resources in the hands of scientists who will, together—along with advocates, survivors, scientists, and doctors—we can go the distance and stop this disease.

TITLE II—COMPACTS OF FREE ASSOCIATION WITH THE FEDERATED STATES OF MICRONESIA AND THE REPUBLIC OF THE MARSHALL ISLANDS

SPEECH OF
HON. DIANE E. WATSON
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, October 28, 2003

Ms. WATSON. Madam Speaker, President Clinton gave me the privilege to represent the American people as Ambassador to the Federated States of Micronesia. I have a deep respect for the Island nations, and I am pleased that we have passed the new compact legislation out of the House.

Although most of the contentious issues in this compact have been resolved, the funding allocated for education concerns me. The RMI and FSM children have only just begun to benefit from the establishment of an integrated education system. I am very pleased to know that authorization for educational programs is included in the bill.

In my former profession of teaching I have witnessed the impact of early structured education. Young students are much better equipped to enter the educational system when they are exposed to education at an early age. The educational appropriations that Chairman REGULA has offered in the FAS support is critical to keep effective programs in place.

I also strongly support those provisions in this compact that provide for continued Pell grant eligibility for the FAS. It will bolster the ability of the FAS to cultivate education. The elimination of Pell grant assistance would have decimated the college system in the FAS altogether. A large portion of the operating funds for the College of Micronesia are obtained through Pell grants.

One other important area that I would like to point out is the reinstatement of FEMA assistance. It has been placed back into the compact for infrastructure purposes and major catastrophes. USAID is not equipped to deal with all of the problems that arise on small islands nor do they have the ready response to help in a timely fashion. As we move forward with our unique relationship with the FAS I hope the U.S. Congress will be supportive and receptive to the needs of our friends.

In conclusion, I urge my colleagues to understand the importance of the FAS support this bill and look to endorse the final product as the other body considers the Compact.

HONORING GEORGE S. POFOK

HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Thursday, October 30, 2003

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of George S. Pofok, upon the occasion of his retirement from Cleveland Public Power (CPP).

George Pofok has spent the last 30 years in service to the city of Cleveland. Mr. Pofok started his career as an electrical engineer, and rose to become company’s commissioner. During Mr. Pofok’s tenure as the commissioner from 1985–1995, he was able to initiate one of the most productive periods of growth for Cleveland’s power. He helped build the customer base from 50,000 to 80,000, as well as increasing the company’s revenue to $130 million per year. These strategies have left a legacy of high growth for the company, and low costs to customers. Since 1985, customers of Cleveland Public Power have saved more than $320 million.

Mr. Pofok leaves a great legacy, none more important than the continuation of the tradition and strengthening the exercise of public power in the city of Cleveland.

Mr. Speaker and colleagues, please join me in honor and recognition of George S. Pofok
for his dedication to Cleveland Public Power, and the welfare of the city of Cleveland.

HONORING CHIEF EDWARD J. CHAVEZ

HON. DENNIS A. CARDOZA
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, October 30, 2003

Mr. CARDOZA. Mr. Speaker, I rise today to honor Mr. Edward J. Chavez who is retiring as the Chief of Police for the city of Stockton, California. It is truly an honor to recognize all of his achievements as a dedicated law enforcement officer in our community. He has served the people of my district with integrity and he will truly be missed.

Chief Chavez has shown his dedication to serving our community and our country in countless ways. As a member of the U.S. Air Force from 1962–1970, Mr. Chavez demonstrated this very commitment.

Through hard work and a commitment to furthering his education, Mr. Chavez earned a Bachelor of Arts from California State University, Sacramento, a Master of Science from California State Polytechnic University, Pomona, and graduated from the prestigious Federal Bureau of Investigation Academy.

In 1973, Chief Chavez became a police officer and his prestigious career began. As a leader in the Department, Edward Chavez rose through the ranks to become a Captain and Deputy Chief of Police in 1990, and finally to become the Stockton Police Department’s Chief of Police in 1993. As a role model to law enforcement officials, Chief Chavez has served the city of Stockton with the utmost respect and honor for residents and coworkers alike.

Not only has Chief Chavez been a leader to the Stockton Police Department, but has served his community by being a member of over twenty civic and professional organizations. He has been affiliated with the Board of Trustees for Humphreys College School of Law, Stockton Rotary, Hispanics for Political Action, Greater Stockton Chamber of Commerce, International Association of Chiefs of Police, California Peace Officers Association, and on the selection committee for the Stocktonian of the Year.

Mr. Speaker, the city of Stockton has been greatly strengthened by the effort and dedicated service of Chief Chavez. I ask my colleagues to help honor Chief Edward J. Chavez today for his service to this great Nation. It is a privilege to represent him, and to call him my friend.

PERSONAL EXPLANATION

HON. LOIS CAPPS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, October 30, 2003

Mrs. CAPPS. Mr. Speaker, on October 17, 2003, I submitted a personal explanation for rollcall votes No. 553–No. 561. In that personal explanation, I inadvertently listed incorrectly how I would have voted on rollcall No. 558, rollcall No. 560 and rollcall No. 561. I respectfully request that the RECORD now reflect how I would have voted on the following rollcall votes:

Rollcall No. 558—"yes"; rollcall No. 560—"no"; and rollcall No. 561—"yes."
Daily Digest

HIGHLIGHTS

Senate and House passed H.J. Res. 75, Continuing Appropriations.
Senate passed H.R. 1904, Healthy Forest Restoration Act.
The House agreed to the conference report on H.R. 2115, Flight 100—Century of Aviation Reauthorization Act.

Senate

Chamber Action

Routine Proceedings, pages S13535–S13612

Measures Introduced: Seven bills and two resolutions were introduced, as follows: S. 1798–1804, S. Res. 255, and S. Con. Res. 78. (See next issue.)

Measures Reported:
S. 1663, to replace certain Coastal Barrier Resources System maps. (S. Rept. No. 108–179)
H.R. 274, 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. (S. Rept. No. 108–180)
S. 1395, to authorize appropriations for the Technology Administration of the Department of Commerce for fiscal years 2004 through 2005, with amendments. (S. Rept. No. 108–181)
S. 1402, to authorize appropriations for activities under the Federal railroad safety laws for fiscal years 2004 through 2008, with amendments. (S. Rept. No. 108–182)
S. 1720, to provide for Federal court proceedings in Plano, Texas, with an amendment in the nature of a substitute.
S. Con. Res. 58, expressing the sense of Congress with respect to raising awareness and encouraging prevention of stalking in the United States and supporting the goals and ideals of National Stalking Awareness Month, with an amendment in the nature of a substitute and with an amended preamble. (See next issue.)

Measures Passed:

Continuing Appropriations: Senate passed H.J. Res. 75, making further continuing appropriations for the fiscal year 2004, clearing the measure for the President. (See next issue.)

Healthy Forests Restoration Act: By 80 yeas to 14 nays (Vote No. 428), Senate passed H.R. 1904, to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, after agreeing to the committee amendment in the nature of a substitute, and taking action on the following amendments proposed thereto: Pages S13600–(continued next issue)

Adopted:
Bingaman Amendment No. 2036, to require collaborative monitoring of forest health projects. Page S13609

Bingaman Amendment No. 2042, to require best-value contracting criteria in awarding contracts and agreements. (See next issue.)
Cochran Amendment No. 2046, to make certain improvements to the bill. (See next issue.)

Notwithstanding passage of the bill, Cochran Amendment No. 2046 was subsequently modified. (See next issue.)

Rejected:

Bingaman Amendment No. 2035, to require the treatment of slash and other long-term fuels management for hazardous fuels reduction projects. (By 58 yeas to 36 nays (Vote No. 422), Senate tabled the amendment.)

Leahy Amendment No. 2039, to remove certain provisions relating to administrative and judicial review. (By 62 yeas to 33 nays (Vote No. 423), Senate tabled the amendment.)

Boxer Amendment No. 2043, to increase the minimum percentage of funds allocated for authorized hazardous fuel reduction projects in the wildland-urban interface. (By 61 yeas to 34 nays (Vote No. 424), Senate tabled the amendment.) (See next issue.)

Murray Amendment No. 2030, to ensure protection of old-growth stands. (By 62 yeas to 32 nays (Vote No. 425), Senate tabled the amendment.) (See next issue.)

Cantwell Modified Amendment No. 2038, to require the Comptroller General to study the costs and benefits of the analysis of alternatives in environmental assessments and environmental impact statements. (By 57 yeas to 34 nays (Vote No. 426), Senate tabled the amendment.) (See next issue.)

Harkin Amendment No. 2045, to provide authority for title I, relative to hazardous fuels reduction on federal land. (By 61 yeas to 31 nays (Vote No. 427), Senate tabled the amendment.) (See next issue.)

During consideration of this measure today, the Senate also took the following action:

By 36 yeas to 60 nays (Vote No. 421), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to waive section 302(f) of the Congressional Budget Act of 1974, with respect to Bingaman Amendment No. 2031, to provide the Secretary of Agriculture with the authority to borrow funds from the Treasury to pay for firefighting costs that exceed funds available and to provide funding to conduct hazardous fuels reduction and burned area restoration projects on non-Federal lands in and around communities. Subsequently, the point of order that the amendment was in violation of section 302(f) of the Congressional Budget Act of 1974, was sustained, and the amendment thus falls. Pages S13601–05

Foreign Operation Appropriations Act: Senate passed H.R. 2800, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2004, taking action on the following amendments proposed thereto: (See next issue.)

Adopted:

By 89 yeas to 1 nay (Vote No. 429), DeWine Amendment No. 1966, to increase assistance to combat HIV/AIDS. (See next issue.)

McConnell Amendment No. 2049, to make certain technical corrections and to provide for international military training assistance for Indonesia. (See next issue.)

McConnell (for Stevens) Amendment No. 2050, to provide assistance for democracy programs in Russia. (See next issue.)

McConnell Amendment No. 1970, to express the sense of the Senate on Burma. (See next issue.)

Rejected:

By 45 yeas to 47 nays (Vote No. 430), Feinstein Amendment No. 1977, to clarify the definition of HIV/AIDS prevention for purposes of providing funds for therapeutic medical care. (See next issue.)

By 41 yeas to 51 nays (Vote No. 432), Bingaman/Daschle Amendment No. 2048, to make an additional $200,000,000 available for the Global AIDS Initiative and reduce the amount available for Millennium Challenge Assistance by $200,000,000. (See next issue.)

During consideration of this measure today, the Senate also took the following action:

By 42 yeas to 50 nays (Vote No. 431), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to waive section 302(f) of the Congressional Budget Act of 1974, with respect to Durbin Amendment No. 2047, to increase assistance to combat HIV/AIDS. Subsequently, the point of order that the amendment was in violation of section 302(f) of the Congressional Budget Act of 1974, was sustained, and the amendment thus falls. (See next issue.)

McConnell (for Kennedy) Amendment No. 2023, to provide for the disclosure of prices paid for HIV/AIDS medicines in developing countries, previously agreed to on Tuesday, October 28, 2003, was modified. (See next issue.)

Senate insisted on its amendment, requested a conference with the House thereon, and the Chair was authorized to appoint the following conferees on the part of the Senate: Senators McConnell, Specter, Gregg, Shelby, Bennett, Campbell, Bond, DeWine, Stevens, Leahy, Inouye, Harkin, Mikulski, Durbin, Johnson, Landrieu, and Byrd. (See next issue.)

A Tribute to Survivors: Committee on the Judiciary was discharged from further consideration of S. Con. Res. 76, recognizing that November 2, 2003, shall be dedicated to “A Tribute to Survivors” at the United States Holocaust Memorial Museum, and the resolution was then agreed to. (See next issue.)
Climate Stewardship Act: Senate continued consideration of S. 139, to provide for a program of scientific research on abrupt climate change, to accelerate the reduction of greenhouse gas emissions in the United States by establishing a market-driven system of greenhouse gas tradeable allowances that could be used interchangeably with passenger vehicle fuel economy standard credits, to limit greenhouse gas emissions in the United States and reduce dependence upon foreign oil, and ensure benefits to consumers from the trading in such allowances, taking action on the following amendment proposed thereto:  

Revised:  
By 43 yeas to 55 nays (Vote No. 420), Lieberman/McCain Amendment No. 2028, in the nature of a substitute.  
A unanimous-consent agreement was reached providing that the bill be re-referred to the Committee on Environment and Public Works.  

Interior Department Appropriations—Conference Report: A unanimous-consent agreement was reached providing that on Monday, November 3, 2003, at a time determined by the Majority Leader, after consultation with the Democratic Leader, Senate begin consideration of the conference report to accompany H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004; that there be 60 minutes of debate equally divided; and following the use or yielding back of time, Senate vote on adoption of the conference report on Monday, November 3, 2003, at a time determined by the Majority Leader, after consultation with the Democratic Leader.  

Internet Tax Non-Discrimination Act: A unanimous-consent agreement was reached providing that at a time determined by the Majority Leader, after consultation with the Democratic Leader, Senate begin consideration of S. 150, to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act.  

Emergency Supplemental, Iraq and Afghanistan Appropriations Act Conference Report—Agreement: A unanimous-consent agreement was reached providing that at 11 a.m., on Monday, November 3, 2003, Senate begin consideration of the conference report to accompany H.R. 3289, making emergency supplemental appropriations for defense and for the reconstruction of Iraq and Afghanistan for the fiscal year ending September 30, 2004; with the time until 5 p.m. equally divided and that at 5 p.m. the conference report be adopted.  

Nomination Considered: Senate resumed consideration of the nomination of Charles W. Pickering, Sr., of Mississippi, to be United States Circuit Judge for the Fifth Circuit.  
During consideration of this measure today, Senate also took the following action:  
By 54 yeas to 43 nays (Vote No. 419), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to close further debate on the nomination.  

Nominations Received: Senate received the following nominations:  
1 Army nomination in the rank of general.  
2 Navy nominations in the rank of admiral.  

Routine lists in the Army, Marine Corps, Navy.  

Messages From the House:  
Measures Referred:  
Enrolled Bills Presented:  
Executive Reports of Committees:  
Additional Cosponsors:  
Statements on Introduced Bills/Resolutions:  
Additional Statements:  
Amendments Submitted:  
Notices of Hearings/Meetings:  
Authority for Committees to Meet:  
Privilege of the Floor:  
Record Votes: Fourteen record votes were taken today. (Total—432)  
Adjournment: Senate met at 9 a.m., and adjourned at 11:44 p.m., until 10 a.m., on Friday, October 31, 2003. (For Senate’s program, see the remarks of the Majority Leader in today’s Record on page S13611.)  

Committee Meetings  
(Committees not listed did not meet)  

PALESTINIAN EDUCATION  
Committee on Appropriations: Subcommittee on Labor, Health and Human Services, and Education concluded a hearing to examine the content of Palestinian education materials, including textbooks and films, and the effect such materials have on the peace process, focusing on the United States foreign aid program in the West Bank and the Gaza Strip, and curriculum that promotes principles of human rights, democracy, diversity, tolerance, and pluralism, after receiving testimony from Richard L.
Armitage, Deputy Secretary of State; James Kunder, Deputy Assistant Administrator for Asia and the Near East, U.S. Agency for International Development; Daniel Pipes, U.S. Institute of Peace, and James Zogby, Arab American Institute, both of Washington, D.C.; Itamar Marcus, Palestinian Media Watch, Jerusalem, Israel; Hassan Abdul Rahman, Palestinian Authority, Gaza; and Morton Klein, Zionist Organization of America, New York, New York.

INTERNATIONAL ECONOMIC AND EXCHANGE RATE POLICIES

Committee on Banking, Housing, and Urban Affairs: Committee concluded a hearing to examine the Treasury Department's report to Congress on international economic and exchange rate policy, after receiving testimony from John W. Snow, Secretary of the Treasury.

UNIVERSAL TELECOMMUNICATIONS SERVICE

Committee on Commerce, Science, and Transportation: Subcommittee on Communications concluded a hearing on the future of Universal Telecommunications Service, focusing on opening local markets to competition and preserving and advancing universal service, as it confronts widespread marketplace and technological developments, after receiving testimony from Michael K. Powell, Chairman, Federal Communications Commission.

NATIONAL PARKS

Committee on Energy and Natural Resources: Subcommittee on National Parks concluded a hearing to examine S. 1241, to establish the Kate Mullany National Historic Site in the State of New York, S. 1364, to amend the Alaska National Interest Lands Conservation Act to authorize the payment of expenses after the death of certain Federal employees in the State of Alaska, S. 1433, to authorize the Secretary of the Interior to provide assistance in implementing cultural heritage, conservation, and recreational activities in the Connecticut River watershed of the States of New Hampshire and Vermont, and S. 1462, to adjust the boundary of the Cumberland Island Wilderness, to authorize tours of the Cumberland Island National Seashore, after receiving testimony from Senator Clinton; Durand Jones, Deputy Director, National Park Service, Department of the Interior; Gregory B. Paxton, The Georgia Trust for Historic Preservation, Atlanta; Sean McKeon, Northeast Regional Forest Foundation, Brattleboro, Vermont; Hans Neuhauser, Georgia Environmental Policy Institute, Athens, on behalf of The Wilderness Society, Wilderness Watch, and The Georgia Conservancy; and Sharon F. Francis, Connecticut River Joint Commissions, Charlestown, New Hampshire.

CALFED BAY-DELTA PROGRAM

Committee on Energy and Natural Resources: Subcommittee on Water and Power concluded a hearing to examine S. 1097, to authorize the Secretary of the Interior to implement the Calfed Bay-Delta Program, focusing on authorizing funding for fiscal years 2004 through 2007, as well as governance and management authorities for a comprehensive, balanced and timely water management program for California, after receiving testimony from Representative Calvert; Bennett W. Raley, Assistant Secretary of the Interior for Water and Science; Patrick Wright, California Bay-Delta Authority, and David Guy, Northern California Water Association, both of Sacramento; Tom Birmingham, Westlands Water District, Fresno, California; Sunne W. McPeak, Bay Area Council, San Francisco, California; Ron Gastelum, Metropolitan Water District of Southern California, Los Angeles; and Tom Graff, Environmental Defense, Oakland, California.

U.S.-SYRIA RELATIONS

Committee on Foreign Relations: Committee met in closed session to receive a briefing to examine U.S. policy directions relating to Syria from J. Cofer Black, Coordinator, Office of the Coordinator for Counterterrorism, Department of State.

U.S.-SYRIA RELATIONS

Committee on Foreign Relations: Committee concluded a hearing to examine the current direction of U.S. policy towards Syria, focusing on developing a relationship with Syria in the context of furthering goals toward peace, prosperity and democracy in the Middle East, after receiving testimony from William J. Burns, Assistant Secretary for Near Eastern Affairs, and J. Cofer Black, Coordinator, Office of the Coordinator for Counterterrorism, both of the Department of State; and Patrick Clawson, Washington Institute for Near East Policy, Richard W. Murphy, Council on Foreign Relations, Murhaf Jouejati, George Washington University, and Flynt L. Leverett, Brookings Institution, Saban Center for Middle East Studies, all of Washington, D.C.

HIV/AIDS IN AFRICA

Committee on Foreign Relations: Subcommittee on African Affairs met jointly with the Committee on Health, Education, Labor, and Pensions' Subcommittee on Children and Families to receive a report from Senator Frist relative to the HIV/AIDS Codel to Africa.
ELDER JUSTICE AND PROTECTION

Committee on Health, Education, Labor, and Pensions: Subcommittee on Aging concluded a hearing to examine financial abuse and exploitation of the elderly, focusing on issues that elderly consumers face in today’s investment marketplace, after receiving testimony from Maryland State Attorney General J. Joseph Curran, Jr., Baltimore; Carol Scott, Missouri Department of Health and Senior Services, Jefferson City, on behalf of the National Association of State Long-Term Care Ombudsman Programs; Robert B. Blancato, National Committee for the Prevention of Elder Abuse, Washington, D.C.; W. Lee Hammond, AARP, Salisbury, Maryland; and Richmond D. Chambers, Chevy Chase, Maryland.

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items:

S. 1720, to provide for Federal court proceedings in Plano, Texas, with an amendment in the nature of a substitute;

S. Con. Res. 58, expressing the sense of Congress with respect to raising awareness and encouraging prevention of stalking in the United States and supporting the goals and ideals of National Stalking Awareness Month, with an amendment in the nature of a substitute;

S. Con. Res. 76, recognizing that November 2, 2003, shall be dedicated to “A Tribute to Survivors” at the United States Holocaust Memorial Museum; and

The nominations of Dora L. Irizarry, to be United States District Judge for the Eastern District of New York, William K. Sessions III, of Vermont, to be a Member of the United States Sentencing Commission, and David L. Huber, to be United States Attorney for the Western District of Kentucky, Department of Justice.

AGRICULTURE MONOPSONIES

Committee on the Judiciary: Committee concluded a hearing to examine monopsony issues in agriculture, focusing on the buying power of processors in the nation’s agricultural markets, the role of antitrust enforcement in ensuring that agricultural markets are competitive, and the status of producers in an environment of concentrated purchasers of commodities, after receiving testimony from Senator Harkin; R. Hewitt Pate, Assistant Attorney General, Antitrust Division, Department of Justice; DeeVon Bailey, Utah State University Department of Economics and Cooperative Extension Service, Logan; Ronald W. Cotterill, University of Connecticut Department of Agricultural and Resource Economics, Storrs; and Peter C. Carstensen, University of Wisconsin Law School, Madison.

NOMINATIONS

Committee on Veterans Affairs: Committee concluded a hearing to examine the nominations of Cynthia R. Church, of Virginia, to be an Assistant Secretary of Veterans Affairs (Public and Intergovernmental Affairs), who was introduced by Senator Warner, and Robert N. McFarland, of Texas, to be an Assistant Secretary of Veterans Affairs (Information and Technology), who was introduced by Senator Hutchison, after each nominee testified and answered questions in their own behalf.

INTELLIGENCE

Select Committee on Intelligence: Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee recessed subject to call.

House of Representatives

Chamber Action


(See next issue.)

Additional Cosponsors:

(See next issue.)

Reports Filed: Reports were filed today as follows:

Conference report on H.R. 3289, making emergency supplemental appropriations for defense and for the reconstruction of Iraq and Afghanistan for the fiscal year ending September 30, 2004 (H. Rept. 108–337); and

H. Res. 424, waiving points of order against the conference report to accompany the bill (H.R. 3289) making emergency supplemental appropriations for defense and for the reconstruction of Iraq and Afghanistan for the fiscal year ending September 30, 2004 (H. Rept. 108–338).

(See next issue.)
Approval of Journal: The House agreed to the Speaker’s approval of the Journal of Thursday, October 29 by a recorded vote of 345 ayes to 58 noes with one voting “present”, Roll No. 581.

Motions to Adjourn: The House rejected the McGovern motion to adjourn by a yea-and-nay vote of 86 yeas to 317 nays, Roll No. 580.

The House rejected the Berry motion to adjourn by a recorded vote of 76 ayes to 328 noes, Roll No. 584.

The House rejected the McGovern motion to adjourn by a yea-and-nay vote of 68 yeas to 356 nays, Roll No. 585.

The House rejected the Hastings of Florida motion to adjourn by a recorded vote of 54 ayes to 360 noes, Roll No. 588.

The House rejected the Oberstar motion to adjourn by a yea-and-nay vote of 55 yeas to 360 nays, Roll No. 589.

The House rejected the Oberstar motion to adjourn by a yea-and-nay vote of 59 yeas to 345 nays, Roll No. 590.


Agreed to H. Res. 417, the rule providing for consideration of the bill on Wednesday, October 29.

(See next issue.)

Flight 100—Century of Aviation Reauthorization Act—Conference Report: The House agreed to the conference report on H.R. 2115, to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, by a recorded vote of 211 ayes to 207 noes, Roll No. 592.

Rejected the Oberstar motion to recommit the conference report with instructions to the conference committee by a yea-and-nay vote of 197 yeas to 219 nays, Roll No. 591.

Agreed to H. Res. 422, the rule providing for consideration of the bill by a recorded vote of 220 ayes to 199 noes, Roll No. 587, after agreeing on a motion to order the previous question by a recorded vote of 222 ayes to 199 noes, Roll No. 586.

Recess: The House recessed at 1:40 p.m. and reconvened at 3 p.m.


(See next issue.)

Rejected the Hinchey motion to recommit the conference report to the conference committee by a yea-and-nay vote of 190 yeas to 229 nays, Roll No. 594.

Agreed to H. Res. 418, the rule providing for consideration of the conference report on Wednesday, October 29.

(See next issue.)

Suspensions: The House agreed to suspend the rules and pass the following measures:

Expressing gratitude to the members of the U.S. Armed Forces who were deployed in Somalia in 1993: Debated on Tuesday, October 28, H. Con. Res. 291, expressing deep gratitude for the valor and commitment of the members of the United States Armed Forces who were deployed in Operation Restore Hope to provide humanitarian assistance to the people of Somalia in 1993, by a 2/3 yea-and-nay vote of 402 yeas with none voting “nay”, Roll No. 582;

Repudiating the anti-Semitic sentiments expressed by Dr. Mahathir Mohamad: Debated on Tuesday, October 28, H. Res. 409, repudiating the recent anti-Semitic sentiments expressed by Dr. Mahathir Mohamad, the outgoing prime minister of Malaysia, which makes peace in the Middle East and around the world more elusive, by a 2/3 yea-and-nay vote of 411 yeas with none voting “nay” and one voting “present”, Roll No. 593; and

(See next issue.)


(See next issue.)


Pages H10139–57, (continued next issue)

Rejected the Obey motion to recommit the conference report with instructions to the conference committee by a yea-and-nay vote of 198 yeas to 221 nays, Roll No. 600.

(See next issue.)

Agreed to H. Res. 421, the rule waiving clause 6(a) of rule XIII, that requires a two-thirds vote to
consider a rule on the same day it is reported from the Rules Committee, by a yea-and-nay vote of 217 yeas and 197 nays, Roll No. 597. (See next issue.)

Agreed to H. Res. 424, the rule providing for consideration of the conference report by a voice vote. (See next issue.)

Energy Policy Act of 2003: The House rejected the Eddie Bernice Johnson of Texas motion to instruct conferees on H.R. 6, to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, by a yea-and-nay vote of 182 yeas to 232 nays, Roll No. 598. (See next issue.)

Medicare Prescription Drug and Modernization Act of 2003: The House rejected the Davis of Florida motion to instruct conferees on H.R. 1, to amend title XVIII of the Social Security Act to provide for a voluntary prescription drug benefit under the medicare program and to strengthen and improve the medicare program by a yea-and-nay vote of 195 yeas to 217 nays, Roll No. 599. (See next issue.)

Meeting Hour: The House agreed that when it adjourn today, it adjourn to meet at 12:30 p.m. on Tuesday, November 4 for morning-hour debate. (See next issue.)

Calendar Wednesday: The House agreed to dispense with the Calendar Wednesday business of Wednesday, November 5. (See next issue.)

Library of Congress Trust Fund Board: The Chair announced the Speaker’s appointment of Mrs. Elisabeth DeVos of Grand Rapids, Michigan, to the Library of Congress Trust Fund Board. (See next issue.)

Senate Message: Message received from the Senate today appears on page H10133.

Senate Referrals: S. 1405 and S. 1659 were ordered held at the desk, and S. 1590 and S. 1718 were referred to the Committee on Government Reform.

Adjournment: The House met at 10 a.m. and adjourned at 12:37 a.m. on Friday, October 31.

Committee Meetings

U.S. CHEMICAL WEAPONS STOCKPILE DESTRUCTION

Committee on Armed Services: Subcommittee on Terrorism, Unconventional Threats and Capabilities held a hearing on Destruction of the U.S. Chemical Weapons Stockpile—Program Status and Issues. Testimony was heard from Henry L. Hinton, Jr., Managing Director, Defense Capabilities Management, GAO; the following officials of the Department of Defense: Patrick Wakefield, Deputy Assistant to the Secretary (Chemical Demilitarization and Counterproliferation); Claude M. Bolton, Assistant Secretary of the Army (Acquisition, Logistics, and Technology); and Michael A. Parker, Director, U.S. Army Chemical Materials Agency; and Craig Conklin, Chief, Nuclear and Chemical Hazards Branch Preparedness Division, Emergency Preparedness and Response Division, Department of Homeland Security.

ENERGY EMPLOYEES WORKERS’ COMPENSATION

Committee on Education and the Workforce: Subcommittee on Workforce Protections held a hearing on “Energy Employees Workers’ Compensation: Examining the Department of Labor’s Role in Helping Workers with Energy-Related Occupational Illnesses and Diseases.” Testimony was heard from Shelby Hallmark, Director, Office of Workers’ Compensation Programs, Employment Standards Administration, Department of Labor; John Howard, M.D., Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Department of Health and Human Services; and a public witness.

E-COMMERCE—ONLINE WINE SALES

Committee on Energy and Commerce: Subcommittee on Commerce, Trade and Consumer Protection held a hearing entitled “E-Commerce: The Case of Online Wine Sales and Direct Shipment.” Testimony was heard from Todd Zywicki, Director, Office of Policy Planning, FTC; and public witnesses.

REVIEWING U.S. CAPITAL MARKET STRUCTURE


SERVING THE UNDERSERVED IN THE 21ST CENTURY

Committee on Government Reform: Held a hearing entitled “Serving the Underserved in the 21st Century: The Need for a Stronger, More Responsive Public Health Service Commissioned Corps.” Testimony was heard from Vice Adm. Richard H. Carmona, M.D., Surgeon General, Department of Health and Human Services; C. Everett Koop, M.D., former Surgeon General; and Julius B. Richmond, M.D., and former Surgeon General; and a public witness.
PRIVATE RELIEF BILLS; PROSPECTS FOR AMERICAN WORKERS: IMMIGRATION’S IMPACT

Committee on the Judiciary: Subcommittee on Immigration, Border Security, and Claims approved for full Committee action private relief bills.

The Committee also held an oversight hearing on “The Prospects for American Workers: Immigration’s Impact.” Testimony was heard from public witnesses.

OVERSIGHT—GAO REPORT—OIL AND GAS ACTIVITIES ON FEDERAL LANDS

Committee on Resources: Subcommittee on Fisheries Conservation, Wildlife and Oceans held an oversight hearing on the GAO report entitled “Opportunities to Improve the Management and Oversight of Oil and Gas Activities on Federal Lands.” Testimony was heard from Barry T. Hill, Director, Natural Resources and Environment, GAO; and David Smith, Deputy Assistant Secretary, Fish, Wildlife and Parks, Department of the Interior.

OVERSIGHT—INTERNATIONAL COMMISSION—CONSERVATION OF ATLANTIC TUNAS

Committee on Resources: Subcommittee on Fisheries Conservation, Wildlife and Oceans held an oversight hearing on the upcoming 18th Regular Meeting of the International Commission for the Conservation of Atlantic Tunas. Testimony was heard from William T. Hogarth, Assistant Administrator, Fisheries, National Marine Fisheries Service, NOAA, Department of Commerce; the following officials of the U.S. International Commission for the Conservation of Atlantic Tunas (ICCAT): Glenn R. Delaney, Commercial Commissioner; and Robert G. Hayes, Recreational Commissioner; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on Water and Power approved for full Committee action the following bills: H.R. 142, amended, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Inland Empire regional water recycling project, to authorize the Secretary to carry out a program to assist agencies in projects to construct regional brine lines in California, and to authorize the Secretary to participate in the Lower Chino Dairy Area desalination demonstration and reclamation project; H.R. 1156, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to increase the ceiling on the Federal share of the costs of phase I of the Orange County, California, Regional Water Reclamation Project; H.R. 2960, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Brownsville Public Utility Board water recycling and desalination project; and H.R. 2991, Inland Empire Regional Water Recycling Initiative.

The Subcommittee also held a hearing on the following: H.R. 3334, Riverside-Corona Feeder Authorization Act; the Provo River Project Transfer Act; and S. 212, High Plains Aquifer Hydrogeologic Characterization, Mapping, Modeling and Monitoring Act. Testimony was heard from the following officials of the Department of the Interior: John Keys III, Commissioner, Bureau of Reclamation; and Robert Hirsch, Assistant Director, Water Resources, U.S. Geological Survey; and public witnesses.

CONFERENCE REPORT—EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Committee on Rules: Granted, by voice vote, a rule waiving all points of order against the conference report to accompany H.R. 3289, making emergency supplemental appropriations for defense and for the reconstruction of Iraq and Afghanistan for the fiscal year ending September 30, 2004, and against its consideration. The rule provides that the conference report shall be considered as read. Testimony was heard from Chairman Young and Representative Obey.

SPACE WEATHER

Committee on Science: Subcommittee on Environment, Technology, and Standards held a hearing on “What is Space Weather and Who Should Forecast It?” Testimony was heard from Ernest Hildner, Director, Space Environment Center, NOAA, Department of Commerce; John M. Grunfeld, Chief Scientist, NASA; Col. L. Benson, Jr., USAF, Air Force Weather Agency, Department of the Air Force; and public witnesses.

MATH SCIENCE PARTNERSHIP PROGRAM IMPLEMENTATION

Committee on Science: Subcommittee on Research held a hearing on Implementation of the Math Science Partnership Program: Views from the Field. Testimony was heard from public witnesses.

UNSOLICITED COMMERCIAL E-MAIL (SPAM)—IMPACT ON SMALL BUSINESSES

Committee on Small Business: Subcommittee on Regulatory Reform and Oversight held a hearing on the impact of unsolicited commercial e-mail (spam) on small businesses. Testimony was heard from J. Howard Beales III, Director, Bureau of Consumer Protection, FTC; and public witnesses.
OVERSIGHT—FAA'S AIR TRAFFIC CONTROL MODERNIZATION PROGRAM STATUS

Committee on Transportation and Infrastructure: Subcommittee on Aviation held an oversight hearing on The Status of the Federal Aviation Administration's Air Traffic Control Modernization Programs. Testimony was heard from the following officials of the Department of Transportation: Kenneth R. Mead, Inspector General; and Charles Keegan, Associate Administrator, FAA; Gerald Dillingham, Director, Civil Aviation Issues, GAO; and a public witness.

U.S.-CHINA ECONOMIC RELATIONS

Committee on Ways and Means: Held a hearing on United States-China Economic Relations and China's Role in the Global Economy. Testimony was heard from John B. Taylor, Under Secretary, International Affairs, Department of the Treasury; N. Gregory Mankiw, Chairman, Council of Economic Advisers; Ambassador Josette Shiner, Deputy U.S. Trade Representative; Douglas Holtz-Eakin, Director, CBO; Loren Yager, Director, Office of International Affairs and Trade, GAO; and Robert Rogowsky, Director, Office of Operations, U.S. International Trade Commission.

Hearings continue tomorrow.

SECURING FREEDOM AND THE NATION

Permanent Select Committee on Intelligence: Held a hearing entitled “Securing Freedom and the Nation: Collecting Intelligence Under the Law, Constitutional and Public Policy Consideration.” Testimony was heard from public witnesses.

DEPARTMENT OF HOMELAND SECURITY FINANCIAL ACCOUNTABILITY ACT


STRENGTH THROUGH KNOWLEDGE

Select Committee on Homeland Security: Subcommittee on Cybersecurity, Science, and Research and Development held a hearing entitled “Strength Through Knowledge: Homeland Security Science and Technology; Setting and Steering a Strong Course.” Testimony was heard from Parney C. Albright, Assistant Secretary, Plans, Programs and Budgets, Department of Homeland Security.

Joint Meetings

EMERGENCY SUPPLEMENTAL, IRAQ AND AFGHANISTAN APPROPRIATIONS ACT

Conferes on Wednesday, October 30, 2003, agreed to file a conference report on the differences between the Senate and House passed versions of H.R. 3289, making emergency supplemental appropriations for defense and for the reconstruction of Iraq and Afghanistan for the fiscal year ending September 30, 2004.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, p. D 1186)

H.R. 1900, 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 the Congress that there should be a national day in recognition of Jackie Robinson. Signed on October 29, 2003. (Public Law 108–101).

H.R. 3229, to amend title 44, United States Code, to transfer to the Public Printer the authority over the individuals responsible for preparing indexes of the Congressional Record. Signed on October 29, 2003. (Public Law 108–102).


COMMITTEE MEETINGS FOR FRIDAY, OCTOBER 31, 2003

(Committee meetings are open unless otherwise indicated)

Senate

No meetings/hearings scheduled.

House

Committee on Ways and Means, to continue hearings on United States-China Economic Relations and China’s Role in the Global Economy, 9 a.m., 1100 Longworth.
Next Meeting of the SENATE
10 a.m., Friday, October 31

Senate Chamber

Program for Friday: Senate will be in a period of morning business.

Next Meeting of the HOUSE OF REPRESENTATIVES
12:30 p.m., Tuesday, November 4

House Chamber

Program for Tuesday: To be announced.

Extensions of Remarks, as inserted in this issue

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